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UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

CNN AMERICA, INC. AND TEAM VIDEO SERVICES, LLC,  
JOINT EMPLOYERS

and

NATIONAL ASSOCIATION OF BROADCAST EMPLOYEES &  
TECHNICIANS, COMMUNICATIONS WORKERS OF  
AMERICA, LOCAL 31, AFL-CIO

and

CNN AMERICA, INC. AND TEAM VIDEO SERVICES, LLC,  
JOINT EMPLOYERS

and

NATIONAL ASSOCIATION OF BROADCAST EMPLOYEES &  
TECHNICIANS, COMMUNICATIONS WORKERS OF  
AMERICA, LOCAL 11, AFL-CIO

Case 5-CA-31828

Case 5-CA-33125

(formerly 2-CA-  
36129)

**ORAL  
ARGUMENT  
REQUESTED**

**CNN'S EXCEPTIONS TO ADMINISTRATIVE LAW JUDGE ARTHUR J. AMCHAN'S  
DECISION**

Pursuant to Section 102.46 of the Rules and Regulations of the National Labor Relations Board, CNN respectfully files the following exceptions to the November 19, 2008 Decision of Administrative Law Judge Arthur J. Amchan.<sup>1</sup>

**I. FACTUAL AND LEGAL EXCEPTIONS**

CNN America excepts:

1. To the finding of fact that "CNN named the process by which it directly hired technical employees the bureau staffing project (BSP)" (D.2, L.33-34) as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.803, L.11-25; Tr.813, L.25-Tr.816,

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<sup>1</sup> References to the ALJ's Decision are identified by page and line numbers, as "D. \_\_, L. \_\_." References to the hearing transcript are identified by the official transcript page number and line numbers, as "Tr. \_\_, L. \_\_." In most if not all cases there are multiple Record citations that support each exception. Given the volume of the Record in this case, CNN cites only to the principle citations related to the exceptions.

L.2; Tr.12449, L.25-Tr.12451, L.5, L.13-19; Tr.12852, L.6-Tr.12282, L.1; GC Ex. 101 at page 4, line 22-page 5, line 8).

2. To the finding that “CNN contends that any appropriate CNN bargaining unit must be a wall-to-wall unit of production employees, including employees who were directly employed by CNN prior to the termination of the Team contracts. This includes employees such as information technology specialists, electronic graphics operators and editors/producers” (D.3, L.12-16), as such finding is incomplete and contrary to the substantial evidence in the Record as a whole. (Tr.285, L.22-Tr.287, L.8; Tr.10615, L.2-Tr.10617, L.5; Tr.13449, L.16-Tr.13465, L.7; Tr.13468, L.4-7; Tr.16112, L.23-Tr.16113, L.12; Tr.16117, L.22-25; CNNA Exs. 554, 556, 706, 708).
3. To the finding that CNN produced documents in “response” to the General Counsel’s subpoena, (D.3, L.40-43), as such finding is contrary to the substantial evidence in the Record as a whole (Tr.564, L.2-21; Tr.112, L.16-Tr.118, L.25; CNNA Ex. 728) and contrary to the law.
4. To the conclusion that unidentified evidence “strongly suggests” that Cindy Patrick quashed or attempted to quash the hiring of Jimmy Suissa and Barbara McCloskey, (D.4, L.9-10), as such conclusion is contrary to the substantial evidence in the Record as a whole. (Tr.14880, L.2-4; Tr.13044, L.25-Tr.13045, L.2; Tr.13186, L.7-10; G.C. Ex. 534, Vols. 3 and 5).
5. To the conclusion that “CNN meaningfully affected matters relating to the employment relationship of Team employees to such a degree that it was a joint employer of Team’s employees,” (D.5, L. 24-26), as such finding is contrary to the substantial evidence in the Record as a whole and contrary to established Board law. (*See* Exceptions 73-118).<sup>2</sup>

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<sup>2</sup> All internal cross-references related to Exceptions contained in Section I.

6. To the finding that CNN supervised and directed the Team workforce to such an extent that they were joint employers, (D.5, L.26-27), as such finding is contrary to the substantial evidence in the Record as a whole. (*See* Exceptions 102-116).
7. To the finding that the Local 11 bargaining unit “consisted of field camera, field audio, engineering and studio technical employees,” (D.5, L.35-36), as such finding is contrary to the substantial evidence in the Record as a whole. (GC Ex. 10).
8. To the finding that Local 31’s certification describes the bargaining unit as “all full-time and regular part-time employees...including camera operators, tape operators, editors, couriers, engineers and master controllers...” (D.5, L.49-51), as such finding is contrary to the evidence in the Record as a whole. (GC Ex. 2, 8, § 1.1).
9. To the finding that CNN’s failure to hire many of the Team employees and its refusal to recognize NABET was “unprecedented and thus suggestive of discriminatory motive” (D.6, L.2-4), as such finding is contrary to the evidence in the Record as a whole, (Tr.274, L.17-Tr.275, L.5; Tr.287, L.24-Tr.289, L.22; Tr.16160, L.3-Tr.16184, L.1; CNNA Exs. 229; 710, p. 1-2, 5-11, Tables O.1 and I.1, Figures O.1b and O.1a), and contrary to the law.
10. To the finding that Potomac communicated concerns about a bargaining unit member to Team (D.6, L.50-51), as such finding is irrelevant to the judge’s conclusions of law.
11. To the finding that no contractor for CNN had replaced the employees of its predecessor who were performing their jobs satisfactorily, (D.6, L.10-11), as such finding is unsubstantiated by the Record.
12. To the finding that the Team/Local 11 collective bargaining agreement and Team/Local 31 collective bargaining agreement would be in effect until February 28, 2006, and January 31, 2006, respectively (D.6, L.15-17), as such finding is contrary to substantial evidence in the record (GC Ex. 9, Article XIX) and contrary to the law.

13. To the finding that CNN implemented the Bureau Staffing Project (“BSP”) “to recruit, interview, and hire its own employees to provide the services it had previously contracted out,” (D.6, L.20-22), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.13045, L.21-Tr.13046, L.2; Tr.12889, L.23-Tr.12890, L.18; Tr.5693, L.16-19; Tr.5694, L.18-21; Tr.8399, L.18-Tr.8400, L. 13; Tr.5906, L.16-18; Tr.5906, L.22-Tr.5907, L.7; Tr.2154, L.18-Tr.2155, L.1; Tr.2231, L.8-20; Tr.9366, L.10-12; Tr.13337, L.6-13; Tr.12962, L.23-Tr.12964, L.4; Tr.4154, L.25-Tr.4155, L.18; Tr.12301, L.18-Tr.12302, L.7; Tr.12302, L.23-Tr.12303, L.12; Tr.15849, L.25-Tr.15850, L.11; Tr.2552, L.21-Tr.2553, L.17; Tr.13185, L.1-19; Tr.13186, L.3-6; Tr.815, L.7-Tr.816, L.2; Tr.821, L.4-Tr.822, L.24; Tr.12384, L.10-Tr.12387, L.2; Tr.12388, L.18-Tr.12454, L.5; Tr.12852, L.6-14; Tr.12862, L.17-Tr.12884, L.2; Tr.12535, L.18-Tr.12538, L.2; Tr.12382, L.14-Tr.12383, L.8; Tr.15542, L.4-Tr.15543, L.1; Tr.13106, L.3-12; Tr.12962, L.23-Tr.12963, L.3; 12593, L.24-Tr.12596, L.5; Tr.12407, L.11-Tr.12410, L.11; Tr.16222, L.14-Tr.16224, L.25; Tr.8345, L.14-Tr.8346, L.5; GC Ex. 101 at page 4, line 22-page 5, line 8; CNNA Exs. 434, 435, 436, 437, 475, 710, p. 1-2, 5-11, Tables I.1, O.1 and R.1, Figures O.1b and O.1a).
14. To the conclusion that the BSP was a sham process (D.6, L.25), as such conclusion is contrary to the substantial evidence in the Record as a whole. (*See* Exceptions 23, 34, 204, 239, 246, 247, 250, 259, 270-78, 281, 284-85, 296).
15. To the conclusion that “during the BSP, CNN engaged in widespread and blatant discrimination against Team Video bargaining unit members,” (D.6, L.25-27), as such finding is contrary to the substantial evidence in the Record as a whole (Tr.13045, L.14-Tr.13046, L.2; Tr.12890, L.23-Tr.12891, L.3; Tr.12941, L.2-8; Tr.12963, L.4-20; Tr.4154, L.25-Tr.4155, L.8; Tr.5693, L.20-Tr.5694, L.17; Tr.8399, L.14-17; Tr.5905, L.16-25; Tr.5906, L.7-15; Tr.2155, L.2-11; Tr.2230, L.23-Tr.2231, L.7; Tr.13337, L.15-17; Tr.12962, L.23-

12963, L.12; Tr.12301, L.18-Tr.12302, L.22; Tr.15850, L.12-24; Tr.2552, L.8-Tr.2553, L.10; Tr.13185, L.24-13186, L.2; Tr. 8685, L.7-25; Tr.6962, L.21-Tr.6963, L.4; Tr.12973, L.16-20; Tr.12974, L., Tr.13027, L.2-7; Tr.13271, L.8-Tr.13283, L.12; Tr.6643, L.10-Tr.6644, L.14; Tr.6645, L.10-Tr.6646, L.3; Tr.3104, L.4-Tr.3105, L.3; Tr.5464, L.18-21; CNNA Ex. 63, 257, 543, 544, 553A and B; 554, 706, 707, 710, p. 1-2, 5-11, Tables I.1, O.1 and R.1, Figures O.1b and O.1a; *see also* offer letters to Team applicants contained in GC Exs. 391, 392, 519, 520, 521, 522, 523, 524, 526, 527, 528, 529, 530, 531, 534, 543, 562; CNNA Exs. 213, 299, 307, 389, 399, 548, 559, 689, 692), and contrary to the law.

16. To the conclusion that “CNN [discriminated against Team bargaining unit members] with the objective of depriving employees of NABET representation,” (D.6, L.27), as such finding is contrary to the substantial evidence in the Record as a whole, (Tr.13045, L.21-Tr.13046, L.2; Tr.12875, L.22-Tr.12876, L.5; Tr.12889, L.23-Tr.12890, L.18; Tr.5693, L.16-19; Tr.5694, L.18-21; Tr.8399, L.18-25; Tr.8400, L.11-13; Tr.5906, L.16-18; Tr.5906, L.22-Tr.5907, L.7; Tr.2154, L.18-Tr.2155, L.1; Tr.2231, L.8-20; Tr.9366, L.10-12; Tr.13337, L.6-13; Tr.12962, L.23-Tr.12964, L.4; Tr.4154, L.25-Tr.4155, L.18; Tr.12301, L.18-Tr.12302, L.7; Tr.12302, L.23-Tr.12303, L.12; Tr.15849, L.25-Tr.15850, L.11; Tr.2552, L.21-Tr.2553, L.17; Tr.13185, L.1-19; Tr.13186, L.3-6; CNNA Ex. 554, 706; 710 at Table 0.1), and contrary to the law.
17. To the finding that “there was direct evidence of CNN’s discriminatory motive” (D.6, L.28), as such finding is unsubstantiated by the Record as a whole.
18. To the finding that there was “overwhelming circumstantial evidence of discrimination [during the BSP]” (D.6, L.29), as such finding is contrary to the substantial evidence in the Record as a whole. (*See* Exception 15).

19. To the finding and conclusion that there was “disparate treatment of many Team applicants when compared to non Team unit members,” (D.6, L.30), as such finding is contrary to the substantial evidence in the Record as a whole, (Tr.13045, L.14-20; Tr.5693, L.20-24; Tr.16160, L.3-Tr.16184, L.1; CNNA Ex. 710, p. 1-2, 5-11, Tables O.1 and I.1, Figures O.1b and O.1a), and contrary to the law.
20. To the finding that “virtually all” full-time Team candidates “passed” CNN’s telephone screen (D.6, L.33-34), as such finding is contrary to the substantial evidence in the Record. (Tr.13116, L.14-20; Tr.13122, L.10-Tr.13123, L.5; Tr.13142, L.2-Tr.13143, L.11; Tr.13144, L.3-Tr.13145, L.11; Tr.12997, L.14-Tr.12998, L.11).
21. To the finding that it is “unclear what use, if any, CNN made of these interview ratings in the hiring process” (D.6, L. 44-45), as such finding is contrary to the substantial evidence in the Record as a whole. (*See, e.g.*, Tr.5795, L.18-Tr.5796, L.3; Tr.14795, L.4-18; Tr.5708, L.1-21; Tr.3911, L.12-14; Tr.12960, L.3-Tr.12961, L.25; Tr.13034, L.6-Tr.13039, L.4; Tr.13174, L.17-Tr.13175, L.11; Tr.14801, L.15-19; Tr.14807, L.16-20; 14809, L.8-12; Tr.5687, L.24-Tr.5688, L.13; Tr.2256, L.21-Tr.2257, L.18; Tr.7967, L.3-Tr.7968, L.2; Tr.7970, L.17-21; Tr.13320, L.20-Tr.13321, L.5; CNNA Exs. 232, 476, 494, 520, 639).
22. To the finding that there was no evidence that the applicant interviews played any role in CNN’s hiring decisions (D.6, L.46-D.7, L.1), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.14795, L.4-18; Tr.5708, L.1-21; Tr.3911, L.12-14; Tr.12960, L.3-Tr.12961, L.25; Tr.8373, L.23-Tr.8374, L.16; Tr.8380, L.16-Tr.8381, L.18; Tr.8384, L.22-Tr.8385, L.4; Tr.2256, L.21-Tr.2257, L.18; Tr.7967, L.3-Tr.7968, L.2; Tr.7970, L.17-21; Tr.13320, L.20-Tr.13321, L.5; Tr.13034, L.6-11; Tr.13174, L.17-Tr.13175, L.11; Tr.14801, L.15-19; Tr.7970, L.17-21; Tr.13320, L.20-Tr.13321, L.5; CNNA Exs. 232, 476, 639).

23. To the conclusion that BSP was a sham process based in part on the finding that there was no evidence regarding the role the interviews played (D.7, L.1-2), as such conclusion is contrary to the substantial evidence in the Record as a whole. (Tr.12937, L.1-Tr.12941, L.24; 13106, L.24-Tr.13107, L.2; Tr.14783, L.3-19; Tr.5795, L.18-Tr.5796, L.3; Tr.14795, L.4-18; Tr.5708, L.1-21; Tr.3911, L.12-14; Tr.12960, L.3-Tr.12961, L.25; Tr.13034, L.6-Tr.13039, L.4; Tr.13174, L.17-Tr.13175, L.11; Tr.14801, L.15-19; Tr.14807, L.16-20; Tr.14809, L.8-12; Tr.5687, L.24-Tr.5688, L.13; Tr.2256, L.21-Tr.2257, L.18; Tr.7967, L.3-Tr.7968, L.2; Tr.7970, L.17-21; Tr.13320, L.20-Tr.13321, L.5; Tr.8373, L.23-Tr.8374, L.16; Tr.8380, L.16-Tr.8381, L.18; Tr.8384, L.22-Tr.8385, L.4; Tr.16160, L.3-Tr.16184, L.1; CNNA Exs. 232, 476, 477, 494, 520, 639, 710 p. 1-2, 5-11, Tables O.1 and I.1, Figures O.1b and O.1a).
24. To the finding that “some or all” photojournalist applicants were asked to submit a demo tape or reel to Dan Young in Atlanta (D.7, L.4-5), as such finding is contrary to the evidence in the Record as a whole. (Tr.8369, L.22-25; Tr.3897, L.2-7; Tr.9288, L.5-9; Tr.13753, L.11-14; Tr.5610, L.9-23; Tr.13136, L.21-Tr.13137, L.9; CNNA Exs., 559, 564, 565, 689; GC Exs. 228, 519-522, 543).
25. To the finding that “it is unclear what role, if any,” the review of the demo tapes played in the hiring process (D.7, L.5-7), as such finding is contrary to the evidence in the Record as a whole. (Tr.8369, L.11-Tr.8373, L.22; Tr.8381, L.21-Tr.8385, L.4; Tr.8392, L.1-25; Tr.8401, L.16-Tr.8402, L.3; Tr.8402, L.24-Tr.8403, L.20; Tr.9290, L.18-Tr.9291, L.17; Tr.9297, L.3-Tr.9298, L.3; Tr.9399, L.11-Tr.9400, L.9; Tr.9401, L.4-Tr.9404, L.20; Tr.9464, L.2-Tr.9465, L.11; Tr.9111, L.15-Tr.9112, L.13; Tr.12453, L.18-Tr.12454, L.5; Tr.12482, L.15-Tr.12484, L.3; CNNA Exs. 64, 263; GC Exs. 426, 430)
26. To the finding that CNN hiring managers “purportedly” determined at the debriefing meetings which applicants would be hired (D.7, L.15-16), as such finding is contrary to the

evidence in the Record as a whole. (*See, e.g.*, Tr.12961, L.14-Tr.12962, L.16; Tr.13027, L.14-Tr.13028, L.16; Tr.13031, L.18-Tr.13032, L.19; Tr.13243, L.20-Tr.13245, L.7; Tr.5792, L.10-Tr.5803, L.14; Tr.7967, L.3-Tr.7972, L.10; Tr.9297, L.3-Tr.9318, L.7; Tr.13032, L.13-19).

27. To the finding that the “record however establishes that at least some, if not all, final hiring decisions were made by higher level CNN officials who were not ‘hiring managers,’” (D.7, L.16-18), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.9344, L.23-Tr.9346, L.2; Tr.7752, L.19-Tr.7753, L.15; Tr.12961, L.14-Tr.12962, L.16; Tr.13027, L.14-Tr.13028, L.16; Tr.13031, L.18-Tr.13032, L.19; Tr.13243, L.20-Tr.13245, L.7; Tr.5792, L.10-Tr.5803, L.14; Tr.7967, L.3-Tr.7972, L.10; Tr.9297, L.3-Tr.9318, L.7).
28. To the conclusion that “it is unclear” who classified applicants into categories “very strong possible, strong possible, possible and possible minus” and when it was done (D.7, L.22-23), as such conclusion is contrary to the substantial evidence in the Record as a whole. (Tr.5796, L.18-Tr.5797, L.11; Tr.5801, L.2-17; Tr.14811, L.20-Tr.14812, L.2; 14812, L.14-14815, L.8-; Tr.5584, L.24-Tr.5585, L.19; Tr.12491, L.8-Tr.12492, L.1; CNNA Exs. 49, 495; GC Exs. 232, 233, 235).
29. To the finding that CNN “purportedly” made its hiring decisions “on the basis of the rankings at the debriefing selection sessions” (D.7, L.28-29), as such finding is contrary to the substantial evidence in the Record as a whole. (*See, e.g.*, Tr.3924, L.22-Tr.3925, L.25; Tr.3931, L.4-10; Tr.14880, L.2-Tr.14881, L.19; Tr.13244, L.10-23; Tr.4104, L.10-12; Tr.12900, L.13-Tr.12901, L.9; Tr.7752, L.19-Tr.7753, L.9; Tr.14819, L.2-Tr.14821, L.15; Tr.13153, L.18-Tr.13155, L.23; Tr.8412, L.5-Tr.8414, L.2; Tr.13046, L.3-Tr.13047, L.5; Tr.3945, L.8-Tr.3946, L.21; Tr.4189, L.15-Tr.4194, L.15; CNNA Exs. 241, 280, 348, 349, 498, 517; GC Ex. 261, 427, 429).

30. To the finding that that “in some cases CNN changed the order of these rankings after the debriefing sessions,” (D.7, L.29-30), as such finding is unsupported by the Record.
31. To the finding that “the reasons for these changes [in the rankings] are unexplained in many cases.” (D.7, L.30-31), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.13046, L.3-13047, L.5; Tr.14881, L.7-Tr.14884, L.5).
32. To the finding that CNN made unexplained changes to the order of applicants to whom jobs would be offered, (D.7, L.35-36), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.14881, L.7-Tr.14884, L.5; Tr.14586, L.25-Tr.14590, L.23).
33. To the finding that CNN hired individuals for BSP positions who were interviewed after the debriefing meetings (D.7, L.40-42), as such finding is contrary to the substantial evidence in the Record as a whole. (*See, e.g.*, Tr.13047, L.6-22; CNNA Exs. 429, 521, 534, 537, 540, 541, 543, 544).
34. To the conclusion that the BSP was a sham process based on CNN hiring a few individuals who were interviewed after the debriefing meetings and prior to the end of the Team contracts (D.7, L.42-44), as such conclusion is contrary to the substantial evidence in the Record as a whole. (Tr.16160, L.3-Tr.16184, L.1; Tr.12937, L.1-Tr.12941, L.24; 13106, L.24-Tr.13107, L.2; Tr.14783, L.3-19; Tr.13046, L.3-13047, L.22; Tr.14881, L.7-Tr.14884, L.5; Tr.14586, L.25-Tr.14590, L.23; CNNA Exs. 476; 477; 710 p. 1-2, 5-11, Tables O.1 and I.1, Figures O.1b and O.1a).
35. To the finding that technological developments were “[t]he” reason CNN chose to replace many of Team’s personnel (D.7, L.52-D.8, L.3), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.12862, L.17-Tr.12884, L.2; Tr.8345, L.17-Tr.8348, L.14; Tr.821, L.4-Tr.822, L.24; Tr.12384, L.10-Tr.12387, L.2; Tr.12388, L.18-Tr.12454, L.5; Tr.12535, L.18-Tr.12538, L.2; Tr.12382, L.14-Tr.12383, L.8; Tr.15542, L.4-Tr.15543, L.1;

Tr.12593, L.24-Tr.12596, L.5; Tr.12407, L.11-Tr.12410, L.11; Tr.16222, L.14-Tr.16224, L.25; Tr.8345, L.14-Tr.8346, L.5; CNNA Exs. 434, 435, 436, 437, 475; GC Ex. 101 at 5, 8-9; GC Ex. 326).

36. To the finding that CNN's move to the Time Warner Center occurred "several months after the termination of the Team Video contract," (D.8, L.7-8), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.8175, L.9-Tr.8178, L.17; Tr.10548, L.3-Tr.10550, L.2; Tr.12189, L.20-Tr.12190, L.24; CNNA Ex. 212).
37. To the finding that "[t]he value of a digital signal... is that it does not deteriorate as it is transmitted or replicated" (D.8, L.43-44), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.12538, L.14-Tr.12543, L.12).
38. To the finding that "for two-three months the employees hired during the Bureau Staffing Project worked at the same location as had the TVS employees, operating the same equipment to broadcast CNN's programming," (D.8, L.49-51), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.8175, L.9-Tr.8178, L.17; Tr.10548, L.3-Tr.10550, L.2; Tr.12679, L.19-Tr.12682, L.10; Tr.8175, L.8-Tr.8178, L.17; CNNA Ex. 212).
39. To the conclusion that CNN's stated reasons for terminating its contracts with Team and its implementation of the BSP were pretextual (D.8, L.10-11), as such conclusion is contrary to unrebutted evidence in the Record as a whole and contrary to the law. (Tr.821, L.4-Tr.822, L.24; Tr.12384, L.10-Tr.12387, L.2; Tr.12388, L.18-Tr.12454, L.5; Tr.8345, L.17-Tr.8348, L.14; Tr.12862, L.17-Tr.12884, L.2; Tr.12535, L.18-Tr.12538, L.2; Tr.12382, L.14-Tr.12383, L.8; Tr.15542, L.4-Tr.15543, L.1; Tr.12593, L.24-Tr.12596, L.5; Tr.12407, L.11-Tr.12410, L.11; Tr.16222, L.14-Tr.16224, L.25; Tr.8345, L.14-Tr.8346, L.5; CNNA Exs. 434, 435, 436, 437, 475).

40. To the finding that CNN's "major motive" in terminating its contracts with Team and implementing the BSP was a desire to operate its Washington and New York bureaus without a union (D.8, L.11-13), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.13045, L.21-Tr.13046, L.2; Tr.12889, L.23-Tr.12890, L.18; Tr.5693, L.16-19; Tr.5694, L.18-21; Tr.8399, L.18-Tr.8400, L. 13; Tr.5906, L.16-18; Tr.5906, L.22-Tr.5907, L.7; Tr.2154, L.18-Tr.2155, L.1; Tr.2231, L.8-20; Tr.9366, L.10-12; Tr.13337, L.6-13; Tr.12962, L.23-Tr.12964, L.4; Tr.4154, L.25-Tr.4155, L.18; Tr.12301, L.18-Tr.12302, L.7; Tr.12302, L.23-Tr.12303, L.12; Tr.15849, L.25-Tr.15850, L.11; Tr.2552, L.21-Tr.2553, L.17; Tr.13185, L.1-19; Tr.13186, L.3-6; Tr.821, L.4-Tr.822, L.24; Tr.12384, L.10-Tr.12387, L.2; Tr.12388, L.18-Tr.12454, L.5; Tr.12862, L.17-Tr.12884, L.2; Tr.12535, L.18-Tr.12538, L.2; Tr.12382, L.14-Tr.12383, L.8; Tr.15542, L.4-Tr.15543, L.1; Tr.12593, L.24-Tr.12596, L.5; Tr.12407, L.11-Tr.12410, L.11; Tr.16222, L.14-Tr.16224, L.25; Tr.8345, L.14-Tr.8346, L.5; CNNA Exs. 434, 435, 436, 437, 475, 710, p. 1-2, 5-11, Tables I.1, O.1 and R.1, Figures O.1b and O.1a).
41. To the finding that CNN "could easily have" trained all Team employees in the new technologies (D.8, L.15-16), as such finding is contrary to the substantial evidence in the Record as a whole and contrary to the law. (Tr.2556, L.17-Tr.2561, L.19; Tr.14920, L.3-Tr.14921, L.2; Tr.15571, L.4-17; Tr.11441, L.9-Tr.11442, L.21; CNNA Exs.308-311, 380-81; *see also* Exceptions 203, 208, 224, 233, 238, 557, 558, 708, 711).
42. To the finding that "[t]here is no evidence...that any Team employee...could not have adapted to the techno[lo]gical changes that CNN was undertaking" (D.8, L.18-20), as such finding is contrary to the substantial evidence in the Record as a whole and contrary to the law. (Tr.15570, L.1-14; Tr.15580, L.5-Tr.15582, L.6; Tr.11441, L.9-Tr.11442, L.21; CNNA Exs.308-311, 380-81, Tab 16; CNNA Ex. 662 *see also* Exceptions 226, 227).

43. To the conclusion that “CNN hired a number of Team employees who it discriminatorily refused to hire during the Bureau Staffing Project, afterwards” (D.8, L.22-23), as such conclusion is unsubstantiated by any evidence in the Record and contrary to the law.
44. To finding that “[t]here is no evidence that any of [the Team employees CNN hired after the BSP that it had not hired during the BSP] was unable to cope with the technological changes at CNN” (D.8, L.23-24), as such finding is irrelevant to the legal issues in the case and contrary to the law.
45. To the finding that “some of the non[-]Team members hired during the BSP were terminated for poor performance” (D.8, L.24-25), as such finding is irrelevant to the legal issues in this case.
46. To the finding that “some of the non[-]Team members hired during the BSP...quit their jobs soon after they were hired” (D.8, L.24-26), as such finding is irrelevant to the legal issues in this case.
47. To the finding that technicians hired by CNN’s Washington bureau pursuant to the BSP reported to “work” on December 6, 2003 (D.8, L.29-30), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.12741, L.18-22; Tr.12744, L.23-Tr.12745, L.1; Tr.6850, L.15-Tr.6851, L.4; Tr. 13693, L.15-17; Tr.14196, L.24-Tr.14199, L.24; Tr.6285, L.7-Tr.6286, L.11; Tr.2744, L.13-16; Tr.7120, L.24-Tr.7121, L.4; CNNA Ex. 12, 696, 461, 462, 464, 465).
48. To the finding that employees hired by CNN’s New York bureau pursuant to the BSP reported to “work” on January 17, 2004 (D.8, L.31-32), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.12246, L.8-22; Tr.11700, L.1-17; Tr.11488, L.12-Tr.11489, L.4; Tr.11700, L.1-17; Tr.9630, L.7-14; CNNA Ex. 213, 270, 461, 466).

49. To the finding that “Former Team employees hired by CNN performed essentially the same tasks for CNN that they had performed for Team,” (D.8, L.35-36), as such finding is contrary to the substantial evidence in the Record as a whole. (*See, e.g.*, Tr.12224, L.21-Tr.12228, L.19; Tr.12287, L.13-Tr.12288, L.12; Tr.10327, L.19-Tr.10343, L.24; Tr.8345, L.14-Tr.8346, L.5; Tr.8446, L.1-Tr.8451, L.10; ; Tr.15939, L.24-Tr.15941, L.5; Tr.12873, L.3-Tr.12875, L.1; Tr.11827, L.7-22; Tr.11861, L.12-Tr.11862, L.17; Tr.11912, L.23-Tr.11914, L.12; Tr.11916, L.16-Tr.11918, L.9; Tr.11830, L.7-Tr.11837, L.11; Tr.11904, L.3-20; Tr.8211, L.2-18; Tr.828, L.24-Tr.832, L.12; Tr.12679, L.19-12682, L.10; Tr.10493, L.2-Tr.10494, L.23; GC Ex. 514; CNNA Exs. 422, 423, 424, 426).
50. To the finding that CNN hired employees to “replace” Team employees “and that these employees performed essentially the same tasks that were previously performed by Team bargaining unit employees,” (D.8, L.36-38), as such finding is contrary to the substantial evidence in the Record as a whole. (*See, e.g.*, Tr.12224, L.21-Tr.12228, L.19; Tr.12287, L.13-Tr.12288, L.12; Tr.10327, L.19-Tr.10343, L.24; Tr.8345, L.14-Tr.8346, L.5; Tr.8446, L.1-Tr.8451, L.10; Tr.15939, L.24-Tr.15941, L.5; Tr.12873, L.3-Tr.12875, L.1; Tr.11827, L.7-22; Tr.11861, L.12-Tr.11862, L.17; Tr.11912, L.23-Tr.11914, L.12; Tr.11916, L.16-Tr.11918, L.9; Tr.11830, L.7-Tr.11837, L.11; Tr.11904, L.3-20; Tr.8211, L.2-18; Tr.828, L.24-Tr.832, L.12; Tr.12679, L.19-12682, L.10; Tr.10493, L.2-Tr.10494, L.23; GC Ex. 514; CNNA Exs. 422, 423, 424, 426).
51. To the finding and conclusion of law that Team employees were “discriminated against” (D.8, L.37), as such conclusion is contrary to the substantial evidence in the Record as a whole, (*see* Exceptions 798, 803), and contrary to the law.
52. To the finding and conclusion of law that “but for CNN’s discriminatory conduct, Team unit members would have constituted a majority of any CNN bargaining unit,” (D.8, L.38-

- 40), as such conclusion is contrary to the substantial evidence in the Record as a whole, (CNNA Ex. 706, 707, 554; *see also* Exceptions 63, 145, 789, 800, 802-04, 830, 872, and contrary to the law.
53. To the conclusion that “CNN is a successor employer to Team Video,” (D.8, L.40), as such conclusion is contrary to the substantial evidence in the Record as a whole and contrary to the law. (*See* Exceptions 150, 560-69, 800, 872-74, 889-90, 894-97, 902-06, 918, 930, 953, 954, 964).
54. To the finding that Locals 11 and 31 requested on several occasions that CNN “recognize and bargain” with them (D.9, L.1-2), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.8463, L.6-Tr.8466, L.10; Tr.1365, L.6-22; Tr.1379, L.1-Tr.1395, L.16; Tr.1349, L.17-Tr.1354, L.8; Tr.10608, L.22-Tr.10609, L.17; CNNA Exs. 6, 7, 8; GC Exs. 22, 23, 107).
55. To the conclusion that Local 31’s “formal” demand for recognition and bargaining on December 8, 2003 was not its first demand (D.9, L.45-47), as such conclusion is contrary to the substantial evidence in the Record as a whole. (Tr.1365, L.6-22; Tr.1379, L.1-Tr.1395, L.16; Tr.1349, L.17-Tr.1354, L.8; GC Exs. 25, 26).
56. To the conclusion that Local 11 made a “formal” demand for recognition and bargaining on January 23, 2004 was not its first demand (D.9, L.45-46), as such conclusion is contrary to the substantial evidence in the Record as a whole. (Tr.8463, L.6-Tr.8465, L.8; Tr.10608, L.22-Tr.10609, L.17; GC Ex. 27).
57. To the finding and conclusion of law that NABET’s requests to meet with CNN prior to the end of the Team contracts constitute requests to bargain (D.9, L.46-48), as such finding is contrary to the substantial evidence in the Record as a whole, and such conclusion is contrary to the law. (Tr.1365, L.6-22; Tr.1379, L.1-Tr.1395, L.16; Tr.1349, L.17-Tr.1354,

L.8; Tr.8463, L.6-Tr.8466, L.10; Tr.10608, L.22-Tr.10609, L.17; CNNA Exs. 6, 7, 8; GC Exs. 22, 23, 107).

58. To the finding that CNN declined NABET's "requests [to bargain]," (D.9, L.48-49), as such finding is contrary to the substantial evidence in the Record as a whole. (GC Exs. 24, 26, 28; Tr.1365, L.6-22; Tr.1379, L.1-Tr.1395, L.16; Tr.1349, L.17-Tr.1354, L.8; Tr.8463, L.6-Tr.8466, L.10; Tr.10608, L.22-Tr.10609, L.17; CNNA Exs. 6, 7, 8; GC Exs. 22, 23, 25, 27, 107).
59. To the finding that at the meeting between D.C. Bureau Chief Kross and Local 31 President Peach, Peach "effectively requested" bargaining (D.9, L.50), as such finding is contrary to the substantial evidence in the Record as a whole (Tr.1349, L.17-Tr.1354, L.8; Tr.1365, L.6-22; Tr.1379, L.1-13), and contrary to the law.
60. To the finding that at the meeting between D.C. Bureau Chief Kross and Local 31 President Peach, Kross "in effect told Peach that CNN intended to operate without NABET," (D.9, L.50-51), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.1350, L.21-Tr.1354, L.10; Tr.1361, L.14-Tr.16; GC Ex. 109A, B, C).
61. To the finding that "computer specialists, lines coordinators..., electronic graphics operators and editors" constitute a complete listing of the production employees that CNN submitted should be included within an appropriate bargaining unit, (D.9, L.10-12), as such finding is contrary to the substantial evidence in the Record as a whole. (*See* Exceptions CNNA Ex.554, 556, 706, 708).
62. To the finding that lines coordinators performed "administrative rather than technical tasks for CNN" (D.9, L.10-11), as such finding is contrary to the evidence in the Record as a whole. (Tr.11922, L.5-Tr.11930, L.1; Tr.10496, L.24-Tr.10498, L.25).

63. To the conclusion that, but for CNN's discrimination against all Team bargaining unit members, "a majority of the members in any appropriate CNN unit" would have been former Team bargaining unit members, (D.9, L.16-18), as such conclusion is contrary to the substantial evidence in the Record as a whole, (Tr.13045, L.14-20; Tr.12890, L.23-Tr.12891, L.3; Tr.4154, L.25-Tr.4155, L.8; Tr.5693, L.20-Tr.5694, L.17; Tr.8399, L.14-17; Tr.5905, L.16-25; Tr.5906, L.7-15; Tr.2155, L.2-11; Tr.2230, L.23-Tr.2231, L.7; Tr.13337, L.15-17; Tr.12962, L.23-12963, L.12; Tr.12301, L.18-Tr.12302, L.22; Tr.15850, L.12-24; Tr.2552, L.8-Tr.2553, L.10; Tr.13185, L.24-13186, L.2; CNNA Ex. 710, p. 1-2, 5-11, Tables I.1, O.1 and R.1, Figures O.1b and O.1a; CNNA Exs. 706, 707, 554), and contrary to the law.
64. To the conclusion of law that CNN is a successor employer to Team, due to its discriminatory conduct, in either the historic unit or any expanded bargaining unit, (D.9, L.18), as such conclusion is contrary to the substantial evidence in the Record as a whole and contrary to the law.
65. To the finding and conclusion of law that CNN forfeited the right to set initial terms and conditions of employment of bargaining unit employees, (D.9, L.20-21), as such finding is contrary to the substantial evidence in the Record as a whole, (Tr.13750, L.2-Tr.13751, L.7; Tr.13772, L.22-Tr.13778, L.10; Tr.10877, L.12-Tr.10878, L.6; Tr.10947, L.22-Tr.10950, L.18; Tr.1223, L.25-Tr.1224, L.15; Tr.1353, L.13-16; Tr.1354, L.5-8; Tr.8684, L.9-25; Tr.10272, L.7-21; Tr.10998, L.22-Tr.11000, L.2; Tr.10275, L.12-Tr.10276, L.1; GC Exs. 111, 338, 515), and contrary to the law.
66. To the conclusion that the "Specific allegations in the Complaint" section of the Order constitutes all of the General Counsel's contentions in this case (D.9, L.29-D.11, L.15), as such conclusion is contrary to the substantial evidence in the Record as a whole. (Complaint).

67. To the conclusion that “[t]he essence of this case is paragraph 22(b) of the Complaint,” (D.9, L.31-38), as such conclusion is contrary to the substantial evidence in the Record as a whole. (Complaint).
68. To the conclusion of law that every individual named in paragraphs 4(a) and 4(b) of the Complaint was an agent of CNN within the meaning of section 2(13) of the Act, (D.10, L.22-51), as such conclusion is unsubstantiated by the Record as a whole and contrary to the law.
69. To the finding that CNN did not specifically deny that the individuals named in paragraphs 4(a) and 4(b) of the Complaint were agents (D.10, L.24), as such finding is contrary to the Record. (Answer ¶ 4(b)).
70. To the conclusion of law that CNN’s Answer was not sufficient to meet the requirements set out in 19 C.F.R. § 102.20 (D.10, L.25), as such conclusion is contrary to the Record and contrary to the law. (Answer).
71. To the finding that the individuals named in paragraphs 4(a) and 4(b) of the Complaint were agents with respect to all material issues in this case (D.10, L.25-26), as such finding is unsubstantiated by the Record as a whole and contrary to the law.
72. To the finding that whenever an individual named in paragraphs 4(a) and 4(b) of the Complaint communicated to a Team or CNN employee on any matter relevant to this case that the individual understood the Team or CNN employee was speaking on behalf of CNN, (D.10, L.46-48), as such finding is contrary to the evidence in the Record. (*See, e.g.*, Tr.13766, L.22-Tr.13771, L.21; Tr.13772, L.22-Tr.13773, L.10).
73. To the conclusion of law that “CNN would be bound by the terms of Team Video’s collective bargaining agreements with Locals 31 and 11” if CNN and Team are joint employers (D.11, L.19-21) as such conclusion of law is contrary to the law.

74. To the finding and conclusion of law that "CNN and Team Video were joint employers of Team's employees at CNN's Washington and New York bureaus" (D.11, L.28-29) as such finding is contrary to the substantial evidence in the Record as a whole and contrary to the law. (*See* Exceptions 102-116).
75. To the finding and conclusion of law that "CNN was bound by the terms of Team Video's collective bargaining agreements with NABET" (D.11, L.29-30) as such finding is contrary to the substantial evidence in the Record as a whole, (GC Exs. 8, 9, 16, 17), and is contrary to the law.
76. To the finding that "Team should not be held liable for CNN's unfair labor practices" (D.11, L. 31-32), as such finding is contrary to the law.
77. To the conclusion of law that "CNN's reliance on *Goodyear Tire*, 312 NLRB at 674, 688 (1993) and *Southern California Gas Co.*, 302 NLRB 456, 461 (1992) is somewhat misplaced" (D.11, L.46-47), as such conclusion is contrary to the law.
78. To the finding that "NABET had previously taken the position that CNN and Team were joint employers" (D.11, L.48-49), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.1472, L.21 – Tr.1473, L.6; Tr.3557, L.22 – Tr.3558, L.11; Tr.1466, L.16-22; GC Exs. 25-28).
79. To the conclusion of law that "Board decisions do not provide a bright line for determining when a joint employer relationship exists" and "[e]ach case is pretty much *sui generis*" (D.11, L.42-44), as such conclusion of law is contrary to established Board law.
80. To the finding that "[m]any of the factors that have led the Board to find a joint employer relationship exist" were present between Team and CNN (D.12, L.2-3), as such finding is contrary to the substantial evidence in the Record as a whole. (*See* Exceptions 102-116).

81. To the finding that CNN treated the contractor/subcontractor relationship with Team “as one in which Team provided employees for CNN's use”, as opposed to one in which the subcontractor undertakes to perform a particular task (D.12, L.3-7), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.6342, L.8-12; Tr.6184, L.2 - Tr.6185, L. 9; Tr.5366, L.6 - Tr.5367, L.9; Tr.5984, L.18-24; Tr.6493, L.2-15; Tr.4552, L.24 - Tr.4553, L.8; Tr.6979, L.2-18; Tr.4790, L.7-21; Tr.4791, L.1-23; Tr.6070, L.2-9; Tr.7639, L.3-21; Tr.4494 (confidential), L.2-17; Tr.6347, L.3 - Tr.6350, L.9; Tr.9588, L.13-24; Tr.4658, L.20-25; Tr.4659, L.1-12; Tr.4783, L.14-25; Tr.5984, L.9-24; Tr.7627, L.3-14; Tr.2649, L.7-21; Tr.9581, L.8 - Tr.9582, L.11; Tr.4662, L.3 - Tr.4663, L.13; Tr.6350, L.3-9; Tr.3006, L.5 - Tr.3007, L.2).
82. To the finding that “[v]irtually all the equipment used by Team employees to perform their jobs belonged to CNN” (D.12, L.8-9), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.6701, L.15-17; Tr.6730, L.2-5; Tr.7415, L.15-25; Tr.8589, L.22-25; Tr.9601, L.16-20; Tr.15262, L.15 - Tr.15264, L.1; Tr.16273, L.16 - Tr.16274, L.6).
83. To the conclusion of law that *Service Employees Local 254 (Women's & Infants Hospital)*, 324 N.L.R.B. 743, 748-49 (1997) is distinguishable from CNN because, in that case, the services performed were ancillary to the core business (D.12, L.11-15), as such conclusion of law is contrary to the law.
84. To the finding and conclusion of law that CNN and Team were joint employers based on CNN's alleged direction and control of the terms and conditions of Team employees' employment (D.12, L.47-48), as such finding is contrary to the substantial evidence in the Record as a whole, (Tr.5984, L.18-24; Tr.5965, L.6-19; Tr.5967, L.10-19; Tr.5970, L.9-25; Tr.5977, L.24 - Tr.5978, L.24; Tr.6184, L.2-25; Tr.6185, L.1-9; Tr.6497, L.2-15; Tr.6493, L.2-15; Tr.4552, L.24-25; Tr.4553, L.1-8; Tr.6979, L.2-18; Tr.6980, L.23-25; Tr.6981, L.1-10;

Tr.7505, L.15-25; Tr.7506, L.1-13; Tr.4790, L.7-21; Tr.4791, L.1-23; Tr.6070, L.2-9; Tr.6342, L.8-12; Tr.7639, L.3-21; Tr.4494 (confidential), L.2-17; Tr.6347, L.3-25; Tr.6348, L.1-25; Tr.6349, L.1-25; Tr.6350, L.1-9; Tr.9588, L.13-24; Tr.4658, L.20-25; Tr.4659, L.1-12; Tr.4783, L.14-17; Tr.5984, L.9-24; Tr.7627, L.3-14; Tr.2649, L.7-21; Tr.9581, L.8-25; Tr.9582, L.1-11; Tr.4662, L.3-25; Tr.4663, L.1-13; Tr.6350, L.3-9; Tr.3006, L.5-25; Tr.3007, L.1-2), and such conclusion of law is contrary to the law.

85. To the finding that whether or not Team had a business purpose apart from providing services to CNN “may or may not be relevant to a joint employer analysis” (D.38, L.38-46), as such finding is contrary to the law.
86. To the conclusion of law that the instant case is like *Holyoke Visiting Nurses Ass.*, 310 N.L.R.B. 684 (1993), *enfd.* 11 F.3d 302 (1st Cir. 1993) (D.12, L.17-24), as such finding is contrary to the law.
87. To the finding that “Team employees were exclusively performing services that involved the core of CNN’s business” (D.12, L.19-22), as such finding is contrary to the substantial evidence in the Record as a whole.
88. To the ALJ’s reliance on the finding that Team employees were exclusively performing services for CNN, related to the core of CNN’s business, and for no other employer (D.12, L.19-22), as such reliance is contrary to the law.
89. To the finding that what Team paid its employees and what Team could agree to pay its employees under a collective bargaining agreement was “effectively circumscribed by its contracts with CNN” (D.12, L.29-31), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.11041, L.5 - Tr.11043, L.1; Tr.516, L.3-21; Tr.15197, L.25 - Tr.15199, L.17; Tr.3611, L.5-21).

90. To the finding that under the ENGA in Washington, “CNN authorized TVS to increase Team's payroll by up to 4% per year” (D.12, L.29-32), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.15180, L.6-21; Tr.15197, L.25 - Tr.15199, L.17).
91. To the ALJ's reliance on *The Continental Group, Inc.*, 353 N.L.R.B. No. 31 (September 30, 2008), slip opinion at pages 8-9, *D & F Industries*, 339 N.L.R.B. 618, 640 (2003), and *Windemuller Electric Co.*, 306 N.L.R.B. 664 (1992), (D.13, L.2-6), as such reliance is contrary to the substantial evidence in the Record as a whole and contrary to the law.
92. To the finding that “CNN was effectively the only source from which TVS could draw upon to compensate its employees at the D.C. and New York bureaus” (D.13, L.2-3), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.3210, L.1-5; Tr.15170, L.19 – Tr.15171, L.23; Tr.15180, L.6-21; Tr.3526, L.20 - Tr.3527, L.9; Tr.15190, L.14 – Tr.15191, L.6; Tr.3606, L.11-19; Tr.11042, L.6-19; Tr. 3624, L.16 – Tr.3626, L.12).
93. To the finding that Team sought input from CNN regarding Team's negotiations over compensation and benefits with NABET in New York (D.13, L.8-10), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.241, L. 13 - Tr. 242, L.4; Tr. 11238, L. 25 - Tr.11240, L.13; Tr. 10091, L.18 - Tr.10093, L.21; CNNA Ex. 335, pg. 00059; Tr. 5464, L. 22 - Tr. 5465, L.1; Tr. 3605, L. 7-10; Tr. 3608, L. 10 - Tr. 3609, L.1; Tr. 3609, L.18-20; Tr.15169, L.19 - Tr.15171, L.23; Tr.15172, L.6-15; Tr.3606, L.11-19; Tr.4781, L.9-12; 10636, L.12-15).
94. To the ALJ's reliance on GC Ex. 593 (D.13, L.10), as its admission into evidence, and reliance on such exhibit, is contrary to the law. (Tr.15253, L.9 - Tr.15256, L.7; CNNA Ex. 738, pg. 6-8; Tr. 10028, L.14 - Tr. 10031, L.19; Tr.10446, L.6-15; Tr.11002, L.6-9).

95. To the finding that CNN had total control over Team employees' overtime compensation (D.13, L.10-11), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.1531, L.2-10; CNNA Ex. 23, pg 2; Tr.1104, L.24 - Tr.1105, L.8; GC Ex. 102-C, 102-V).
96. To the finding that the alleged statement by D'Anna to McEwan is an admission that Team sought approval from CNN before accepting Local 11's wage proposals at the end of collective bargaining in New York in March-April, 2002 (D.13, L.11-13, 36-44), as such finding is contrary to the substantial evidence in the Record as a whole and is contrary to the law. (Tr.11041, L.21 - Tr.11042, L.14; Tr. 11238, L. 25 - Tr.11240, L.13; Tr. 10091, L.18 - Tr.10093, L.21; CNNA Ex. 335, pg. 00059; Tr. 10636, L.12-15; Tr.10603, L.5-15).
97. To the finding that Larry D'Anna did not contradict McEwan's testimony concerning a request for approval from CNN to bargain (D.13, L.40-41), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr. 11041, L.21 - Tr. 11042, L.14; Tr. 11238, L. 25 - Tr.11240, L.13; Tr. 5464, L. 22 - Tr. 5465, L.1; Tr.3609, L.18-20; Tr.10636, L.12-15).
98. To the inference that D'Anna ran NABET's proposal by CNN (D.13, L.42-43), and the inference that Team's position in negotiations changed at the end of negotiations because of CNN (D.13, L.46-49), as such inference is unsubstantiated by evidence in the Record and contrary to the law.
99. To the finding that "CNN decided which field crews would cover which events during the course of the workday" (D.13, L.16-17, L.21-22), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.4140, L.19 - Tr.4141, L.22; Tr.872, L.14 - Tr.873, L.6; Tr.6470, L.2-15; Tr.5036, L.2-4; Tr.6796, L.17-22; Tr.15362, L.12 - Tr.15363, L.3; Tr.15395, L.2-18; Tr.3771, L.2 - Tr.3772, L.4; Tr.11152, L.21 - Tr.11156, L.21; GC Ex. 180; TVS Ex. 11).

100. To the finding that TVS Ex. 8 indicates that CNN determined how many Team employees would be working on a given day (D.13, L.50-51), as such finding is unsupported by the evidence in the Record. (TVS Ex. 8).
101. To the finding that “CNN, not Team, effectively determined many of the essential terms and conditions of employment of TVS employees” (D.13, L.31-32), as such finding is contrary to the substantial evidence in the Record as a whole. (*See, e.g.*, D.12, L.26-28; Tr.464, L.19 - Tr.465, L.4; Tr.4739, L.17-23; Tr.3606, L.11-19; Tr.3609, L.18-20; Tr.3610, L.13-15; Tr.3611, L.5-21; Tr.3683, L.2-14; Tr.11278, L.1-20; Tr.3745, L.9-23; Tr.15170, L.19 - Tr.15171, L.23; Tr.15180, L.6-21; Tr.15189, L.15 - Tr.15190, L.4; Tr.3606, L.11-19; Tr.13646, L.9 - Tr.13647, L.6; Tr.11254, L.2-4; Tr.15295, L.4-24; Tr.2808, L.3-21; Tr.2809, L.16 - Tr.2810, L.21; Tr.3623, L.11 - Tr.3626, L.12; Tr.3623, L.11 - Tr.3626, L.12; Tr.14981, L.1-14; Tr.5315, L.7-13; Tr.900, L.17-25; Tr.370, L.14 -24; Tr.11029, L.3 - Tr.11032, L.24; Tr.15290, L.1-11; Tr.6562, L.24 - Tr.6564, L.5; Tr.6082, L.3 - Tr.6083, L.6; Tr.5527, L.13-17; Tr.1183, L.23-25; GC Ex. 40, §4(b); CNNA Ex. 335, pg 8; CNNA Exs. 5, 43, 44, 50; GC Exs. 8, 9, 16, 17).
102. To the finding that CNN supervisors and agents supervised and directed the work of Team employees “to a very great extent” (D.13, L.32-33), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.369, L.14 - Tr.374, L.8; GC Ex. 99A-F; Tr.11027, L.24 - Tr.11033, L.12; GC Ex. 431; CNNA Ex. 103, 649; Tr.5288, L.22 - Tr.5289, L.16; Tr.10468, L.2 - Tr.10469, L.2; TVS Ex. 29; Tr.2796, L.3-5; Tr.3124, L.11 - Tr.3125, L.23; Tr.3803, L.12 - Tr.3804, L.12; Tr.13994, L.21 - Tr. 13996, L.15; Tr.13997, L.4 - Tr.13998, L.10; GC Ex. 162; Tr.14262, L.4-15; CNNA Ex. 615; Tr.6322, L.25 - Tr.6324, L.12; GC Ex. 61; TVS Ex. 34; CNNA Exs 111, 134, 618; GC Ex. 180).

103. To the conclusion of law that news events and coverage are irrelevant regarding the extent of CNN's direction and control of Team's employees (D.13, L.33 - D.14, L.6), as such conclusion is contrary to the law.
104. To the finding that the Team employees were under the constant control, supervision, and direction of CNN producers and directors in the studios and control rooms (D.14, L.9-14), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.369, L.14 - Tr.374, L.8; GC Ex. 99A-F; Tr.11027, L.24 - Tr.11033, L.12; GC Ex. 431; CNNA Exs. 103, 649; Tr.5288, L.22 - Tr.5289, L.16; Tr.10468, L.2 - Tr.10469, L.2; TVS Ex. 29; Tr.2796, L.3-5; Tr.3124, L.11 - Tr.3125, L.23; Tr.5366, L.6 - Tr.5367, L.9; Tr.3803, L.12 - Tr.3804, L.12; Tr.10990, L.6-23; Tr.4893, L.7 - Tr. 4894, L.18; Tr.13994, L.21 - Tr. 13996, L.15; Tr.13997, L.4 - Tr.13998, L.10; GC Ex. 162; Tr.14262, L.4-15; CNNA Ex. 615; Tr.6322, L.25 - Tr.6324, L.12; GC Ex. 61; TVS Ex. 34; CNNA Exs 111, 134, 618).
105. To the finding that the direction Team employees received from other Team employees was often the mere transmission of instructions that came from the CNN producer, director or other agents (D.14, L.14-16), as such finding is contrary to the substantial evidence in the Record as a whole. (*See* Exception 106-108, 143).
106. To the finding that CNN personnel provided Team camera and audio technicians in the field with direction or supervision during the workday (D.14, L.18-20), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.5984, L.18-24; Tr.5965, L.6-19; Tr.5967, L.10-19; Tr.5970, L.9-25; Tr.5977, L.24 - Tr.5978, L.24; Tr.6184, L.2 - Tr.6185, L.9; Tr.4552, L.24 - Tr.4553, L.8; Tr.6980, L.23 - Tr.6981, L.10; Tr.4790, L.7-21; Tr.4791, L.1-23; Tr.6070, L.2-9; Tr.6342, L.8-12; Tr.7639, L.3-21; Tr.4494 (confidential), L.2-17; Tr.6347, L.3 - Tr.6350, L.9; Tr.9588, L.13-24; Tr.4658, L.20-25; Tr.4659, L.1-12; Tr.4783,

L.14-17; Tr.5984, L.9-24; Tr.7627, L.3-14; Tr.2649, L.7-21; Tr.9581, L.8 - Tr.9582, L.11; Tr.4662, L.3 - Tr.4663, L.13; Tr.3803, L.12 - Tr.3804, L.12).

107. To the finding that "Team field technicians were free to leave their assignments only when given such permission by CNN personnel" (D.14, L.20-21), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.5992, L.1-24; Tr.6099, L.14-18; Tr.6100, L.20-22; Tr.7050, L.9-15; Tr.7207, L.8-13; Tr.11155, L.16 - Tr.11156, L.21; Tr.6476, L.17-25; Tr.9519, L.15-17; Tr.6376, L.14-25; Tr.7202, L.8-21).
108. To the finding that CNN directors and producers were in charge of TVS employees at George Washington University and that Dennis Norman only "transmitted instructions from CNN or filled in the particulars for the general direction and supervision of CNN personnel" (D.14, L.21-26), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.3124, L.11 - Tr.3125, L.23; Tr.2795, L.24 - Tr.2796, L.5; Tr.2888, L.3-15; Tr.14246, L.5 - Tr.14247, L.12; Tr.2634, L.21 - Tr.2635, L.7; GC Ex. 162; CNNA Ex. 201; Tr.2984, L.2-19; Tr.3054, L.8-15; Tr.2992, L.3-6, 16-17; Tr.2641, L.2 - Tr.2644, L.9).
109. To the finding that the Board decisions cited by CNN and TVS, which stand for the proposition that limited and routine supervision is insufficient to make one employer the joint employer of another, are distinguishable from the facts in the instant case (D.14, L.28-31), as such finding is contrary to the law.
110. To the finding that "CNN's supervision of Team employees was constant and in many cases, exclusive, as to how TVS employees performed their jobs" (D.14, L.31-31), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.3603, L.2-12; Tr.15282, L.5-13; Tr.15283, L.18-21; Tr.8560, L.25 - Tr.8561, L.18; Tr.3254, L.18 - Tr.3256, L.11; Tr.15290, L.1-11; Tr.11029, L.3 - Tr.11032, L.24; Tr.5366, L.6 - Tr.5367, L.9; Tr.6342, L.8-12; TVS Exs. 3, 9, 11, 13).

111. To the legal conclusion that CNN's approval of overtime is indicative of joint employer status (D.14, L.33 – D.15, L.17), as such conclusion is contrary to the evidence in the Record and the law.
112. To the finding that “when Team camera operators traveled on assignment, they were under the complete control of CNN personnel” (D.15, L.33-34), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.1666, L.2-9; Tr.6916, L.25 - Tr.6917, L.18; CNNA Ex. 83; Tr.6284, L.6-16; Tr.6350, L.25 - Tr.6352, L.13; CNNA Ex. 138, pg 6; Tr.3254, L.15 - Tr.3256, L.11; Tr.4145, L.12-20).
113. To the finding that the couriers in Washington were under the complete control and direction of CNN (D.16, L.2), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.5662, L.23 - Tr.5663, L.13; GC Ex. 386; Tr.7345, L.8 - Tr.7348, L.6; Tr.7350, L.6-20).
114. To the finding that “TVS technicians in New York worked weekends with supervision only by CNN, Tr. 10482” (D.16, L.3), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.2371, L.17 - Tr.2372, L.1; Tr.14004, L.16 - Tr.14005, L.11; CNNA Ex. 103; Tr.5304, L.4 - Tr.5305, L.25; TVS Ex. 9; Tr.11159, L.19 - Tr.11161, L.15; CNNA Ex. 557).
115. To the finding that on numerous occasions, Tu Vu dealt directly with unit employees when neither Simons nor any other TVS manager was present (D.16, L.11-13), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.15341, L.1-12; Tr.1872, L.25 - Tr.1873, L.22).
116. To the finding and conclusion that Bob Cummings and Bill Greene were not statutory supervisors (D.16, L.16-18), as such finding is contrary to the substantial evidence in the Record as a whole, (Tr.8577, L.18 - Tr.8580, L.12; Tr. 8581, L.17-20; Tr.8632, L.7 - Tr.8634,

L.15; Tr.8755, L.5-14; Tr.11293, L.20 - Tr.11294, L.23; Tr.8501, L.10 - Tr.8503, L.9; Tr.8720, L.7-14; Tr.8735, L.3-15; Tr.13084, L.4 - Tr.13086, L.4; Tr.11291, L.7 - Tr.11292, L.16; CNNA Exs. 103, 557, 649; TVS Exs. 12, 16, 17, 29; GC. Ex. 21), and contrary to the law.

117. To the finding that CNN determined the number of full time and daily hires to be employed by Team at its bureaus (D.16, L.21-22), as such finding is contrary to the substantial evidence in the Record as a whole, (Tr. 15397, L.8-16; Tr.14987, L.12 - Tr. 14988, L.13; Tr.15029, L.16 - Tr.15030, L.19; Tr.15358, L.3-11; Tr.432, L.5-24).
118. To the finding and conclusion that CNN and Team are joint employers, based in part on the fact that some Team employees had credentials that identified them as CNN (D.16., L.23-27), as such finding is contrary to the substantial evidence in the Record as a whole, (Tr.7030, L.14-20; Tr.3260, L.7 - Tr.3261, L.7; Tr.6383, L.2-7, 18-23; Tr.3124, L.1-10; CNNA Exs. 37, 42, 89, 142-44, 181-82, 193; Tr.8598, L.1 - Tr.8599, L.3; Tr.3281, L.25 - Tr.3282, L.2; Tr.6721, L.1-12; Tr.6487, L.10-24), and is contrary to the law.
119. To the finding that CNN, in many circumstances, held out TVS field employees as CNN employees (D.16, L.23-24), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.6383, L.2-7, 18-23; Tr.3124, L.1-10; Tr.8598, L.1 - Tr.8599, L.3; Tr.3281, L.25 - Tr.3282, L.2; Tr.6721, L.1-12; Tr.6487, L.10-24; CNNA Exs. 90, 91, 166, 194).
120. To the finding that the entire Bureau Staffing Project was discriminatorily motivated (D.16, L.31-33), and based on that finding, to the conclusion assuming that every Team bargaining unit would have continued their employment at the bureaus but for CNN's discriminatory conduct (D.16, L.31-33), as such finding and conclusion is contrary to the substantial evidence in the Record as a whole. (Tr.2230, L.20 - Tr.2231, L.20; Tr.5693, L.16 - Tr.5695, L.5; Tr.9366, L.4-17; Tr.13337, L.6 - Tr.13338, L.11; Tr.12963, L.1 - Tr.12964, L.4; Tr.4154,

L.14 - Tr.4156, L.12; Tr.4183, L.12 - Tr.4186, L.21; Tr.5904, L.18-23; Tr.12301, L.18 - Tr.12304, L.2; Tr.15849, L.22 - Tr.15850, L.24; Tr.12889, L.23 - Tr.12891, L.3; Tr.2552, L.8 - Tr.2553, L.20; CNNA Exs. 554, 710 at Table O.1, R.1; Tr.1356, L.12 - Tr.1357, L.3; Tr.1410, L.1 - Tr.1412, L.21; Tr.8685, L.21-25; Tr.16160, L.3 - Tr.16184, L.1; CNNA Ex. 710, p.1-2, pp. 5-11, Tables O.1 and I.1, Figures O.1b and O.1a; Tr.16193, L.4-12).

121. To the conclusion of law that CNN was not entitled to set initial terms of employment without bargaining with the unions, (D.16, L.35-36), as such conclusion of law is contrary to the substantial evidence in the Record as a whole and contrary to the law.
122. To the findings and conclusions of law that the collective bargaining agreements continued in effect after CNN terminated its relationship with Team and that CNN violated Section 8(a)(5) of the Act by changing the terms of employment (D.16, L.38-43), as such finding and conclusions of law is contrary to the evidence in the Record and contrary to the law. (GC Ex. 9).
123. To the conclusion of law that NABET was not obligated to demand recognition and request bargaining with CNN because CNN, as a joint employer, was bound by Team's contracts with NABET and could not make changes without bargaining (D.16, L.49 - D.17, L.4), as such conclusion of law is contrary to the law.
124. To the conclusion of law that NABET did not waive its bargaining rights (D.17, L.6-7), as such conclusion of law is contrary to the law.
125. To the finding that Cindy Patrick encouraged CNN employees to apply for the jobs then held by Team employees (D.17, L.11-12), as such finding is contrary to the evidence in the Record as a whole.
126. To the finding that neither Local 31 nor Local 11 was informed of CNN's decision to terminate its relationship with Team until after the decision was made and communicated to

CNN staff (D.17, L.14-15), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.11049, L.5 - Tr.11050, L.9; CNNA Exs. 12, 19).

127. To the conclusion of law that CNN was required to bargain over its decision to terminate the TVS contracts (D.17, L.15-17), as such conclusion is contrary to the law.
128. To the conclusion of law that CNN's decision to terminate the contracts presented the Union with a *fait accompli* (D.17, L.7-8), as such conclusion of law is contrary to the law.
129. To the conclusion of law that Local 31 President Mark Peach's questions to CNN Washington, D.C. Bureau Chief Kathryn Kross were a request to bargain (D.17, L.21-32), and the conclusion of law that Kross' response to Peach constituted a refusal to bargain with NABET (D.17, L.32), as such conclusions of law are contrary to the law.
130. To the conclusion of law that Local 11 President Ed McEwan's letter to CNN New York Bureau Chief Karen Curry constituted a request to bargain (D.17, L.36-37), as such conclusion of law is contrary to the law.
131. To the conclusion of law that the November 19, 2003, letter from the Presidents of NABET (the International Union) and the Communications Workers of America (the International Union's parents) to Jim Walton constituted a bargaining request under Board law (D.17, L.39 - D.18, L.2), as such conclusion of law is contrary to the law.
132. To the conclusion of law that General Counsel Exhibit 23 constitutes a request to bargain (D.18, L.1-2), as such conclusion of law is contrary to the law.
133. To the conclusion of law that Jim Walton's response to the inquiry of Presidents of NABET and the Communications Workers of America on December 3, 2003 (G.C. Exs. 23-24), indicates any request by NABET to bargain with CNN at any time would have been an exercise in futility (D.18, L.2-4), as such conclusion is unsubstantiated by the Record as a whole and is contrary to the law. (GC Exs. 25-28).

134. To the conclusion that the General Counsel “easily met its burden of establishing a *prima facie* case” that CNN, an alleged successor, refused to hire its predecessor's employees because of anti-union animus (D.18, L.21-26), as such conclusion is contrary to the law.
135. To the conclusion that CNN failed to meet its burden of proof because it failed to introduce any evidence establishing that it would not have hired Team unit members in the absence of anti-union animus (D.18, L.25-26), as such conclusion is contrary to the law.
136. To the finding that CNN “operated its broadcasting business seamlessly . . . immediately after the end of the TVS contracts as when TVS was on its premises, with approximately the same number of employees performing its technical work” (D.19, L.25-27), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.6285, L.7 - Tr.6286, L.11; Tr.6289, L.5-17; Tr.6290, L.10-17; Tr.11560, L.22 - Tr.11562, L.7; Tr.11821, L.17 - Tr.11825, L.22; Tr.14563, L.7 - Tr.14564, L.19; Tr.9419, L.1-9; Tr.16271, L.2-13).
137. To the finding that TVS “merely provided management services to CNN” (D.19, L.30), as such finding is contrary to the substantial evidence in the Record as a whole.
138. To the finding that “TVS employees performed their jobs almost exclusively with CNN equipment” (D.19, L.30-31), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.6701, L.15-17; Tr.6730, L.2-5; Tr.7415, L.15-25; Tr.8589, L.22-25; Tr.9601, L.16-20; Tr.11173, L.14 - Tr.11174, L.15; Tr.15262, L.15 - Tr.15264, L.1; Tr.16273, L.16 - Tr.16274, L.6).
139. To the finding that the TVS employees hired by CNN initially continued to perform their services with the same equipment they had while they were employed by Team (D.19, L.31-32), as such finding is contrary to the substantial evidence in the Record as a whole. (*See e.g.*, Tr. 11713, L.19 - Tr. 11714, L.25; Tr.11639, L.16-23; Tr.8176, L.2-15; Tr.10439, L.14 - Tr.10441, L.; Tr. 16223, L.7 - Tr. 16224, L.25; Tr.16229, L.14-24; Tr.8179, L.9 - Tr.8180,

L.15; Tr.12627, L.14 – Tr. 12628, L.12; Tr.12709, L.3 – Tr.12710, L.8; Tr.12663, L.1-23; Tr.12665, L.15 – Tr.12666, L.3; Tr.15671, L.22 – Tr.15672, L.10; Tr.14408, L.8 – Tr.14409, L.11; Tr.2797, L.3-12, 18-23; Tr.2800, L.22 – Tr.2801, L.6; Tr.12427, L.17 - Tr.12429, L.11; Tr.11489, L.5 - Tr.11491, L.2; Tr.2803, L.8-12; Tr.12667, L.19 - Tr.12668, L.12; Tr.14657, L.4 - Tr.14658, L.2; Tr.16233, L.13 – Tr.16234, L.17; Tr.16242, L.17 – Tr.16243, L.5; Tr.16243, L.11-16; Tr.16244, L.15 – Tr.16245, L.2; Tr.16270, L.7-21; Tr.13763, L.2-7; Tr.6047, L.3-16; Tr.14232, L.2-15; Tr.14280, L.12-19; Tr.6071, L.22 – Tr.6073, L.8; Tr.15623, L.5 – Tr.15624, L.1; Tr.15995, L.5 – Tr.15996, L.22; Tr.11372, L.12 – Tr.11375, L.20; Tr.9816, L.2-23; CNNA Ex. 26 pg 7, 27, 212, 270, 448, 701-02; GC Ex. 323).

140. To the finding that the TVS employees hired by CNN performed essentially the same jobs for CNN that they did for Team (D.19, L.32-34), as such finding is contrary to the substantial evidence in the Record as a whole. (*See e.g.*, Tr. 11713, L.19 - Tr. 11714, L.25; Tr. 16223, L.7 – Tr. 16224, L.5; Tr.12022, L.24 - Tr.12024, L.21; Tr.16229, L.14-24; Tr.12020, L.25 – Tr.12021, L.13; Tr.11489, L.5 - Tr.11491, L.2; Tr.14657, L.4 - Tr.14658, L.2; Tr.16231, L.11 – Tr.16232, L.2; Tr.16234, L.2-17; Tr.16235, L.4-22; Tr.16240, L.18 – Tr.16241, L.1; Tr.16271, L.2-13; Tr.14232, L.2-15; Tr.11639, L.16-23; Tr.10264, L.2 – Tr.10266, L.1; Tr.10587, L.10-23; Tr.13552, L.22-25; Tr.15994, L.15 – Tr.16013, L.7; Tr.15775, L.23 – Tr.15776, L.16; Tr.2348, L.15 – Tr.2349, L.1; Tr.11450, L.2-19; Tr.15611, L.23 – Tr.15612, L.12; Tr.15779, L.17 – Tr.15780, L.6; Tr.13582, L.25 – Tr.13583, L.23; Tr.8449, L.14 – Tr.8451, L.10; Tr.10327, L.19 - Tr.10329, L.21; Tr.12871, L.17 – Tr.12872, L.12; Tr.10558, L.18-Tr.10560, L.25; Tr.11936, L.25 – Tr.11938, L.17; Tr.11847, L.4 - Tr.11848, L.17; Tr.10415, L.25 – Tr.10417, L.11; Tr.824, L.4-15; Tr.11911, L.16 – Tr.11913, L.12; Tr.11903, L.14 – Tr.11904, L.20; Tr.11869, L.1 – Tr. 11876, L.23; Tr.11832, L.6 –

Tr.11836, L.11; CNNA Exs. 26 pg 7, 27, 212, 270, 355-57, 380, 407-10, 413, 422, 448, 701-02; GC Exs. 323, 514).

141. To the finding that the employees believed “they were engaged in the same enterprise on the first day after the Team contracts ended as they were on the previous day” (D.19, L.34-36), as such finding is contrary to the substantial evidence in the Record as a whole. (*See e.g.*, Tr. 11713, L.19 - Tr. 11714, L.25; Tr.13584, L.11-19; Tr.6071, L.22- Tr.6072, L.15; Tr.9799, 10-16; Tr.9810, L.4 – Tr. 9811, L.15; Tr.13591, L.22 – Tr.13593, L.7; Tr.2775, L.2 – Tr.2776, L.9; Tr.2799, L.1-24; Tr.2800, L.5 - Tr.2801, L.6; TR.2814, L.3-12; Tr.2822, L.5 – Tr.2823, L.24; Tr.9617, L.5 – Tr.9620, L.18; Tr.9629, L.8-15; Tr.9635, L.8 – Tr.9636, L.23; Tr.9640, L.1-17; Tr.9645, L.15 – Tr.9646, L.4; Tr.9648, L.7-19; Tr.6948, L.4 – Tr.6950, L.15; Tr.4746, L.18 – Tr.4747, L.10; Tr.6408, L.6 – Tr.6409, L.6; Tr.10693, L.21 – Tr.10694, L.23; Tr.10698, L.23 – Tr.10072, L.21; Tr.10810, L.3-23; Tr.13801, L.7-24; Tr.2902, L.6 – Tr.2903, L.6; Tr.10541, L.5-22; Tr.10547, L.10-16; Tr.10555, L.17 – Tr.10556, L.8; Tr.10536, L.12 – Tr.10538, L.19; Tr.10541, L.9 – Tr.10543, L.3; Tr.10555, L.17 – Tr.10556, L.8; Tr.10566, L.21 – Tr.10573, L.4; Tr.11857, L.9 – Tr.11859, L.12; Tr.11861, L.12 – Tr.11862, L.17; Tr.13863, L.22 – Tr.13868, L.18; Tr.14666, L.9 – Tr.14667, L.21; Tr.13582, L.25 – Tr.13583, L.23; CNNA Exs. 301, 355-57, 422, 569-70; GC Ex. 586 Tab 5), and contrary to the law.
142. To the finding that with the termination of the Team contracts, “CNN essentially eliminated a layer of supervision” (D.19, L.39), as such finding is contrary to the substantial evidence in the Record as a whole. (*See e.g.*, Tr. 11713, L.19 - Tr. 11714, L.25; Tr.15290, L.1-11; Tr.15303, L.14 – Tr.15304, L.9; Tr.6562, L.24 - Tr.6564, L.5; Tr.369, L.21 - Tr.374, L.8; Tr.11027, L.24 - Tr.11032, L.21; Tr.11159, L.16 - Tr.11161, L.15; Tr.5289, L.5-16; Tr.14335, L.10 - Tr.14338, L.1; Tr.15401, L.24 - Tr.15402, L.11; Tr.10467, L.8 - Tr.10469, L.2; Tr.15356, L.1 - 15360, L.9; Tr.15393, L.20 - Tr.15395, L.15; Tr.14657, L.4 - Tr.14658, L.2;

Tr.16231, L.11 – Tr.16232, L.2; Tr.16234, L.2-17; Tr.16235, L.4-22; Tr.16240, L.18 – Tr.16241, L.1; Tr.14232, L.2-15; Tr.11639, L.16-23; Tr.10264, L.2 – Tr.10266, L.1; Tr.10587, L.10-23; Tr.13552, L.22-25; Tr.15994, L.15 – Tr.16013, L.7; Tr.15775, L.23 – Tr.15776, L.16; Tr.2348, L.15 – Tr.2349, L.1; Tr.11450, L.2-19; Tr.15611, L.23 – Tr.15612, L.12; Tr.15779, L.17 – Tr.15780, L.6; Tr.13582, L.25 – Tr.13583, L.23; Tr.8449, L.14 – Tr.8451, L.10; Tr.10327, L.19 – Tr.10329, L.21; Tr.12871, L.17 – Tr.12872, L.12; Tr.10558, L.18-Tr.10560, L.25; Tr.11936, L.25 – Tr.11938, L.17; Tr.11847, L.4 -Tr.11848, L.17; Tr.10415, L.25 – Tr.10417, L.11; Tr.824, L.4-15; Tr.11911, L.16 – Tr.11913, L.12; Tr.11903, L.14 – Tr.11904, L.20; Tr.11869, L.1 – Tr. 11876, L.23; Tr.11832, L.6 – Tr.11836, L.11; CNNA Exs. 26 pg 7, 27, 103, 212, 270, 355-57, 380, 407-10, 413, 422, 448, 557, 649, 701-02; GC Exs. 21, 99, 323, 431, 514; TVS Exs. 3, 9, 11-13, 29-31).

143. To the finding that instead of “taking direction from Team Video supervisors, [Team] employees took direction from the CNN managers who had previously, in some cases, given instructions through Team Video” (D.19, L.40-42), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.3771, L.2 - Tr.3772, L.4; Tr.11152, L.21 - Tr.11156, L.21; Tr.4140, L.19 - Tr.4141, L.22; Tr.15395, L.2-18; Tr.872, L.14 - Tr.873, L.6; Tr.15362, L.12 - Tr.15363, L.3; Tr.5366, L.6-14, 25; Tr.5367, L.3-9, 11-20; Tr.6184, L.2 – Tr.6185, L.9; Tr.4502, L.6 - Tr.4503, L.19; Tr.5984, L.18-24; Tr.5965, L.6-19; Tr.5967, L.10-19; Tr.5970, L.9-25; Tr.5977, L.24 - Tr.5978, L.24; Tr.15303, L.14 – Tr.15304, L.9; Tr.370, L.14-24; Tr.15290, L.1-11; Tr.3603, L.2-12; Tr.15282, L.5-13; Tr.15283, L.18-21; Tr.8560, L.25 - Tr.8561, L.18; Tr.6562, L.24 - Tr.6564, L.5; TVS Exs. 3, 9, 11-13, 29-31; GC Ex. 180).
144. To the finding that Team employees often took direction directly from CNN personnel (D.19, L.41-43), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.8576, L.18 – Tr.8580, L.12; Tr.8581, L.17 - Tr.8583, L.1; 8708, L.22-Tr.8709,

L.24; Tr.8709, L.25-Tr.8710, L.7; Tr.10520, L.13 - Tr.10521, L.15; Tr.11796, L.10-Tr.11801, L.18; Tr.13069, L.7-Tr.13076, L.21; Tr.7219, L.9-Tr.7221, L.1; 8614, L.2Tr.5366, L.6-14, 25; Tr.5367, L.3-9, 11-20; Tr.6184, L.2 - Tr.6185, L.9; Tr.4502, L.6 - Tr.4503, L.19; Tr.5984, L.18-24; Tr.5965, L.6-19; Tr.5967, L.10-19; Tr.5970, L.9-25; Tr.5977, L.24 - Tr.5978, L.24; Tr.6497, L.2-15; Tr.6493, L.2-15; Tr.4552, L.24-25; Tr.4553, L.1-8; Tr.6979, L.2-18; Tr.6980, L.23-25; Tr.6981, L.1-10; Tr.7505, L.15-25; Tr.7506, L.1-13; Tr.4790, L.7-21; Tr.4791, L.1-23; Tr.6070, L.2-9; Tr.6342, L.8-12; Tr.7639, L.3-21; Tr.4494 (confidential), L.2-17; Tr.6347, L.3-25; Tr.6348, L.1-25; Tr.6349, L.1-25; Tr.6350, L.1-9; Tr.9588, L.13-24; Tr.4658, L.20-25; Tr.4659, L.1-12; Tr.4783, L.14-17; Tr.5984, L.9-24; Tr.7627, L.3-14; Tr.2649, L.7-21; Tr.9581, L.8-25; Tr.9582, L.1-11; Tr.4662, L.3-25; Tr.4663, L.1-13; Tr.6350, L.3-9; Tr.3006, L.5-25; Tr.3007, L.1-2; Tr.3603, L.2-12; Tr.15282, L.5-13; Tr.8560, L.25 - Tr.8561, L.18; Tr.370, L.14-24; Tr.15290, L.1-11; Tr.15303, L.14 - Tr.15304, L.9; Tr.2649, L.7-21; CNNA Exs. 103, 557, 649; TVS Ex. 12, 16-17).

145. To the finding that if CNN had not discriminated against Team employees, “former Team unit members would have constituted a majority of the employees in any appropriate CNN unit” (D.19, L.45-47), as such finding is contrary to the substantial evidence in the Record as a whole and contrary to the law. (Tr.16160, L.3 - Tr.16184, L.1; Tr.16193, L.4-12; CNNA Exs. 554, 706, 710; *see also* Exceptions 63, 145, 789, 800, 802-04, 830, 872).
146. To the finding that had CNN not discriminated against Team employees, former Team unit members “would have viewed their job situations [at CNN] as essentially unaltered” (D.19, L.47-48), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.13586, L.12 - Tr.13587, L.22; Tr.13591, L.22 - Tr.13593, L.7; Tr.9657, L.22 - Tr.9660, L.8; CNNA Ex. 731; Tr.9925, L.23 - Tr.9926, L.18; Tr. 11713, L.19 - Tr. 11714, L.25; Tr.13584, L.11-19; Tr.6071, L.22- Tr.6072, L.15; Tr.9799, 10-16; Tr.9810, L.4 - Tr. 9811,

L.15; Tr.13591, L.22 – Tr.13593, L.7; Tr.2775, L.2 – Tr.2776, L.9; Tr.2799, L.1-24; Tr.2800, L.5 - Tr.2801, L.6; TR.2814, L.3-12; Tr.2822, L.5 – Tr.2823, L.24; Tr.9617, L.5 – Tr.9620, L.18; Tr.9629, L.8-15; Tr.9635, L.8 – Tr.9636, L.23; Tr.9640, L.1-17; Tr.9645, L.15 – Tr.9646, L.4; Tr.9648, L.7-19; Tr.6948, L.4 – Tr.6950, L.15; Tr.4746, L.18 – Tr.4747, L.10; Tr.6408, L.6 – Tr.6409, L.6; Tr.10693, L.21 – Tr.10694, L.23; Tr.10698, L.23 – Tr.10072, L.21; Tr.10810, L.3-23; Tr.13801, L.7-24; Tr.2902, L.6 – Tr.2903, L.6; Tr.10541, L.5-22; Tr.10547, L.10-16; Tr.10555, L.17 – Tr.10556, L.8; Tr.10536, L.12 – Tr.10538, L.19; Tr.10541, L.9 – Tr.10543, L.3; Tr.10555, L.17 – Tr.10556, L.8; Tr.10566, L.21 – Tr.10573, L.4; Tr.11857, L.9 – Tr.11859, L.12; Tr.11861, L.12 – Tr.11862, L.17; Tr.13863, L.22 – Tr.13868, L.18; Tr.14666, L.9 – Tr.14667, L.21; Tr.13582, L.25 – Tr.13583, L.23; CNNA Exs. 301, 355-57, 422, 569-70; GC Ex. 586 Tab 5).

147. To the finding that CNN's modifications to job duties previously performed by Team were relatively insignificant (D.19, L.47-48), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.13582, L.25 – Tr.13583, L.23; Tr.8449, L.14 – Tr.8451, L.10; Tr.11903, L.14 – Tr.11904, L.20; Tr.10264, L.2 – Tr.10266, L.1; Tr.12872, L.13 – Tr.12873, L.2; Tr.15438, L.10 – Tr.15444, L.12; Tr. 11713, L.19 - Tr. 11714, L.25; Tr.14657, L.4 - Tr.14658, L.2; 16223, L.7 – Tr. 16224, L.5; Tr.16229, L.14-24; Tr.16231, L.11 – Tr.16232, L.2; Tr.16234, L.2-17; Tr.16235, L.4-22; Tr.16240, L.18 – Tr.16241, L.1; Tr.16271, L.2-13; Tr.14232, L.2-15; Tr. 13798, L.1-15; Tr. 13801, L.7-16; Tr. 13802, L.18 - Tr. 13803, L.5; Tr. 13803, L.18 - Tr. 13804, L.5; Tr. 11670, L.8 - 11673, L.12; Tr. 4800, L.10 - Tr.4801, L.10; Tr. 9727, L.4-22; Tr. 11577, L.24 - Tr. 11581, L.18; Tr. 9810, L. 11 - Tr. 9811, L.24; Tr. 9816, L.10 - Tr. 9817, L. 6; Tr. 6398, L.12-21; Tr. 7188, L.2-10; Tr. 5522, L.5-8; Tr. 9617, L.5 - Tr. 9618, L.1; Tr. 9619, L.16 - Tr. 9620, L.18; Tr. 9635, L.8 - Tr.9636, L.23; Tr. 3777, L.7 -

Tr.3778, L.9; Tr. 10491, L.9-25; Tr. 10694, L.2-23; Tr. 10699, L.19 - Tr. 10702, L.21; CNNA Exs. 211, 213-19, 221, 355-57, 422, 407-10, 603-07, 631; GC Ex. 514, 586 Tab 5).

148. To the finding that former Team unit members would “have expected that the Unions would have continued to represent them” (D.19, L.49-50), as such finding is completely unsubstantiated by any evidence in the Record (Tr.9657, L.22 - Tr.9660, L.8; CNNA Ex. 731; Tr.9925, L.23 - Tr.9926, L.18), and such assumption is contrary to the law.
149. To the conclusion of law that CNN was a successor employer to Team Video as of December 6, 2003 in Washington, and January 17, 2004 in New York (D.20, L.1-2, 4-6), as such conclusion of law is contrary to the law.
150. To the finding that CNN was operating normally with a representative complement of employees as of December 6, 2003 in Washington and January 17, 2004 in New York (D.20, L.1-4), as such finding is contrary to the unrebutted evidence in the Record as a whole (Tr.9420, L.20 - Tr.9421, L.12; Tr.12744, L.23 - Tr.12750, L.25; Tr.15613, L.19-25; Tr.14196, L.24 - Tr.14199, L.21; Tr.12756, L.4 - Tr.12757, L.3; Tr.11561, L.4 - Tr.11562, L.7; Tr.12760, L.11 - Tr.12762, L.24; Tr.6285, L.20 - Tr.6286, L.11; Tr.8175, L.22 - Tr.8176, L.21; Tr.8178, L.24 - Tr.8180, L.15; Tr.6285, L.20 - Tr.6286, L.11; Tr.11488, L.12 - Tr.11491, L.2; Tr.6289, L.5-17; Tr.6290, L.10-17; Tr.11560, L.22 - Tr.11562, L.7; Tr.11821, L.17 - Tr.11825, L.15; Tr.15618, L.11 - Tr.15619, L.13; Tr.14563, L.7 - Tr.14564, L.19; Tr.9419, L.1-9; CNNA Exs. 212-13, 215-20, 270, 272-73, 284, 356, 286, 461-67, 696, 717; GC Ex. 323), and contrary to the law.
151. To the statement of the applicable legal standard to alleged refusal to hire claims in the successorship context (D.20, L.12-30 - D.21, L.2), as such stated legal standard is contrary to the law.

152. To the conclusion that *Elmhurst Care Center*, 345 N.L.R.B. 1176 (2005), *Hilton Inn Albany*, 270 N.L.R.B. 1364 (1984), and *A.M.A. Leasing*, 283 N.L.R.B. 1017, 1024 (1987) are distinguishable from the facts in the instant case (D.20, L.37-51), as such conclusion is contrary to the substantial evidence in the Record as a whole (Tr.9420, L.20 – Tr.9421, L.12; Tr.12744, L.23 – Tr.12750, L.25; Tr.15613, L.19-25; Tr.14196, L.24 – Tr.14199, L.21; Tr.12756, L.4 – Tr.12757, L.3; Tr.11561, L.4 – Tr.11562, L.7; Tr.12760, L.11 – Tr.12762, L.24; Tr.6285, L.20 – Tr.6286, L.11; Tr.8175, L.22 – Tr.8176, L.21; Tr.8178, L.24 – Tr.8180, L.15; Tr.6285, L.20 – Tr.6286, L.11; Tr.11488, L.12 – Tr.11491, L.2; Tr.6289, L.5-17; Tr.6290, L.10-17; Tr.11560, L.22 – Tr.11562, L.7; Tr.11821, L.17 – Tr.11825, L.15; Tr.15618, L.11 – Tr.15619, L.13; Tr.14563, L.7 – Tr.14564, L.19; Tr.9419, L.1-9; CNNA Exs. 212-13, 215-20, 270, 272-73, 284, 356, 286, 461-67, 696, 717; GC Ex. 323), and is contrary to the law.
153. To the finding that “CNN needed help from its Atlanta employees in part because it allowed a number of the nonTVS new hires to leave Washington for the first week of their employment with CNN either for personal reasons or to complete work on their prior job” (D.20, L.33-36), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.11561, L.4 – Tr.11562, L.7; Tr.9420, L.20 – Tr.9421, L.12; Tr.3838, L.19 – Tr.3839, L.6; Tr.9258, L.6-16; Tr.9419, L.1-9; Tr.6285, L.20 – Tr.6286, L.11; Tr.11560, L.22-25; Tr.11822, L.4 – Tr.11826, L.3; Tr.15618, L.11 – Tr.15619, L.13; Tr.14563, L.7 – Tr.14564, L.19; Tr.6285, L.20 – Tr.6286, L.11; Tr.6289, L.5-17; Tr.6290, L.10-17; Tr.14563, L.7 – Tr.14564, L.19; Tr.16271, L.2 – Tr.16273, L.3; Tr.14196, L.24 – Tr.14199, L.21; ; CNNA Exs. 212-13, 215-20, 270, 272-73, 284, 356, 286, 461-67, 696, 717; GC Ex. 323).
154. To the finding and conclusion of law that the General Counsel made out its *prima facie* case of discriminatory hiring practices (D.21, L.4-6) as such finding is contrary to the substantial

evidence in the Record as a whole and contrary to established Board law. (*See e.g.*, Tr.2230, L.23-Tr.2231, L.20; Tr.5693, L.9-Tr.Tr.5694, L.15; Tr.9365, L.18-Tr. 9366, L.17; Tr. 13337, L.6-25; Tr.12963, L.4-Tr.12964, L.4; Tr. 4154, L.14-Tr.4156, L.12; Tr.4184, L.17-Tr.4185, L.12; Tr. 5904, L.18- Tr.5905, L.25; Tr.5906, L.7-Tr.5907, L.15; Tr.12301, L.18-Tr.12303, L.24; Tr.15849, L.25-Tr.15850, L.24; Tr.12889, L.23-Tr.12891, L.3; Tr.12894, L.1-7; Tr.2552, L.8-Tr.2553, L.20; Tr.12377, L.20-Tr.12378, L.14; Tr.12537, L.11-Tr.12538, L.13; Tr.12540, L.7-Tr.12543, L.12; Tr.12563, L.1-Tr.12564, L.23; Tr.12567, L.3-Tr.12569, L.12; Tr.12383, L.3-Tr.12387, L.2; Tr.12391, L.4-Tr.12410, L.22; Tr.12411, L.8-Tr.12412, L.21; CNNA Exs. 63, 127, 171, 321, 434-437, 642, 710, 721, 741; Tr.12446, L.22-Tr.12451, L.14; Tr.12864, L.10-Tr.12866, L.15; Tr.12594, L.3-Tr.12596, L.5; Tr. 821, L.8-Tr.822, L.24; Tr.12873, L.3-12875, L.1; Tr.14769, L.12-Tr.14770, L.2; Tr.14470, L.14-16; Tr.12852, L.2-21; Tr.12875, L.2-Tr.12876, L.5; Tr.16142, L.4-17; Tr.16143, L.2-TR.16165, L.13; Tr.16169, L.1-Tr.16187, L.24; Tr.16192, L.8-Tr.16198, L.9; GC Exs. 3-17, 21, 102-A, -X, -Y, and -CC, 110, 596; Tr.3675, L.6-Tr.3676, L.14; Tr.3680, L.5-13; Tr.13709, L.20-Tr.13711, L.25; Tr.15038, L.21-23; Tr.3678, L.11-Tr.3679, L.1, Tr.11058, L.19-Tr.11059, L.18; Tr.10638, L.10-Tr.10639, L.16; NABET Sector By-Laws; Tr.438, L.3-Tr.440, L.3; Tr.11300, L.3-Tr.11301, L.9; Tr.15398, L.3-Tr.15400, L.16; Tr.5694, L.18-21; Tr.9855, L.20-Tr.9856, L.18; Tr.9594, L.1-23; Tr.11809, L.11-Tr.11810, L.7; Tr.15195, L.11-Tr.15196, L.12; Tr.15006, L.2-23; Tr.14990, L.10-22; Tr.15030, L.14-19; Tr. 5938, L.13-21; Tr.15982, L.2-22; Tr.15364, L.13-Tr.15365, L.12; Tr.4163, L.1-11; Tr.4169, L.6-17; Tr.4197, L.18-Tr.4198, L.8; Tr.5600, L.20-Tr.5601, L.2; Tr.5753, L.6-10; Tr.9427, L.3-11; Tr.13272, L.8-Tr.13283, L.12; Tr.10271, L.24-Tr.10272, L.21; Tr.10274, L.10-Tr.10276, L.1; Tr.9211, L.4-9; Tr.8054, L.3-Tr.8055, L.15).

155. To the finding that CNN knew which job applicants during the BSP were members of the Team bargaining unit, and that freelancers “may have been a gray area” (D.21, L.5-6 and 46-

47, Note 23) as such finding is contrary to the substantial evidence in the Record as a whole. (GC Exs. 3-17, 21, 102-A, -X, -Y, -AA, and -CC, 110, 545-546, 566-568, 596; CNNA Exs. 127, 171, 321, 642, 721, 741; Tr.3675, L.6-Tr.3676, L.14; Tr.3680, L.5-13; Tr.9855, L.20-Tr.9856,L.1; Tr.13709, L.20-Tr.13711, L.5; Tr.15038, L.21-23; Tr.3678, L.11-Tr.3679, L.1, Tr.11058, L.15-Tr.11059, L.18; Tr.10638, L.10-Tr.10639, L.16; NABET Sector By-Laws; Tr.438, L.3-Tr.440, L.3; Tr.11300, L.9-Tr.11301, L.9; Tr.15398, L.3-Tr.15400, L.16; Tr.5693, L.9-Tr.Tr.5694, L.7; Tr.9855, L.20-Tr.9856, L.18; Tr.9594, L.1-23; Tr.11809, L.11-Tr.11810, L.7; Tr.15195, L.11-Tr.15196, L.12; Tr.15006, L.2-23; Tr.14990, L.10-22; Tr.15030, L.14-19; Tr.10854, L.20-Tr.10855, L.2; Tr. 5938, L.16-21; Tr.15982, L.2-22; Tr.15364, L.13-Tr.15365, L.12; Tr.9365, L.18-Tr. 9366, L.17; Tr.4154, L.14-Tr.4156, L.12; Tr.4163, L.1-11; Tr.4169, L.6-17; Tr.4185, L.10-12; Tr.4197, L.18-Tr.4198, L.8; Tr.5600, L.20-Tr.5601, L.2; Tr.5694, L.18-21; Tr.5753, L.6-10; Tr.9365, L.18-Tr.9366, L.17; Tr.9427, L.3-11).

156. To the finding and conclusion that the BSP was part of an overall plan motivated by anti-union animus (D.21, L.6-8) as such finding and conclusion is contrary to the substantial evidence in the Record as a whole. (*See e.g.*, Tr.2230, L.23-Tr.2231, L.20; Tr.5693, L.16-21; Tr. 9366, L.10-12; Tr. 13337, L.6-17; Tr.12963, L.4-Tr.12964, L.4; Tr. 4154, L.14-Tr.4156, L.7; Tr.4184, L.17-Tr.4185, L.12; Tr. 5904, L.19-23; Tr.5905, L.16-25; Tr.5906, L.7-18; Tr.5906, L.22-Tr.5907, L.7; Tr.9365, L.18-Tr. 9366, L.17; Tr.12301, L.18-Tr.12303, L.12; Tr.15849, L.25-Tr.15850, L.24; Tr.12889, L.23-Tr.12891, L.3; Tr.12894, L.1-7; Tr.2552, L.8-Tr.2553, L.20; Tr.12377, L.20-Tr.12378, L.14; Tr.12537, L.11-Tr.12538, L.13; Tr.12540, L.7-Tr.12543, L.12; Tr.12563, L.1-Tr.12564, L.8; Tr.12567, L.3-Tr.12569, L.12; Tr.12383, L.3-Tr.12387, L.2; Tr.12391, L.4-Tr.12410, L.22; Tr.12411, L.8-Tr.12412, L.21; CNNA Exs. 434-437, 710; Tr.12446, L.22-Tr.12451, L.5; Tr.12864, L.10-Tr.12866, L.16; Tr.12594, L.3-Tr.12596, L.5; Tr. 821, L.22-Tr.822, L.24; Tr.12873, L.3-12875, L.1; Tr.14769, L.12-

Tr.14770, L.2; Tr.12852, L.2-21; Tr.12875, L.2-Tr.12876, L.5; Tr.16142, L.4-17; Tr.16143, L.2-TR.16165, L.13; TR.16169, L.1-Tr.16187, L.7; Tr.16192, L.8-Tr.16198, L.9; Tr.4154, L.14-Tr.4156, L.12; Tr.4163, L.1-11; Tr.4169, L.6-17; Tr.4185, L.10-12; Tr.4197, L.18-Tr.4198, L.8; Tr.5600, L.20-Tr.5601, L.2; Tr.5694, L.18-21; Tr.5753, L.6-10; Tr.9365, L.18-Tr.9366, L.17; Tr.9427, L.3-11; Tr.13272, L.8-Tr.13283, L.12; Tr.10271, L.24-Tr.10272, L.21; Tr.10274, L.10-Tr.10276, L.1; Tr.9211, L.4-9; Tr.8054, L.3-Tr.8055, L.15).

157. To the finding and conclusion of law that Danielle Whelton was an agent of CNN when she made certain alleged statements (D.21, L.13-14) as such finding is contrary to the substantial evidence in the Record as a whole and contrary to the law. (*See e.g.*, Tr.13777, L.14-Tr.13778, L. 10).
158. To the finding and conclusion of law that statements by Karen Curry, Danielle Whelton, Kathryn Kross, Jeff Kinney, and Lew Strauss establish CNN's animus towards the union membership and activities of bargaining unit members and that such statements objectively restrained, interfered with and/or coerced employees in the exercise of their Section 7 rights (D.21, L.13-16) as such finding is contrary to the substantial evidence in the Record as a whole and contrary to the law. (Tr.10896, L.2-15; Tr.10950, L.9-18; Tr.8419, L.23-Tr.8421, L.22; Tr.8460, L.22-Tr.8462, L.19; Tr.8213, L.21-Tr.8214, L.9; Tr.9210, L.9-Tr.9211, L.9; Tr.1223-24, L.14-15; Tr.1353, L.14-16; Tr.1354, L.5-8; Tr.1215, L.11-12; Tr.1360, L.17-Tr.1361, L.16; GC Exs. 109C, 515; Tr.13768, L.1-Tr.13771, L.21; Tr.13772, L.22-Tr.13773, L.10; Tr.13775, L.21-Tr.13776, L.12; Tr.13777, L.11-Tr.13778, L.10; Tr.11511, L.4-25; Tr.9282, L.18-25; Tr.9424, L.4-9; Tr.11497, L.23-Tr.11499, L.10; Tr.10118, L.13-25; Tr.9280, L.23-Tr.9281, L.1; Tr.9365, L.18-Tr. 9366, L.17; Tr.9392, L.10-Tr.9393, L.4; Tr.9427, L.3-11; Tr.10120, L.1-Tr.10124, L.12; Tr.10128, L.12-14; Tr.10129, L.17-21; Tr.11512, L.2-22; Tr.9842, L.2-Tr.9843, L.24; Tr.9873, L.17-25; Tr.9875, L.5-Tr.9880, L.15; Tr. 9870; L.18-24;

Tr.9872, L.24-Tr.9873, L.15; Tr.9883, L.2-Tr.9885, L.15; Tr.9887, L.14- Tr.9888, L.25; Tr.9890, L.21-Tr.9891, L.8; Tr.9892, L.24-Tr.9896, L.9; Tr.11504, L.18-Tr.11505, L.14; Tr.11507, L.2-9; Tr.11508, L.15-Tr.11509, L.20; Tr.10275, L.10-Tr.10276, L.1; Tr.10984, L.9-20; Tr.10992, L.3-21; Tr.10993, L.25-Tr.10994, L.14; Tr.10999, L.22-Tr.11000, L.5; CNNA Exs. 710 at Tables O.1., R.1, 731).

159. To the finding that the speaker at the meeting Barbara Morrissey attended was Karen Curry (D.21, L.30-31 and 50-51) as such finding is unsupported by any evidence in the Record. (Tr.10868, L.3-Tr.10870, L.7; Tr.10871, L.4-Tr.10873, L.20; Tr.10874, L.16-Tr.10875, L.13; Tr.10940, L.19-Tr.10941, L.12; Tr. 10956, L.16-22; Tr.8418, L.9-Tr.8421, L.22; Tr.8460, L.22-Tr.8462, L.19; GC Ex.515; CNNA Ex. 404; Tr.8213, L.21-Tr.8214, L.9; Tr.9210, L.9-Tr.9211, L.9).
160. To the finding that Barbara Morrissey's notes accurately reflect comments made by Karen Curry (D.21, L.30-31) as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.10868, L.3-Tr.10870, L.7; Tr.10871, L.9-Tr.10873, L.20; Tr.10874, L.16-Tr.10875, L.13; Tr.10940, L.19-Tr.10941, L.12; Tr. 10956, L.16-22; Tr.10876, L.6-Tr.10882, L.21; Tr.10886, L.3-Tr.10887, L.10; Tr.10890, L.18-Tr.10893, L.3; Tr.10894, L.24-Tr.10896, L.7; Tr.10897, L.14-22; Tr.10899, L.5-8; Tr.10945, L.25-Tr.10946, L.16; Tr.10947, L.14-Tr.10950, L.18; Tr.8418, L.9-Tr.8421, L.22; Tr.8460, L.22-Tr.8462, L.19; GC Ex.515; Tr.8213, L.21-Tr.8214, L.9; Tr.9210, L.9-Tr.9211, L.9).
161. To the conclusion that Karen Curry implicitly or explicitly informed employees on September 29, 2003, that CNN would be operating without a union beginning in January 2004 (D.23, L.15-18) as such conclusion is contrary to the substantial evidence in the Record as a whole. (Tr.10896, L.2-7; Tr.10950, L.9-18; Tr.8418, L.9-22; Tr.8419, L.23-Tr.8421, L.22;

Tr.8460, L.22-Tr.8462, L.19; GC Ex. 404; GC Ex, 515; Tr.8213, L.21-Tr.8214, L.9; Tr.9210, L.9-Tr.9211, L.9).

162. To the conclusion that “if Curry discussed rules which inhibited CNN’s freedom to manage Bureau employees, she necessarily had to be referring to the restrictions in the [Team] collective bargaining agreement” and that “there is no other type of rule to which she could have been referring in this context” (D.23, L.19-22) as such conclusion is contrary to the substantial evidence in the Record as a whole. (Tr.10946, L.17-Tr.10948,L.16; Tr.10872, L.12-Tr.10873, L.4; Tr.8418, L.9-22; Tr.8419, L.23-Tr.8421, L.22; Tr.8460, L.22-Tr.8462, L.19; GC Exs. 8- 9, 16-17, 515; Tr.8213, L.21-Tr.8214, L.9; Tr.9210, L.9-Tr.9211, L.9).
163. To the conclusion that CNN’s freedom of action with regard to the use of “one-man bands” would have been inhibited by Article 19 of the collective bargaining agreement between Team and Local 11, unless CNN got rid of the union or the restrictions of the union contract (D.23, L.26-28) as such conclusion is contrary to the substantial evidence in the Record as a whole. (GC Exs. 9, 17; Tr.9246, L.9 – Tr.9247, L.4; Tr.11623, L.12-15; Tr.9637, L.19-Tr.9638, L.5; Tr.3763, L.7-Tr.3764, L.18; Tr.13571, L.1-5; Tr.13800, L.22-Tr.13801, L.6; Tr.6262, L.18-Tr.6264, L.2; Tr.6411, L.13-18; Tr.6412, L.3-25; Tr.5611, L.20-Tr.5612, L.5; Tr.7163, L.16-Tr.7164, L.1; Tr.3786, L.13-Tr.3787, L.3; Tr.9395, L.8-Tr.9396, L.13).
164. To the finding that Barbara Morrissey was a credible witness because she relied on contemporaneous notes (D.23, L. 30), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.10868, L.3-Tr.10870, L.7; Tr.10871, L.9-Tr.10873, L.20; Tr.10874, L.16-Tr.10875, L.13; Tr.10940, L.19-Tr.10941, L.12; Tr. 10956, L.16-22; Tr.10876, L.6-Tr.10882, L.21; Tr.10886, L.3-Tr.10887, L.10; Tr.10890, L.18-Tr.10893, L.3; Tr.10894, L.24-Tr.10896, L.7; Tr.10897, L.14-22; Tr.10899, L.5-8; Tr.10945, L.25-Tr.10946, L.16; Tr.10947, L.14-Tr.10950, L.18; Tr.10956, L.16-22; Tr.8418, L.9-22; Tr.8419, L.23-Tr.8421,

L.22; Tr.8460, L.22-Tr.8462, L.19; GC Ex.515; Tr.8213, L.21-Tr.8214, L.9; Tr.9210, L.9-Tr.9211, L.9).

165. To the finding that unidentified CNN witnesses were less credible than Barbara Morrissey because they were relying on their memory of events that occurred four and a half years earlier (D.23, L. 30-32), as such finding is contrary to the substantial evidence in the Record as a whole, (Tr.10896, L.2-7; Tr.10950, L.9-18; Tr.10956, L.16-22; Tr.8418, L.9-22; Tr.8419, L.23-Tr.8421, L.22; Tr.8460, L.22-Tr.8462, L.19; Tr.8213, L.21-Tr.8214, L.9; Tr.9210, L.9-Tr.9211, L.9), contrary to the ALJ's treatment of General Counsel witnesses under the same circumstances, and contrary to the law.
166. To the finding that CNN witnesses could remember what Karen Curry did not say, but did not testify as to what Curry did say during meetings on September 29, 2003 (D.23, L. 32-34) as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.8418, L.9-22; Tr.8419, L.23-Tr.8421, L.22; Tr.8460, L.22-Tr.8462, L.19; Tr.8213, L.21-Tr.8214, L.9; Tr.9210, L.9-Tr.9211, L.9).
167. To the conclusion that Karen Curry's testimony and "what in fact occurred during the Bureau Staffing Project" is consistent with Barbara Morrissey's recollection and notes (D.23, L.36-37) as such conclusion is contrary to the substantial evidence in the Record as a whole. (Tr.10868, L.3-Tr.10870, L.7; Tr.10871, L.9-Tr.10873, L.20; Tr.10874, L.16-Tr.10875, L.13; Tr.10940, L.19-Tr.10941, L.12; Tr. 10956, L.16-22; Tr.10876, L.6-Tr.10882, L.21; Tr.10886, L.3-Tr.10887, L.10; Tr.10890, L.18-Tr.10893, L.3; Tr.10894, L.24-Tr.10896, L.7; Tr.10897, L.14-22; Tr.10899, L.5-8; Tr.10945, L.25-Tr.10946, L.16; Tr.10947, L.14-Tr.10950, L.18; Tr.10956, L.16-22; Tr.8418, L.9-22; Tr.8419, L.23-Tr.8421, L.22; Tr.8460, L.22-Tr.8462, L.19; GC Ex.515; Tr.8213, L.21-Tr.8214, L.9; Tr.9210, L.9-Tr.9211, L.9).

168. To the conclusion that there is no reason to believe that Karen Curry remembers what she said at the meetings on September 29, 2003 (D.24, L. 16-17) as such conclusion is contrary to the substantial evidence in the Record as a whole. (Tr.8418, L.9-22; Tr.8419, L.23-Tr.8421, L.22; Tr.8460, L.22-Tr.8462, L.19; GC Ex.404).
169. To the inferences and conclusions that Karen Curry's comments at the September 29, 2003 meetings only make sense if she was communicating "at least implicitly an intention to get rid of NABET" and necessarily conveyed an intention to directly manage employees at the Bureau without the Union (D.24, L.35-43), as such inferences and conclusions are unsupported by any evidence in the Record as a whole (G.C. Ex. 404; Tr.8418, L.9-22; Tr.8419, L.23-Tr.8421, L.22; Tr.8460, L.22-Tr.8462, L.19; Tr.10896, L.2-7; Tr.10950, L.9-18; GC Ex.515; Tr.8213, L.21-Tr.8214, L.9; Tr.9210, L.9-Tr.9211, L.9; Tr.12864, L.10-Tr.12865, L.6; Tr.12883, L.2-10; Tr.12246, L.13-Tr.12449, L.24), and contrary to the law.
170. To the conclusion of law that Karen Curry made comments at the September 29, 2003 meetings that violated section 8(a)(1) as alleged in Complaint paragraph 9(a) as such conclusion is contrary to the law and the substantial evidence in the Record as a whole. (Tr.10896, L.2-7; Tr.10950, L.9-18; Tr.8213, L.21-Tr.8214, L.9; Tr.9210, L.9-Tr.9211, L.9; GC Ex.515; Tr.8418, L.9-22; Tr.8419, L.23-Tr.8421, L.22; Tr.8460, L.22-Tr.8462, L.19).
171. To the conclusion that in the cited testimony of Edith Chapin (Tr.9083-84), her statement about CNN wanting to have "a comparable workforce that is interchangeable" "suggests" a desire to have a non-union workforce and supports the conclusion of law that CNN violated section 8(a)(1) as alleged in Complaint paragraph 9(a) (D.24, L.40- D.25, L.18), as such conclusion is contrary to the substantial evidence in the Record as a whole, (Tr.9083, L.17-Tr.9084, L.17; Tr.9210, L.9-Tr.9211, L.9; Tr.12962, L.23-Tr.12963, L.3; Tr.12377, L.20-Tr.12378, L.14; Tr.12563, L.1-Tr.12564, L.8; Tr.12567, L.13-19; Tr.12383, L.3-Tr.12387, L.2;

Tr.12391, L.4-Tr.12410, L.22; Tr.12411, L.8-Tr.12412, L.21; CNNA Exs. 434-437; Tr.12446, L.22-Tr.12451, L.14; Tr.12864, L.5-Tr.12866, L.15; Tr. 821, L.22-Tr.822, L.24; Tr.12872, L.13-Tr.12873, L.17; Tr.12852, L.2-21; Tr.12875, L.2-Tr.12876, L.5; GC Ex. 101; Tr.12883, L.2-10; Tr.12446, L.13-Tr.12449, L.24; Tr.815, L.9-Tr.816, L.2; Tr.12870, L.5-Tr.12871, L.15; Tr.12438, L.5-Tr.12439, L.17; Tr.11344, L.4-Tr.11346, L.22; Tr.15438, L.10-Tr.15439, L.12; Tr.14855, L.23-Tr.14857, L.9; Tr.12852, L.2-Tr.12856, L.16), and contrary to the law.

172. To the finding that Danielle Whelton called Tim Garraty to her office to initiate a conversation about cancelling the Team contract and the conclusion of law that Whelton's alleged statement to Garraty that there would no union at CNN constitutes a violation of Section 8(a)(1) as per paragraph 9(k) of the Complaint (D.25, L.21-26), as such finding is contrary to the substantial evidence in the Record as a whole, (Tr.13749, L.41-Tr.13750, L.16; Tr.13769, L.15-Tr.13778, L.10), and contrary to the law.

173. To the finding that Mark Peach's testimony was credible despite no corroborating evidence (D.25, L.46-48, D.25, L.35-D.26, L.23), as such finding is contrary to the substantial evidence in the Record as a whole, contrary to the law, and contrary to the ALJ's credibility determinations as applied to CNN witnesses (D.43, Note 61). (Tr.1223, L.14-Tr.1224, L.24; Tr.1353, L.14-16; Tr.1353, L.25-Tr.1354, L.23; Tr.1215, L.11-12; Tr. 1359, L.23-Tr.1362, L.23; GC Ex. 109C; Tr.1216, L.12-Tr.1217, L.10; Tr.1349, L.17-Tr.1355, L.21).

174. To the finding that "there was plenty of discrimination" (D.25, L.50-51), as such finding is contrary to the evidence in the Record as a whole and contrary to the law.

175. To the conclusion that an adverse inference should be drawn against CNN on the basis that Kathryn Kross was not called to testify by CNN (D.25, L.35-38 and 46-48) as such conclusion is contrary to the law. (Tr.1215, L.11-12; Tr.1223-24, L.14-15; Tr.1353, L.14-16;

Tr.1354, L.5-8; Tr.1215, L.11-12; Tr. 1359, L.23-Tr.1362, L.23; GC Ex. 109C; Tr.1216, L.12-Tr.1217, L.10; Tr.1349, L.17-Tr.1355, L.21).

176. To the conclusion that Kathryn Kross' alleged statements are evidence of discriminatory intent and anti-union animus (D.26, L.25-28) as such conclusion is contrary to the ALJ's conclusion that Kross was not privy to "CNN's intentions in this regard on October 3" (D.25, L.49-51), and contrary to the substantial evidence in the Record as a whole. (Tr.1215, L.11-12; Tr.1223-24, L.14-15; Tr.1353, L.14-16; Tr.1354, L.5-8; Tr.1215, L.11-12; Tr. 1359, L.23-Tr.1362, L.23; GC Ex. 109C; Tr.1216, L.12-Tr.1217, L.10; ; Tr.1349, L.17-Tr.1355, L.21; Tr.1214, L.8-10; Tr.648, L.19-20; Tr.12875, L.14-Tr.12877, L.2).
177. To the conclusion that "many CNN employees were aware by September 29 that CNN was planning to operate the NYC and DC bureaus without a union" (D.26, L.25-28), as such conclusion is both unsupported by the Record and contrary to the substantial evidence in the Record as a whole. (Tr.1223, L.21-TR.1224, L.15; GC Exs. 109C, 338, 381, 404; Tr.1360, L.17-Tr.1361, L.16; Tr.1353, L.14-16; Tr.1354, 5-8; Tr.13769, L.21-Tr.13770, L.5; Tr.13772, L.22-Tr.13773, L.7; Tr.13775, L.23-Tr.13776, L.5; Tr.13777, L.14-Tr.13778, L.10; Tr.10896, L.2-7; Tr.10950, L.9-18; Tr.8214, L.21-Tr.8215, L.9; Tr.9210, L.9-Tr.9211, L.9; Tr.8419, L.23-Tr.8421, L.22; Tr.8420, L.13-22; Tr.8461, L.10-Tr.8462, L.19).
178. To the conclusion that the email purportedly sent by Jeff Kinney to Jim Peithman relates to the BSP (D.26, L.32-35) as such conclusion is contrary to the substantial evidence in the Record as a whole. (GC Ex. 496; Tr.11511, L.4-Tr.11513, L.8; Tr.9282, L.18-25; Tr.9424, L.4-9; Tr.11497, L.23-Tr.11502, L.8; Tr.10118, L.13-25; Tr.10126, L.13-24).
179. To the conclusion that the email from Jeff Kinney to Jim Peithman is direct evidence of discriminatory motive during the BSP (D.26, L.32-35, D.27, L.1-34) as such conclusion is contrary to the substantial evidence in the Record as a whole. (GC Ex. 496; Tr.11511, L.4-

Tr.11513, L.8; Tr.9280, L.23-Tr.9281, L.1; Tr.9392, L.10-Tr.9393, L.4; Tr. 9424, L.4-9; Tr.9427, L.3-11; Tr.11497, L.23-11502, L.8; Tr.9282, L.18-25; Tr.10118, L.13-25; Tr.10126, L.13-24).

180. To the conclusion that Jeff Kinney sent the email marked as GC Ex. 496 to Jim Peithman (D.26, L.37-43 and L.47-52) as such conclusion is contrary to the substantial evidence in the Record as a whole. (GC Ex. 496; Tr.10120, L.1-4; Tr.10121, L.15-Tr.10122, L.1; Tr.10122, L.2-8; Tr.10122, L.9-25; Tr.10123, L.1-Tr.10124, L.12; Tr.10128, L.12-14; Tr.10129, L.17-21; Tr.11511, L.4-25; Tr.11512, L.2-11; Tr.9424, L.4-9; Tr.11497, L.23-Tr.11499, L.10).
181. To the conclusion that Jeff Kinney is “generally an incredible witness, when testifying in support of CNN’s case on any issue” (D.26, L.47-48) as such conclusion is without any record support, contrary to the substantial evidence in the Record as a whole, is contrary to the law, and is inconsistent with the treatment of Kinney’s testimony in other portions of the Decision. (Tr.9273, L.15-Tr.9450, L.9; Tr.11343, L.17-Tr.11531, L.9).
182. To the findings that it is “unclear why Kinney would have looked for his email [purportedly from Jim Peithman] in 2005” and that he did not look for the email again after Peithman produced the email and testified on April 7, 2008 (D.26, Note 31) as such findings are contrary to the substantial evidence in the Record as a whole. (Tr.11511, L.4-Tr.11513, L.8).
183. To the finding that “the email [GC Ex. 496] on its face strongly suggests its authenticity” (D.27, L.36) as such conclusion is contrary to the substantial evidence in the Record as a whole. (GC Ex. 496; Tr.10120, L.1-4; Tr.10121, L.15-Tr.10122, L.1; Tr.10122, L.2-8; Tr.10122, L.9-25; Tr.10123, L.1--Tr.10124, L.12; Tr.10128, L.12-14; Tr.10129, L.17-21; Tr.11511, L.4-25; Tr.11512, L.2-11; Tr.9424, L.4-9; Tr.11497, L.23-Tr.11499, L.10).
184. To the conclusion of law, based upon the email purportedly sent by Jeff Kinney in March 2004 (GC 496), that CNN was discriminating against former Team employees with regards

to hiring them for freelance work (D.27, L.41-42), as such conclusion in contrary to substantial evidence in the Record as a whole. (GC Ex. 496; Tr.10120, L.1-4; Tr.10121, L.15-Tr.10124, L.12; Tr.10128, L.12-14; Tr.10129, L.17-21; Tr.11511, L.4-25; Tr.11512, L.2-11; Tr.9424, L.4-9; Tr.11497, L.23-Tr.11499, L.10; Tr.9280, L.23-Tr.9281, L.1; Tr.9366, L.10-12; Tr.9392, L.10-Tr.9393, L.4; Tr.9424, L.4-9; Tr.9427, L.3-11; Tr.11497, L.23-Tr.11499, L.10).

185. To the conclusion that “the motive for this policy is clearly a concern that hiring such employees might adversely affect CNN’s intention to remain non-union” (D.27, L.42- D.28, L1), as such conclusion is unsupported by any evidence in the Record as a whole. (Tr.9280, L.23-Tr.9281, L.1; Tr.9366, L.10-12; Tr.9392, L.10-Tr.9393, L.4; Tr.9424, L.4-9; Tr.9427, L.3-11; Tr.11497, L.23-Tr.11499, L.10).
186. To the conclusion of law that Kinney’s statement in GC 496 constitutes a violation of Section 8(a)(1) as alleged in Complaint paragraph 9(h) and relates to the Bureau Staffing Project (D.28, L.1-2), as such conclusion of law is contrary to the law and contrary to substantial evidence in the Record as a whole. (GC Ex. 496; Tr.11375, L.21-Tr.11376, L.12; Tr.11511, L.4-Tr.11512, L.11; Tr.9282, L.18-25; Tr.9424, L.4-9; Tr.11497, L.23-Tr.11499, L.10; Tr.10118, L.13-25; Tr.10126, L.13-24; Tr.9280, L.23-Tr.9281, L.1; Tr.9392, L.10-Tr.9393, L.4; Tr.9427, L.3-11; Tr.10120, L.1-4; Tr.10121, L.15-Tr.10122, L.1; Tr.10122, L.2-8; Tr.10122, L.9-17; Tr.10123, L.1-13; Tr.10122, L.18-25; Tr.10123, L.14-Tr.10124, L.12; Tr.10128, L.12-14; Tr.10129, L.14-21; Tr.9365, L.18-Tr.9366, L.17; Tr.9427, L.3-11; Tr.11508, L.15-22; Tr.9366, L.10-12).
187. To the finding that CNN did not produce all payroll information Judge Amchan ordered it to produce (D.28, L.49-51) as such finding is contrary to Judge Amchan’s order limiting the scope of the payroll record production and CNN’s compliance with this order. (Tr.11314,

L.23-Tr.11321, L.11; GC Exs. 580-583 (produced as CNNA-PROD0157058 – CNNA-PROD0157504); Tr.15130, L.24-Tr.15132, L.10).

188. To the finding that Jonathan Smith was a credible witness because of Jim Peithman's testimony (D.28, L.4-7), as such finding is unsupported by the record.
189. To the finding that Smith performed "substantial freelance camera work for TVS at the New York bureau in 2003" (D.28, L.8), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.9821, L.9-25; Tr.9860, L.20-Tr.9861, L.1; Tr.9855, L.8-Tr.9858, L.3).
190. To the finding that alleged conversations between Jonathan Smith and Jeff Kinney are evidence of CNN's discriminatory motive behind the BSP (D.28, L.4-28) as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.9280, L.23-Tr.9281, L.2; Tr.9427, L.3-11; Tr.11497, L.23-Tr.11499, L.10; Tr.9873, L.17-25; Tr.9875, L.5-Tr.9877, L.4; Tr. 9870, L.18-24; Tr.9872, L.24-Tr.9873, L.15; Tr.9877, L.21-Tr.9880, L.1; Tr.9883, L.2-Tr.9885, L.2; Tr.9887, L.14- Tr.9888, L.4; Tr.9890, L.21-Tr.9891, L.8; Tr.9892, L.24-Tr.9896, L.9; Tr.11504, L.18-Tr.11505, L.14; Tr.11507, L.2-9; Tr.11508, L.15-Tr.11509, L.20).
191. To the conclusion of law that Jeff Kinney's alleged statements to Jonathan Smith constitute a violation of Section 8(a)(1) as alleged in Complaint paragraph 9(i), and relate to the Bureau Staffing Project (D, 28, L.27-28), as such conclusion is contrary to the law.
192. To the finding that Jeff Kinney's comments about Jamie Wiener on his interview rating sheet indicate that Kinney "bore animus towards unions" (D.28, L.30-35) as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.9392, L.10-Tr.9393, L.4; Tr.9427, L.3-11; Tr.11508, L.15-22; GC Exs. 429, 450, 522 B, vol.4 (Wiener, CNNA-022074).

193. To the finding that Lew Strauss's testimony that he did not tell employees that the union would not be back at CNN does not directly contradict Jon Ford's testimony that Strauss told him it was "a safe assumption to make" that the union won't be back at CNN (D.29, L.18-19) as such finding is contrary to the substantial evidence in the Record as a whole. (*Compare* Tr.10984, L.11-Tr.10985, L.1; Tr.10992, L.10-Tr.10994, L.14; Tr.10998, L.22-Tr.11000, L.5 with Tr.10275, L.10-Tr.10276, L.1).
194. To the inference that Lew Strauss testified he did not remember Ford "because he recalled he had said something to Ford that he should not have" (D.29, L.19-23) as such an inference is unsupported by any evidence in the Record as a whole. (Tr.10275, L.10-Tr.10276, L.1; Tr.12077, L.20-Tr.10280, L.7).
195. To the conclusion that Lew Strauss's testimony is not credible because he did not mention that he interviewed Neal Rivera after the debriefing/selection meeting (D.29, L.23-25), as there is no evidence in the record that Strauss was ever asked about Rivera. (Tr.10192, L.9-21; Tr.10196, L.25-Tr.10227, L.12; Tr.10264, L.2-Tr.10265, L.11; Tr.10268, L.5-Tr.10271, L.10).
196. To the finding that Jeff Gershgorin candidly and inappropriately told some engineering candidates that the position they were interviewing for was not a union position (D.29, L.49-51), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.8054, L.4-Tr.8055, L.15).
197. To the finding and conclusion of law that Lew Strauss's comments to Jon Ford were coercive and thus violated Section 8(a)(1) as alleged in Complaint paragraph 9(g)(D.29, L.27-34), as such finding is contrary to the substantial evidence in the Record as a whole and such conclusion is contrary to the law. (Tr.10275, L.10-Tr.10276, L.1; Tr.10984, L.9-20; Tr.10992, L.3-21; Tr.10993, L.25-Tr.10994, L.14; Tr.10999, L.22-Tr.11000, L.5).

198. To the finding that position questionnaires were drafted in an effort to avoid unions and to the conclusion of law that this constitutes direct evidence of union animus in violation of Section 8(a)(1) (D.29, L.36-40) as such finding is contrary to the substantial evidence in the Record as a whole and contrary to the law. (Tr.11344, L.4-25; Tr.11632, L.14-Tr.11634, L.2; Tr.12377, L.20-Tr.12383, L.2; Tr.12383, L.25-Tr.12387, L.2; Tr.12407, L.20-Tr.12408, L.17; Tr.12436, L.25-Tr.12439, L.17; Tr.12446, L.13-Tr.12448, L.16; Tr.12470, L.22-Tr.12471, L.7; Tr.12540, L.7-Tr.12543, L.12; Tr.12536, L.17-Tr.12538, L.13; Tr.12563, L.1-Tr.12564, L.8; Tr.12566, L.23-Tr.12567, L.19; Tr.12594, L.18-Tr.12597, L.19; Tr.14854, L.7-Tr.14856, L.20; Tr.15438, L.2-Tr.15439, L.15; Tr.16159, L.12-23; CNNA Exs. 54, 71, 92, 126-128, 147-148, 172, 176, 190, 197, 207, 266, 274, 276, 287, 298, 305-306, 312, 316, 321, 323, 338, 375, 385, 394, 398, 438-439, 469, 523, 551, 558-559, 564-565, 575-576, 580, 609, 668, 673, 689, 693, 697, 705, 710; GC Exs. 228, 543).
199. To the finding that Scott Garber and Ken Stanford were assigned to the Atlanta bureau before the BSP so they would be non-union and the conclusion that this constitutes direct evidence of anti-union animus in violation of Section 8(a)(1) (D.29, L.40-43), as such finding is contrary to the substantial evidence in the Record as a whole and contrary to the law. (Tr.13407, L.9-Tr.13408, L.17; Tr.12687, L.15-Tr.12688, L.2).
200. To the conclusion that the General Counsel has met its burden of proving that CNN's overall plan including the BSP was discriminatorily motivated (D.30, L.18-20) as such finding is contrary to the substantial evidence in the Record as a whole and contrary to the law. (Tr.2230, L.23-Tr.2231, L.20; Tr.5693, L.16-21; Tr.9365, L.18-Tr. 9366, L.17; Tr. 13337, L.6-17; Tr.12963, L.4-Tr.12964, L.4; Tr. 4154, L.14-Tr.4156, L.7; Tr.4184, L.17-Tr.4185, L.12; Tr. 5904, L.19-23; Tr.5905, L.16-25; Tr.5906, L.7-18; Tr.5906, L.22-Tr.5907, L.7; Tr.12301, L.18-Tr.12303, L.12; Tr.15849, L.25-Tr.15850, L.24; Tr.12889, L.23-Tr.12891,

L.3; Tr.12894, L.1-7; Tr.2552, L.8-Tr.2553, L.20; Tr.12377, L.20-Tr.12378, L.14; Tr.12537, L.11-Tr.12538, L.13; Tr.12540, L.7-Tr.12543, L.12; Tr.12563, L.1-Tr.12564, L.8; Tr.12567, L.3-Tr.12569, L.12; Tr.12383, L.3-Tr.12387, L.2; Tr.12391, L.4-Tr.12410, L.22; Tr.12411, L.8-Tr.12412, L.21; Tr.12446, L.22-Tr.12451, L.5; Tr.12864, L.10-Tr.12866, L.16; Tr.12594, L.3-Tr.12596, L.5; Tr. 821, L.22-Tr.822, L.24; Tr.12873, L.3-12875, L.1; Tr.14769, L.12-Tr.14770, L.2; Tr.12852, L.2-21; Tr.12875, L.2-Tr.12876, L.5; Tr.16142, L.4-17; Tr.16143, L.2-TR.16165, L.13; TR.16169, L.1-Tr.16187, L.7; Tr.16192, L.8-Tr.16198, L.9; GC Exs. 3-17, 21, 102-A, -X, -Y, -AA, and -CC, 110, 545- 546, 566-568, 596; CNNA Exs. 127, 171, 321, 434-437, 642, 710, 721, 741; Tr.3675, L.6-Tr.3676, L.14; Tr.3680, L.5-13; Tr.9855, L.20-Tr.9856, L.1; Tr.13709, L.20-Tr.13711, L.5; Tr.15038, L.21-23; Tr.3678, L.11-Tr.3679, L.1, Tr.11058, L.15-Tr.11059, L.18; Tr.10638, L.10-Tr.10639, L.16; NABET Sector By-Laws; Tr.438, L.3-Tr.440, L.3; Tr.11300, L.9-Tr.11301, L.9; Tr.15398, L.3-Tr.15400, L.16; Tr.5694, L.18-21; Tr.9855, L.20-Tr.9856, L.18; Tr.9594, L.1-23; Tr.11809, L.11-Tr.11810, L.7; Tr.15195, L.11-Tr.15196, L.12; Tr.15006, L.2-23; Tr.14990, L.10-22; Tr.15030, L.14-19; Tr.10854, L.20-Tr.10855, L.2; Tr. 5938, L.16-21; Tr.15982, L.2-22; Tr.15364, L.13-Tr.15365, L.12; Tr.5693, L.9-Tr.Tr.5694, L.7; Tr.4154, L.14-Tr.4156, L.12; Tr.4163, L.1-11; Tr.4169, L.6-17; Tr.4185, L.10-12; Tr.4197, L.18-Tr.4198, L.8; Tr.5600, L.20-Tr.5601, L.2; Tr.5694, L.18-21; Tr.5753, L.6-10; Tr.9365, L.18-Tr.9366, L.17; Tr.9427, L.3-11; Tr.13272, L.8-Tr.13283, L.12; Tr.10271, L.24-Tr.10272, L.21; Tr.10274, L.10-Tr.10276, L.1; Tr.9211, L.4-9; Tr.8054, L.3-Tr.8055, L.15).

201. To the conclusion of law that CNN's discriminatory motive may be inferred (D.30, L.1-16) and to the application of *Shattuck Denn Mining Corp. v. NLRB*, 366 F.2d 466, 470 (9th Cir. 1966) to this case, as such conclusion and application is contrary to the law.

202. To the finding that there is “direct evidence of discriminatory motive” (D.30, L.22-23), as such finding is unsubstantiated by the evidence in the Record as a whole.
203. To the finding that “CNN’s desire to have a workforce able to cope with new technology could have been, and in fact was, addressed by training” (D.30, L.25-26) as such finding is contrary to the substantial evidence in the Record as a whole. (*See e.g.*, Exceptions 41, 483, 223, 224, 225, 235, 237; Tr.15998, L.7-Tr.16007, L.20; Tr.12446, L.13-Tr.12449, L.24; Tr.12470, L.18-Tr.12473, L.22; Tr.9119, L.5-20; Tr.11371, L.11-Tr.11372, L.20; Tr.11378, L.8-Tr.11379, L.21; Tr.11663, L.9-Tr.11665, L.10; Tr.11658, L.18-Tr.11660, L.17; Tr.16038, L.21-Tr.16041, L.1; CNNA Exs. 66-69, 227, 267, 706).
204. To the finding that there is “overwhelming evidence that the Bureau Staffing Project was a sham” (D.30, L.28-29) as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.16160, L.3-Tr.16184, L.1; Tr.12937, L.1-Tr.12941, L.24; 13106, L.24-Tr.13107, L.2; Tr.14783, L.3-19; CNNA Exs. 476-477, 504-505, 710 p. 1-2, 5-11, Tables O.1 and I.1, Figures O.1b and O.1a).
205. To the finding that there is an “absence of any clear evidence as to who actually decided which job applicants would be hired and the basis on which these decisions were made” (D.30, L.31-32) as such finding is contrary to the substantial evidence in the Record as a whole. (*See* Exceptions 26-29, 299; *See, e.g.*, Tr.12961, L.14-Tr.12962, L.16; Tr.13027, L.14-Tr.13028, L.16; Tr.13031, L.18-Tr.13032, L.19; Tr.13243, L.20-Tr.13245, L.7; Tr.5792, L.10-Tr.5803, L.14; Tr.7967, L.3-Tr.7972, L.10; Tr.9297, L.3-Tr.9318, L.7; Tr.13032, L.13-19; Tr.9344, L.23-Tr.9346, L.2; Tr.7752, L.19-Tr.7753, L.15).
206. To the finding that “CNN set up its hiring process so as to minimize the importance of the prior experience and work history” of former Team employees (D.30, L.34-36) as such finding is contrary to the substantial evidence in the Record as a whole. (*See* Exception 351).

207. To the findings that “TVS applicants were competing for their jobs with non-TVS applicants” on an “uneven playing field” and the legal conclusion that this constitutes disparate treatment (D.30, L.38-39) as such finding is contrary to the substantial evidence in the Record as a whole and the conclusion of law is contrary to the law. (*See* Exception 1075).
208. To the finding that CNN placed importance on non-linear editing because it knew Team applicants lacked such qualifications (D.30, L.41-44) as such finding is contrary to the substantial evidence in the Record as a whole. (*See* Exceptions 156, 223, 224, 500).
209. To the finding that qualifications such as non-linear editing were marginally important for the jobs for which applicants were applying (D.30, L.41-44) as such finding is contrary to the substantial evidence in the Record as a whole. (*See* Exceptions 499, 500).
210. To the finding that Team applicants who lacked non-linear editing experience could have gained such with “minimal training” (D.30, L.41-44) as such finding is contrary to the substantial evidence in the Record as a whole. (*See e.g.*, Tr.15998, L.7-Tr.16007, L.20; Tr.12446, L.13-Tr.12449, L.24; Tr.12470, L.18-Tr.12473, L.22; Tr.9119, L.5-20; Tr.11371, L.11-Tr.11372, L.20; Tr.11378, L.8-Tr.11379, L.21; Tr.11663, L.9-Tr.11665, L.10; Tr.11658, L.18-Tr.11660, L.17; Tr.16038, L.21-Tr.16041, L.1; CNNA Exs. 66-69, 227, 267, 706).
211. To the finding and conclusion of law that non-Team applicants “with little experience, including the so-called ‘growth candidates’” were treated disparately (D.30, L.46-47) as such finding and conclusion is contrary to the substantial evidence in the Record as a whole and contrary to the law. (*See* Exceptions 380-381).
212. To the finding that non-Team applicants were hired into jobs subject to the BSP for which they had not applied or been interviewed prior to the debriefing meetings (D.30, L.49-51) as

such finding is contrary to the substantial evidence in the Record as a whole. (*See e.g.*, CNNA Exs. 429, 521, 534, 537, 540-541, 543, 544).

213. To the finding that CNN departed “from an employer’s normal inclination to hire ‘known quantities’” (D.31, L.1-2) as such finding is irrelevant and contrary to the law. (*See* Exceptions 345, 346).
214. To the conclusion “that the reasons advanced by CNN for terminating its contracts with Team Video, implementing the Bureau Staffing Project and its hiring decisions during the BSP are pretextual” (D.31, L.4-6) as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.16160, L.3-Tr.16184, L.1; Tr.12937, L.1-Tr.12941, L.24; 13106, L.24-Tr.13107, L.2; Tr.14783, L.3-19; CNNA Exs. 476; 477; 504, 505, 710 p. 1-2, 5-11, Tables O.1 and I.1, Figures O.1b and O.1a).
215. To the finding that “CNN did not meet its burden of proof set forth in *Wright Line* and other Board cases” (D.31, L.6-7) as such finding is contrary to the law.
216. To the conclusion of law that “while CNN hired many Team employees, this does not preclude a finding of discrimination” (D.31, L.9-10), as such a conclusion is contrary to the law.
217. To the reliance on *Master Security Services*, 270 N.L.R.B. 543, 552 (1984), and *Volair Contractors*, 341 N.L.R.B. 673, 676 n.17 (2004), as these cases do not support the proposition for which they are cited (D.31, L.12-14), and such reliance is contrary to the law and the evidence in the Record as a whole.
218. To the conclusion of law that an “employer’s failure to take adverse action against all union supporters does not disprove discriminatory motive, otherwise established, for its adverse action against a particular union supporter”, (D.31, L.10-14), as such a conclusion of law is contrary to the law and the evidence in the Record as a whole.

219. To the conclusion that CNN's hiring of unit members and activists is outweighed by the overwhelming evidence that it discriminated against other unit members (D.31, L.14-15) as such conclusion is contrary to the substantial evidence in the Record as a whole and contrary to the law (*See e.g.*, Tr. 2230, L.20-Tr.2231, L.20; Tr.5693, L.16-Tr.5695, L.3; Tr.9366, L.10-12; Tr.13337, L.6-17; Tr.12963, L.4-Tr.12964, L.4; Tr.4154, L.16-Tr.4156, L.12; Tr.4184, L.17-Tr.4185, L.12; Tr.5904, L.18-Tr.5907, L.15; Tr.12301, L.18-Tr.12304, L.2; Tr.15849, L.25-Tr.15850, L.24; Tr.12889, L.23-Tr.12891, L.3; Tr.12892, L.19-Tr.12894, L.3; Tr.2552, L.8-Tr.2553, L.25; Tr.16137, L.22-Tr.16212, L.2; Tr.8399, L.18-Tr.8400, L.22; Tr.9150, L.10-Tr.9151, L.14; GC Exs. 21, 110; CNNA Exs. 63, 554, 706, 710-713).
220. To the finding that there is overwhelming evidence that CNN discriminated against other unit members (D.31, L.14-15) as such finding is contrary to the substantial evidence in the Record as a whole and contrary to the law (*See e.g.*, Tr. 2230, L.20-Tr.2231, L.20; Tr.5693, L.16-Tr.5695, L.3; Tr.9366, L.10-12; Tr.13337, L.6-17; Tr.12963, L.4-Tr.12964, L.4; Tr.4154, L.16-Tr.4156, L.12; Tr.4184, L.17-Tr.4185, L.12; Tr.5904, L.18-Tr.5907, L.15; Tr.12301, L.18-Tr.12304, L.2; Tr.15849, L.25-Tr.15850, L.24; Tr.12889, L.23-Tr.12891, L.3; Tr.12892, L.19-Tr.12894, L.4; Tr.2552, L.8-Tr.2553, L.25; Tr.16137, L.22-Tr.16212, L.2; Tr.8399, L.18-Tr.8400, L.22; Tr.9150, L.10-Tr.9151, L.14; GC Exs. 21, 110; CNNA Exs. 63, 554, 706, 710-713).
221. To the finding that CNN would not have been able to operate its business if it had refused to hire all Team bargaining unit members (D.31, L.16-17), as such finding is contrary to the substantial evidence in the Record as a whole (GC Ex. 595; Tr.2768, L.1-Tr.2771, L.4; Tr. 2616, L.21-Tr.2621, L.4; CNNA Ex. 31; *see e.g.*, Tr.9258, L.6-Tr.9260, L.1; Tr. 9419, L.1-Tr.9420, L.19; Tr.11560, L.-Tr.11562, L.7; CNNA Exs. 273, 284, 356, 717; CNNA Ex. 689 (CNNA-PROD 0156192-95); CNNA Ex. 689 (CNNA-PROD0004734-38); CNNA Ex. 691

(CNNA-PROD 0123192-96); CNNA Ex. 690 (CNNA-PROD 0128043-47); CNNA Ex. 457; CNNA Ex 422, Tab 1 (CNNA-PROD 013678); CNNA Ex 422, Tab 2 (CNNA-PROD0133759); CNNA Ex. 422, Tab 8 (CNNA-PROD 0138910); CNNA Ex. 422, Tab 9 (CNNA-PROD 0139258); CNNA Ex. 422, Tab 10 (CNNA-PROD 019374); CNNA Ex. 422, Tab 11 (CNNA-PROD 0155424); CNNA Ex. 422, Tab 13 (CNNA-PROD 0139742); CNNA Ex. 689 (CNNA-PROD 0141771-76); CNNA Ex. 689 (CNNA-PROD 0141846-48); CNNA Ex. 689 (CNNA-PROD 0156841-45); CNNA Ex. 689 (CNNA-PROD 0142096-142099); CNNA Ex. 689 (CNNA-PROD 0074257-63); CNNA Ex. 689 (CNNA-PROD0142488-91); CNNA Ex. 689 (CNNA-PROD 0142685-89); CNNA Ex 380, Tab 5 (CNNA-PROD0137124); CNNA Ex 380, Tab 6 (CNNA-PROD0137277); CNNA Ex 380, Tab 7 (CNNA-PROD0137770); CNNA Ex 542, Tab 11 (CNNA-PROD 0157120-24); CNNA Ex 380, Tab 11 (CNNA-PROD0138298); CNNA Ex 542, Tab 16 (CNNA-PROD 0157148-53); CNNA Ex 542, Tab 23 (CNNA-PROD 0157186-91); GC Ex. 534 (CNNA-PROD 0127188-97); GC Ex. 534 (CNNA-PROD 0128513-24); GC Ex. 534 (CNNA-PROD 0127660-67); GC Ex. 534 (CNNA-PROD 0130244-51).

222. To the reliance on GC Ex. 595 (D.31, L.17) as such reliance is contrary to the substantial evidence in the Record as a whole (Tr.2768, L.1-Tr.2771, L.4; Tr. 2616, L.21-Tr.2621, L.4; CNNA Ex. 31).
223. To the finding and conclusion that it was unnecessary for CNN to hire a new workforce to take advantage of nonlinear editing or any other new technological developments (D.31, L.21-23) as such finding and conclusion is contrary to the substantial evidence in the Record as a whole and contrary to the law (Tr.3294, L.1-Tr.3297, L.6; Tr.2768, L.1-Tr.2771, L.20; Tr.15998, L.7-Tr.16007, L.20; Tr.15769, L.11-Tr.15772, L.8; Tr.11631, L.22-Tr.11634, L.23; Tr.12446, L.13-Tr.12449, L.24; Tr.12470, L.18-Tr.12473, L.22; Tr.9119, L.5-20; Tr.11371,

L.11-Tr.11372, L.20; Tr.11378, L.8-Tr.11379, L.21; Tr.11663, L.9-Tr.11666, L.9; Tr.11658, L.18-Tr.11660, L.17; Tr.16038, L.21-Tr.16041, L.1; Tr.12113, L.5-Tr.12115, L.5; Tr.12255, L.11-Tr.12256, L.20; CNNA Exs. 66, 67, 68, 69, 224, 267, 422, 589, 634, 689, Tabs 6 (Fingar), 14 (Pless); CNNA Ex. 689 (CNNA-PROD 0156192-95); CNNA Ex. 689 (CNNA-PROD0004734-38); CNNA Ex. 691 (CNNA-PROD 0123192-96); CNNA Ex. 690 (CNNA-PROD 0128043-47); CNNA Ex. 457; CNNA Ex 422, Tab 1 (CNNA-PROD 013678); CNNA Ex 422, Tab 2 (CNNA-PROD0133759); CNNA Ex. 422, Tab 8 (CNNA-PROD 0138910); CNNA Ex. 422, Tab 9 (CNNA-PROD 0139258); CNNA Ex. 422, Tab 10 (CNNA-PROD 019374); CNNA Ex. 422, Tab 11 (CNNA-PROD 0155424); CNNA Ex. 422, Tab 13 (CNNA-PROD 0139742); CNNA Ex. 689 (CNNA-PROD 0141771-76); CNNA Ex. 689 (CNNA-PROD 0141846-48); CNNA Ex. 689 (CNNA-PROD 0156841-45); CNNA Ex. 689 (CNNA-PROD 0142096-142099); CNNA Ex. 689 (CNNA-PROD 0074257-63); CNNA Ex. 689 (CNNA-PROD0142488-91); CNNA Ex. 689 (CNNA-PROD 0142685-89); CNNA Ex 380, Tab 5 (CNNA-PROD0137124); CNNA Ex 380, Tab 6 (CNNA-PROD0137277); CNNA Ex 380, Tab 7 (CNNA-PROD0137770); CNNA Ex 542, Tab 11 (CNNA-PROD 0157120-24); CNNA Ex 380, Tab 11 (CNNA-PROD0138298); CNNA Ex 542, Tab 16 (CNNA-PROD 0157148-53); CNNA Ex 542, Tab 23 (CNNA-PROD 0157186-91); GC Ex. 534 (CNNA-PROD 0127188-97); GC Ex. 534 (CNNA-PROD 0128513-24); GC Ex. 534 (CNNA-PROD 0127660-67); GC Ex. 534 (CNNA-PROD 0130244-51); CNNA Ex. 553A, Tab 1, CNNA-009755, Tab 3, CNNA-008885, Tab 5, CNNA-009762, Tab 25, CNNA-PROD0157443, Tab 26, CNNA-000904, Tab 28, CNNA-025690, Tab 84, CNNA-PROD0157479; CNNA Ex. 553B, Tab 125, CNNA-001302, Tab 39, CNNA-PROD0109363, Tab 143, CNNA-001820, Tab 163, CNNA-006226; GC Ex. 534, Vol. 1, Tab DeSilva, CNNA-PROD0133854).

224. To the finding and conclusion that “CNN’s concerns” regarding the implementation of new technology could have been addressed by training all Team employees (D.31, L.23-25) as such finding and conclusion is contrary to the substantial evidence in the Record as a whole (*See e.g.*, Tr.3294, L.1-Tr.3297, L.6; Tr.2768, L.1-Tr.2771, L.20; Tr.15998, L.7-Tr.16007, L.20; Tr.15769, L.11-Tr.15772, L.8; Tr.11631, L.22-Tr.11634, L.23; Tr.12446, L.13-Tr.12449, L.24; Tr.12470, L.18-Tr.12473, L.22; Tr.9119, L.5-20; Tr.11371, L.11-Tr.11372, L.20; Tr.11378, L.8-Tr.11379, L.11; Tr.11663, L.9-Tr.11665, L.10; Tr.11658, L.18-Tr.11660, L.17; Tr.16038, L.21-Tr.16041, L.1; Tr.12113, L.5-Tr.12115, L.5; Tr.12255, L.11-Tr.12256, L.20; CNNA Exs. 66, 67, 68, 69, 224, 267, 389, 422, 589, 634; CNNA Ex. 380, Tabs 12, 14-16, 21, CNNA Ex. 542, Tabs 17, 18, 24, CNNA Ex. 689, Tab 27; CNNA Ex. 553A, Tab 1, CNNA-009755, Tab 3, CNNA-008885, Tab 5, CNNA-009762, Tab 25, CNNA-PROD0157443, Tab 26, CNNA-000904, Tab 28, CNNA-025690, Tab 84, CNNA-PROD0157479; CNNA Ex. 553B, Tab 125, CNNA-001302, Tab 39, CNNA-PROD0109363, Tab 143, CNNA-001820, Tab 163, CNNA-006226; GC Ex. 534, Vol. 1, Tab DeSilva, CNNA-PROD0133854).
225. To the finding that Team could have adequately trained its workforce with respect to CNN’s new technology (D.31, L.25-26) as such finding is unsubstantiated by the evidence in the Record as a whole (*See e.g.*, Tr.3294, L.1-Tr.3297, L.6).
226. To the finding that there is “no evidence that any of the former Team employees that were hired were incapable of adapting to new technology” (D.31, L.31-32), as such finding is contrary to the substantial evidence in the Record as a whole and contrary to the law (Tr.15569, L.8-Tr.15570, L.5; Tr.15581, L.14-Tr.15584, L.1; Tr.11575, L.1-21; Tr.15998, L.7-Tr.16007, L.20; Tr.15769, L.11-Tr.15772, L.8; Tr.11631, L.22-Tr.11634, L.23; CNNA Ex. 389, 380, Tabs 12, 14-16, 21, CNNA Ex. 542, Tabs 17, 18, 24, CNNA Ex. 689, Tab 27).

227. To the finding that there is no evidence that Team employees not hired by CNN were incapable of adapting or could not have adapted to the new technology (D.31, L.32-33) as such finding is unsubstantiated by the evidence in the Record (Tr.3294, L.1-Tr.3297, L.6; Tr.15569, L.8-Tr.15570, L.5; Tr.15581, L.14-Tr.15584, L.1; Tr.3167, L.20-21), and the conclusion that all Team employees were as qualified or more qualified than other applicants is contrary the law and evidence in the Record.
228. To the conclusion and finding that the hiring of audio designers in New York, and the fact that five of the six employees hired were former Team employees, and one non-Team hire was subsequently terminated, shows that “CNN’s stated motive” for the BSP is pretextual (D.31, L.35-D.32, L.6) as such conclusion and finding is contrary to the substantial evidence in the Record as a whole (Tr.13831, L.1-Tr.13861, L.21; GC Ex. 21; CNNA Exs. 351, 352, 553A, Tabs 1-6, 560, Tabs 3, 9, 583-585, 587-591), and contrary to the law.
229. To the reliance on GC Ex. 513 (D.31, L.37) as its admission into evidence was contrary to the law (Tr.10405, L.11-Tr.10407, L.6).
230. To the finding that engineers who had worked for Team needed less training on the new technology than new engineers who had never worked at the New York Bureau (D.32, L.13-15, relying on Tr. 8196-97) as such finding is contrary to the substantial evidence in the Record as a whole (Tr.12683, L.12-Tr.12693, L.24; CNNA Exs. 216-219, 454, 459-462, 528).
231. To the findings that media coordinators who had worked for Team needed less training than their counterparts and Leitner “was responsible for training new CNN media coordinators who had not worked at TVS (D.32, L. 47-49) as such findings are contrary to the substantial evidence in the Record as a whole (Tr.12138, L.24-Tr.12162, L.2; Tr.12243, L.16-Tr.12283, L.22; Tr.10696, L.15-24; Tr.10779, L.18-Tr.10785, L.22; Tr.10550, L.9-Tr.10556, L.8; CNNA Exs. 355-357, 419-422, 424, 426).

232. To the reliance on Kinney's testimony regarding Final Cut Pro (D.32, L.19-21) as such reliance is contrary to the ALJ's finding that all CNN witnesses, Kinney particularly, were incredible.
233. To the finding that after two days of training, a photojournalist would be able to use this program to edit video in their work (D.32, L.19-22) as such finding is contrary to the substantial evidence in the Record as a whole (Tr.11575, L.1-Tr.11576, L.24; Tr.15569, L.8-Tr.15570, L.5; Tr.15581, L.14-Tr.15584, L.1; Tr.9744, L.12-Tr.9746, L.7; Tr.9558, L.3-Tr.9559, L.3; Tr.6256, L.22-Tr.6257, L.2; Tr.4628, L.-Tr.4629, L.5; Tr.9447, L.13-Tr.9449, L.13; Tr.11575, L.1-Tr.11576, L.24; CNNA Ex. 272.; CNNA Ex. 380, Tab 12, CNNA-PROD0073480; CNNA Ex. 95; CNNA-PROD0142281).
234. To the finding that after two weeks on the job, every New York photojournalist was able to edit with Final Cut Pro (D.32, L.21-22) as such finding is contrary to the substantial evidence in the Record as a whole (Tr.11575, L.1-Tr.11576, L.24; Tr.15569, L.8-Tr.15570, L.5; Tr.15581, L.14-Tr.15584, L.1; Tr.9744, L.12-Tr.9746, L.21; Tr.9558, L.3-Tr.9559, L.3; Tr.6256, L.22-Tr.6257, L.2; Tr.4628, L.-Tr.4629, L.5; Tr.9447, L.13-Tr.9449, L.13; Tr.11489, L.5-Tr.11491, L.2; Tr.9448, L.1-Tr.9449, L.21; CNNA Exs. 272, 380-382, 393, 542).
235. To the conclusion that Steve Redisch's answer "I don't know" supports the finding that CNN could have trained all Team employees to use the new file-based technology in the way CNN wanted to use it or that Team could have trained all of its employees on file-based technology, and other new technology in the way CNN wanted them to use it (D.32, L.26-31, 33-38, 40-44; D.33, L.1-7) as such conclusion is contrary to the substantial evidence in the Record as a whole (Tr.5528, L.9-Tr.5529, L.18; Tr.5596, L.24-Tr.5598, L.1; Tr.3294, L.1-Tr.3297, L.6; Tr.2768, L.1-Tr.2771, L.4; Tr.15998, L.7-Tr.16007, L.20; Tr.15769, L.11-Tr.15772, L.8; Tr.15569, L.8-Tr.15570, L.5; Tr.15581, L.14-Tr.15584, L.1; Tr.11631, L.22-

- Tr.11634, L.23; Tr.12446, L.13-Tr.12449, L.24; Tr.12470, L.18-Tr.12473, L.22; Tr.9119, L.5-20; Tr.11371, L.11-Tr.11372, L.20; Tr.11378, L.8-Tr.11380, L.16; Tr.11663, L.9-Tr.11665, L.10; Tr.11658, L.18-Tr.11660, L.17; Tr.16038, L.21-Tr.16041, L.1; Tr.12113, L.5-Tr.12115, L.5; Tr.12255, L.11-Tr.12256, L.20; Tr.12532, L.8-Tr.12571, L.7; CNNA Exs. 66, 67, 68, 69, 224, 267, 389, 422, 589, 634; CNNA Ex. 380, Tabs 12, 14-16, 21, CNNA Ex. 542, Tabs 17, 18, 24, CNNA Ex. 689, Tab 27).
236. To the conclusion and finding that if CNN had Ms. Perez train all the TVS field technicians in nonlinear editing it could have avoided “putting 18 of them out on the street” (D.33, L.9-16) as such conclusion and finding is contrary to the substantial evidence in the Record as a whole (Tr.3294, L.1-Tr.3297, L.6; Tr.15581, L.14-21; Tr.9744, L.12-Tr.9746, L.7; Tr.9558, L.3-Tr.9559, L.3; Tr.6256, L.22-Tr.6257, L.2; Tr.4628, L.-Tr.4629, L.5; Tr.15569, L.8-Tr.15570, L.5; Tr.15581, L.14-Tr.15584, L.1).
237. To the conclusion that Abdallah, Tillis, Helm, and Bena were hired by CNN “essentially to replace members of the TVS workforce” (D.33, L.27-28) as such conclusion is contrary to the substantial evidence in the Record as a whole (*See* Exception 50; Tr.15438, L.10-Tr.15439, L.12; CNNA Ex. 380, Tab B, 2004 TPMP CNNA-PROD0073862; Tr.13582, L.25-Tr.13584, L.19; GC Exs 228, Tabs J, K, O, U; CNNA Ex. 300, 377, 471, 472, 689, Tabs 15, 16, 26).
238. To the conclusion that CNN could have trained Team employees regarding FTP and then all would have been able to perform the job of photojournalist (D.33, L.27-32) as such conclusion is contrary to the substantial evidence in the Record as a whole and contrary to the law (Tr.3294, L.1-Tr.3297, L.6; Tr.2768, L.1-Tr.2771, L.4; Tr.15998, L.7-Tr.16007, L.20; Tr.15769, L.11-Tr.15772, L.8; Tr.11631, L.22-Tr.11634, L.23; Tr.12446, L.13-Tr.12449, L.24; Tr.12470, L.18-Tr.12473, L.22; Tr.9119, L.5-20; Tr.11371, L.11-Tr.11372, L.20; Tr.11378,

L.8-Tr.11380, L.16; Tr.11663, L.9-Tr.11665, L.10; Tr.11658, L.18-Tr.11660, L.17; Tr.16038, L.21-Tr.16041, L.1; Tr.12113, L.5-Tr.12115, L.5; Tr.12255, L.11-Tr.12256, L.20; CNNA Exs. 66, 67, 68, 69, 224, 267, 422, 589, 634).

239. To the conclusion that the Washington photojournalists rarely used Final Cut Pro or Digital Newsgathering (DNG) transmission techniques during the first eight months (D.33, L.34-39) as such conclusion is contrary to the substantial evidence in the Record as a whole and contrary to the law. (Tr.15470, L.3-Tr.15485, L.18; Tr.15603, L.10-19; Tr.15799, L.-Tr.15801, L.5; Tr.15828, L.21-Tr.15829, L.6; Tr.15836, L.12-23; Tr.15995, L.8-Tr.15997, L.12; Tr.15998, L.24-Tr.16007, L.23; Tr.15686, L.24-Tr.15695, L.5; Tr.15705, L.6-Tr.15737, L.4; CNNA Exs. 701, 702).
240. To the conclusion that the lack of evidence regarding any layoffs in other bureaus or in Atlanta when new technology was introduced, and specifically that there is no evidence concerning what happened when CNN introduced the photojournalist title at CNN headquarters in Atlanta supports a finding of pretext (D.33, L. 41-48) as such conclusion is contrary to the substantial evidence in the Record as a whole. (Tr.12509, L.22-Tr.12511, L.8; Tr.12438, L.5-Tr.12439, L.17; Tr.12867, L.25-Tr.12872, L.12).
241. To the conclusion that when CNN upgrades its equipment, "it trains its employees, as opposed to discharging current employees and hiring new ones," as support for a finding of pretext for the BSP (D.34, L.1-12; 41-45), as such conclusion is contrary to the substantial evidence in the Record as a whole and contrary to the law. (Tr.12867, L.25-Tr.12872, L.12; Tr.12509, L.22-Tr.12511, L.8).
242. To the conclusion that the lack of evidence regarding who replaced laid off CNN employees in Atlanta supports a finding of pretext (D.34, L. 41-45) as such conclusion is unsubstantiated by the Record as a whole and contrary to the law.

243. To the conclusion that Rick Denius' job "transition" from feeds coordinator to media coordinator in Atlanta was "seamless" (D.34, L.13-14) supports a finding of pretext for the BSP (D.34, L.10-14) as such conclusion is unsubstantiated by the Record as a whole and contrary to the law. (Tr.13098, L.23-Tr.13102, L.25).
244. To the conclusion that CNN's transition for editor/producers in New York in 2002 to nonlinear editing supports a finding of pretext for the BSP (D.34, L.16-19), as such conclusion is contrary to the evidence in the Record as a whole and contrary to the law. (Tr.15424, L.15-Tr.15426, L.11; Tr.15572, L.-Tr.15582, L.10).
245. To the conclusion that there is no evidence that CNN solicited applicants for audio technician positions or replaced incumbents when it replaced the Wheatstone audio board in Atlanta and that the lack of evidence supports a finding of pretext for the BSP (D.34, L.21-26), as this conclusion is unsubstantiated by [or contrary to] the evidence in the Record as a whole.
246. To the finding and conclusion that the BSP was a sham (D.34, L.34-35) because CNN executives interfered with the BSP to prevent the hiring of Team bargaining unit employees (D.34, L.35-37), as such finding and conclusion is both unsubstantiated by the Record as a whole and contrary to the substantial evidence in the Record as a whole (*See, e.g.*, Tr.9367, L.23-Tr.9368, L.22; Tr.12899, L.1-23; Tr.13186, L.7-19; Tr.14878, L.1-Tr.14881, L.23; Tr.14868, L.24-Tr.14869, L.13;; Tr.14589, L.12-Tr.14590, L.23; Tr.13044, L.16-Tr.13045, L.9; Tr.13186, L.7-14; Tr.9138, L.9-13; Tr.13847, L.2-7; *see, e.g.*, CNNA Exs. 59, 63, 64, 66-69, 85-88, 93, 186, 223, 224, 257-263, 267-273, 300, 355-357, 380, 381, 384, 413-417, 422, 424, 428, 429, 434-437, 442-445, 450-452, 462-468, 470-472, 475-499, 503-522, 533-547, 549-557, 559-568, 583, 584, 586-593, 689-695, 706-713; GC Exs. 134, 152, 153, 156, 157, 161, 227, 228, 232-235, 241, 247-249, 391-394, 425-427, 450-455, 519-532, 534).

247. To the finding that CNN executives directed the hiring of inexperienced applicants over much more experienced, qualified Team applicants (D.34, L.37-38) as such finding is contrary to the substantial evidence in the Record as a whole (Tr.9367, L.23-Tr.9368, L.22; Tr.12899, L.1-23; Tr.13186, L.7-19; Tr.14878, L.1-Tr.14881, L.23; Tr.14868, L.24-Tr.14869, L.13; Tr.14589, L.12-Tr.14590, L.23; Tr.13044, L.16-Tr.13045, L.9; Tr.13186, L.7-14; Tr.9138, L.9-13; Tr.13847, L.2-7).
248. To the conclusion that Vu's preparation of two interview sheets for Kiraly and Romay support a finding of discrimination (D.34, L.46-51) as such conclusion is contrary to the substantial evidence in the Record as a whole (CNNA Exs. 739, 691, Tab 23, CNNA-PROD0037684; GC Ex. 134, Tab N).
249. To the reliance on GC Ex. 573 (D.34, L.47) as its admission into evidence was contrary to the law and such reliance is contrary to the substantial evidence in the Record as a whole (CNNA Ex. 691, Tab 23, CNNA-PROD0037684).
250. To the conclusion that the selection process regarding Barbara McCloskey and Christian Keller supports a finding of discrimination or that the BSP was a sham (D.35, L.1-20) as such conclusion is contrary to the substantial evidence in the Record as a whole (Tr.10198, L.20-Tr.10200, L.24; 10227, L. 22-Tr.10237, L.22; Tr.13326, L.9-Tr.13332, L.2; Tr.15380, L.22-Tr.15381, L.4; CNNA Exs. 117, 536, 537, 538, 559, 567, 689, 694; GC Exs. 502, 503, 504, 505, 506, 531, 534, Vol. 3, Keller Tab, 549; TVS Ex. 35; GC Ex. 534, Vol. III, McCloskey Tab, CNNA-PROD0075212, CNNA-010635; GC Ex. 534; CNNA Ex. 710, O.1 (Alperin Ratings)), and contrary to the law.
251. To the conclusion that Keller was unqualified or inexperienced because of his tenure as a CNN employee (D.35, L.19-20), as such conclusion is unsubstantiated by the Record.

252. To the finding that a number of employees hired during the BSP stayed in their jobs for a very short time (D.35, L. 49-51) as such finding is contrary to the substantial evidence in the Record as a whole. (*See, e.g.*, Tr.13706, L.10 – Tr.13707, L.1; Tr.6035, L.9-11).
253. To the finding that “CNN has not offered any non-discriminatory explanation for this switch [Keller and Cranmer]” (D.35, L.10-14), as such finding is contrary to the substantial evidence in the Record as a whole and contrary to the law.
254. To the conclusion that the McCloskey’s resignation and statement in her exit interview support a finding that CNN hired inexperienced individuals during the BSP (D.35, L.22-26) as such conclusion is contrary to the substantial evidence in the Record as a whole (GC 534, Vol. 3, McCloskey Tab, CNNA-PROD0070818).
255. To the finding that Cindy Patrick directed the hiring of Craig Jackson over Peter Mohen (D.35, L.28-34) as such finding is contrary to the substantial evidence in the Record as a whole (Tr.13928, L.23-Tr.13929, L.4; GC Ex. 534, Jackson Tab, CNNA-PROD00; CNNA Exs. 594, 595, 602-607).
256. To the conclusion that the ranking and offers for the audio designers in Washington support a finding of discrimination (D.35, L. 30-34) as such conclusion is contrary to the substantial evidence in the Record as a whole and contrary to the law. (Tr.13839, L.12-Tr.13852, L.20; Tr.13859, L.7-13863, L.21; CNNA Exs. 587-593, 710 (R.1, O.1, O.2), 739, 476, 477).
257. To the reliance on GC Ex. 270 (D.35, L.32) as its admission into evidence is contrary to the law.
258. To the inference that Jose Nunez was not discussed and considered at selection/debriefing meetings and was transferred to Washington to avoid hiring a union applicant (D.36, L.6-20) as such inference is unsubstantiated by the evidence in the Record as a whole (CNNA Ex. 694, Tab 12; GC Ex. 534 Vol. 2, Hailes Tab, CNNA-022240).

259. To the finding and conclusion that the studio operator and engineering hiring process in New York shows that the BSP was a charade or sham (D.36, L.26-28, 42-43) as such conclusion is contrary to the substantial evidence in the Record as a whole. (Tr.13047, L.6-22; Tr.7948, L.6-Tr.7985, L.19; Tr.8035, L.15-Tr.8039, L.12; Tr.8049, L.25-Tr.8059, L.25; Tr.8067, L.2-Tr.8088, L.3; Tr.7857, L.6-Tr.7912, L.9; Tr.7921, L.18-Tr.7931, L.12; Tr.8091, L.1-Tr.8134, L.11; Tr.8205, L.9-Tr.8216, L.3; Tr.12693, L.25-Tr.12705, L.8; Tr.12711, L.9-Tr.12715, L.5; Tr.10200, L.25-Tr.10234, L.2; Tr.10268, L.5-Tr.10272, L.21; Tr. 2230, L.20-Tr.2231, L.20; Tr.13337, L.6-17; Tr.12963, L.4-Tr.12964, L.4; Tr.15849, L.2-Tr.15850, L.24; Tr.13183, L.18-Tr.13186, L.19; CNNA Exs. 476, 477, 554, 710).
260. To the finding that NY engineering butcher blocks were lost (D.36, L.36-40) as such finding is contrary to the substantial evidence in the Record as a whole (Tr.13242, L.6-Tr.13243, L.16; GC Exs. 152, 153).
261. To the adverse inference drawn against CNN based on its failure to locate the original butcher blocks for the engineering debriefs (D.36, L.36-40), as such an inference, based on an improper subpoena for documents, is contrary to the law.
262. To the finding that CNN conducted a "secret hiring process" apart from the BSP in hiring engineers in New York and that the BSP was a sham (D.36, L.42-43, D.37, L.1-2, 6-13) as such finding is contrary to the evidence in the Record as a whole. (Tr.13047, L.6-22; Tr.7948, L.6-Tr.7985, L.19; Tr.8035, L.15-Tr.8039, L.12; Tr.8049, L.25-Tr.8059, L.25; Tr.8067, L.2-Tr.8088, L.3; Tr.7857, L.6-Tr.7912, L.9; Tr.7921, L.18-Tr.7931, L.12; Tr.8091, L.1-Tr.8134, L.11; Tr.8205, L.9-Tr.8216, L.3; Tr.12693, L.25-Tr.12705, L.8; Tr. 2230, L.20-Tr.2231, L.20; Tr.13337, L.6-17; Tr.12963, L.4-Tr.12964, L.4; Tr.13183, L.18-Tr.13186, L.19; CNNA Exs. 476, 477, 553, 554, 710).

263. To the conclusion that “silence” of unnamed CNN witnesses regarding topics about which the witnesses were not asked, including the hiring of individuals who were interviewed after the debriefing meeting, is evidence of a discriminatory hiring process or supports a blanket discrediting of “many” CNN witnesses and their testimony generally (D.36, L.47-51 - D.37, L.29 (Note 47)), as such conclusion is unsubstantiated by the evidence in the Record and contrary to the law.
264. To the inference that “virtually every” CNN witness was aware of a secret hiring process (D.36, L.48-49) as such inference is unsubstantiated by the evidence in the Record as a whole.
265. To the finding and ruling that unnamed CNN witnesses are not credible because they testified in “support of a litigation strategy” and not candidly (D.36, L.49-51) as such finding is contrary to the evidence in the Record as a whole and the ruling is contrary to the law.
266. To the reliance on *In Re Lexus of Concord*, 330 N.L.R.B. 1409, 1412 n.9 (2000) and *Carruthers Ready Mix*, 262 N.L.R.B. 739 (1982) (D.36, L. 51-D.37, L.5) as they do not support the proposition for which they are cited (D.36, L.47-50) and such reliance is contrary to the law and the evidence in the Record as a whole.
267. To the conclusion that Holcombe’s statement that “he was not part of the process” after the selection meeting refers to anything more than process by which offers were extended (D.37, L.7-8) as such conclusion is contrary to the substantial evidence in the Record as a whole (Tr.7753, L.10-Tr.7754, L.17).
268. To the inference that interviewing candidates after the debriefing sessions and hiring them “was common knowledge amongst the hiring managers” as well as Patrick, Garrison, Kile, Hebb, Polikoff, Courtney, Strauss, Holcombe, Gershgorn, Fox, LaRussa and Vu (D.37, L.15-18) as such inference is unsubstantiated by the evidence in the Record.

269. To the reliance on the lack of discussion in CNN's brief regarding individuals who applied for positions and were interviewed after the debriefing sessions but were hired for positions subject to the BSP as evidence of a secret hiring process (D.37, L.19-22), as such reliance is contrary to the law.
270. To the finding and conclusion that Chris Stewart was not considered during the hiring manager selection meeting and was hired outside the BSP process (D.37, L.1, 23-27) as such finding and conclusion is contrary to the substantial evidence in the Record as a whole (Tr.12693, L.25-Tr.12696, L.12; CNN Exs. 456, 553A, Tab 11; CNNA-PROD0074974)
271. To the finding that Scott Garber was hired without being subject to the BSP process (D.37, L.1-2) as such finding is unsubstantiated by the evidence in the Record as a whole. (Tr.12713, L.23-Tr.12714, L.10; Tr.13406, L.10-Tr.13410, L.10; CNNA Ex. 553A, Tab 25, 551, Tab 16).
272. To the conclusion that the hiring of engineers in New York after January 2004, listed in Footnote 48, supports the finding that the BSP was a sham (D.37, L.30-44), as such evidence is irrelevant to the issues in this case.
273. To the conclusion that the hiring of engineers in New York after January 2004, listed in Footnote 48, supports the finding that CNN conducted a secret hiring process (D.37, L.30-44) as such conclusion and finding is unsupported by the Record.
274. To the finding and conclusion that "Juan Lopez" was hired without being subject to the BSP process (D.37, L.1, 45-51) as such finding and conclusion is contrary to the substantial evidence in the Record as a whole (CNNA Ex. 553A, Tab 28; GC Ex. 391, Lopez Tab).
275. To the finding and conclusion that Conroy Reynolds was hired without being subject to the BSP process (D.37, L.1-2; D.38, L.1-11) as such finding and conclusion is contrary to the

- substantial evidence in the Record as a whole (CNN Ex. 553A, Tab 20; GC Ex. 392B, Reynolds Tab).
276. To the finding and conclusion that Arkady Labovsky was hired without being subject to the BSP process (D.37, L.1; D.38, L.13-17) as such finding and conclusion is contrary to the substantial evidence in the Record as a whole (CNN Ex. 553A, Tab 16; GC Ex. 392B, Labovsky Tab).
277. To the finding and conclusion that applicants Stephanie Santasier, Amy Graham, Neal Rivera, and Phil Johnson were considered or evaluated in a manner different from other applicants during the BSP (D.38, L.21-35, 45-51 through D.39, L.24) as such finding and conclusion is contrary to the substantial evidence in the Record as a whole (GC Ex. 530, Santasier Tab, GC Ex. 528, Graham & Johnson Tabs; GC Ex. 529, Rivera Tab; CNNA Exs. 541, 633, 694, at 7; 559, Tab 33, 553B, Tabs 140, 143, 157, 160).
278. To the conclusion that GC Exs. 498-501 (D.38, L.27, 46) supports the finding that Santasier, Graham, Rivera, and Johnson were hired without going through the BSP process as such conclusion is contrary to the substantial evidence in the Record as a whole (GC Ex. 530, Santasier Tab, GC Ex. 528, Graham & Johnson Tabs; GC Ex. 529, Rivera Tab; CNNA Exs. 541, 633, 559, Tab 33; CNNA Ex. 553B, Tabs 140, 143, 157, 160).
279. To the conclusion of law that Reynolds' NABET membership and that of Neal Rivera and Terrance Thomas has no bearing on this case (D.38, L.37-44) as such conclusion of law is contrary to the law.
280. To the finding that CNN was primarily concerned with limiting the number of TVS bargaining unit members it hired (D.38, L.39-40) as such finding is contrary to the substantial evidence in the Record as a whole (*See, e.g.*, Exceptions 40, 52).

281. To the conclusion that subsequent debriefing sessions were not explained by CNN and that they support the finding that the hiring process was a sham (D.39, L.4-18) as such conclusion is contrary to the substantial evidence in the Record as a whole (Tr.13047, L.6-22).
282. To the conclusion that Asprey Jones would or should have been hired regardless of what happened to Santasier, Graham, Rivera, and Johnson (D.39, L.26-33) as such conclusion is contrary to the substantial evidence in the Record as a whole (GC Ex. 530, Santasier Tab, GC Ex. 528, Graham, Johnson, Jones Tabs; GC Ex. 529, Rivera Tab; CNNA Exs. 541, 633, 559, Tab 33; CNNA. Ex. 553B, Tabs 140, 143, 157, 160).
283. To the conclusion of law that Aspary Jones was not a statutory supervisor (D.39, L.47-51) as such conclusion of law is contrary to the law and the substantial evidence in the Record as a whole. (Tr.10254, L.21-Tr.10255, L.11; Tr.11287, L.6-23; Tr.11289, L.8-13; Tr.11796, L.12-18; Tr.11797, L.8-21; Tr.11798, L.8-Tr.11800, L.23; Tr.11803, L.25-Tr.11806, L.16; Tr.11807, L.15-Tr.11808, L.20; GC Ex.21; TVS Ex.17).
284. To the finding and conclusion that Moscaritolo was considered or evaluated in a manner different from other applicants (D.39, L.37-D.40, L.2) as such finding and conclusion is unsubstantiated by the evidence in the Record as a whole.
285. To the inference that Rob Fox “was aware that [Moscaritolo] was hired or transferred into media operations without being compared to BSP applicants at the debriefing meeting for media coordinator candidates” (D.40, L.4-8), as such inference is unsubstantiated by the evidence in the Record.
286. To the finding that Timothy Rubino and Diane Zisa (both part-time employees) were considered or evaluated in a manner different from other applicants in the BSP (D.40, L.7-

- 8), as such finding is contrary to the substantial evidence in the Record as a whole (CNNA Exs. 541; 543A).
287. To the finding of a discriminatory motive based on the fact that similar numbers of union employees (Team employees) and non-union employees (CNN employees) did not lose their jobs as a result of the BSP (D.40, L.12-31) as such finding is contrary to the substantial evidence in the Record as a whole (Tr.16163, L.11-Tr.16164, L.25; Tr.7883, L.6-Tr.7884, L.20; Tr.7922, L.3-Tr.7924, L.25; Tr.10329, L.22-Tr.10340, L.24; Tr.12238, L.15-Tr.12241, L.13; Tr.15733, L.7-Tr.15734, L.7; Tr.10409, L.19-Tr.10410, L.15; Tr.14721, L.11-Tr.14722, L.19; Tr.15904, L.13-Tr.15941, L.10; Tr.8335, L.8-Tr.8340, L.7; Tr.8452, L.1-Tr.8454, L.1; CNNA Exs. 269, 630, 679, 710).
288. To the finding that CNN trained editor-producers “to edit differently using the computer-based equipment that was being installed at the new Time-Warner Center” (D.40, L.15-18), as such finding is contrary to the evidence in the Record as a whole.
289. To the conclusion that the fact that the CNN editor/producers and Electronic Graphics Operators did not lose their jobs as a result of the BSP supports the finding that the BSP was discriminatorily motivated (D.40, L.12-20) as such conclusion is contrary to the substantial evidence in the Record as a whole (Tr.16163, L.11-Tr.16164, L.25; Tr.7883, L.6-Tr.7884, L.20; Tr.7922, L.3-Tr.7924, L.25; Tr.10329, L.22-Tr.10340, L.24; Tr.12238, L.15-Tr.12241, L.13; Tr.15733, L.7-Tr.15734, L.7; Tr.10409, L.19-Tr.10410, L.15; Tr.14721, L.11-Tr.14722, L.19; Tr.15904, L.13-Tr.15941, L.10; Tr.8335, L.8-Tr.8340, L.7; Tr.8452, L.1-Tr.8454, L.1; CNNA Exs. 269, 630, 710).
290. To the conclusion that because no CNN employee lost their job and that a number had to interview for their position supports the finding that the BSP was discriminatorily motivated (D.40, L.22-25, 46-49) as such conclusion is contrary to the substantial evidence in the

Record as a whole (*See e.g.*, Tr.16163, L.11-Tr.16164, L.25; Tr.7883, L.6-Tr.7884, L.20; Tr.7922, L.3-Tr.7924, L.25; Tr.10329, L.22-Tr.10340, L.24; Tr.12238, L.15-Tr.12241, L.13; Tr.15733, L.7-Tr.15734, L.7; Tr.10409, L.19-Tr.10410, L.15; Tr.14721, L.11-Tr.14722, L.19; Tr.15904, L.13-Tr.15941, L.10; Tr.8335, L.8-Tr.8340, L.7; Tr.8452, L.1-Tr.8454, L.1; CNNA Exs. 269, 630, 710).

291. To the conclusion that there is little specific evidence as to how and why CNN selected the applicants it did (D.40, L.35-36) as such conclusion is contrary to the substantial evidence in the Record as a whole. (Tr.9009, L.12-Tr.9265, L.23; Tr.14463, L.12-Tr.14527, L.20; Tr.12371, L.17-Tr.12522, L.11; Tr.12353, L.13-Tr.12370, L.21; Tr.15429, L.24-Tr.15673, L.15; Tr.8247, L.15-Tr.8479, L.4; Tr.5724, L.15-Tr.5911, L.20; Tr.10286, L.16-Tr.10362, L.6; Tr.12020, L.9-Tr.12348, L.1; Tr.7945, L.20-Tr.8068, L.7; Tr.13201, L.3-Tr.13255, L.3; Tr.15846, L.17-Tr.15892, L.22; Tr.2123, L.21-Tr.2233, L.11; Tr.7698, L.12-Tr.7810, L.6; Tr.9273, L.15-Tr.9450, L.9; Tr.11343, L.17-Tr.11531, L.9; Tr.7817, L.17-Tr.7938, L.24; Tr.14529, L.17-Tr.14752, L.9; Tr.9450, L.21-Tr.9492, L.3; Tr.562, L.10-Tr.856, L.20; Tr.12847, L.15-Tr.12906, L.2; Tr.14849, L.18-Tr.14972, L.1; Tr.15149, L.15-Tr. 15154, L.4; Tr.8085, L.17-Tr.8238, L.4; Tr.12592, L.5-Tr.12720, L.7; Tr.5506, L.5-Tr.5715, L.8; Tr.10380, L.25-Tr.10444, L.8; Tr.3755, L.14-Tr.4226, L.19; Tr.10149, L.15-Tr.10285, L.10; Tr.13817, L.9-Tr.13917, L.16; Tr.13097, L.22-Tr.13200, L.4; Tr.13262, L.13-Tr.13289, L.14; Tr.12927, L.5-Tr.13054, L.21; Tr.14761, L.13-Tr.14844, L.22; Tr.13315, L.11-Tr.13442, L.15; Tr.16137, L.25-Tr.16211, L.19; Tr.12446, L.22-Tr.12447, L.23; Tr.12448, L.2-Tr.12449, L.24; CNNA Exs. 27, 30, 59, 60, 63, 64, 66-72, 93, 186, 208-209, 223, 224, 257-263, 267, 270, 275, 277-283, 322, 343-346, 428-429, 475-477, 480-485, 487-490, 494, 503-506, 511, 513, 516, 518, 519-521, 527-531, 533-541, 543-544, 559-568, 583-584, 587-589, 632-636, 639-640, 678,

689-695, 739; GC Exs. 134, 153, 155-157, 161, 227, 228, 241, 242, 245-249, 260-261, 266, 333, 391-394, 425-427, 450-455, 507, 519-532, 534, 543, 586, Tab 5).

292. To the conclusion that the Record is unclear how the various steps in the BSP relate to each other (D.40, L.36-37) as such conclusion is contrary to the substantial evidence in the Record as a whole (Tr.13097, L.22-Tr.13200, L.4; Tr.13262, L.13-Tr.13289, L.14; Tr.12927, L.5-Tr.13054, L.21; Tr.14761, L.13-Tr.14844, L.22; Tr.13315, L.11-Tr.13442, L.15; Tr.16137, L.25-Tr.16211, L.19; CNNA Exs. 475-499, 503-526, 533-545).
293. To the conclusion that there is no correlation between an applicant's interview scores and their ranking at the debriefing session (D.40, L.37-39) as such conclusion is contrary to the substantial evidence in the Record as a whole (Tr.14828, L.1-21; Tr.13176, L.8-20; Tr.15849, L.10-21; Tr.14842, L.4-23; CNNA Ex. 710, Tables O.1 & O.2).
294. To the conclusion that freelancer and floater coverage is relevant to any charge in the Complaint or issue in the case (D.40, L.41-43).
295. To the conclusion that the Record contains a lack of evidence that CNN hiring managers "relied" upon interview scores (D.40, L.50-D.41, L.47) as such conclusion is contrary to the substantial evidence in the Record as a whole (Tr.14828, L.1-21; Tr.13176, L.8-20; Tr.15849, L.10-21; Tr.14842, L.4-23; CNNA Ex. 710, Tables O.1 & O.2).
296. To the conclusion that the lack of evidence in the Record "that CNN hiring managers relied on the interview scores alone demonstrates that the BSP process was a sham" (D.40, L.50, D.41, L.47, Note 56) as such conclusion is contrary to the substantial evidence in the Record as a whole. (Tr. 13027, L.17-Tr.13029, L.4; Tr.14827, L.1-25; Tr.14828, L.1-21; Tr.13176, L.8-20; Tr.15849, L.10-21; Tr.14842, L.4-23; Tr.15849, L.10-21; Tr.14842, L.4-23; Tr.4173, L.18-Tr.4174, L.4; Tr.4176, L.2-22; Tr.5795, L.6-Tr.5796, L.8; Tr.7749, L.5-20; Tr.7971, L.18-Tr.7972, L.10; Tr.13061, L.25-Tr.13239, L.18; Tr.14806, L.3-Tr.14807, L.20; Tr.9130,

L.15-Tr.9131, L.13; Tr.9299, L.18-Tr.9300, L.11; Tr. 12960, L.2-Tr.12961, L.6; Tr.5687, L.20-Tr.5690, L.4; Tr.13028, L.5-16; Tr.13227, L.1-9; Tr.13233, L.3-8; Tr.13177, L.3-8; CNNA Ex. 710, Tables O.1 & O.2; CNNA Ex.639; CNNA Ex. 476; GC Ex. 450).

297. To the finding that “Unless a candidate was put into one of the higher categories [of very strong possible, strong possible, possible, or possible minus], he or she was effectively eliminated from consideration for hire” (D.41, L.3-4; D.43, L.28-29) as such finding is contrary to the substantial evidence in the Record as a whole. (*See, e.g.*, Tr.14814, L.25-Tr.14815, L.12; Tr.5804, L.4-11; Tr.9151, L.17-Tr.9153, L.8; Tr.9153, L.12-Tr.9156, L.9; Tr.12494, L.4-Tr.12495, L.11; Tr.9300, L.5-11; Tr.14582, L.13-Tr.14590, L.3; GC Ex.241; GC Ex. 260; GC Ex. 261; GC Ex.265; GC Ex. 427; GC Ex.429; GC Ex.547-550; CNNA Ex. 534; CNNA Ex.536; CNNA Ex.537; CNNA Ex.539; CNNA Ex.540).

298. To the finding that the Record “does not establish when applicants were placed into these categories [of very strong possible, strong possible, possible, or possible minus] or by whom” (D.41, L.4-5) as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.3919, L.25-Tr.3920, L.9; Tr.3923, L.22-Tr.3924, L.7; Tr.5564, L.23-Tr.5565, L.5; Tr.5584, L.3-10; Tr.5584, L.14-Tr.5586, L.16; Tr.8391, L.10-15; Tr.8394, L.1-18; Tr.9298, L.9-Tr.9299, L.9; Tr.12491, L.4-17; Tr.12494, L.4-Tr.12495, L.11; Tr.13225, L.18-Tr.13227, L.9; Tr.13240, L.24-Tr.13242, L.5; Tr.14811, L.20-Tr.14813, L.12; Tr.5796, L.18-Tr.5797, L.2; Tr.12485, L.21-25; Tr.12491, L.4-Tr.12492, L.1; Tr.13336, L.11-18; Tr.8115, L.16-Tr.8116, L.3; Tr.8118, L.14-21; Tr.13151, L.16-Tr.13152, L.15; Tr.9300, L.12-Tr.-Tr.9302, L.10).

299. To the conclusion that even based on CNN’s testimony and documents “it is impossible to discern the basis for some of [CNN’s] hiring decisions” (D.41, L.7-8), as such conclusion is contrary to all of the evidence in the Record. (*See, e.g.* CNNA Ex. 534; GC Ex. 523 (Mark

Hubbard); GC Ex. 523; CNNA Ex. 560, Tab 3 (Rich Cutler); GC Ex. 523 (Jason Greenspan); GC Ex. 523 (James Pertz); GC Ex. 523 (Patrick Ward); CNNA Ex. 537; GC 524 (Kevin Lishawa); GC 524; CNNA Ex. 559, Tab 5 (Diane Parker); GC 524 (David Weber); GC 524 (Robert Wenk); GC 524 (Peter Ballante); CNNA Ex. 521; CNNA Ex. 562, Tab 6 (Rick Jacobson); CNNA Ex. 562, Tab 11 (Julie Cretella); CNNA Ex. 540; GC 526 (Tony Marco); GC 526 (Mike Hallahan); GC 526; CNNA Ex. 559, Tab 10 (Amanda Pressman); GC 525 (Courtney Davis); GC 525 (Larry Holmes); GC 525 (Dennis Finnegan); GC 499; GC 500; GC 527 (Steven Coombs); GC 529; CNNA Ex. 559, Tab 41 (Scott Riley); GC 528 (John Fasulo); GC 527 (Ronald Baxter); GC 527 (Jodi Dresch); CNNA Ex. 537; GC 531; CNNA Ex. 559, Tab 54 (Jamie Vogt); GC 531 (Chris Brown); GC 531 (Sam Sawyer); GC 531; CNNA Ex. 567, Tab 14 (Karen Sabol); GC 531 (Jeff Greenstein); GC Ex. 255; GC Ex. 543, Vol. 3; CNNA Ex. 689, Tab 37 (Jerry Thompson); GC Ex. 543, Vol. 2 (Rick Morse); GC Ex. 543, Vol. 4 (Anthony Umrani); GC Ex. 543, Vol.1 (Derek Davis); GC Ex. 543, Vol. 3 (Barry Schlegel); CNNA Ex. 633; GC Ex. 534, Vol. 2 (Brenda Elkins); GC Ex. 534, Vol. 1 (John Davis); GC Ex. 534, Vol. 1; CNNA Ex. 689, Tab 39 (Leslie Connor); GC Ex. 534, Vol. 4 (Thomas Murphy); GC Ex. 534, Vol. 1 (Erik Banks); GC 391; GC 391, Tab K (Juan Ortiz); GC 391, Tab E (William Greene); GC 391, Tab C (James Clark); GC 394; GC 394, Tab D (Paul Jablonski); GC 394, Tab C (Jeffrey Jaramillo); GC Ex. 394, Tab B (Frank Hatch); GC 392; GC 392(a), Tab D (Carmine Casella); GC 392(a), Tab C (Brahms Lee); Tr.9092, L.13-Tr.9099, L.24; Tr.9104, L.25-Tr.9118, L.10; Tr.9128, L.7-Tr.9130, L.8; Tr.9135, L.13-Tr.9143, L.17; Tr.9147, L.14-Tr.9156, L.9; Tr.9170, L.21-Tr.9175, L.14; Tr.9300, L.12 – Tr.9301, L.5; Tr.9302, L.1-23; Tr.9303, L.4-Tr.9308, L.3; Tr.8397, L.13-19; Tr.8398, L.10-16, 21 – Tr.8399, L.7; Tr.14814, L.25 - Tr.14815, L.8; Tr.8394, L.1-25;

Tr.12485, L.21 – Tr.12496, L.10; Tr.14806, L.9-16; Tr.9170, L.21 - Tr.9171, L.15; Tr.7869, L.25-Tr.7883, L.5; Tr.7885, L.3-Tr.7895, L.24; Tr.7910, L.21-13).

300. To the finding that the hiring of Ron Couvillion and Khalil Abdallah demonstrates that it is impossible to discern the basis for some of CNN's hiring decisions (D.41, L.8-23) despite the fact that they were not ranked by every hiring manager"(D.41, L.21-22) as such finding is contrary to the substantial evidence in the Record as a whole. (*See* Exception 14, 23, 34, 204, 561).
301. To the finding that the hiring decisions for DC Photojournalists were made by averaging the ranking lists made by each hiring manager made (D.41, L.15-17) as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.14827, L.1-25; Tr.14828, L.1-21; Tr.15849, L.10-21; Tr.14842, L.4-23; Tr.14842, L.4-23; Tr.4176, L.2-22; Tr.5795, L.6-Tr.5796, L.8; Tr.13238, L.2-Tr.13239, L.18; Tr.14806, L.3-Tr.14807, L.20; GC Ex. 241; GC Ex. 261; GC450; Tr.12494, L.4-Tr.12495, L.11; Tr.4189, L.9-22-Tr.4195, L.7; Tr.4195, L.17-Tr.4198, L.8; Tr.4198, L.19-Tr.4201, L.14; GC Ex. 241; GC Ex. 261; CNNA Ex.70).
302. To the finding that "there is no explanation as to why Abdallah and Couvillon were offered jobs despite the fact that they were not ranked by every hiring manager"(D.41, L.21-22) as contrary to the substantial evidence in the Record as a whole (GC Ex.228, Vol. 2, Tab J; Tr.4013, L.16-Tr.4014, L.21; Tr.4027, L.1-Tr.4028, L.7; Tr.14900, L.3-11; CNNA Ex.70; Tr.15443, L.1-Tr.15444, L.12; CNN Ex.673; Tr.15768, L.2-Tr.15772, L.8; GC 329; GC 689; CNNA Ex.693), and contrary to the law.
303. To the reliance on the alleged statement by Danielle Whelton to Rick Morse that "all you guys on the White House unit will be okay" as an admission (D.41, L.31-32), as it is contrary to the evidence in the Record and contrary to the law. (Tr.13777, L.17-Tr.13778, L.10).

304. To the finding that only CNN Chief Photographer Dan Young had the authority to overrule the recruiters and have an applicant interviewed who the recruiter had screened out (D.41, L.41-43), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.12997, L.24-Tr.12998, L.5; Tr.12998, L.22-Tr.12999, L.2; Tr.13122, L.10-Tr.13123, L.5; Tr.13142, L.20-Tr.13143, L.1; GC 228, Tab K (Bena); GC 228, Tab E (Marchionne); CNNA 487; CNNA 488; CNNA 489; CNNA 511).
305. To the finding that Mark Marchione was not hired during the BSP (D.41, L.51-D.42, L.45, Note 57) as such finding is contrary to the substantial evidence in the Record as a whole. (GC230; Tr.4204, L.8-19; GC 228; GC 231; GC 261; Tr.4189, L.12-22; Tr.4193, L.18-19).
306. To the finding that James Riggs and Sarah Pacheco were only interviewed by Matt Speiser and that such finding demonstrates “some applicants [for the photojournalist position] were interviewed by several hiring managers, others were interviewed by only one” and therefore the hiring process as designed was not followed (D.42, L.1-5, 18-19) as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.9108, L.15-25; Tr.3912, L.25-Tr.3913, L.9; Tr.9106, L.11-Tr.9107, L.11; Tr.12953, L.8-11; Tr.12953, L.8-11; GC Ex.543, Vol. 3; Tr.5819, L.23-Tr.5820, L.9; CNNA Ex. 100; CNNA Ex. 172; CNNA Ex. 173; GC Ex. 288, Tab H; GC Ex.233; Tr.4009, L.11-18).
307. To the finding that the record is unclear as to the BSP process, how the various steps in the hiring process related to each other and on what basis the final decisions were made (D.42, L.26-27) as such finding is contrary to the substantial evidence in the Record as a whole. (*See* Exceptions 14, 23, 34, 204, 561).
308. To the finding that Redisch’s and Speiser’s “familiarity with the work of many, if not all, the TVS field technicians was very limited” (D.42, L.22-24), as such finding is contrary to the evidence in the Record as a whole.

309. To the finding that “the deliberations during the BSP are poorly documented” (D.42, L.27-28) as such finding is contrary to the substantial evidence in the Record as a whole. (*See e.g.*, GC Exs.134, 228, 232, 233, 235, 241, 249, 260, 333, 499, 500, 519, 520, 521, 523-531, 543, 547-549; CNNA Exs. 68, 267, 495, 521, 534, 540, 559-567, 689-694).
310. To the finding that “CNN’s witnesses generally recall very little of what occurred, and their testimony is often inconsistent,” (D.42, L.28-29) as such finding is contrary to the substantial evidence in the Record as a whole. (*See, e.g.*, Tr.9092, L.13-Tr.9099, L.24; Tr.9104, L.25-Tr.9118, L.10; Tr.9128, L.7-Tr.9130, L.8; Tr.9135, L.13-Tr.9143, L.17; Tr.9147, L.14-Tr.9156, L.9; Tr.9170, L.21-Tr.9175, L.14; Tr.9300, L.12 – Tr.9301, L.5; Tr.9302, L.1-23; Tr.9303, L.4-Tr.9308, L.3; Tr.8397, L.13-19; Tr.8398, L.10-16, 21 – Tr.8399, L.7; Tr.14814, L.25 - Tr.14815, L.8; Tr.8394, L.1-25; Tr.12485, L.21 – Tr.12496, L.10; Tr.14806, L.9-16; Tr.9170, L.21 - Tr.9171, L.15; Tr.7869, L.25-Tr.7883, L.5; Tr.7885, L.3-Tr.7895, L.24; Tr.7910, L.21-13).
311. To the finding that, at the meeting at which hiring decisions were made for New York photojournalists, John Courtney had no information as to how applicants were rated in their interviews (D.42, L.31-33) as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.12513, L.13-Tr.12514, L.14; GC Ex. 425).
312. To the finding that John Courtney “testified he had no such information at the selection meeting in Washington” (D.42, L.33-34), as such a finding is contrary to the substantial evidence in the Record as a whole. (Tr. 12517, L.15-Tr. 12518, L.1; GC Ex. 266.)
313. To the finding that, if John Courtney’s testimony regarding having no information as to how applicants were rated in their interviews is accurate, “the interview process was a complete sham” (D.42, L.34-35) as such finding is contrary to the substantial evidence in the Record

as a whole (Tr.12513, L.13-Tr.12514, L.14; GC Ex. 425; Tr. 12517, L.15-Tr. 12518, L.1; GC Ex. 266), and contrary to the law.

314. To the finding that CNN counsel “led Courtney to change his testimony” about the availability of applicants ratings and that “this demonstrates the unreliability of his testimony” (D.42, L.47-48, Note 59) as such finding is contrary to the substantial evidence in the Record as a whole (Tr.12513, L.21-Tr.12514, L.14; Tr. 12517, L.15-Tr. 12518, L.1).
315. To the finding that “the testimony of CNN witnesses as to what transpired during the BSP is in some cases clearly inaccurate” (D.42, L.37-38) as such finding is contrary to the substantial evidence in the Record as a whole. (*See* Exceptions 14, 23, 34, 204, 561).
316. To the finding that “CNN constantly kept track of how many TVS bargaining unit employees it was hiring” (D.42, L.40-41), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.13342, L.18-Tr.13343, L.7; Tr.4156, L.8-12; Tr.14930, L.10-Tr.14931, L.2; Tr.14953, L.6-11).
317. To the finding and conclusion that “throughout the Bureau Staffing Project, CNN was determined to limit the number of bargaining unit employees hired in order to avoid having to recognize and bargain with the union” (D.42, L.41-43), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.2230, L.20-Tr.2231, L.20; Tr.5693, L.16-Tr.5694, L.3, 18-21; Tr.9366, L.10-12; Tr.13337, L.6-17; Tr.12963, L.4-Tr.64, L.4; Tr.4154, L.14-Tr.4156, L.12; Tr.4183, L.9-Tr.4184, L.24; Tr.4185, L.10-12; Tr.5904, L.18-Tr.5905, L.25; Tr.5906, L.7-Tr.5907, L.15; Tr.12301, L.18-Tr.12304, L.2; Tr.15849, L.25-Tr.15850, L.24; Tr.12889, L.23-Tr.12891, L.3; Tr.12892, L.19-Tr.12894, L.7; Tr.2552, L.8-Tr.2553, L.20; Tr.12963, L.4-Tr.1264, L.4; Tr.13185, L.1, L.-Tr.13186, L.14; Tr.5904, L.18-23; Tr.5905, L.16-25; Tr.5906, L.7-18; Tr.5906, L.22-Tr.5907, L.15; Tr.12301, L.18-Tr.12304,

L.2; CNNA Ex. 541A; Tr.13341, L.21-Tr.13343, L.7; Tr.13282, L.5-Tr.13283, L.7; CNNA Ex.63).

318. To the reliance on General Counsel Exhibit 268 (D.43, L.2-20), as its admission into evidence is contrary to the law. (Tr.4123, L.23-Tr.4124, L.18).
319. To the finding that the notation of “46-27” on General Counsel Exhibit 260 is an indication that CNN was determined to limit the number of bargaining unit employees hired in order to avoid having to recognize and bargain with the union (D.43, L.1-13, D.42, L.41-43) as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.5693, L.9-Tr.5694, L.7; Tr.5694, L.18-Tr.5695, L.5; Tr.14825, L.20-Tr.14826, L.6).
320. To the finding that “by looking at page 2 of CNN Exhibit 70, it is quite obvious that ‘46-27’ refers to the ratio of TVS employees that would have been offered employment according to a list compiled [sic] on or prior to November 17” (D.43, L.17) as such finding is contrary to the substantial evidence in the Record as a whole. (GC Ex. 261; CNNA Ex.70; Tr. 5678, L.20-Tr.5680, L.13; Tr.4184, L.9-Tr.4194, L.15).
321. To the finding that the ALJ “decline[s] to credit any testimony of any CNN management witnesses unless corroborated by other credible evidence” (D.43, L.49 Note 61), as such a finding is unsupported by the Record as a whole and contrary to the law. (*See, e.g.*, Tr. 12852-84, Tr.8202-05; Tr.8343-47; Tr.12449-50; CNNA Ex.473-75; GC. Ex. 101; Tr. 12384-429; Tr.12431-34; Tr.12437-39; Tr.12446-49) (all confidential); CNNA Exs. 434-437; Tr.8147-54; Tr.8169-72; Tr.8176-95; Tr.8202-11; Tr.12594-99; Tr.12604-49; Tr.12656, Tr.12663-65; Tr.12669-70; Tr.12681-92; CNNA Exs. 212-19, 221-23, 442-55; Tr.10321-46; Tr.10360-62; Tr.12021-26; Tr.12036-64; Tr.12128-30; Tr.12090-110; Tr.12113-35; Tr.12141-58; Tr.12165-225; Tr.12229-33; Tr.12238-39; Tr.12241-49; Tr.12253-56; CNNA Exs. 413-29;

GC Ex. 514; Tr.13210-19; Tr.13230-48; Tr.15852-67; CNNA Exs. 527-32, 677-78; GC Ex. 152, 153).

322. To the finding that Cynthia Patrick's testimony that "the subject of how many Team Video employees would be hired never came up" is not credible (D.43, Tr.50-51 Note 61), as such a finding is contrary to the unrebutted evidence in the Record as a whole and contrary to the law.
323. To the finding that applicants were placed in categories, such as very strong possible, possible, possible minus at times other than at the debriefing session (D.43, L.26-28) as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.3919, L.25-Tr.3920, L.9; Tr.3923, L.22-Tr.3924, L.7; Tr.5564, L.23-Tr.5565, L.5; Tr.5584, L.3-10; Tr.5584, L.14-Tr.5586, L.16; Tr.8391, L.10-15; Tr.8394, L.1-18; Tr.9298, L.9-Tr.9299, L.9; Tr.12491, L.4-17; Tr.12494, L.4-Tr.12495, L.11; Tr.13225, L.18-Tr.13227, L.9; Tr.13240, L.24-Tr.13242, L.5; Tr.14811, L.20-Tr.14813, L.12; Tr.5796, L.18-Tr.5797, L.2; Tr.12485, L.21-25; Tr.12491, L.4-Tr.12492, L.1; Tr.13336, L.11-18; Tr.8115, L.16-Tr.8116, L.3; Tr.8118, L.14-21; Tr.13151, L.16-Tr.13152, L.15; Tr.9300, L.12-Tr.-Tr.9302, L.10).
324. To the finding that "Unless an applicant was placed in one of the higher categories, he or she was effectively eliminated from consideration for hire," (D.43, L.28-29), as such finding is contrary to the substantial evidence in the Record as a whole. (*See, e.g.*, Tr.14814, L.25-Tr.14815, L.12; Tr.5804, L.4-11; Tr.9151, L.17-Tr.9153, L.8; Tr.9153, L.12-Tr.9156, L.9; Tr.12494, L.4-Tr.12495, L.11; Tr.9300, L.5-11; Tr.14582, L.13-Tr.14590, L.3; GC Ex.241; GC Ex. 260-261; GC Ex.265; GC Ex. 427; GC Ex.429; GC Ex.547-550; CNNA Ex. 534; CNNA Ex.536-537; CNNA Ex.539-540; CNNA Ex. 654-667).
325. To the inference that "applicants were not placed in these categories by the hiring managers but that this critical step was performed by higher level management," based on the Record

as a whole, with particular emphasis on the inability of CNN's witnesses to recall specific details about the categorization of candidates four and a half years after the events in question (D.43, L.31-34, L.49-51 (note 61)) as such an inference is contrary to the substantial evidence in the Record as a whole. (Tr.3923, L.22-Tr.3924, L.1; Tr.14811, L.20-Tr.14812, L.2; Tr.14814, L.25-Tr.14815, L.8; Tr.13151, L.16-Tr.13152, L.15; Tr.8394, L.1-Tr.8395, L.18; Tr.9300, L.12-Tr.-Tr.9302, L.10; Tr.5796, L.18-Tr.5797, L.2; GC Ex. 241, 260, 261, 427, 454, 534, 540, 547; Tr.5787, L.14-Tr.5789, L.10; Tr.13044, L.19-Tr.13045, L.2; Tr.4182, L.18-25).

326. To the reliance on "the uncontradicted testimony of Brian Kiederling that he was told by Edith Chapin, CNN's Deputy Bureau Chief, that the hiring decisions for New York photojournalists were not made in New York" in support of the inference that "applicants were not placed in these categories by the hiring managers but that this critical step was performed by higher level management," (D.43, L.31-32, 34-37) as such reliance is contrary to the substantial evidence in the Record as a whole. (Tr.13027, L.17-Tr.13029, L.4; Tr.8391, L.10-15; Tr.8394, L.1-25; Tr.8396, L.21-34; Tr.8397, L.13-19; Tr.8398, L.10-16; Tr.8398, L.21-Tr.8399, L.12; Tr.8402, L.24-Tr.8403, L.7; Tr.84-4, L.22-Tr.8406, L.3; Tr.8412, L.7-20; Tr. 8413, L.12-Tr.8414, L.2; GC 429; Tr.9136, L.23-Tr.9137, L.14; Tr.9297, L.3-9; Tr.9298, L.9-Tr.9299, L.9; Tr.9302, L.20-23; Tr.9303, L.4-Tr.9304, L.24; Tr.9305, L.4-17; Tr.9308, L.3-Tr.9309, L.2; Tr.9317, L.15-Tr.9318, L.7).

327. To the inference that, "It is quite possible that this order [of the butcher blocks] had been determined, to some extent, beforehand," (D.43, L.40- D.44, L.49) based in Karen Curry's testimony (Tr.8393, L.21-Tr.8394, L.25; Tr.8397, L.19-Tr.8398, L.16) as such inference is contrary to the substantial evidence in the Record as a whole. (Tr.8393, L.21-Tr.8394, L.25; Tr.8396, L.21-Tr.8397, L.19; Tr.8398, L.10-16; Tr.8398, L.21-Tr.8399, L.7; Tr.3923, L.22-

- Tr.3924, L.13; Tr.5787, L.18-25; Tr.5798, L.3-11; Tr.9170, L.21-Tr.9171, L.15; Tr.13241, L.1-Tr.13242, L.5).
328. To the inference that Speiser played no role in the categorization of photojournalists in Washington (D.44, L.51-D.45, L.7), as such inference is contrary to the substantial evidence in the Record as a whole. (Tr.3923, L.22-Tr.3924, L.13; Tr.4175, L.20-Tr.4177, L.18; Tr.4181, L.5-19; Tr. 4182, L.12-Tr. 4183, L.5; Tr.4183, L.12-Tr.4185, L.5).
329. To the finding that Speiser “used the passive voice when testifying because he not [sic] involved in this part of the selection process” (D.45, L.7-9) as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.3923, L.22-Tr.3924, L.13; Tr.4175, L.20-Tr.4177, L.18; Tr.4181, L.5-19; Tr. 4182, L.12-Tr. 4183, L.5; Tr.4183, L.12-Tr.4185, L.5).
330. To the finding that Edith Chapin was not involved in the categorization of photojournalists because she “was also unable to testify when this classification took place” as such finding is contrary to the evidence in the Record as a whole. (Tr.9155, L.7-Tr.9156, L.9; Tr.9156, L.16-24; Tr.9157, L.12-Tr.9158, L.11; Tr.9170, L.21-Tr.9173, L.1).
331. To the finding that virtually none of the CNN witnesses could recall who did the writing on the butcher blocks, or the order in which job applicants were discussed (D.45, L.12-13, L.38-40 Note 62), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.5787, L.9-Tr.5788, L.7; Tr.5609, L.9-18; Tr.12485, L.21-Tr.12486, L.11; Tr.12487, L.9-12; Tr.14806, L.9-16; Tr.15851, L.11-25; Tr.9138, L.23-Tr.9139, L.14).
332. To the inference that applicants had been categorized prior to the debriefing meetings based on CNN’s witnesses’ failure to recall in what order candidates were discussed (D.45, L.47-49, Note 62) as such inference is contrary to the substantial evidence in the Record as a whole. (Tr.5787, L.9-25; Tr.5584, L.14-Tr.5585, L.9; Tr.9155, L.7-Tr.9156, L.9; Tr.9156, L.16-24; Tr.9157, L.12-Tr.9158, L.11; Tr.9170, L.21-Tr.9173, L.1; Tr.3923, L.22-Tr.3924, L.1;

Tr.14811, L.20-Tr.14812, L.2; Tr.14814, L.25-Tr.14815, L.8; Tr.13151, L.16-Tr.13152, L.15; Tr.8394, L.1-Tr.8395, L.18; Tr.9300, L.12-Tr.-Tr.9302, L.10; Tr.5796, L.18-Tr.5797, L.2; GC Ex. 241, 260, 261, 427, 454, 534, 540, 547; Tr.5787, L.14-Tr.5789, L.10; Tr.13044, L.19-Tr.13045, L.2; Tr.4182, L.18-25 ).

333. To the finding that “the fact that two butcher blocks exist for some applicants makes me very skeptical as to when and how these large sheets of paper were created” (D.45, L.13-15), as such finding is unsupported by the Record. (Tr.9155,L.7-15; Tr.3919, L.25-Tr.3920, L.9; Tr.3923, L.22-Tr.3924, L.7; Tr.5564, L.23-Tr.5565, L.5; Tr.5584, L.3-10; Tr.5584, L.14-Tr.5586, L.16; Tr.8391, L.10-15; Tr.8394, L.1-18; Tr.9298, L.9-Tr.9299, L.9; Tr.12491, L.4-17; Tr.12494, L.4-Tr.12495, L.11; Tr.13225, L.18-Tr.13227, L.9; Tr.13240, L.24-Tr.13242, L.5; Tr.14811, L.20-Tr.14813, L.12; Tr.5796, L.18-Tr.5797, L.2; Tr.12485, L.21-25; Tr.12491, L.4-Tr.12492, L.1; Tr.13336, L.11-18; Tr.8115, L.16-Tr.8116, L.3; Tr.8118, L.14-21; Tr.13151, L.16-Tr.13152, L.15; Tr.9300, L.12-Tr.-Tr.9302, L.10).
334. To the finding that Martin Jimenez is classified as a possible minus (D.45, L.19), as such finding is contrary the substantial evidence in the Record. (*See* Exception 425).
335. To the reliance on General Counsel Exhibit 262 (D.45, L.18), as its admission into evidence is contrary to the law. (Tr.4105, L.22-Tr.4108, L.6; Tr.5633, L.19-Tr.5634, L.10; Tr.5859, L.3-12).
336. To the finding that “CNN’s inability to explain what GC 262 represents indicates [sic] to me that some or all of the butcher blocks were not created, and some or all of the categorization of applicants may not have been accomplished at the debriefing/selection meetings” as such finding and conclusion is contrary to the substantial evidence in the Record as a whole (Tr.4105, L.22-Tr.4108, L.6; Tr.5633, L.19-Tr.5634, L.10; Tr.5859, L.3-12; Tr.3923, L.22-Tr.3924, L.13; Tr.4181, L.5-19; Tr.4182, L.2-7; CNNA Ex. 68; CNNA Ex. 69; Tr.5608, L.19-

Tr.5610, L.1; Tr.5688, L.19-Tr.5690, L.4; Tr.5786, L.13-Tr.5787, L.14; Tr.5787, L.18-25; Tr.8393, L.21-Tr.8394, L.25; Tr.9155, L.7-Tr.9156, L.9; Tr.9233, L.10-Tr.9234, L.17; CNNA Ex.267; Tr.9308, L.21-Tr.9310, L.19; Tr.12485, L.21-Tr.12486, L.11; Tr.14806, L.9-11; Tr.13039, L.5-12; CNNA Ex.351; CNNA Ex. 495; GC 232; GC 233; GC 235; CNNA Ex. 559; CNNA Ex. 560; CNNA Ex. 561; CNNA Ex. 562; CNNA Ex. 563; CNNA Ex. 564; CNNA Ex. 565; CNNA Ex.566; CNNA Ex. 567; CNNA Ex. 689; CNNA Ex. 692; CNNA Ex. 693; CNNA Ex. 694; GC 228; GC 519; GC 520; GC 521; GC 522; GC 523; GC 524; GC 525; GC 526; GC 527; GC 528; GC 529; GC 530; GC 531; GC 534; GC 543), and contrary to the law.

337. To the finding that development areas would be “assume[d] to be weaknesses” (D.45, L.29-30) as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.13039, L.5-12; Tr.13241, L.8-24; Tr.14597, L.6-20; Tr.13152, L.16-Tr.13152, L.8; Tr.13193, L.2-3; Tr.5608, L.19-Tr.5609, L.8).
338. To the finding that “at least some of the assessments changed during the course of the debriefing session, or at some other time, for unexplained reasons” (D.45, L.32-33) as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.4104, L.24-Tr.4105, L.21; Tr.9312, L.14-23).
339. To the finding that “at some point” each of the five Washington hiring managers ranked applicants from 1-55 and did so more than once (D.46, L.1-2), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.3923, L.22-Tr.3925, L.3; Tr.4056, L.5-10; Tr.4134, L.6-17; Tr.5626, L.16-Tr.5627, L.5; Tr.5628, L.16-Tr.5629, L.1).
340. To the finding that “the exact number interviewed by the hiring managers appears to approximately [sic] 70” (D.46, L.47-48, Note. 63), as such finding is contrary to the substantial evidence in the Record as a whole. (GC241; GC249; GC334; CNNA Ex.710,

Appendix B, Table 1.2; GC 260; GC 333; GC 551; Tr.13018, L.10-Tr.13019, L.5; Tr.14816, L.19-22).

341. To the finding that “There is no reliable evidence as to how these rankings relate to the other steps in the hiring process,” (D.46, L.5-6), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.4175, L.20-Tr.4177, L.18; Tr.5584, L.14-Tr.5585, L.7; Tr.5585, L.15-Tr.5586, L.3; Tr.5586, L.23-Tr.5587, L.21; Tr.5588, L.5-Tr.5589, L.2; Tr.5590, L.1-Tr.5590, L.13; Tr.3923, L.5-8; Tr.5792, L.9-20; Tr.5793, L.6-Tr.5796, L.8; Tr.5796, L.18-Tr.5797, L.6; Tr.5798, L.3-Tr.5799, L.1; Tr.5799, L.17-Tr.5801, L.1, 7-20; Tr.5802, L.2-8; Tr.5803, L.8-14; Tr.5804, L.4-11; CNNA Ex. 66; CNNA Ex. 68; CNNA Ex. 69; CNNA Ex. 71; CNNA Ex. 232; CNNA Ex. 266; CNNA Ex. 276; CNNA Ex. 495; CNNA Ex. 526; GC Ex. 228; CNNA Ex. 230A; CNNA Ex. 232; CNNA Ex. 233; CNNA Ex. 235; CNNA Ex. 241; CNNA Ex. 259; CNNA Ex. 260; CNNA Ex. 266; CNNA Ex. 333; CNNA Ex. 543; CNNA Ex. 693).
342. To the conclusion that record evidence regarding certain Team applicants who were not hired and some of the non-Team applicants who were hired “demonstrates how difficult it is “to discern any rational nondiscriminatory basis for this hiring process” (D.46, L.9-10), as such conclusion is contrary to the substantial evidence in the Record as a whole (*See* Exceptions 14, 23, 34, 204, 561; *see e.g.*, Tr. 12932, L.22-Tr.12939, L.7; Tr.12940, L.12-Tr.12941, L.13; Tr.12941, L.14-Tr.12947, L.2; Tr.12951, L.23-Tr.12952, L.15; Tr.12952, L.16-Tr.12953, L.11; Tr.12956, L.21-Tr.12959, L.8; Tr.12960, L.2-Tr.12961, L.25; Tr.12962, L.5-16; Tr.12962, L.23-Tr.12964, L.4; CNNA Ex.476, 477, 478, 479), and contrary to the law.
343. To the finding that, in the BSP, “CNN essentially replaced 18 camera operators from the TVS bargaining unit,” and that “these photojournalists (or cameramen) were replaced by

seventeen employees” (D.46, L.17-20), as such finding is contrary to the substantial evidence in the Record as a whole. (GC Ex. 227; Tr.9206, L.10-Tr.9207, L.16; Tr.12446, L.22-Tr.12448, L.16; Tr.12450, L.13-Tr.12451, L.5; Tr.12474, L.10-21; Tr.12872, L.13-Tr.12873, L.2; Tr.14858, L.6-Tr.14859, L.7; Tr.14870, L.25-Tr.14872, L.5; Tr.11344, L.4-Tr.11346, L.11; Tr.11376, L.13-Tr.11377, L.6; Tr.11421, L.3-19; Tr.15438, L.10-Tr.15439, L.6; Tr.15611, L.18-Tr.15612, L.12; Tr.9635, L.9-Tr.9636, L.1; Tr.9645, L.3-Tr.9645, L.4; Tr.11546, L.24-Tr.11547, L.9; Tr.11668, L.8-24; Tr.13582, L.25-Tr.13585, L.2; Tr.11390, L.23-Tr.11392, L.16; Tr.3766, L.24-Tr.3767, L.10; Tr.11544, L.3-Tr.11547, L.9; Tr.9645, L.12-Tr.9646, L.4; Tr.13586, L.2-Tr.13587, L.15; Tr.6041, L.2-15; Tr.4154, L.4-8; Tr.6422, L.22-Tr.6425, L.18; Tr.9653, L.20-Tr.9655, L.6; Tr.9817, L.2-6; Tr.4809, L.11-18; Tr.3776, L.7-Tr.3777, L.14; CNNA Exs. 377, 380, 381, 392, 393, 400, 401, 431, 432, 667).

344. To the finding and conclusion that “it is not clear, as CNN contends, that saving money was not a consideration in implementing the BSP and in the hiring decisions made during the BSP” (D.48, L.24-26), as such finding and conclusion are contrary to the substantial evidence in the Record as a whole. (Tr.818, L.23-Tr.819, L.2; Tr.819, L.16-23; Tr.12880, L.1-Tr.12881, L.18; Tr.12873, L.3-17; Tr.12875, L.2-21; Tr.14897, L.12-16; Tr.14951, L.8-Tr.14952, L.25; Tr.3946, L.24-Tr.3947, L.7; Tr.13338, L.16-Tr.13339, L.3; Tr.13245, L.13-Tr.13246, L.18).

345. To the conclusion that, regarding the DC Photojournalists, “these hiring decisions are at a minimum counterintuitive” because CNN did not hire “known quantities” (D.48, L.28-47), as such conclusion is contrary to substantial evidence in the Record as a whole (Tr.3923, L.22-Tr.3924, L.13; Tr.4175, L.20-Tr.4177, L.18; Tr.4181, L.5-19; Tr. 4182, L.12-Tr. 4183, L.5; Tr.4183, L.12-Tr.4185, L.5; Tr.5608, L.19-Tr.5610, L.1; Tr.5688, L.19-Tr.5690, L.4;

Tr.5786, L.13-Tr.5787, L.14; Tr.5787, L.18-25; CNNA Ex. 706; CNNA Ex. 707; CNNA Ex. 710, Table 1.2) and contrary to the law.

346. To the reliance on *Smoke House Restaurant*, 347 NLRB No.16 (2006) and the cases cited therein regarding hiring “known quantities” (D.48, L.28-30), as such cases are inapposite to the evidence in the Record and issues in this case as a whole. (CNNA Ex. 710 Table O.1; CNNA Ex. 710 Table I.1; CNNA Ex. 710 Table O.1b; CNNA Ex. 710 Table O.1a; Tr.16159, L.24-Tr.16181, L.16; Tr.16193, L.4-7).
347. To the finding that “the quality of bargaining unit employees’ work for CNN while Team was its contractor was acceptable,” and therefore the hiring decisions were counterintuitive (D.48, L.41-42) as such finding is contrary to the evidence in the Record and contrary to the law. (GC Ex. 227; Tr.9206, L.10-Tr.9207, L.16; Tr.12446, L.22-Tr.12448, L.16; Tr.12450, L.13-Tr.12451, L.5; Tr.12474, L.10-21; Tr.12872, L.130Tr.12873, L.2; Tr.14858, L.6-Tr.14859, L.7; Tr.14870, L.25-Tr.14872, L.5; Tr.11344, L.4-Tr.11346, L.11; Tr.11376, L.13-Tr.11377, L.6; Tr.11421, L.3-19; Tr.15438, L.10-Tr.15439, L.6; Tr.15611, L.18-Tr.15612, L.12; Tr.9635, L.9-Tr.9636, L.1; Tr.9645, L.3-Tr.9645, L.4; Tr.11546, L.24-Tr.11547, L.9; Tr.11668, L.8-24; Tr.13582, L.25-Tr.13585, L.2; Tr.11390, L.23-Tr.11392, L.16, Tr.3766, L.24-Tr.3767, L.10; Tr.11544, L.3-Tr.11547, L.9; Tr.9645, L.12-Tr.9646, L.4; Tr.13586, L.2-Tr.13587, L.15; Tr.6041, L.2-15; Tr.4154, L.4-8; Tr.6422, L.22-Tr.6425, L.18; Tr.9653, L.20-Tr.9655, L.6; Tr.9817, L.2-6; Tr.4809, L.11-18; Tr.3776, L.7-Tr.3777, L.14; Tr.5694, L.22-Tr.5695, L.3; CNNA Ex. 377; CNNA Ex. 380; CNNA Ex. 381; CNNA Ex. 392; CNNA Ex. 393, CNNA Ex. 400; CNNA Ex. 401; CNNA Ex. 431; CNNA Ex. 432; CNNA Ex. 667).
348. To the finding that Matt Speiser, the Director of Newsgathering, testified that he was satisfied with the services provided by the TVS cameramen and audio technicians” (D.48, L.42-44) and therefore the hiring decisions were counterintuitive, as such conclusion is

unsupported by the Record. (Tr.9206, L.10-Tr.9207, L.16; Tr.12446, L.22-Tr.12448, L.16; Tr.12450, L.13-Tr.12451, L.5; Tr.12474, L.10-21; Tr.12872, L.13-Tr.12873, L.2; Tr.14858, L.6-Tr.14859, L.7; Tr.14870, L.25-Tr.14872, L.5; Tr.11344, L.4-Tr.11346, L.11; Tr.11376, L.12-Tr.11377, L.6; Tr.11421, L.3-9; CNNA Ex. 380, Tab B, CNNA-PROD0073862; Tr.15438, L.10-Tr.15439, L.6; Tr.15611, L.23-Tr.15612, L.12, Tr.11546, L.24-Tr.11547, L.9; Tr.11668, L.8-24; Tr.13582, L.25-Tr.13583, L.23; Tr.15611, L.18-Tr.15612, L.12, Tr.11390, L.23-Tr.11392, L.13; Tr.3766, L.24-Tr.3767, L.10; Tr.11545, L.3-Tr.11547, L.9; Tr.9645, L.12-Tr.9646, L.4, Tr.13586, L.2-Tr.13587, L.15; Tr.6041, L.2-15; Tr.4154, L.4-8, Tr.9817, L.2-6, Tr.3777, L.3-14; CNNA Ex. 380; 12863, L.1-Tr.1285, L.17; Tr.12466, L.16-Tr.12468, L.24; Tr.12447, L.19-Tr.12449, L.24; Tr.12871, L.18-Tr.12872, L.12; Tr.12873, L.3-17; Tr.11344, L.4-25; Tr.15438, L.24-Tr.15439, L.6; Tr.13114, L.15-Tr.13115, L.1; Tr.14889, L.7-11; Tr.14893, L.24-Tr.14898, L.4).

349. To the finding that “an applicant’s experience in working at the CNN DC Bureau with Team Video was [sic] ‘wasn’t a factor at all’ in CNN’s hiring decisions with regard to photojournalist applicants, Tr.5693” (D.48, Tr.44-47), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.9150, L.10-Tr.9151, L.14; Tr.9480, L.24-Tr.9484, L.10).
350. To the Judge’s reliance on testimony from Steve Redisch and Matt Speiser regarding the quality of Team bargaining unit employees’ work for CNN (D.48, L.41-44) after finding that Steve Redisch and Matt Speiser’s “familiarity with the work of many, if not all, [of] the TVS field technicians, was very limited” (D.42, L.23-25) as such reliance is inconsistent with the Judge’s prior finding.
351. To the finding and conclusion that the “hiring process was designed to minimize the importance of the TVS applicants’ prior experience at the D.C. Bureau their [sic] and work

history,” (D.49, L.1-2), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr. 12932, L.22-Tr.12939, L.7; Tr.12940, L.12-Tr.12941, L.13; Tr.12941, L.14-Tr.12947, L.2; Tr.12952, L.16-Tr.12953, L.11; Tr.12956, L.21-Tr.12959, L.8; Tr.12960, L.2-Tr.12961, L.25; Tr.12962, L.5-16; Tr.12962, L.23-Tr.12964, L.4; Tr.13105, L.12-Tr.13111, L.25; Tr.13113, L.13-Tr.13116, L.20; Tr.13122, L.10-Tr.13123, L.18; Tr.14514, L.7-14; CNNA Exs. 476-479, 503-505, 511; Tr.8473, L.9-Tr.8474, L.25; Tr.9150, L.10-Tr.9151, L.14; Tr.5693, L.20-24; GC 248; Tr.12933, L.25-Tr.12934, L.7; Tr.12968, L.16-Tr.12974, L.20; Tr.13033, L.8-Tr.13036, L.4).

352. To the finding and conclusion that the hiring process “was also devised so as to allow for a maximum amount of flexibility and/or manipulation” (D.49, L.2-3), as such finding is contrary to the substantial evidence in Record as a whole. (Tr. 12932, L.22-Tr.12939, L.7; Tr.12940, L.12-Tr.12941, L.13; Tr.12941, L.14-Tr.12947, L.2; Tr.12952, L.16-Tr.12953, L.11; Tr.12956, L.21-Tr.12959, L.8; Tr.12960, L.2-Tr.12961, L.25; Tr.12962, L.5-16; Tr.12962, L.23-Tr.12964, L.4; Tr.13105, L.12-Tr.13111, L.25; Tr.13113, L.13-Tr.13116, L.20; Tr.13122, L.10-Tr.13123, L.18; Tr.14514, L.7-14; CNNA Ex. 476, CNNA Ex. 477, CNNA Ex. 478, CNNA Ex.479, CNNA Ex. 503, CNNA Ex. 504, CNNA Ex. 505; Tr.8473, L.9-Tr.8474, L.25; Tr.9150, L.10-Tr.9151, L.14; Tr.5693, L.20-24; CNNA Ex. 511; GC 248; Tr.12933, L.25-Tr.12934, L.7; Tr.12968, L.16-Tr.12974, L.20; Tr.13033, L.8-Tr.13036, L.4).

353. To the finding that “In order to minimize the impact of the TVS applicants’ experience, no hiring manager discussed the strengths and weaknesses of TVS cameramen with Brad Simons, their TVS supervisor, nor did they look at TVS personnel files,” (D.49, L.3-5) as such finding is unsupported by the Record. (Tr.8473, L.9-Tr.8474, L.25; Tr.9150, L.10-Tr.9151, L.14; Tr.14514, L.7-14; Tr.4563, L.9-Tr.4565, L.16; Tr.4564, L.8-Tr.4565, L.16; Tr.5556, L.3-19; Tr.3933, L.22-Tr.3934, L.22; Tr.9481, L.18-Tr.9484, L.10; GC Ex. 228, Tab

B, CNNA-016368 (Dave Hamilton); GC Ex. 228, Tab C, CNNA-015035 (Dave Jenkins); GC Ex. 519, Tab Bivona, CNNA-PROD012621; GC Ex. 519, Tab Capolarello, CNNA-PROD0143107; GC Ex. 520, Tab Imparato, CNNA-000786; GC Ex. 521 Tab Meara, CNNA-004733).

354. To the finding and conclusion that “the field [for all applicants] was decidedly not level” (D.49, L.22-24), as such finding and conclusion is unsupported by the Record. (Tr.9150, L.10-Tr.9151, L.14; Tr.9138, L.23-Tr.9139, L.14; Tr.9480, L.24-Tr.9484, L.10; G.C. Ex. 387; Tr.5692, L.6-Tr.5693, L.3; CNNA Ex. 710 Table O.1; CNNA Ex. 710 Table I.1; CNNA Ex. 710 Table O.1b; CNNA Ex. 710 Table O.1a; Tr.16159, L.24-Tr.16181, L.16; Tr.16193, L.4-7; Tr.5838, L.22-Tr.5839, L.23; Tr.5840, L.3-5; CNNA Ex. 554; CNNA Ex. 706; Tr.5692, L.6-Tr.5693, L.3; GC Ex. 543, Vol. 1, Tab Bannigan, CNNA-021617 (Favorable email from Dan Young re Team applicant); G.C. Ex. 543, Vol.2, Tab Garraty, CNNA-021619 (same), CNNA-015888; GC Ex. 228, Tab B, CNNA-016368 (Dave Hamilton); GC Ex. 228, Tab C, CNNA-015035 (Dave Jenkins); GC Ex. 519, Tab Bivona, CNNA-PROD012621; GC Ex. 519, Tab Capolarello, CNNA-PROD0143107; GC Ex. 520, Tab Imparato, CNNA-000786; GC Ex. 521 Tab Meara, CNNA-004733).
355. To the finding and conclusion that “Since there is no evidence that anyone other than Courtney or Young knew Schantz, knew anything about his work or had interviewed him, one must assume that the rankings of the other three hiring managers was based on what Young and Courtney told them about Schantz” (D.50, L.7-10) as contrary to the law and unsupported by the evidence in the Record as whole.
356. To the finding that “with one exception, there is no evidence of a hiring manager lobbying other hiring managers on behalf of any of the TVS candidates” (D.50, L.24-25), as such finding and conclusion is contrary to the substantial evidence in the Record as a whole.

(Tr.9150, L.10-Tr.9151, L.14; Tr.9480, L.24-Tr.9484, L.10; G.C. Ex. 387, D.63, L.22-35; Tr.5692, L.6-Tr.5693, L.3; CNNA Ex. 710 Table O.1; CNNA Ex. 710 Table I.1; CNNA Ex. 710 Table O.1b; CNNA Ex. 710 Table O.1a; Tr.16159, L.24-Tr.16181, L.16; Tr.16193, L.4-7; CNNA Ex. 554; CNNA Ex. 706).

357. To the finding that “Matt Speiser did not share with any other hiring managers his belief that TVS cameraman Chris Hamilton had great artistic talent and that his work as a cameraman is beyond reproach” (D.50, L.28-30), as such finding is unsupported by the evidence in the Record (Tr.5828; GC Ex. 228, Vol.1; Tab B, CNNA-016344), and further fails to support the conclusion that this is why the hiring managers ranked Hamilton as they did. (D.50, L.30-33).
358. To the finding that there is “little evidence that any of the hiring managers consulted with CNN producers, editors and reporters who were familiar with the work of the TVS cameramen” and that, when they did so, the hiring managers “ignored favorable assessments” (D.50, L. 35-38) as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.13781, L.7-9; GC 543, Vol. 2 (Garraty); GC 387, GC 388; Tr.7655, L.17-23; GC Ex.228, Tab F (Luis Munoz)); Tr.9480, L.24-Tr.9484, L.10).
359. To the finding that “similar uneven treatment was accorded TVS applicants for the audio designer and studio operator positions in Washington” (D.50, L.40-41), as such finding is contrary to the substantial evidence in the Record as a whole. (GC534, GC535, GC536, GC537, GC538, GC539, GC548, GC550, GC547, CNNA Ex.580, CNNA Ex.588, CNNA Ex.589, CNNA Ex.602, CNNA Ex.609, CNNA Ex.622, CNNA Ex.632, CNNA Ex.633, CNNA Ex.634, CNNA Ex.635, CNNA Ex.637, CNNA Ex.638, CNNA Ex.689, CNNA Ex.694; Tr.12888, L.1-Tr.12889, L.11; Tr.14672, L.9-Tr.14675, L.14; Tr.14676, L.23-

Tr.14679, L.6; Tr.14681, L.15-Tr.14683, L.2; Tr.14693, L.17-Tr.14695, L.9; Tr.14697, L.11-Tr.14698, L.5; Tr.14700, L.4-Tr.14707, L.17; Tr.14714, L.13-Tr.14716, L.5).

360. To the finding that because Woodward made inquiries of CNN managers and applicants who worked in CNN Atlanta but “made no such inquiries regarding Team Video applicants” (D.50, L.44) demonstrates uneven treatment of Team applicants, as such finding is unsupported by the Record. (Tr.13420, L.4-Tr.13421, L.1; Tr.13425, L.5-17; Tr.13430, L.5-15; Tr.14449, L.3-Tr.15000, L.1; Tr.13049, L.17-23; Tr.14823, L.16-Tr.14824, L.6; Tr.13017, L.24-Tr.13018, L.4; Tr.14681, L.9-Tr.14683, L.2; Tr.13248, L.10-19; 12899, L.8-15).
361. To the finding that because Troy McIntyre did not talk to the supervisors of Team Video applicants but talked to supervisors of CNN employees about a candidate’s performance (D.50, Tr.46-49) demonstrates uneven treatment of Team applicants, as such finding is unsupported by the Record. (Tr.13420, L.4-Tr.13421, L.23; Tr.14578, L.8-16; Tr.14578, L.17-Tr.14579, L.20; Tr.14579, L.21-Tr.14580, L.6; Tr.14580, L.22-Tr.14581, L.11; Tr.14681, L.9-Tr.14683, L.2; Tr.13049, L.17-23; Tr.14823, L.16-Tr.14824, L.12; Tr.5692, L.6-Tr.5693, L.3; GC 530 (Robert Wenk); GC 527 (John Allen); GC 45 (Michael Stein); GC 530 (Dan Scalley)).
362. To the finding that Troy McIntyre’s email to Andy Parsons asking him to identify prospective candidates for the Studio Operator position demonstrates that uneven treatment was afforded to studio operator applicants in Washington D.C. (D.50, L.51, D.51, L.35-37) as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.14622, L.25-Tr.14624, L.14; GC 534, Vol. 4 (John Otth)).
363. To the finding that “No one from CNN made any inquiry regarding the work performance of Team employees to Mike Marcus, the TVS Director of Studio Operations” (D.50, L.49-D.51, L.1), as such finding is contrary to the substantial evidence in the Record as a whole.

(Tr.13420, L.4-Tr.13421, L.1; Tr.13425, L.5-17; Tr.13430, L.5-15; Tr.14449, L.3-Tr.15000, L.1; Tr.13049, L.17-23; Tr.14823, L.16-Tr.14824, L.6).

364. To the finding that non linear editing was a “device[] seized upon early in the life of the Bureau Staffing Project to allow CNN to limit the number of TVS bargaining unit employees it would hire” (D.51, L.6-8, 13-15), and that non linear editing “provided the perfect cover for discriminatory hiring to get rid of the unions in [the Washington and New York] bureaus” (D.51, L.19-20), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.11344, L.4 – Tr.11347, L.4; Tr.12383, L.25 - Tr.12387, L.2; Tr.12407, L.20 - Tr.12409, L.7; Tr.12436, L.25 - Tr.12439, L.17; Tr.12446, L.13 - Tr.12448, L.16; Tr.12470, L.22 - Tr.12471, L.7; Tr.12536, L.17 - Tr.12538, L.13; Tr.12540, L.7 - Tr.12543, L.12; Tr.12563, L.1 - Tr.12564, L.8; Tr.12566, L.23 - Tr.12567, L.19; Tr.14854, L.7 - Tr.14856, L.20; Tr.15438, L.2 - Tr.15439, L.15; Tr.12962, L.23 – Tr.12964, L.4; CNNA Exs. 93, 438, 476-77; GC Ex. 227).
365. To the inference that the impact of the emphasis on non-linear editing on TVS bargaining unit employees during the hiring process was “not an after-the-fact happy circumstance” (D.51, L.13-15), as such inference is unsubstantiated by the Record as a whole.
366. To the finding that CNN’s change to the photojournalist job description in 2003 to increase the importance of experience with Final Cut Pro and File Transfer Protocol “provided the perfect cover for discriminatory hiring to get rid of the unions in those two bureaus (D.51, L.19-20), as such finding is unsubstantiated by the Record as a whole. (Tr.12407, L.20 - Tr.12409, L.7; Tr.12436, L.25 - Tr.12439, L.17; Tr.12446, L.13 - Tr.12448, L.16; Tr.12470, L.22 - Tr.12473, L.4; Tr.12563, L.1 - Tr.12564, L.8; Tr.12450, L.13 – Tr.12451, L.14; CNNA Ex. 93; GC Ex. 227).

367. To the finding that “there is direct evidence that the requirements for photojournalist [sic] were drafted with the intent of discriminating against NABET members” (D.51, L.22-25), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.16159, L.12-23; Tr.12962, L.23 – Tr.12964, L.4; Tr.12450, L.13 – Tr.12451, L.14; Tr.11344, L.4 – Tr.11347, L.4; Tr.12383, L.25 – Tr.12387, L.2; Tr.12407, L.20 – Tr.12408, L.17; Tr.12436, L.25 – Tr.12439, L.17; Tr.12446, L.13 – Tr.12448, L.16; Tr.12470, L.22 – Tr.12471, L.7; Tr.12540, L.7 – Tr.12543, L.12; Tr.12536, L.17 – Tr.12538, L.13; Tr.12563, L.1 – Tr.12564, L.8; Tr.12566, L.23 – Tr.12567, L.19; Tr.14854, L.7 – Tr.14856, L.20; Tr.15438, L.2 – Tr.15439, L.15; CNNA Exs. 93, 438, 476-77, 710; GC Ex. 227).
368. To the finding that TVS applicants did not receive complete information about the job requirements and duties of the photojournalist position (D.51, L.27-32), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.12976, L.8-21; Tr.6628, L.8 – Tr.6629, L.10; Tr.13106, L.24 – Tr.13112, L.2; Tr.13113, L.13 – Tr.13115, L.1; CNNA Ex. 196, 504-05).
369. To the finding that the “testimony of CNN witnesses as to how critical it was for an applicant to have experience performing nonlinear editing in the field” was not “entirely consistent” (D.51, L.38-39), as such finding is contrary to the substantial evidence in the Record as a whole. (*See e.g.*, Tr.3876, L.20 – Tr.3877, L.2; Tr.3879, L.16-22; Tr.4209, L.9-15; Tr.4213, L.10-18; Tr.4221, L.10-21; Tr.5709, L.5-12; Tr.12511, L.25 – Tr.12512, L.22).
370. To the finding that an applicant’s lack of non linear editing experience was treated differently in New York than it was in Washington (D.51, L.40-45), as such finding is unsubstantiated by the evidence in the Record as a whole.
371. 8.1 To the finding that CNN limited its hiring of TVS employees in New York by “simply” not hiring audio technicians (D.51, L.40-43), as such finding is contrary to the substantial

evidence in the Record as a whole. (Tr.9393, L.21 – Tr.9395, L.7; Tr.4168, L.24 – Tr.4169, L.5; Tr.13571, L.18 – Tr.13572, L.4; CNNA Exs 380 CNNA-PROD0073952, 399; 494; GC Exs. 227, 519-22).

372. To the finding that by the time CNN made its hiring decisions in New York, “CNN may also have run out of suitable Atlanta employees who could replace the Team camera operators” (D.51, L.44-45), as such finding is unsubstantiated by the evidence in the Record as a whole.

373. To the finding that the “three TVS employees hired as lighting specialists in Washington, Dave Berman, Geoff Parker and Greg Robertson have performed virtually no nonlinear editing since they were hired by CNN” (D.51, L.48-52), as such finding is contrary to the substantial evidence in the Record as a whole. (*See e.g.*, Tr.7130, L.6-20; Tr.7131, L.13 – Tr.7132, L.6; Tr.7133, L.3-12; Tr.7136, L.18 – Tr.7137, L.9; Tr.7138, L.25 – Tr.7139, L.10; Tr.7141, L.20 – Tr.7142, L.22; CNNA Exs. 184-85, 196, 200).

374. To the finding that the photojournalist position questionnaire’s description of primary functions of the photojournalists, developed as early as May 2003, was “inaccurate” with regards to the work by photojournalists in DC (D.52, L.23-27), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.3552, L.15 - Tr.3553, L.11; Tr.3791, L.3 - Tr.3792, L.1; Tr.5696, L.2-22; Tr.6293, L.9-23; Tr.6423, L.2-21; Tr.13604, L.16 - Tr.13607, L.16; Tr.15470, L.1 - Tr.15471, L.10; Tr.15688, L.7-19).

375. To the finding that photojournalists in Washington, D.C., use non linear editing 5% or less of the time (D.52, L.27-47), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.15470, L.7 - Tr.15471, L.10; Tr.15688, L.7-19).

376. To the finding that the editing with Final Cut Pro in the field occurred “primarily outside the Washington, D.C. and New York” (D.53, L.1-3), as such finding is contrary to the

substantial evidence in the Record as a whole. (*See e.g.*, Tr. 15687, L.16 - Tr.15688, L.19; Tr.15995, L.5 - Tr.16047, L.21; Tr.15470, L.1-3, 20- Tr.15471, L.10; Tr.5699, L.17 - Tr.5703, L.25; Tr.11581, L.2-18; Tr.11722, L.11-23; Tr.11636, L.19-24; Tr.11401, L.25 - Tr.11402, L.24; CNNA Exs. 380 Tab 9, CNNA-PROD0138188, 701-02).

377. To the conclusion of law that the “lack of Non Linear Editing experience is not a nondiscriminatory basis for the [Bureau Staffing Project]” (D.53, L.3-5), as such conclusion of law is contrary to the law.
378. To the finding that CNN had “plenty of time to train the existing workforce in Final Cut Pro” (D.53, L.4-5), as such finding is unsubstantiated by the evidence in the Record as a whole, and contrary to the law.
379. To the finding that Peter Morris “lacked NLE experience’ when he was hired” and that Peter Morris achieved proficiency in Final Cut Pro during 2005 (D.53, L.7-10), as such finding is contrary to the substantial evidence in the Record as a whole. (GC Ex. 543, CNNA-015894, CNNA-015897, CNNA-016022, CNNA-018169, CNNA-PROD074305, 07).
380. To the finding that CNN did not hire “the best, most capable photojournalists available” (D.53, L.14-17), as such finding is contrary to the substantial evidence in the Record as a whole and contrary to the law. (*See e.g.*, Tr.3776, L.7 - Tr. 3778, L.23; Tr.2225, L.24 - Tr.2226, L.3; Tr.3829, L.17-21; Tr.7970, L.22 - Tr.7971, L.3; Tr.9159, L.21 - Tr.9160, L.7; Tr.12887, L.4-20; Tr.14893, L.11 - Tr.14894, L.16; Tr.12894, L.8 - Tr.12898, L.15; Tr.14882, L.10 - Tr.14883, L.20).
381. To the finding that “growth candidates” were not the best, most capable candidates available, and that “none of [the growth candidates] were full-time TVS employees” (D.53, L.14-18), as such finding is contrary to the substantial evidence in the Record as a whole.

(*See e.g.*, Tr.3776, L.7 – Tr. 3778, L.23; Tr.2215, L.14-18; Tr.2225, L.24 - Tr.2226, L.3; Tr.3829, L.17-21; Tr.3840, L.14-19; Tr.5542, L.12-19; Tr.5694, L.18 - Tr.5695, L.5; Tr.7970, L.22 - Tr.7971, L.3; Tr.8123, L.1-13; Tr.9159, L.21 - Tr.9160, L.7; Tr.12885, L.19 - Tr.12886, L.24; Tr.12887, L.4-20; Tr.12890, L.13-18; Tr.14893, L.11 - Tr.14894, L.16; Tr.12894, L.8 – Tr.12898, L.15; Tr.13046, L.3 - Tr.13047, L.5; Tr.14968, L.13 - Tr.14969, L.22; Tr.14829, L.14 – Tr.14831, L.18; Tr.14882, L.10 – Tr.14883, L.20; Tr.14884, L.24 – Tr.14887, L.11; Tr.11705, L.23 – Tr.11706, L.21; Tr.11713, L.1 – Tr.11715, L.12; GC Ex. 228 Tab J, CNNA Ex. 689 Tab 15 (K. Abdallah); GC Ex. 228 Tab L, CNNA Ex. 689, Tab 19 (B. Chamberland); GC Ex. 520, CNNA Ex. 400 (D. Garrison); GC Ex. 534 (R. Smith); GC Ex. 534 (T. Smith); CNNA Ex. 706).

382. To the finding that growth candidates “were relatively inexperienced applicants some of whom were hired at considerably lower salaries than more experienced applicants, such as full time Team Video unit members” (D.53, L.18-D.54, L.2), as such finding is contrary to the substantial evidence in the Record as a whole. (*See e.g.*, Tr.3776, L.7 – Tr. 3778, L.23; Tr.12894, L.8 – Tr.12898, L.15; Tr.13046, L.3 - Tr.13047, L.5; Tr.14968, L.13 - Tr.14969, L.22; Tr.14829, L.14 – Tr.14831, L.18; Tr.14884, L.24 – Tr.14887, L.11; Tr.11705, L.23 – Tr.11706, L.21; Tr.11713, L.1 – Tr.11715, L.12; Tr.14951, L.8 – Tr.14952, L.25; Tr.818, L.23 - Tr.819, L.2, Tr.12880, L.1 - Tr.12881, L.18, Tr.12875, L.2-21; Tr.12663, L.1-13; Tr.3946, L.24 – Tr.3947, L.7; Tr.5907, L.8-15; CNNA Exs. 399-400, 689; GC Exs. 228, 520, 534).

383. To the finding that Cynthia Patrick’s testimony that several full-time TVS employees who were hired by CNN were “growth candidates” is not credible (D.53, L.20-21, 29-33), as such finding is contrary to the substantial evidence in the Record as a whole and contrary to the law. (*See e.g.*, Tr.6025, L.24 - Tr.6026, L.10; Tr.11713, L.1 - Tr.11714, L.12; Tr.12895, L.8-23; Tr.14968, L.13 - Tr.14969, L.17; GC Exs. 519-22, GC Exs. 534, 543).

384. To the ALJ “surmising” about who were growth candidates (D.53, L.24-28), as such inference is contrary to the substantial evidence in the Record as a whole. (Tr.4027, L.1-11; Tr. 4055, L.14-21; Tr.12895, L.8 - Tr.12896, L.14; Tr.12897, L.23 - Tr.12898, L.14, Tr.14592, L.14 - Tr.14593, L.6; Tr.14609, L.13-17; Tr.14896, L.22-23; Tr.14901, L.12-24).
385. To the finding that the letters G1-G7 to the left of the names of seven photojournalist candidates in GC Exhibit 268 designated these candidates as growth candidates (D.53, L.24-28), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.5655, L.25 - Tr.5657, L.12).
386. To the finding that David Catrett, Elizabeth Zosso, and Ken Tuohey were not growth candidates because they were not “hired at substantially lower salaries than other employees hired by CNN in their job classification” (D.53, L.41-47), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.13353, L.17 – Tr.13357, L.14; Tr.13358, L.16-25; CNNA Exs. 543-44).
387. To the conclusion that if CNN had been “looking for growth candidates on a nondiscriminatory basis, it would have given greater consideration to TVS employees such as Jim Suddeth” (D.53, L.50-51- D.54, L.37-43), as such conclusion is unsubstantiated by any evidence in the Record as a whole, and contrary to the law. (Tr.4147, L.2-13; Tr.4068, L.20 – Tr.4069, L.5; GC Ex. 543).
388. To the finding that Cynthia Patrick’s testimony and CNN’s statement in its reply brief about Raeshawn Smith and Tawana Smith being Team growth candidates was “disingenuous,” because CNN never conceded those two Team freelancers were members of the Team bargaining unit (D.54, L.44-47), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.12894, L.8 - Tr.12895, L.7; Tr.14829, L.25 - Tr.14831, L.18; Tr.14884, L.6 - Tr.14886, L.3).

389. To the finding that CNN hired growth candidates rather than experienced Team Video applicants in almost all, if not all job classifications (D. 54, L.2-3), as such finding is contrary to the substantial evidence in the Record as a whole. (*See e.g.*, Tr.14593, L.3-11; Tr.14609, L.13-17; Tr.12894, L.8 – Tr.12898, L.15; Tr.14968, L.13 - Tr.14969, L.22; Tr.14829, L.14 – Tr.14831, L.18; Tr.14884, L.24 – Tr.14887, L.11; CNNA Exs. 399-400, 551, 559-67, 689-94, GC Exs. 134, 228, 519-31, 534, 543).
390. To the finding that what constituted a “growth candidate” was “a very fluid concept” (D. 54, L.5-34 - D.55, L.13), as such finding is contrary to the substantial evidence in the Record as a whole. (*See e.g.*, Tr.5808, L.12 – Tr.5809, L.14; Tr.12894, L.8 – Tr.12898, L.15; Tr.14968, L.13 - Tr.14969, L.22; Tr.14829, L.14 – Tr.14831, L.18; Tr.14882, L.10 – Tr.14883, L.20; Tr.14884, L.24 – Tr.14887, L.11; Tr.11705, L.23 – Tr.11706, L.21; Tr.11713, L.1 – Tr.11715, L.12; Tr.13046, L.3 - Tr.13047, L.5).
391. To the finding that “some of the candidates hired by CNN were clearly inferior to many TVS bargaining unit members who were not hired in terms of their experience and other qualifications” and who had been “full-time photographers at the D.C. Bureau for many years” (D.55, L.15-22), as such finding is contrary to the substantial evidence in the Record as a whole. (*See e.g.*, Tr.3776, L.7 – Tr. 3778, L.23; Tr.12894, L.8 – Tr.12898, L.15; Tr.14968, L.13 - Tr.14969, L.22; Tr.14829, L.14 – Tr.14831, L.18; Tr.14884, L.24 – Tr.14887, L.11; TR.11705, L.23 – Tr.11706, L.21; Tr.11713, L.1 – Tr.11715, L.12; CNNA Exs. 398, 400, 689; GC Exs. 228, 520, 534).
392. To the finding that Doug Schantz’ experience and other qualifications were “clearly inferior to many TVS bargaining unit members who were not hired” (D.55, L.15-18), as such finding is contrary to the substantial evidence in the Record as a whole. Tr.15468, L.7-22; Tr.15683, L.8 - Tr.15686, L.3; CNNA Ex. 668-672; GC Exs. 228, 543)

393. To the finding that Bethany Chamberland Swain's experience and other qualifications were "clearly inferior to many TVS bargaining unit members who were not hired" because she was "not a photographer at CNN Newsource" (D.55, L.15-19), as such finding is contrary to the substantial evidence in the Record as a whole. (D.129, L.9-10; Tr.15992, L.20 – Tr.15993, L.18; CNNA Exs. 701-05; GC Exs. 228, 543).
394. To the finding that Floyd Yarmuth's experience and other qualifications were "clearly inferior to many TVS bargaining unit members who were not hired" because he was "not a full time photographer" (D.55, L.15-20), as such finding is contrary to the substantial evidence in the Record as a whole. (GC Ex. 228 Tab V; GC Exs. 228, 543)
395. To the finding that CNN recruiter Rick Denius' testimony was "doubletalk" when he discussed growth candidates (D.55, L.24-32), as such finding is unsubstantiated by the evidence in the Record.
396. To the finding that "CNN did not eliminate candidates who had only a few years of small market experience" (D.55, L.32-33), as such finding is contrary to the substantial evidence in the Record as a whole. (*See e.g.*, Tr.4062, L.14-19; CNNA Ex. 693, Tabs 10, 22).
397. To the finding that the "designation of 'growth candidates' was a device by which to avoid hiring too many TVS bargaining unit members," and that this finding is supported by an email exchange between Matt Speiser and Cynthia Patrick on December 1, 2003 [GC Ex. 228 Tab O, B#5421] (D.55, L.37-48-D.56, L.12), as such finding is contrary to the substantial evidence in the Record as a whole. (*See e.g.*, Tr.14894, L.6 - Tr.14895, L.10; Tr.5808, L.12 – Tr.5809, L.14; Tr.12894, L.8 – Tr.12898, L.15; Tr.14968, L.13 - Tr.14969, L.22; Tr.14829, L.14 – Tr.14831, L.18; Tr.14882, L.10 – Tr.14883, L.20; Tr.14884, L.24 – Tr.14887, L.11; Tr.11705, L.23 – Tr.11706, L.21; Tr.11713, L.1 – Tr.11715, L.12; Tr.13046, L.3 - Tr.13047, L.5).

398. To the finding that “Cindy Patrick, or someone above her, had the final say” on hiring decisions, and that Cindy Patrick’s and Sue Diviney’s involvement in the hiring process, as well as General Counsel Exhibit 228, Tab O supports that finding (D.56, L.13-16), as such findings are contrary to the substantial evidence in the Record as a whole. (Tr.12899, L.2 - Tr.12901, L.9; Tr.13338, L.16 - Tr.13339, L.3; Tr.13343, L.10 - Tr.13344, L.1).
399. To the finding that “CNN manipulated its hiring decision to obtain a reasonable balance” (D.56, L.18-19), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.11594, L.11 - Tr.11596, L.12; Tr.9119, L.5 - Tr.9123, L.13; Tr.9171, L.22 - Tr.9173, L.1; Tr.9180, L.9 - Tr.9181, L.7; Tr.9233, L.10 - Tr.9235, L.12; Tr.9286, L.12 - Tr.9287, L.6; Tr.9290, L.16 - Tr.9293, L.17; Tr.9294, L.23 - Tr.9295, L.5; Tr.9314, L.14 - Tr.9316, L.25; Tr.9353, L.6-23; Tr.12511, L.25 - Tr.12512, L.22; Tr.14884, L.6 - Tr.14887, L.11; Tr.8382, L.12 - Tr.8384, L.21; CNNA Exs. 267, 476-77).
400. To the inference that “a reasonable balance was a mix of TVS and non-TVS applicants that in conjunction with CNN’s plan to pack the bargaining unit, would allow it to decline to recognize Local 31” (D.56, L.19-21), as such inference is contrary to the substantial evidence in the Record as a whole. (*See e.g.*, Tr.2230, L.20 - Tr.2231, L.20; Tr.2552, L.8 - Tr.2555, L.15; Tr.4154, L.14 - Tr.4155, L.18; Tr.4184, L.20 - Tr.4185, L.12; Tr.5693, L.16 - Tr.5694, L.21; Tr.5904, L.18 - Tr.5905, L.25; Tr.9366, L.4 - 17; Tr.12301, L.18 - Tr.12304, L.2; Tr.12889, L.23 - Tr.12891, L.3; Tr.12963, L.4 - Tr.12964, L.4; Tr.11594, L.11 - Tr.11596, L.12; Tr.9119, L.5 - Tr.9123, L.13; Tr.9171, L.22 - Tr.9173, L.1; Tr.9180, L.9 - Tr.9181, L.7; Tr.9233, L.10 - Tr.9235, L.12; Tr.9286, L.12 - Tr.9287, L.6; Tr.9290, L.16 - Tr.9293, L.17; Tr.9294, L.23 - Tr.9295, L.5; CNNA Exs. 267, 476-77).
401. To the finding that Dan Young’s assessment does not provide a basis for concluding that CNN’s hiring decisions were nondiscriminatory (D.56, L.28-29), as such finding is contrary

- to the substantial evidence in the Record as a whole. (Tr.8369, L.11 - Tr.8373, L.22; Tr.9111, L.15 - Tr.9115, L.20; Tr.9142, L.7 - Tr.9143, L.17; Tr.9288, L.1 - Tr.9289, L.8; Tr.9297, L.18 - Tr.9299, L.3; Tr.12453, L.18 - Tr.12454, L.7; CNNA Exs. 64, 262).
402. To the finding that Dan Young's video tape observations were "doctored" (D.56, L.30), as such finding is unsubstantiated by the evidence in the Record as a whole. (CNNA Exs. 64, 262; GC Exs. 228 Tab U CNNA-020554-61, 328).
403. To the finding that there is little evidence regarding other managers' assessment of applicants' tapes (D.56, L.31-32, n.77, L.37-51), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.8369, L.11 - Tr.8373, L.22; Tr.9111, L.15 - Tr.9115, L.20; Tr.9142, L.7 - Tr.9143, L.17; Tr.9287, L.18 - Tr.9289, L.8; Tr.12453, L.18 - Tr.12454, L.5; Tr.9288, L.1 - Tr.9289, L.8; Tr.9221, L.20 - Tr.9223, L.24; CNNA Ex. 261).
404. To the finding that it is "not clear what, if any, weight was given to [Dan] Young's opinion of the tapes in making hiring decisions" (D.57, L.7-10), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.3923, L.13 - Tr.3924, L.13; Tr.4166, L.2-25; Tr.8370, L.20 - Tr.8371, L.4; CNNA Exs. 64, 262).
405. To the conclusion that hiring decisions were based solely on video tape submissions (D.57, L.12 - D.58, L.16), as such conclusion is contrary to the substantial evidence in the Record as a whole. (*See e.g.*, Tr.4173, L.18 - Tr.4174, L.4; Tr.5568, L.4 - Tr.5569, L.16; Tr.5764, L.21 - Tr.5765, L.14; Tr.9344, L.7 - Tr.9345, L.5; Tr.8380, L.16 - Tr.8386, L.16; Tr.8390, L.24 - Tr.8394, L.25; Tr.8398, L.10-16, 21 - Tr.8399, L.7; Tr.9140, L.2 - Tr.9142, L.1; Tr.9233, L.10 - Tr.9235, L.12; Tr.11432, L.12 - Tr.11434, L.11; CNNA Ex. 267; GC Exs. 519-22).
406. To the finding that CNN's reliance on demo tapes as part of the application process is "suspect" (D.57, L.12-13), as such finding is unsubstantiated by the Record as a whole.

407. To the finding that Dan Young's assessment of applicant demo tapes were "unreliable" because the Dan Young's assessment differed from other evaluators' assessments (D.57, L.13-47), as such finding is unsubstantiated by any evidence in the Record as a whole.
408. To the finding that a "mediocre assessment by Young seems not to have mattered much in the case of some non TVS applicants" (D.57, L.49-52), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr. 8373, L.12-18; Tr.3923, L.13 - Tr.3924. L.13; Tr.4166, L.2-25; Tr.8370, L.20 - Tr.8371, L.4; CNNA Exs. 64, 262).
409. To the finding that "[t]here is nothing in [the] Record that supports the assessment on the Butcher Block that [Ken Tillis] was a 'good shooter' or the fact that his composite ranking by the hiring managers was 28th," and that TVS candidates who ranked below 28th were more qualified in terms of photography experience (D.57, L.52 - D.58, L.3), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.4222, L.7-15; GC Ex. 228 Tab U).
410. To the finding that Mike Hann was less experienced than "numerous experienced TVS camera operators" who were not hired in Washington (D.58, L.5-7), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.5901, L.10-20; GC Ex. 228 Tab M).
411. To the finding that "there is no evidence that Young reviewed a demo tape submitted by either Bethany Swain Chamberland or Jay McMichael" or Pelin Sidki (D.58, L.14-16), as such finding is irrelevant to the issues in the case and unsupported by the evidence in the Record as a whole.
412. To the finding that "CNN informed [Sarah Pacheco] that she no longer had a job" on December 5, 2003" (D.58, L.25), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.6628, L.8-16; Tr.6639, L.20-25).

413. To the finding that Team unit employees “were advised that if they wanted to keep their jobs, they must apply for them on line at turnerjobs.com (D.58, L.28-29), as such finding is contrary to the substantial evidence in the Record as a whole. (*See e.g.*, Tr.9087, L.12-20; Tr.8685, L.7-25; Tr.12976, L.8-24; Tr.1210, L.14 – Tr.1211, L.10; Tr.4398, L.11-18; Tr.6639, L.20-25; GC Ex. 338).
414. To the inference that “Sarah Pacheco told Matt Speiser about her ability to edit with Final Cut Pro” based on Rick “Denius’ notes, Matt Speiser’s interview notes and the Butcher Block sheets” (D.58, L.36-39), as such inference is contrary to the substantial evidence in the Record as a whole. (Tr.6756, L.3-6; Tr.6750, L.19 - Tr.6753, L.18; CNNA Ex. 100; GC Exs. 228 Tab H CNNA-026532, 233).
415. To the finding that Sarah Pacheco’s “developmental areas” of enthusiasm, people skills, teamwork, initiative, and creativity had no basis (D.59, L.6-7), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.6711, L.1 - Tr.6715, L.8; Tr.6719, L.5 - Tr.6720, L.23; CNNA Exs. 100, 163-65; GC Exs. 228 Tab H CNNA-026532, 233, 241, 261).
416. To the inference that Sarah “Pacheco’s ‘lack of people skills’ is related to her aggressiveness as a union steward for Local 31” (D.59, L.9-10), as such inference is contrary to the substantial evidence in the Record as a whole. (Tr.6643, L.6 - Tr.6644, L.14; Tr.6645, L.10 - Tr.6646, L.3; Tr.4154, L.14 – Tr.4155, L.18; Tr.4184, L.20 – Tr.4185, L.12; Tr.5693, L.16 – Tr.5694, L.21; Tr.5904, L.18 – Tr.5905, L.25; Tr.12963, L.4 – Tr.12964, L.4; Tr.13017, L.24 – Tr.13018, L.9; Tr.13027, L.2 – Tr.13028, L.16; Tr.13183, L.18 – Tr.13186, L.19).
417. To the finding that “[t]here is absolutely no evidence as to why” Pacheco was not ranked among the top 55 applicants (D.59, L.10-11), as such finding is contrary to the substantial evidence in the Record as a whole, (Tr.5689, L.17 - Tr.5690, L.4; Tr.5786, L.13 - Tr.5787,

L.14; Tr.6750, L.19 - Tr.6751, L.3; CNNA Ex. 100; GC Exs. 228 Tab H CNNA-026532, 233, 241, 261), and is contrary to the law.

418. To the finding that “[t]here is no evidence that CNN considered these incidents [disputes Pacheco had with Team managers in 1999] in failing to hire Pacheco” (D.59, L.43-45), as such finding is contrary to the evidence in the Record as a whole. (GC Ex. 233).
419. To the finding that “[t]here is no credible evidence to support this statement [that Pacheco had not submitted a sample tape]” and the finding that Pacheco submitted two video tapes (D.59, L.46-51), as such findings are contrary to the substantial evidence in the Record as a whole. (Tr.4006, L.9 – Tr.4007, L.1; CNNA Ex. 64, 100 CNNA-026531, GC Ex. 233).
420. To the finding that Matt Speiser “was well aware of [Chris Hamilton’s] talents and work for CNN” (D.59, L.21-22), as such finding is unsubstantiated by any evidence in the Record and contrary to the ALJ’s finding that Speiser was not familiar with the Team candidates (D.42).
421. To the finding that “CNN knew that the questions asked at the face-to-face interviews and the applicant’s performance in the interviews had little or no relationship to their ability to perform the job for which they were applying” (D.59, L.20-34), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.12937, L.16 - Tr.12941, L.24; Tr.9139, L.15-19; Tr.9129, L.3 – Tr.9130, L.8; Tr.8469, L.24 – Tr.8470, L.7; Tr.8477, L.16 – Tr.8478, L.16; Tr.9292, L.18 – Tr.9293, L.10; Tr.9294, L.8-17; Tr.12480, L.21 – Tr.12481, L.14; Tr.14809, L.8-12; Tr.12960, L.2 - Tr.12961, L.25; Tr.13028, L.4 – Tr.13029, L.4; Tr.14807, L.16-20; Tr.5795, L.18 - Tr.5796, L.3; Tr.14795, L.4-18; Tr.5708, L.1-21; Tr.3911, L.12-14; Tr.5687, L.20 - Tr.5688, L.13; Tr.14471, L.25 – Tr.14472, L.23; CNNA Exs. 64, 476-77, 531, 639; GC Exs. 228 Tab B, 259, 261, 425, 450).
422. To the finding that “[t]here is no satisfactory nondiscriminatory explanation for [the 11/18/03] reordering of the [PJ] list” (D.59, L.37-38), as such finding is contrary to the

substantial evidence in the Record as a whole and contrary to the law. (*See e.g.*, Tr.13046, L.3 – Tr.13047, L.5; Tr.4186, L.2-15; Tr.4189, L.9 - Tr.4194, L.15; Tr.4154, L.14 - Tr.4155, L.18; Tr.4184, L.20 - Tr.4185, L.12; Tr.5693, L.16 - Tr.5694, L.21; Tr.5904, L.18 - Tr.5905, L.25; Tr.9366, L.4 - 17; Tr.12301, L.18 - Tr.12304, L.2; Tr.12889, L.23 - Tr.12891, L.3; Tr.12963, L.4 - Tr.12964, L.4; Tr.13017, L.24 - Tr.13018, L.9; Tr.13027, L.2 - Tr.13028, L.16; Tr.13183, L.18 - Tr.13186, L.19; Tr.13337, L.6-17; CNNA Ex. 70; GC Ex. 261).

423. To the conclusion of law that CNN had the burden to provide a “satisfactory” nondiscriminatory explanation of the business merits of hiring decisions (D.59, L.37-38), as such conclusion of law is contrary to the law.
424. To the finding that “CNN knew that [Chris] Hamilton was [a] highly competent photographer is established by the fact that CNN offered him a job on December 22, 2003, at which time, it believed he would no longer count as a member of the CNN bargaining unit for purposes of determining successorship” (D.59, L.40 - D.60, L.2), as such finding is unsubstantiated by the Record as a whole.
425. To the finding that Mike Maltas was not a hiring manager for photojournalists (D.60, L.18), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.3981, L.18 - 3982, L.15; Tr.5237, L.8-20; Tr.14583, L.23 - Tr.14584, L.13; GC Ex. 228, Tab C CNNA-015009-28).
426. To the finding that CNN prepared a list of all applicants for the photojournalist position with their interview scores in descending order (D.60, L.24-25), as such finding is contrary to the substantial evidence in the Record as a whole. (CNNA Exs. 481-82; GC Ex. 266).
427. To the finding that “Jenkins, with a 4.2, was tied for 11th place on this list, GC Ex. 266” (D.60, L.25-26), as such finding is contrary to the substantial evidence in the Record as a

whole. (Tr.3943, L.23 - Tr.3944, L.20; Tr.5640, L.16-24; GC Exs. 266, 429, CNNA-021765, 250 CNNA-022546-47, 260-61).

428. To the finding that David Jenkins' final ranking is "not a reflection of Speiser's true opinion but is the result of pressure from above, possibly related to Jenkins' union activism" (D.60, L.28-D.61, L.7), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.3959, L.19 - Tr.3960, L.4; Tr.3960, L.21 - Tr.3962, L.21; Tr.4198, L.6-8; Tr.4200, L.1-10; Tr.5600, L.17 - Tr.5601, L.2, 8-14; Tr.5640, L.16-24; Tr.13157, L.5 - Tr.13158, L.8).
429. To the finding that it is a "complete mystery" regarding why David Jenkins was not hired (D. 60, L.28-29), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.4200, L.1-10; Tr.5600, L.17 - Tr.5601, L.2, 8-14; Tr.5640, L.16-24; Tr.13157, L.5 - Tr.13158, L.8)
430. To the finding that "[w]hat is most difficult to understand is Speiser's ranking of Jenkins in 41st place, behind such inexperienced candidates as Jeremy Moorhead, Jeremy Harlan and John Bena (D.60, L.33-34), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.4212, L.6-12; Tr.4217, L.17-24; Tr.5640, L.16-24; Tr.14901, L.12-21; GC Ex. 228 Tabs K, N, Q).
431. To the reliance on GC Ex. 328 (D.60, L.37-D.61, L.1), as its admission into evidence is contrary to the law. (Tr.5870, L.14-25).
432. To the finding that GC Ex. 328 demonstrates union animus (D.61, L.3-5), as such evidence is unsubstantiated by GC Ex. 328.
433. To the finding that GC Ex. 328 is "a smoking gun with regard to animus of CNN towards the TVS bargaining unit members." (D.61, L.3-5) as such finding is contrary to the substantial evidence in the Record as a whole and is irrelevant to the issues in the case (Tr.5863, L.24; Tr.5871, L.8; GC Ex. 328; Tr. 2230, L.20-Tr.2231, L.20; Tr.5693, L.16-

- Tr.5695, L.3; Tr.9366, L.10-12; Tr.13337, L.6-17; Tr.13157, L.5-20; Tr.12963, L.4-Tr.12964, L.4; Tr.4154, L.16-Tr.4156, L.12; Tr.4184, L.17-Tr.4185, L.12; Tr.5904, L.18-Tr.5907, L.15; Tr.12301, L.18-Tr.12304, L.2; Tr.15849, L.25-Tr.15850, L.24; Tr.12889, L.23-Tr.12891, L.3; Tr.12892, L.19-Tr.12894, L.4; Tr.2552, L.8-Tr.2553, L.25; Tr.5863, L.24-Tr.5871, L.8; CNNA Exs. 64, 262, 554, 706, 710).
434. To the inference that Jenkins' "great reputation in DC" was the result of his work at the Bureau since 1995, rather than something he acquired by freelancing for CNN for a few months in 2004 (D.61, L.5-8) as such inference is unsubstantiated by evidence in the Record.
435. To the inference that the author of GC Ex. 328 was Dan Young from the fact that the document purportedly comes from his computer, the author claims to have interviewed John Quinnette, and the author's repeated reference to the review of tapes (D.61, L.22-26) as such inference is unsupported by the evidence in the Record as a whole (Tr.5863, L.24-Tr.5871, L.8; GC Ex. 543, Quinnette Tab).
436. To the finding that Denius' testimony is incredible regarding debriefing comments about Dave Jenkins' tape because it is inconsistent with Young's written assessment (D.61, L.30-32, Note 81) as such finding is contrary to the substantial evidence in the Record as a whole and contrary to the law. (Tr.13157, L.5-Tr.13158, L.10; Tr.4200, L.20-Tr.4201, L.3; Tr.5640, L.16-24; CNNA Ex. 64, CNNA-020560).
437. To the finding that Denius was an incredible witness on any point (D.61, L.30-32) as such finding is unsupported by any evidence in the Record as a whole and contrary to the law. (Tr.13097, L.22-Tr.13200, L.4).
438. To the finding that Dan Young's comment did not provide a non-discriminatory basis for not hiring David Jenkins (D.61, L.35-39) as such finding is unsubstantiated by evidence in the Record.

439. To the finding that CNN hired many inexperienced people on the basis of one tape when it should have hired Jenkins with his “adequate” tape (D.61, L.35-39) as such finding is unsubstantiated by evidence in the Record.
440. To the conclusion that Young’s summary is the only evidence regarding anyone’s review of Jenkins’ tape (D.61, L.30-32) as such conclusion is contrary to the substantial evidence in the Record as a whole (Tr.13157, L.5-Tr.13158, L.10; Tr.4200, L.20-Tr.4201, L.3; Tr.5640, L.16-24).
441. To the finding that Langley was an adequate photographer “by the fact that CNN hired him to do freelance work during the six months after December 5, 2003” (D.62, L.11-20) as such finding is contrary to the substantial evidence in the Record as a whole (Tr.15664, L.4-Tr.15665, L.5).
442. To the finding that the only evidence regarding Langley’s job performance is an assessment by Bob Kovach (D.62, L.46-47) as such finding is contrary to the substantial evidence in the Record as a whole (CNNA Ex. 113, GC. Ex. 228, Tab D, CNNA-016403).
443. To the conclusion that the decision not to hire Langley, Norman, Pacheco, Munoz and Jiminez is evidence that diversity was not a factor in CNN’s hiring process (D.62, L.48-51) as such conclusion is contrary to the substantial evidence in the Record as a whole (GC Exs. 228, 520-522, 525, 526, 528, 531, 543; CNNA Exs. 482, 483, 554, 559-568, 689, 693, 706).
444. To the finding that Marchione’s hiring in mid to late December 2003 “establishes that CNN considered Marchione a competent photojournalist (D.62, L.37-40) as such finding is contrary to the substantial evidence in the Record as a whole (Tr.4204, L.1-Tr.4205, L.2; GC Exs. 230, 261, 228, Tab E; CNNA Ex. 689, Tab 28).
445. To the finding that Marchione’s hiring in mid to late December 2003 “suggests that [CNN] manipulated the number of employees hired by December 6, 2003 in order to avoid

- recognizing and bargaining with the Union” (D.62, L.37-40) as such finding is unsubstantiated by any evidence in the Record.
446. To the findings regarding Luis Munoz’s assignments (D.63, L.3-10) as such findings are contrary to the substantial evidence in the Record as a whole (Tr.7613, L.24-Tr.7619, L.5; Tr.7631, L.6-Tr.7632, L.9).
447. To the inference that Speiser’s comment that Munoz had “No NLE experience” was somehow inconsistent with what Munoz told Speiser during his interview (D.63, L.12-16) as such inference is contrary to the substantial evidence in the Record as a whole (GC Exs. 228, Tab F, CNNA-015314; CNNA Exs. 689, 693).
448. To the finding that the interview scores put Munoz in 29th place among applicants, as unsupported by the evidence (D.63, L.19-20) as such finding is contrary to the substantial evidence in the Record as a whole (GC Exs. 251, 241, 260, 261, 266).
449. To the conclusion of law that Mr. Lora had been Munoz’ direct supervisor for several years (D.63, L.22-25) as such conclusion of law is contrary to the law (Tr.7520, L.10-Tr.7521, L.16 ; Tr.7613, L.24-Tr.7619, L.5; Tr.7631, L.6-Tr.7632, L.9).
450. To the reliance on the email by David Ensor to Chris Crommet regarding the failure to hire Munoz as an admission by an agent of CNN (D.63, L.40-D.64, L.17; GC Ex. 389), as such reliance is contrary to the law where agency status is unsupported by the evidence in the Record, and such email is hearsay (GC Ex. 228, Tab F, CNNA-PROD0064228, 261; CNNA Ex. 64).
451. To the finding that CNN “replaced Munoz ... with Ray Britch” (D.64, L.30-32) as such finding is contrary to the substantial evidence in the Record as a whole (Tr.12864, L.5-Tr.12866, L.12; Tr.12412, L.11-21; Tr.12446, L.22-Tr.12449, L.24; Tr.14856, L.6-Tr.14858, L.24; Tr.12470, L.5-Tr.12473, L.4; GC Ex. 228, Tab F, CNNA-PROD0064228).

452. To the inference that “Dan Young was aware of CNN’s intention of replacing Munoz with Ray Britch and that this accounts for the fact that Young did not rate Munoz in the top 55 applicants” (D.64, L.33-34) as such inference is unsupported by the evidence in the Record as a whole (GC Exs. 228, Tab F; CNNA Exs. 64, 689, Tab 32, CNNA-015307, 693, Tab 3).
453. To the finding that “CNN considered hiring Carlos Christen if Britch did not accept the offer to come to Washington” and that Carlos Christen ranked lower than Luis Munoz (D.64, L.49-50) as such findings are contrary to the substantial evidence in the Record as a whole (Tr.13046, L.3-Tr.13047, L.5; Tr.12894, L.8-Tr.12895, L.23; CNNA Ex. 693, Tabs 3 & 7; GC Exs. 241, 261, 556; CNNA Ex. 70).
454. To the finding that “non-TVS applicants were given credit for knowledge of AVID, Norris was not” (D.64, L.43-D.65, L. 2) as such finding is unsubstantiated by evidence in the Record (GC Ex. 228, Tab G, CNNA-012304-5, CNNA-016249).
455. To the finding that Ben Coyte testified that “familiarity” with AVID makes learning Final Cut Pro easier (D.64, L.42-D.65, L.1), as such finding is contrary to Coyte’s cited testimony (Tr.15572, L.3-Tr.15573, L.1).
456. To the conclusion that there were multiple composite rankings (D.65, L.10-11) as such conclusion is contrary to the substantial evidence in the Record as a whole (GC Exs. 261, 267; CNNA Ex. 70).
457. To the reliance on Dan Young’s alleged statements made between December 5, 2003 and July 5, 2004 that “Norris is ‘now dubbed Jim Wrong Answer Norris. His resume tape from the first selection process was weak. He’s a weak candidate” (D.65, L.13-15, GC Ex. 328), as such alleged statements occurred after the BSP and are irrelevant to the issues in this case (Tr.5863, L.24-Tr.5871, L.8).

458. To the finding that Young's alleged statement in GC Ex. 328 "is inconsistent with Speiser's interview evaluation and comments on the butcher block created during the debriefing session" (D.65, L.16-18), as such finding is contrary to the substantial evidence in the Record as a whole (GC Ex. 228, Tab G, CNNA-016249).
459. To the conclusion that Young's assessments of Norris support a finding of anti-union animus (D.65, L.13-20) as such conclusion is unsubstantiated by the evidence in the Record as a whole (*See, e.g.*, GC Ex. 543, Vol. I, Bannigan Tab, CNNA-021617; G.C. Ex. 543, Vol.2, Tab Garraty, CNNA-021619; CNNA Exs. 64, 262).
460. To the conclusion that Young held a "thinly veiled and otherwise unexplained animosity towards TVS' employees," based on GC Ex. 328 (D.65, L.18-20), as such conclusion is unsubstantiated by the evidence in the Record as a whole (*See, e.g.*, GC Ex. 543, Vol. I, Bannigan Tab, CNNA-021617; G.C. Ex. 543, Vol.2, Tab Garraty, CNNA-021619; CNNA Exs. 64, 262; GC Ex. 261, 228, Tab G).
461. To the finding that "Norris' 'wrong answers' have something to do with his union membership or support" (D.65, L.18-20) as such finding is unsubstantiated by the evidence in the Record.
462. To the finding that Urman's DV camera experience "didn't seem to help him much in the Bureau Staffing Project" but that it did help Khalil Adallah (D.65, L.48-51) as such finding is contrary to the substantial evidence in the Record as a whole (GC Ex. 228, Tab I, CNNA-PROD0037627, CNNA-PROD0037638, 543, Volume IV).
463. To the finding that something was whited out and "do not" was written instead (D.66, L.6-8) as such finding is unsubstantiated by the evidence in the Record as a whole (GC Ex. 228, Tab I, CNNA-PROD0037638; 543, Tab Urman, CNNA-023062).

464. To the finding that Fletcher's rating sheet was doctored (D.66, L.6-8), as such finding is unsubstantiated by evidence in the Record.
465. To the finding that Urman was tied for 36th place among the applicants, and the finding that Urman was given no credit for his training with FCP (D.66, L.10-15) as such finding is contrary to the substantial evidence in the Record as a whole (Tr.3869, L.23-Tr.3948, L.6; Tr.3959, L.7-Tr.4116, L.23; Tr.4135, L.7-Tr.4139, L.6; Tr.4154, L.14-Tr.4224, L.20; Tr.5538, L.23-Tr.5594, L.5; Tr.5600, L.9-Tr.5715, L.3; Tr. 5738, L.4-Tr. 5908, L.11; GC Exs. 227, 228, Tab I; GC Exs. 241, 247, 250, 251, 255, 260, 261, 543, Vol. IV, Urman Tab, CNNA-PROD0037382, 543 (Vols. I-IV); CNNA Exs. 64, 66-70).
466. To the finding that "[t]here was no credible explanation in this record as to why [Anderson did not rank in the top 55 candidates]" (D.66, L.33-35) as such finding is contrary to the substantial evidence in the Record as a whole (Tr.4147, L.14-21; Tr.3869, L.23-Tr.3948, L.6; Tr.3959, L.7-Tr.4116, L.23; Tr.4135, L.7-Tr.4139, L.6; Tr.4154, L.14-Tr.4224, L.20; Tr.5538, L.23-Tr.5594, L.5; Tr.5600, L.9-Tr.5715, L.3; Tr. 5738, L.4-Tr. 5908, L.11; CNNA Ex. 64; GC Ex. 228, Tab A; GC Exs. 110, 227, 228, 241, 247, 250, 251, 255, 260-262, 267, 543 (Vols. I-IV); CNNA Exs. 64, 66-69, 689, 693), and contrary to the law.
467. To the finding that Farkas was downgraded to "possible" for unexplained reasons (D.66, L.40-41) as such finding is contrary to the substantial evidence in the Record as a whole (Tr.2415, L.5-Tr.2416, L.9; GC Ex. 543, Vol. II, Farkas Tab, CNNA-023047; CNNA Ex. 690, Tab 10; GC Exs. 227, 228, 241, 260, 261, 267, 543 (Vols. I-IV); CNNA Exs. 64, 66-69, 689, 693).
468. To the finding that "[i]nstead of Farkas, CNN hired TVS engineer Chris Leonard to operate the microwave truck. Leonard had never done this before and was dying of brain cancer when CNN hired him" (D.66, L.42-43; D.92, L.47-49) as such finding is contrary to the

- substantial evidence in the Record as a whole (Tr.5783, L.7-Tr.5809, L.24; Tr.4173, L.2-Tr.4195, L.9; Tr.5584, L.2-Tr.5648, L.18; Tr.2415, L.5-Tr.2416, L.9; GC Ex. 543, Vol. II, Farkas Tab; CNNA Ex. 690, Tab 10; GC Exs. 134, Tab I, 143, 144, 152, 153, 156; CNNA Exs. 30, 223, 678).
469. To the finding that there is no evidence of who, if anyone, interviewed Leake (D.66, L.47-50) as such finding is contrary to the substantial evidence in the Record as a whole (GC Exs. 266, 543, Vol. II, Leake Tab; CNNA Ex. 693, Tab 16).
470. To the finding that there was no evidence that Leake was even considered or discussed at the PJ debriefing session (D.66, L.50-51) as there is no evidence in the Record to the contrary.
471. To the finding that the hiring managers did not have a resume for Leake (D.66, L.51-D.67, L.1) as such finding is contrary to the substantial evidence in the Record as a whole (Tr.5879, L.19-24; GC Ex. 543, Vol. II, Leake Tab, CNNA-009489).
472. To the finding that “beginning in April 2004, CNN hired Myron Leake as a freelance photojournalist” (D.67, L.3), as such finding is irrelevant and contrary to the substantial evidence in the Record as a whole. (Tr.15665, L.6-13; Tr.15672, L.18-Tr.15673, L.9).
473. To the finding that Dan Young’s assessment of Martin Jimenez’s tape was “seems to have the skills for the job, good interv and su lighter” (D.67, L.6-9), as such finding is incomplete, and contrary to the substantial evidence in the Record as a whole. (CNNA Ex. 64).
474. To the finding that the hiring managers did not have a resume for Martin Jimenez during the debriefing session (D.67, L.20), as such finding is contrary to the substantial evidence in the Record as a whole. (GC Ex. 543, Vol. 2 at CNNA-011618-9; Tr.13034, L.6-11; Tr.13174, L.9-14; Tr.13189, L.16-25; Tr.14806, L.20-23).

475. To the finding that there are two butcher blocks from the BSP with Martin Jimenez's name on them, one of which rates Jimenez as "possible minus" (D.67, L.21-23), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.4105, L.22-Tr.4107, L.6; GC Ex. 262; GC Ex. 543, Vol. 2 at CNNA-016374).
476. To the reliance on GC Ex. 262 (D.67, L.21-29), as its admission is contrary to the law. (Tr.4105, L.22-Tr.4107, L.6).
477. To the adverse inference against CNN because it was "unable to explain what [GC Ex. 262] represents" (D.67, L.20-26), as such inference is unsupported by the substantial evidence in the Record as a whole and is contrary to the law. (Tr.4105, L.22-Tr.4106, L.16; GC Ex. 262).
478. To the conclusion that "some or all of the butcher blocks, and some or all of the categorization of applicants was not done at the debriefing/selection meetings" (D.67, L.26-28), as such conclusion is contrary to the substantial evidence in the Record as a whole. (*See e.g.*, Tr.14813, L.20-Tr.14815, L.8; Tr.5684, L.2-Tr.5688, L.22; Tr.12960, L.16-Tr.12962, L.16; Tr.13027, L.14-Tr.13032, L.23; Tr.14818, L.22-Tr.14821, L.15; Tr.5786, L.13-Tr.5788, L.13; Tr.5792, L.9-Tr.5797, L.6; Tr.5798, L.3-18; Tr.5800, L.16-Tr.5801, L.11; Tr.5803, L.8-14; Tr.9298, L.9-Tr.9299, L.3; Tr.3922, L.19-Tr.3924, L.13; Tr.8393, L.21-Tr.8394, L.25; Tr.9238, L.20-Tr.9239, L.20).
479. To the finding that "[t]here is no explanation in this record why [Martin Jimenez was not ranked in top 55]" (D. 67, L.28-30), as such finding is contrary to the substantial evidence in the record as a whole and contrary to the law. (*See e.g.*, Exceptions 474; CNNA Exs. 64, 66-70, 689; GC Exs. 227, 228, 241, 266, 543, Vol. 2; Tr.5792, L.9-20; Tr.5809, L.4-14; Tr.5584, L.14-Tr.5586, L.3).

480. To the finding that CNN hired photojournalists “to replace” Team bargaining unit members (D.67, L.35-36, 44-46), as such finding is contrary to the substantial evidence in the Record as a whole and contrary to the law. (Tr.12377, L.20-Tr.12378, L.14; Tr.12537, L.11-Tr.12538, L.13; Tr.12540, L.7-Tr.12543, L.12; Tr.12563, L.1-Tr.12564, L.8; Tr.12567, L.3-19; Tr.12383, L.25-Tr.12387, L.2; Tr.12391, L.4-Tr.12410, L.22; Tr.12411, L.8-Tr.12412, L.21; CNNA Exs. 434-437, 473-475; Tr.12446, L.13-Tr.12451, L.5; Tr.12862, L.17-Tr.12866, L.15; Tr.12594, L.3-Tr.12596, L.5; Tr.821, L.22-Tr.822, L.24; Tr.12872, L.13-Tr.12873, L.17; Tr.14769, L.12-Tr.14770, L.2; Tr.12852, L.2-21; Tr.15853, L.15-Tr.12859, L.15; Tr.12875, L.2-21; GC Ex. 227).
481. To the finding that “some of the new hires may not have had [sic] fulfilled these minimum requirements” of three years of ENG experience (D.67, L.40-41), as such finding is contrary to the substantial evidence in the Record as a whole. (*See e.g.*, GC Exs. 227, 228, Tabs J, L, T; CNNA Exs. 668, 673; Tr.15682, L.16-Tr.15685, L.19; Tr.15767, L.19-Tr.15772, L.8; Tr.15992, L.20-Tr.15994, L.14; Tr.13116, L.21-Tr.13122, L.8).
482. To the finding of fact and conclusion of law that “Regardless of the qualifications of the non-TVS new hires, CNN would not have replaced many long-time [TVS] employees with these relatively inexperienced applicants in the absence of anti-union animus” (D.67, L.44-46), as such finding is contrary to the substantial evidence in the Record as a whole and conclusion is contrary to the law. (*See e.g.*, Exception 480; Tr.15769, L.11-Tr.15772, L.8; Tr.11631, L.10-Tr.11634, L.23; Tr.5693, L.16-21; Tr.9366, L.10-12; Tr.13337, L.6-17; Tr.12963, L.4-Tr.12964, L.4; Tr.4154, L.14-Tr.4156, L.12; Tr.4184, L.17-Tr.4185, L.12; Tr.5904, L.18-23; Tr.5905, L.16-25; Tr.5906, L.7-18; Tr.5906, L.22-Tr.5907, L.7; Tr.9365, L.18-Tr.9366, L.17; Tr.15849, L.25-Tr.15850, L.24; Tr.12889, L.23-Tr.12891, L.3; Tr.12894, L.1-7;

Tr.2552, L.8-Tr.2553, L.20; Tr.4185, L.10-12; Tr.4197, L.18-Tr.4198, L.8; Tr.5694, L.18-21; CNNA Ex. 394, 673; Tr.15992, L.20-Tr.16013, L.7; GC Exs. 110, 228, Tab A).

483. To the conclusion that “given the ease with which CNN could have trained the TVS employees in Final Cut Pro and other new technologies, I conclude that this wholesale replacement of incumbent cameramen was discriminatorily motivated” (D.67, L.46-48), as such conclusion is unsubstantiated by the evidence in the Record as a whole and contrary to the law. (*See e.g.*, Exception 41; Tr.15998, L.7-Tr.16007, L.20; Tr.12446, L.13-Tr.12449, L.24; Tr.12470, L.18-Tr.12473, L.22; Tr.9119, L.5-Tr.9123, L.1; Tr.11371, L.11-Tr.11372, L.20; Tr.11377, L.18-Tr.11379, L.21; Tr.11663, L.9-Tr.11665, L.10; Tr.11658, L.18-Tr.11660, L.17; Tr.16038, L.21-Tr.16041, L.1; CNNA Exs. 66-69, 227, 267, 706; Tr.11344, L.4-Tr.11346, L.22; Tr.15439, L.10-Tr.15439, L.9; Tr.15581, L.14-Tr.15584, L.19; Tr.15585, L.1-Tr.15587, L.3; Tr.6643, L.6-Tr.6646, L.3; Tr.12875, L.14-Tr.12876, L.5; Tr.9387, L.19-Tr.9390, L.4).
484. To the finding that the “non-TVS candidates it hired were not so clearly better qualified than the TVS bargaining unit members that CNN would have taken this course of action in the absence of its desire to get rid of the Union and a large number of its supporters” (D.67, L.48-51), as such finding is contrary to the substantial evidence in the Records and contrary to the law. (*See e.g.*, Exceptions 13, 15; Tr.12875, L.14-Tr.12876, L.5; Tr.12882, L.2-Tr.12883, L.15; Tr.4154, L.14-Tr.4156, L.12; Tr.4169, L.6-17; Tr.5693, L.16-Tr.5695, L.5).
485. To the finding that “in 2004, CNN began to document the use of Final Cut Pro and other [DNG and FTP] in order to prepare to defend itself in an unfair labor practice proceeding” (D.68, L.3-10), as such finding is unsupported by evidence in the Record as a whole, is irrelevant as a matter of law, and contrary to public policy.
486. To the conclusion that Cindy Patrick’s email to John Courtney referencing “argument” is a reference to a legal argument in the unfair labor practice hearing (D.68, L.8-10), as such

conclusion is contrary to the substantial evidence in the Record as a whole and irrelevant as a matter of law. (CNN Ex. 656; Tr.15514, L.18-Tr.15529, L.13).

487. To the finding that all TPMPs issued to New York and Washington photojournalists and other employees for the calendar years 2004 and 2005 were created solely for litigation purposes “to justify the Bureau Staffing Project after the fact” (D.68, L.12-19), as such finding is unsupported by the evidence in the Record as a whole. (Tr.15869, L.1-20; Tr.15838, L.24-Tr.15839, L.5; Tr.15903, L.4-23; Tr.15950, L.5-22; CNNA Ex. 679, Tabs 12, 16, 18, 28, 38, 42, 46, 47, 53).
488. To the conclusion that because there is “no evidence” that TPMPs with a “heavy emphasis” on DNG, pitching stories and editorial involvement were used anywhere in the Turner system prior to April 2005, these TPMPs were created as part of CNN’s litigation strategy (D.68, L.14-19), as such conclusion is contrary to the substantial evidence in the Record as a whole. (*See e.g.*, G.C. Ex. 227; CNNA Exs. 146, 270, 272, 300, 462-64, 471, 472; Tr.11344, L.4-Tr.11346, L.11; Tr.11375, L.21-Tr.11376, L.25; Tr.11411, L.1-23; Tr.11434, L.13-Tr.11435, L.2; Tr.12872, L.13-Tr.12873, L.23; Tr.14858, L.6-Tr.14859, L.7; Tr.14870, L.17-Tr.14871, L.9; Tr.15438, L.10-Tr.15439, L.6; Tr.15671, L.22-Tr.15672, L.13; Tr.15438, L.10-Tr.15439, L.15; Tr.15779, L.17-Tr.15780, L.23; Tr.11421, L.3-19, CNNA Ex. 380, Tab B, CNNA-PROD0073862; Tr.11447, L.13-Tr.11448, L.13; Tr.11558, L.1-Tr.11560, L.18; Tr.15549, L.17-Tr.15550, L.21; Tr.15561, L.1-Tr.15562, L.11; Tr.15421, L.6-21).
489. To the finding that TPMPs “bore little relationship to what employees actually did” and to the conclusion that the conflicts between the trial testimony of witnesses called by the General Counsel about their job activities and those witnesses’ own contemporaneous written statements about their job activities call into question the credibility of the contemporaneous written statements rather than the self-interested trial testimony (D.68,

L.20-39; D.69, L.43-44), as such finding is contrary to the substantial evidence in the Record as a whole, and such conclusion is contrary to the law. (*See e.g.*, Exceptions 487, 488, 501; Tr.11436, L.21- Tr.11437, L.23; CNNA. Ex. 380, Tab 8; Tr.11446, L.11-Tr.11449, L.19; Tr.11450, L.2-8; Tr.15543, L.21-Tr.15544, L.19; Tr.15549, L.17-Tr.15550, L.21; Tr.15553, L.13-Tr.15554, L.4; Tr.15561, L.1-Tr.15562, L.11; Tr.15566, L.20-Tr.15567, L.10; Tr.15575, L.9-Tr.15576, L.16; Tr.15804, L.7-25; Tr.15805, L.1-Tr.15810, L.23; Tr.15838, L.18-23; Tr.15839, L.19-23; CNNA Exs. 184, 198, 200, 301, 400, 569, 570, 571, 581, 670, 674, 703; Tr.13585, L.22-Tr.13586, L.6; Tr.13586, L.16-Tr.13587, L.13; Tr.13591, L.22-Tr.13597, L.6; Tr.13602, L.10-22; Tr.13603, L.15-Tr.13604, L.15; Tr.13611, L.14-Tr.13616, L.5; Tr.13624, L.15-Tr.13625, L.25; Tr.13804, L.24-Tr.13805, L.23; Tr.13806, L.14-Tr.13807, L.10; Tr.13808, L.1-22; Tr.13811, L.8-25; Tr.11723, L.23-Tr.11724, L.16; Tr.11725, L.14-Tr.11734, L.14; Tr.7299, L.21-Tr.7302, L.4; Tr.7307, L.25-Tr.7315, L.1; Tr.6946, L.4-25; Tr.6948, L.4-Tr.6949, L.22; Tr.15710, L.2-9; Tr.15710, L.10-Tr.15712, L.4; Tr. 15712, L.18-Tr.15717, L.13; Tr.9638, L.17-Tr.9639, L.10; Tr.9639, L.14-Tr.9642, L.12; Tr.16020, L.5-20; Tr.16020, L.23-Tr.16031, L.17; Tr.15749, L.14-Tr.15750, L.1; Tr.15839, L.19-23).

490. To the conclusion that “John Bodnar’s testimony also indicates that TPMPs are not an accurate reflection of what CNN employees actually do on the job” (D.68, L.32-33), as such conclusion is contrary to the substantial evidence in the Record as a whole. (Tr.13586, L.16-Tr.13587, L.13; Tr.13624, L.15-Tr.13625, L.25).

491. To the findings that many TPMPs were unsigned, and/or listed an incorrect reviewer such that it was unclear which manager did the TPMP review (D.68, L.47-51), as such findings are unsupported by the substantial evidence in the Record as a whole. (Tr.11462, L.3-14; Tr.11724, L.1-20; Tr.13344, L.4-Tr.13345, L.11; CNNA Ex. 542; Tr.9643, L.5-16; Tr.11537, L.22-Tr.11538, L.3).

492. To the conclusion that much of the testimony of CNN's witnesses was also part of CNN's litigation strategy, and to the inference that the point of [Ben Coyte's testimony about DNG successes] was to justify hiring [non-Team applicants] instead of the eighteen Team Video field technicians CNN did not hire" (D.68, L.41-D.69, L.3), as such conclusion is unsupported by the Record as a whole, and such inference is contrary to the applicable legal standard and public policy.
493. To the finding that "Coyte's testimony is simply argument in support of CNN's contentions in this case" (D.69, L.5-27), as such finding is contrary to the substantial evidence in the Record as a whole.
494. To the finding tht Coyte's testimony is "in many cases based on second hand information and unreliable" (D.69, L. 6-7), as such finding is contrary to the substantial evidence in the Record as a whole and contrary to the law. (Tr.15543-47; Tr.15452-59; Tr.15472-76; Tr.15483-89; Tr.15498-500).
495. To the finding that Ben Coyte's testimony about Khalil Abdallah transmitting soundbytes from Shannon Airport in Ireland (D.69, L.7-10) is inconsistent with Khalil Abdallah's testimony that he and his partner "FTP'd a soundtrack" out of Shannon Airport (D.69, L.10-12), as such conclusion and findings are unsupported by the substantial evidence in the Record as a whole. (Tr.15628, L.20-24; Tr.15786, L.12-Tr.15789, L.12; Tr.15443, L.1-20).
496. To the finding that Ben Coyte's testimony that Khalil Abdallah's ability to speak Arabic has been helpful to CNN producers (D.69, L.15-18) is uncorroborated, as such finding is contrary to the substantial evidence in the Record as a whole. (GC Ex. 228, Tab J, at CNNA-018120, CNNA-011337).
497. To the finding that Ben Coyte's testimony is unreliable because his testimony "that by June 2004, 5-7 photojournalists or as many as 10-15 crews would have been out on assignment

using these techniques on a given day” (D.69, L.20-27) is uncorroborated, as such finding is contrary to the substantial evidence in the Record as a whole, and contrary to the law.

498. To the finding that Team camera technicians were at a disadvantage only with regard to their experience with Final Cut Pro and that many of the non-Team photojournalists had no greater familiarity with FTP techniques or the “easily acquired ability to use satellite transmission” (D.69, L.29-34), as such finding is unsupported by the Record as a whole. (*See e.g.*, Tr.15439, L.10-Tr.15439, L.9; Tr.11344, L.4-Tr.11346, L.22; GC Exs. 228, 543; Tr.9387, L.19-Tr.9390, L.4).
499. To the findings and conclusions of law that CNN’s payroll records in Washington “belie[] any contention that the nonTVS employees hired in the Bureau Staffing Project are superior to those former Team employees hired, and that the selection of senior photojournalists indicate that FCP skills are not as critical to the work of a photojournalist as CNN suggests” (D.69, L.35-40), as such findings are unsubstantiated by the Record as a whole, and the conclusions of law are contrary to the law. (GC Ex. 227; Tr.11539, L.4-20; Tr.11602, L.1-Tr.11603, L.17; Tr.9313, L.19-Tr.9315, L.7; Tr.3935, L.20-22; Tr.3936, L.15-Tr.3937, L.3).
500. To the finding that FCP skills are not as critical to the work of a photojournalist as CNN suggests, based on the promotion of Maurice George to Senior Photojournalist (D.69, L.37-42), as such finding is contrary to the substantial evidence in the Record a whole. (Exception 36; CNNA Ex. 69; GC Exs. 227, 543, Vol. 2 (CNNA-PROD0074340-44, CNNA-PROD0074348-48, CNNA-PROD0074305-15, CNNA-PROD0074316-26), Vol. 4 (CNNA-PROD0142913-17, CNNA-PROD0142918-22, CNNA-PROD0074493-97, CNNA-PROD0074498-503)).
501. To the finding that “TPMPs are not necessarily an accurate reflection of CNN’s assessment of its photojournalists” and “TPMPs do not directly affect the amount of an employee’s

- annual raise” on the ground that it is not supported by the evidence (D.69, L.43-44), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.15841, L.14-21; Tr.15642, L.25-Tr.15643, L.6; Tr.15750, L.1-5).
502. To the finding that the non-Team photojournalists hired during the BSP were “relatively inexperienced,” and the implicit suggestion that non-Team photojournalists were hired at lower salary than TVS hires because they were relatively less qualified (D.70, L.1-6, 43-47), as such findings are contrary to the substantial evidence in the Record as a whole. (GC Exs. 227, 228, 241, 261, 519-22, 543, Vol. 1 (Derek Davis), Vol. 2 (Daniel King Lopez), 586, Tab 5; CNNA Exs. 64, 66, 67-70, 93, 99,101, 668, 673, 689, 693, 705).
503. To the finding that “CNN did not have a nondiscriminatory basis for hiring [Khalil Abdallah] instead of a number of Team technicians it did not hire” (D.70, L.12-D.71, L.17), as such finding is contrary to the substantial evidence in the Record as a whole and contrary to the law. (Tr.5834, L.19-Tr.5835, L.5; GC Ex. 228, Tab J; CNNA Exs. 72, 673; Tr.15767, L.7-12; Tr.15768, L.2-Tr.15772, L.8; Tr.15774, L.16-Tr.15775, L.1; Tr.4014, L.2-21; Tr.14900, L.3-11).
504. To the finding that RJ Fletcher was aware that his interviews of Khalil Abdallah and Bethany Chamberland Swain gave them an “unfair advantage” compared to Team applicants (D.70, L.25-33), as such finding is unsupported by the evidence in the Record.
505. To the finding that Mike Greene’s status as a Team bargaining unit member or union negotiator had any bearing on Abdallah’s offer of employment from CNN or Greene’s candidacy (D.71, L.13-17), as such finding is contrary to the substantial evidenced in the Record as a whole. (GC Exs. 543, Vol. 2 (Thomas Mike Greene), 554; Tr.4027, L.1-Tr.4028, L.10; Tr.14882, L.10-Tr.14884, L.5; Tr.14900, L.3-11; Tr.14912, L.22-Tr.14913, L.25).

506. To the findings that Cindy Patrick's testimony at Tr. 7/7/08 14,913 was not credible, because no other manager testified about such a regrouping (D.71, L.43-50), as such finding is unsubstantiated by the evidence in the Record and contrary to the law. (*See e.g.*, Tr.4027, L.1-Tr.4028, L.10).
507. To the finding that the reordering referenced by the ALJ was to the detriment of Team bargaining unit members Chris Hamilton and Mark Marchione (D.71, L.46-48), as such finding is contrary to the substantial evidence in the Record as a whole. (CNNA Ex. 70; Tr.4185, L.19-Tr.4186, L.19; Tr.4188, L.22-Tr.4195, L.3; Tr.14899, L.25-Tr.14903, L.20; GC Exs. 230, 259, 261, 554; Tr.4100, L.17-21; Tr.4104, L.24-Tr.4105, L.21; Tr.4192, L.19-22; Tr.4204, L.7-Tr.4205, L.2; Tr.4193, L.18-21).
508. To the finding that John Bena had no more than three years of broadcast experience and only two years of shooting experience (D.71, L.21-25), as such finding is contrary to the substantial evidence in the Record as a whole. (GC Ex. 228, Tab K; CNNA Ex. 64; Tr.4207, L.21-Tr.4208, L.19; Tr.14901, L.12-21).
509. To the finding that John Bena's only experience with Final Cut Pro was at home and that Bena's experience was "just like unsuccessful TVS applicant John Urman" (D.71, L.30-33), as such finding is contrary to the substantial evidence in the Record as a whole. (GC Exs. 228, Tabs I, K, 234, 235; CNNA Ex. 64; Tr.4207, L.21-Tr.4208, L.19; Tr.14901, L.12-21).
510. To the finding that "there is no rational nondiscriminatory explanation in this record for such a favorable rating [for John Bena] compared to many TVS candidates" (D.71, L.35-41), as such finding is contrary to the substantial evidence in the Record as a whole. (*See e.g.*, GC Ex. 228, Tab K; CNNA Ex. 64; Tr.4207, L.21-Tr.4208, L.19; Tr.14901, L.12-21).

511. To the finding that John Bena did not know how to use an audio mixer when hired by CNN (D.71, L.41-D.72, L.3), as such finding is unsupported by any admissible evidence in the Record. (Tr.6050, L.1-Tr.6052, L.9).
512. To the description of John Bena's pre-hire experience and of his work once he was hired, as incomplete and not supported by evidence. (*See e.g.*, GC Ex. 228, Tab K; CNNA Exs. 64, 657; Tr.4207, L.21-Tr.4208, L.19; Tr.14901, L.12-21; Tr.15438, L.10-Tr.15439, L.20; Tr.15442, L.14-25).
513. To the description of Bethany Chamberland Swain's pre-hire experience (D.72, L.6-14, 36-38, 49-50), as such description is incomplete and contrary to the substantial evidence in the Record as a whole. (GC Ex. 228, Tab L, *see e.g.*, CNNA-014919, CNNA-023338; Tr.15991, L.14-Tr.15994, L.14; CNNA Ex. 705).
514. To the findings that CNN hiring managers did not review a demo tape from Bethany Chamberland Swain when a butcher block was initially created for her or before it ranked her on or about November 6, (D.72, L.16-34), as such findings are contrary to the substantial evidence in the Record as a whole. (Tr.5568, L.4-Tr.5569, L.16; Tr.4209, L.16-21; Tr.16053, L.16-Tr.16054, L.14; Tr.5757, L.18-Tr.5758, L.13; Tr.5907, L.24-Tr.5908, L.11).
515. To the finding that RJ Fletcher is an incredible witness "given his hesitancy to acknowledge that [he] interviewed his own employees" (D.72, L.27-30), as such finding is contrary to the evidence in the Record as a whole. (Tr.5758, L.10-16).
516. To the findings that "nobody called [Larry Langley] to bring [a video tape] in so the hiring managers could review it," and that RJ Fletcher's testimony indicates disparate treatment (D.72, note 92), as such findings are unsupported by any evidence in the Record.
517. To the findings as to why RJ Fletcher ranked Bethany Chamberland Swain where he did and her movement "ahead of TVS bargaining unit employees" (D.72, L.36-D.73, L.2 and note

94), as such findings are contrary to the substantial evidence in the Record as a whole. (GC Ex. 228, Tab L; Tr.15991, L.14-Tr.15994, L.14; CNNA Exs. 704, 705).

518. To the finding that Mike Haan was not principally a photographer, and the description of his experience and job history (D.73, L.6-12), as such finding is contrary to the substantial evidence in the Record as a whole. (GC Ex. 228, Tab M; Tr.5901, L.10-20; Tr.4209, L.22-Tr.4210, L.12; Tr.14900, L.3-11).
519. To the findings that Chris Hamilton was not hired “during the BSP” and that Mark Marchione was not hired until January 2004 (D.73, L.14-18), as such findings are contrary to the substantial evidence in the Records as a whole. (GC 230; Tr.4100, L.17-23; Tr.6061, L.20-24).
520. To the finding that Mike Haan was not more qualified than the Team candidates not hired or hired after him, as such finding is unsupported by any evidence in the Record.
521. To the finding that Jerry Appleman was not more qualified than former Team candidates not hired or former Team candidates hired after him like Chris Hamilton and Mark Marchione (D.73, L.14-17), as such finding is unsupported by any evidence in the Record.
522. To the finding that Jeremy Harlan and James Norris were in the same position with regard to their experience with non-linear editing (as well as other types of experience) (D.73, L.51-52, note 95), as such finding is contrary to the substantial evidence in the Record as a whole. (GC Ex. 228, Tabs G, N; Tr.4210, L.15-Tr.4211, L.3; CNNA Ex. 64; Tr.4211, L.20-Tr.4212, L.12; Tr.15438, L.10-Tr.15439, L.20; Tr.15441, L.11-Tr.15442, L.13; Tr.12446, L.13-Tr.12449, L.24).
523. To the finding that CNN did not similarly seek references for Team candidates (D.73, L.29-39), as such finding is contrary to the substantial evidence in the Record as a whole.

- (Tr.13337, L.18-Tr.13338, L.11; CNNA Exs. 541, 541-A; Tr.13345, L.25-Tr.13347, L.9; Tr.14823, L.16-Tr.14824, L.6).
524. To the description of Jeremy Harlan's pre-hire experience (D.73, L.22-27) as incomplete and not supported by evidence. (*See* Exception 522).
525. To the finding that Ron Helm was an editor and not a photographer (D.73, L.43), as such finding is contrary to the substantial evidence in the Record as a whole. (GC Ex. 228, Tab O; CNNA Ex. 64).
526. To the finding that Ron Helm had little or no experience with Final Cut Pro, and that his experience with Avid was not valuable non-linear editing experience (P.73, L.45-47), as such finding is contrary to the substantial evidence in the Record as a whole. (GC Ex. 228, Tab O; Tr.4212, L.13-19; Tr.4213, L.10-18; Tr.4221, L.5-21; Tr.12446, L.13-Tr.12449, L.24).
527. To the finding that the listing of non-linear editing as a strength for Ron Helm demonstrates disparate treatment of TVS applicants such as Jim Norris (D.74, L.1-3, L.47, note 96), as such finding is contrary to the substantial evidence in the Record as a whole. (GC Ex. 228, Tabs G, O; Tr.4212, L.13-19; Tr.4213, L.10-18; Tr.4221, L.5-21; Tr.12446, L.13-Tr.12449, L.24).
528. To the finding that Jay McMichael is a non-Team candidate for the discrimination in hiring claim (D.74, L.11-12), as such finding is contrary to the finding that he is a Team-freelancer for successorship purposes (D.112, L.9-12), and is contrary to the evidence in the Record as a whole. (*See e.g.*, Tr.15974, L.15-Tr.15975, L.10; Tr.15980, L.12-Tr.15981, L.22; Tr.15976, L.24-Tr.15977, L.16; CNNA Ex. 697).
529. To the conclusions that it is not clear if anyone interviewed Jay McMichael for a photojournalist position, and that he was evaluated in a debriefing session that possibly was not the one in which photojournalist candidates were evaluated (D.74, L.15-20), as such

conclusions are contrary to the substantial evidence in the Record as a whole. (GC Ex. 228, Tab P; Tr.5580, L.13-16; Tr.5631, L.13-18; Tr.9122, L.2-13).

530. To the description of Jay McMichael's pre-hire experience and of his work once he was hired (D.74, L.9-20) as incomplete and not supported by evidence. (Tr.15974, L.11-Tr.15981, L.18; Tr.15399, L.8-19; CNNA Ex. 697; GC Ex. 228, Tab P; Tr.5631, L.13-18; Tr.4215, 3-21).
531. To the description of Jeremy Moorhead's work history as comprised of over a year for a Fox station in Baltimore and a year and a half in Youngstown (D.74, L.24-26), as such finding is contrary to the substantial evidence in the Record as a whole. (GC Ex. 228, Tab Q, CNNA-018165-67).
532. To the finding that it is not clear that Jeremy Moorhead met the minimum requirements (D.74, L.36-43), as such finding is contrary to the substantial evidence in the Record as a whole. (GC Exs. 227, 228, Tab Q, CNNA-018165-67; Tr.4215, L.22-Tr.4217, L.24; CNNA Ex. 64).
533. To the finding that Matt Speiser and Dan Young interviewed Jeremy Moorhead on November 4, (D.74, L.44-45), as such finding is contrary to the substantial evidence in the Record as a whole. (GC Ex. 228, Tab Q, CNNA-016892-016901; CNNA Ex. 64).
534. To the finding that Jeremy Moorhead's non-linear editing experience was mainly or possibly exclusively Avid (D.75, L.3-5), as such finding is contrary to the substantial evidence in the Record as a whole. (GC Ex. 228, Tab Q, CNNA-018166-67; Tr.12446, L.13-Tr.12449, L.24).
535. To the findings about the comparative salaries of Photojournalists and Senior Photojournalists hired in the Bureau Staffing Project (D.75, L.7-11), as such findings are unsubstantiated in the Record as a whole. (CNNA Ex. 544).

536. To the finding that Bryan Pearson's experience with Final Cut Pro on assignment in the Middle East somehow made him less qualified than other applicants (D.75, L.15-16), as such finding is contrary to the substantial evidence in the Record as a whole. (GC Ex. 228, Tab R; Tr.12775, L.11-Tr.12776, L.1; Tr.4218, L.6-22; Tr.155549, L.10-16).
537. To the description of Bryan Pearson's pre-hire experience and of his work once he was hired (D.75, L.15-18), as incomplete and not supported by evidence. (GC Ex. 228, Tab R; CNNA Ex. 64; Tr.12765, L.4-11; Tr.12775, L.11-Tr.12776, L.1; Tr.4218, L.6-22; Tr.4613, L.12-Tr.4614, L.23; CNNA Ex. 599).
538. To the finding that it is unclear whether Jose Santos had experience with Final Cut Pro, and if he did he was "not comfortable" using FCP (D.75, L.23-25), as such finding is unsupported by any evidence in the Record. (GC Ex. 22, Tab 5, CNNA-016834, CNNA-016824; Tr.12446, L.13-Tr.12449, L.24).
539. To the description of Jose Santos' pre-hire experience and of his work once he was hired, as incomplete and not supported by evidence. (GC Ex. 228, Tab S; Tr.13643, L.3-20; Tr.4218, L.25-Tr.4220, L.13).
540. To the description of Doug Schantz's experience (D.75, L.29-36), as such description is contrary to the substantial evidence in the Record as a whole. (GC Ex. 228, Tab T; CNNA Ex. 64; Tr.15685, L.6-Tr.15687, L.9; Tr.4221, L.1-21; Tr.15439, L.12-Tr.15440, L.4; Tr.15468, L.7-19).
541. To the findings that Doug Schantz was introduced to Final Cut Pro by Dan Young, that Schantz was "essentially self-taught," and that Schantz's use of FCP was limited to his tour in Iraq (D.75, L.34-40), as such findings are contrary to the substantial evidence in the Record as a whole. (GC Ex. 228, Tab T; CNNA Ex. 64; Tr.15685, L.6-Tr.15687, L.9; Tr.4221, L.1-21; Tr.15685, L.1-25).

542. To the finding that John Courtney rated Doug Schantz highly based on teamwork, motivation and creativity, (D.75, L.38-40), as such finding is contrary to the evidence in the Record as a whole. (GC Ex. 228, Tab T, CNNA-017241-017250).
543. To the findings and conclusions that CNN's payment of relocation expenses to Doug Schantz and other CNN employees was evidence of anti-union animus (D.75, L.41-42), as such findings and conclusions are contrary to the substantial evidence in the Record as a whole. (GC Exs. GC 228, Tabs M (CNNA-021629), T (CNNA-PROD0057877), 430 (CNNA-PROD0035240); Tr.9329, L.6-Tr.9330, L.13; Tr.5541, L.5-Tr.5542, L.20; Tr.3831, L.6-24; Tr.3835, L.23-Tr.3836, L.6; Tr.14914, L.15-Tr.14915, L.1; Tr.1905, L.14-21).
544. To the finding characterizing Dan Young's review of Ken Tillis's tape (D.75, L.46-48), on the ground that it is incomplete. (CNNA Ex. 64).
545. To the description of Ken Tillis's pre-hire experience (D.75, L.46-49), as incomplete. (GC Ex. 228, Tab U; Tr.4222, L.7-15).
546. To the finding that Floyd Yarmuth was primarily an editor and not a photographer, and that Dan Young "went to bat" for Yarmuth (D.76, L.1-7), as such finding is contrary to the substantial evidence in the Record as a whole. (GC Ex. 228, Tab V; Tr.4038, L.7-25; CNNA Ex. 64; Tr.4223, L.18-21).
547. To the finding that Brian Kiederling was one of if not the most active Team employee in union matters in New York and was not hired (D.76, L.22-23), as such finding related to CNN's hiring decisions is contrary to the substantial evidence in the Record as a whole. (*See* Exceptions 572, 577, 578, 579, 580; Tr.4191, L.16-17; CNNA Exs. 9, 71, 276, 388, 543, 544; Tr.9392, L.8-Tr.9393, L.4; Tr.1563, L.5-Tr.1564, L.24; Tr.8931, L.16-25; GC Exs. 56, 543, Vol. 2 (Thomas Mike Greene)).

548. To the finding that CNN would not have hired any of the TVS New York audio technicians if three individuals had not declined positions (D.76, L.25-28), as such finding is irrelevant, speculative, and contrary to the substantial evidence in the Record as a whole. (*See* Exceptions 422, 507; GC Ex. 429).
549. To the finding that there is no evidence corroborating Cindy Patrick's testimony that Desmond Garrison was a "growth candidate" in the same sense as other non-TVS growth candidates (D.76, note 99), as such finding is contrary to the substantial evidence in the Record as a whole. (*See* Exceptions 211, 380; Tr.12894, L.8-Tr.12898, L.11; Tr.14899, L.20-Tr.14900, L.19; Tr.11705, L.23-Tr.11708, L.13; Tr.11715, L.22-Tr.11716, L.13; GC Ex. 228, Tabs E, J, L, M, O, V; GC Ex. 543, Vol. 1 (Jerry Appleman); GC Ex. 520 (Desmond Garrison); CNNA Exs. 398, 399).
550. To the finding that there is no explanation as to why Stephen Jackson was not offered a position (D.76, L.42-47), as such finding is unsubstantiated by any evidence in the Record as a whole and contrary to the law.
551. To the finding that audio technicians were capable of doing camera work because Team's director of field operations occasionally used audio technicians to perform camera work when a camera operator was absent (D.76, L.33-D.77, L.4), as such finding is contrary to the substantial evidence in the Record as a whole. (GC Exs. 394-C, 519 (Marc Abramson, Marcus Bassett, Steve Burnett, Joseph Cantalli, Duff Conner); 520 (Todd Ferrand, Felix Fermaintt, Desmond Garrison, Fernando Gracia, Juan Hortua); 521 (Tommy Maney, Roy McClain, ); 522 (Christian Roebing, William Seiden, Robert Sullivan, Jamie Wiener); CNNA Ex. 559, Tabs 16, 23).
552. To the finding that Jeff Jaramello, a Team audio technician, was "replaced" by someone who did not apply for "their position" (D.77, L.11-14), as such finding is contrary to the

substantial evidence in the Record as a whole. (*See* Exception 774; Tr.12693, L.23-Tr.12696, L.12; CNNA Exs. 457, 528; Tr. 4168, L.18-23).

553. To the finding that, after the Bureau Staffing Project, CNN had “substantial work” that the TVS audio technicians could have performed (D.77, L.18-23), as such finding is unsubstantiated by the evidence in the Record as a whole. (Tr.4168, L.24-Tr.4169, L.5; Tr.9393, L.21-Tr.9395, L.7; GC Ex. 430; Tr.9338, L.12-Tr.9340, L.1).
554. To the finding that the one-man band issue was point of contention between CNN and Local 11 (D.77, L.44-48), as such finding is contrary to the substantial evidence in the Record as a whole. (GC Ex. 17; Tr.11623, L.12-15; Tr.9637, L.19-Tr.9638, L.5; Tr.3763, L.7-Tr.3764, L.18; Tr.13571, L.1-5; Tr.13800, L.22-Tr.13801, L.6; Tr.6262, L.18-Tr.6264, L.2; Tr.6411, L.13-18; Tr.6412, L.3-25; Tr.5611, L.20-Tr.5612, L.5; Tr.7163, L.16-Tr.7164, L.1; Tr.9395, L.23-Tr.9396, L.13).
555. To the finding that there is no evidence that the audio technicians not hired by CNN in New York had less experience shooting than some of the CNN employees hired as photojournalists in Washington (D.77, L.50-51, footnote 105), as unsupported by evidence. (GC Exs. 228, Tabs J- V, 394, Tab C, 519 (Marc Abramson, Marcus Bassett, Steve Burnett, Joseph Cantalli, Duff Conner); 520 (Todd Ferrand, Felix Fermaintt, Desmond Garrison, Fernando Gracia, Juan Hortua); 521 (Tommy Maney, Roy McClain, ); 522 (Christian Roebing, William Seiden, Robert Sullivan, Jamie Wiener); 543, Vols. 1 (William Alberter, Michael Bannigan, John Bodnar, Burke Buckhorn, David Catrett, Derek Davis, Martin Dougherty), 2 (Tim Garraty, Maurice George, Thomas Mike Greene, Eddie Gross, Warren Worth Kinlaw, Daniel King Lopez, Peter Morris, Ernest Nocciolo), 3 (James Riggs, David Scherer), 4 (Ken Tuohey, Kim Uhl, Mark Walz, Brian Yaklyvich, Elizabeth Zosso); CNNA Exs. 64, 263, 693, Tab 3).

556. To the finding that CNN's hiring was pretextual and that the scheduling of training for new hires is evidence of pretext (D.77, L.25-D.78, L.32), as such finding is unsupported by the substantial evidence in the Record as a whole and contrary to the law. (*See* Exceptions 41, 483, 208, 224, 225, 235, 238).
557. To the finding that Jeff Kinney knew that "virtually anyone with minimal computer skills could be trained to use Final Cut Pro adequately in two days," (D.78, L.34-36), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.9376, L.12-Tr.9378, L.7; Tr.9378, L.24-Tr.9379, L.9; Tr.9442, L.2-Tr.9443, L.8; Tr.9444, L.16-Tr.9446, L.21; Tr.9448, L.1-Tr.9449, L.21).
558. To the finding that Jeff Kinney knew that CNN didn't need a new workforce to use Final Cut Pro, because it would be relatively easy to train the existing workforce (D.78, L.38-D.79, L.1), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.9277, L.1-14; Tr.9376, L.12-Tr.9378, L.7; Tr.9442, L.2-Tr.9443, L.8; Tr.9444, L.16-Tr.9446, L.21; Tr.9448, L.1-Tr.9449, L.21).
559. To the finding that Jeff Kinney testified that his experiences training the Chicago staff on Final Cut Pro (Tr.9378-79) were replicated in New York (Tr.9444-45) (D.79, L.1-D.80, L.25), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.9378, L.8-Tr.9379, L.9; Tr.9421, L.19-Tr.9423, L.24; CNNA Exs. 285, 286; Tr.9442, L.2-Tr.9443, L.8; Tr.9444, L.16-Tr.9446, L.21; Tr.9448, L.1-Tr.9449, L.21).
560. To the finding that no hiring manager received, reviewed, and evaluated a demo tape from Pelin Sidki (D.78, L.46-51), as such finding is contrary to the substantial evidence in the Record as a whole and contrary to the law. (*See* Exception 411; Tr.8369, L.11-Tr.8373, L.11; Tr.13132, L.6-9).

561. To the finding that it is a “mystery” as to when, how and on what basis hiring decisions were made (D.80, L.29-32), as such finding is contrary to substantial evidence in the Record as a whole. (*See, e.g.*, Curry: Tr.8254, L.11 - Tr.8261, L.20; Tr.8267, L.11 - Tr.8271, L.4; Tr.8365, L.11 - Tr.8386, L.16; Tr.8388, L.25 - Tr.8407, L.7; Tr.8412, L.5 - Tr.8417, L.1; Tr.8466, L.14 - Tr.8478, L.16; Chapin: Tr.9083, L.17 - Tr.9125, L.5; Tr.9128, L.7 - Tr.9188, L.2; Tr.9213, L.19 - Tr.9239, L.20; Courtney: Tr.12450, L.13 - Tr.12454, L.5; Kinney: Tr.9284, L.22 - Tr.9368, L.17; Tr.9380, L.16 - Tr.9388, L.7; Tr.9399, L.20 - Tr.9440, L.5; Tr.11432, L.12 - Tr.11434, L.11; Palmer: Tr.9460, L.2 - Tr.9492, L.3; Denius: Tr.13115, L.22 - Tr.13166, L.15; Kile: Tr.12932, L.22 - Tr.13054, L.21; GC Exs. 405-06, 408-11, 424-427, 429, 450-455, 519-522; CNNA Exs. 63, 258-263, 266, 267, 476-77, 564-65).
562. To the finding that testimony from CNN witnesses regarding debriefing sessions “is of questionable value given the fact that there is no documentation of what went on at these meetings and the fact that they testified four and a half years after the fact” (D.80, L.34-36), as such finding is contrary to substantial evidence in the Record as a whole, improperly attributes to CNN the effects of delays by the General Counsel in bringing this matter to trial, and is contrary to the law. (Tr.9233, L.23 - Tr.9235, L.12; Tr.8375, L.11 - Tr.8378, L.16; Tr.8390, L.24 - Tr.8394, L.25; Tr.8400, L.24 - Tr.8401, L.13; Tr.8412, L.7-20; Tr.9140, L.2 - Tr.9142, L.1; Tr.9233, L.10-19; Tr.13034, L.6-11; CNNA Ex. 267; GC Exs. 424-26, 429, 450-55).
563. To the finding that “CNN applied very nebulous standards to the applicants” based on selective quotes from Karen Curry's and Edith Chapin's testimony (D.80, L.36-40), as such finding is contrary to substantial evidence in the Record as a whole. (Tr.9344, L.7 - Tr.9345, L.5; Tr.9233, L.10 - Tr.9235, L.12; Tr.8380, L.16 - Tr.8386, L.16; Tr.8390, L.24 - Tr.8394,

- L.25; Tr.8398, L.10-16, 21 – Tr.8399, L.7; Tr.9140, L.2 – Tr.9142, L.1; Tr.9233, L.10 – Tr.9235, L.12; Tr.11432, L.12 – Tr.11434, L.11; CNNA Ex. 267; GC Exs. 519-22).
564. To the finding that the testimony of the attendees who attended the selection meetings is inconsistent (D80, L.46-51 – D.81, L.43-44), as such finding is contrary to substantial evidence in the Record as a whole and improperly attributes to CNN the effects of delays by the General Counsel in bringing this matter to trial. (Tr.9294, L.23 – Tr.9299, L.3; Tr.9138, L.23 – Tr.9139, L.14; Tr.9151, L.15; Tr.9140, L.2 – Tr.9142, L.1; Tr.13151, L.16 – Tr.13152, L.15; Tr.9137, L.6-14; Tr.8375, L.11 – Tr.8378; Tr.12484, L.4-21; Tr.8398, L.10 – Tr.8399, L.7; Tr.8390, L.24 – Tr.8394, L.25; Tr.9298, L.9 – Tr.9299, L.3; Tr.14814, L.25 – Tr.14815, L.8;).
565. To the finding that hiring decisions were not made in the debriefing sessions (D.81, L.45-51), as such finding is contrary to substantial evidence in the Record as a whole. (Tr.9151, L.15 – Tr.9156, L.9; Tr.9157, L.12 – Tr.9158, L.11; Tr.9344, L.7 – Tr.9345, L.5; Tr.8390, L.24 – Tr.8394, L.25; Tr.8397, L.13-19; Tr.8398, L.10-16, 21 – Tr.8399, L.7; Tr.9140, L.2 – Tr.9142, L.1; Tr.9294, L.23 – Tr.9299, L.3; Tr.8391, L.10-15; Tr.9170, L.21 – Tr.9173, L.1; Tr.14811, L.20 – Tr.14812, L.2; Tr.14814, L.25 – Tr.14815, L.8; Tr.8394, L.1-25; Tr.12485, L.21 – Tr.12496, L.10; Tr.13151, L.16 – Tr.13152, L.15).
566. 9.1 To the finding that Cindy Patrick and John Courtney’s role “in the deliberations in unclear” (D.81, L.2-6), as such inference is contrary to substantial evidence in the Record as a whole. (Tr.9367, L.11 – Tr.9368, L.7; Tr.9138, L.9-16; Tr.12487, L.19 – Tr.12492, L.1; Tr.12453, L.18 – Tr. 12454, L.5; Tr.12486, L.1-11; Tr.12899, L.1-23; Tr.13186, L.7-19; Tr.14868, L.24 – Tr.14869, L.13; Tr.13044, L.19 – Tr.13046, L.2; Tr.14880, L.2 – Tr.14881, L.23; Tr.14582, L.16 – Tr.14583, L.9; Tr.14590, L.7-19; Tr.4182, L.12-23; Tr.14877, L.23 – Tr.14882, L.9; Tr.12892, L.1 – Tr.12894, L.7).

567. To the finding that the categorization was the “most critical” stage of the process, (D.81, L.8-10), as such finding is contrary to substantial evidence in the Record as a whole. (Tr.9151, L.15 – Tr.9156, L.9; Tr.9298, L.9 – Tr.9299, L.3; Tr.8397, L.13-19; Tr.8398, L.10-16, 21 – Tr.8399, L.7; Tr.9302, L.11-23; Tr.9304, L.18 - Tr.9308, L.3).
568. To the finding that the basis of classifications is “not clear” and that no CNN witness was able to credibly describe how or in what order it was done, (D.81, L.16-22), as such finding is contrary to substantial evidence in the Record as a whole. (Tr.9151, L.15 – Tr.9156, L.9; Tr.9300, L.12 – Tr.9301, L.5; Tr.9302, L.1-23; Tr.9304, L.18 - Tr.9308, L.3; Tr.8397, L.13-19; Tr.8398, L.10-16, 21 – Tr.8399, L.7; Tr.14814, L.25 - Tr.14815, L.8; Tr.8394, L.1-25; Tr.12490, L.17 – Tr.12496, L.10; Tr.14806, L.9-16; Tr.9170, L.21 - Tr.9171, L.15).
569. To the inference that the “categorization [of 'very strong possible,' 'strong possible,' 'possible +', and 'possible'] may have been done prior to the debriefing meeting” (D.81, L.18-19), as such inference is contrary to substantial evidence in the Record as a whole. (Tr.8391, L.10-23; Tr.9151, L.15 – Tr.9156, L.9; Tr.8394, L.1 - Tr.8395, L.18; Tr.8397, L.13-19; Tr.8398, L.10-16, 21 – Tr.8399, L.7; Tr.9302, L.1-23; Tr.14814, L.25 - Tr.14815, L.8; Tr.9170, L.21 - Tr.9171, L.15; Tr.13151, L.16 - Tr.13152, L.15).
570. To the finding that “there is no evidence as to how great or small a role Patrick and/or Courtney played was in these deliberations, or the basis on which anyone rendered this critical assessment of each candidate” (D.81, L.24-26), as such finding is contrary to substantial evidence in the Record as a whole. (Courtney: Tr.9367, L.23 - Tr.9368, L.22; Tr.9138, L.9-16; Tr.12491, L.4 – Tr.12492, L.1; Patrick: Tr.12899, L.1-23; Tr.13186, L.7-19; Tr.14868, L.24 - Tr.14869, L.13; Tr.13044, L.19 - Tr.13046, L.2; *see also* Exception 566, 565).
571. To the inference “that the corporate view was that CNN needed a workforce without NABET” (D.81, L.28-29), as such finding is unsubstantiated by any evidence in the Record

as a whole. (Tr.3699, L.19 - Tr.3700, L.2; Tr.12040, L.18 - Tr.12041, L.1; Tr.8461, L.10 Tr.8462, L.13; Tr.9211, L.1-9; Tr.5459, L.22 - Tr.5460, L.1; Tr.8214, L.5-9).

572. To the finding that Jim Peithman, TVS audio technicians, Brian Kiederling, Vince Everett, and Perry MacLean were “effectively eliminated from consideration” during the categorization stage (D.81, L.31-36), as such finding is contrary to substantial evidence in the Record as a whole. (Tr.9151, L.15 – Tr.9156, L.9; Tr.9157, L.12 – Tr.9158, L.11; Tr.9344, L.7 - Tr.9345, L.5; Tr.8390, L.24 - Tr.8394, L.25; Tr.8397, L.13-19; Tr.8398, L.10-16, 21 – Tr.8399, L.7; Tr.9140, L.2 - Tr.9142, L.1; Tr.9294, L.23 – Tr.9299, L.3; Tr.8391, L.10-15; Tr.9170, L.21 – Tr.9173, L.1; Tr.14811, L.20 - Tr.14812, L.2; Tr.14814, L.25 - Tr.14815, L.8; Tr.8394, L.1-25; Tr.12485, L.21 – Tr.12496, L.10; Tr.13151, L.16 - Tr.13152, L.15; GC Ex. 429).
573. To the finding that “there is no evidence as to what criteria [John Courtney] used in making his rankings” (D.81, L.40), as such finding is contrary to substantial evidence in the Record as a whole. (Tr.12480, L.12 - Tr.12494, L.9).
574. To the finding that the “importance of the job interviews in CNN's hiring decisions is also very unclear,” that job interviews “may not have mattered at all” in the hiring decisions, and that Edith Chapin testified that interviews were “unimportant” in making hiring decisions (D.82, L.1-4), as such finding is contrary to substantial evidence in the Record as a whole. (Tr.12960, L.2 - Tr.12961, L.25; Tr.13028, L.4 – Tr.13029, L.4; Tr.9139, L.15-19; Tr.9129, L.3 – Tr.9130, L.8; Tr.8469, L.24 – Tr.8470, L.7; Tr.9292, L.18 – Tr.9293, L.10; Tr.9294, L.8-17; Tr.12480, L.21 – Tr.12481, L.14; Tr.14809, L.8-12; Tr.14807, L.16-20; Tr.5795, L.18 - Tr.5796, L.3; Tr.14795, L.4-18; Tr.5687, L.20 - Tr.5688, L.13; CNNA Exs. 232, 476, 531, 639; GC Exs. 261, 425, 450).

575. To the finding that Edith Chapin did not explain what “balance CNN was seeking” when she said that they were looking for “a balanced, composed workforce” (D.82, L.13-14), as such finding is contrary to substantial evidence in the Record as a whole. (Tr.9119, L.5 – Tr.9123, L.13; Tr.9171, L.8 – Tr.9173, L.1; Tr.9180, L.9 – Tr.9181, L.7; Tr.9233, L.10 – Tr.9235, L.12; CNNA Ex. 267).
576. To the inference that the balance CNN was seeking “was a balance of TVS unit members and non-unit members that would allow CNN to avoid recognizing and bargaining with the Union” (D.82, L.13-15), as such inference is unsubstantiated by the evidence in the Record as a whole and is contrary to the law. (Tr.11594, L.11 – Tr.11596, L.12; Tr.3699, L.19 - Tr.3700, L.2; Tr.12040, L.18 - Tr.12041, L.1; Tr.8461, L.10 Tr.8462, L.13; Tr.9211, L.1-9; Tr.5459, L.22 - Tr.5460, L.1; Tr.8214, L.5-9; Tr.9119, L.5 – Tr.9123, L.13; Tr.9171, L.8 – Tr.9173, L.1; Tr.9180, L.9 – Tr.9181, L.7; Tr.9233, L.10 – Tr.9235, L.12; Tr.9290, L.16 – Tr.9293, L.17; Tr.9294, L.23 – Tr.9295, L.5; Tr.9314, L.14 – Tr.9316, L.25; Tr.9353, L.6-23; Tr.12470, L.13 – Tr.12473, L.4; Tr.12511, L.25 – Tr.12512, L.22; Tr.14884, L.6 – Tr.14887, L.11; Tr.8382, L.12 - Tr.8384, L.21; CNNA Exs. 267, 476-77).
577. To the finding that the “basis for CNN's decision not to hire Brian Kiederling is particularly suspect” (D.82, L.19), as such finding is contrary to substantial evidence in the Record as a whole. (Tr.9351, L.23 – Tr.9352, L.20; Tr.9358, L.22 – Tr.9364, L.11; Tr.9432, L.9 – Tr.9435, L.25; GC Exs. 429, 459; CNNA Exs. 323-24, 565 Tab 15).
578. To the finding that CNN's failure to hire Brian Kiederling as a photojournalist is “suspicious” and “it's [sic] failure to hire him as an engineer also suggests discriminatory motive” (D.82, L.37-38), as such finding is contrary to substantial evidence in the Record as a whole and is contrary to the law (Tr.10061, L.23 – Tr.10065, L.22; Tr.9351, L.23 – Tr.9352,

- L.20; Tr.9358, L.22 – Tr.9364, L.11; Tr.9432, L.9 – Tr.9435, L.25; Tr.9485, L.25 – Tr.9487, L.5; GC Exs. 429, 459; CNNA Exs. 323-24, 565 Tab 15, 710 Table O.1, R.1).
579. To the finding that Jeff Gershorn wanted to hire Kiederling, but “was overruled by an unnamed CNN official in Atlanta, and that CNN hired several other individuals for engineering positions who had not “participated in the Bureau Staffing Project interview/debriefing process” (D.82, L.45-51), as such finding is irrelevant to the issues in this case and unsubstantiated by any evidence in the Record as a whole. (Tr.10061, L.23 – Tr.10065, L.22).
580. To the finding that Brian Kiederling had “16 years of service at the New York Bureau,” that he was not placed in any category, and that the assessments of Karen Curry and Jeff Kinney “provide no clue as to why Kiederling was not hired or even rated in a category” (D.82, L.19-23), as such finding is contrary to substantial evidence in the Record as a whole. (Tr.9351, L.23 – Tr.9352, L.20; Tr.9358, L.22 – Tr.9364, L.11; Tr.9432, L.9 – Tr.9435, L.25; Tr.9485, L.25 – Tr.9487, L.5; GC Exs. 429, 459; CNNA Exs. 323-24, 565 Tab 15, 710 Table O.1, R.1).
581. To the finding that CNN lost “the first demo tape that Kiederling submitted” and that there is “no evidence in the record of any CNN hiring manager rendering an opinion about the quality of a demo tape submitted by Kiederling” (D.83, L.1-2, L.40-43), as such finding is unsubstantiated by the Record as a whole. (Tr.9486, L.5 - Tr.9487, L.5).
582. To the finding that “it is quite possible that the question mark” on Jeff Kinney's interview guide “was added sometime after Kinney filled out the rest of the rating sheet” (D.83, L.44-45), as such finding is unsubstantiated by any evidence in the Record as a whole and is contrary to the law. (Tr.9352, L.16 – Tr.9354, L.5).

583. To the finding that Brian Kiederling was most likely eliminated from consideration because he was not in a category (D.83, L.11-12), as such finding is contrary to the law and is unsubstantiated by the Record as a whole.
584. To the finding that Kiederling was highly thought of by CNN personnel who worked with him (D.83, L.11-17), as such finding is irrelevant to the underlying issues.
585. To the finding that Brian Kiederling was “the only technical employee interviewed for CNN's memorial broadcast, 'CNN 9/11 remembers'” (D.83, L.16-18), as such finding is irrelevant to the underlying issues.
586. To the finding and conclusion of law that Edith Chapin failed to rate Brian Kiederling, that “there is direct credible evidence that Chapin's failure to rate Kiederling was not her decision and was in fact mandated by officials in Atlanta,” and that Chapin told Kiederling that the decision not to hire Kiederling was mandated by officials in Atlanta (D.83, L.20-25), as such finding is unsubstantiated by the evidence in the Record as a whole and is contrary to the law. (Tr.10037, L.2 - Tr.10039, L.8; Tr.9170, L.4 – Tr.9176, L.16; Tr.9129, L.3 – Tr.9130, L.8; Tr.9351, L.23 – Tr.9352, L.20; Tr.9358, L.22 –Tr.9364, L.11; Tr.9432, L.9 – Tr.9435, L.25; Tr.9485, L.25 – Tr.9487, L.5; GC Exs. 429).
587. To the finding and conclusion of law that Brian Kiederling's testimony that Chapin's alleged statement that “the decision wasn't made in New York” is consistent with “Chapin's inability to testify as to when the hiring process applicants were categorized as ‘very strong possible’ candidates, and so forth” (D.83, L.46-49), as such finding is unsubstantiated by any evidence in the Record as a whole and is contrary to the law. (*See* Exceptions 569, 580, 586).
588. To the reliance on Jesse Spilka's testimony (D.83, L.50-51), as its admission into evidence was contrary to the law.

589. To the reliance on an August 2004 email from Vivian Foley “recommending that Kiederling be rehired,” (D.83, L.28-36), as Foley was not acting as an agent of CNN for purposes of the email, the substance of the email is irrelevant, and its admission into evidence is contrary to the law.
590. To the finding that “[o]ne-man bands had been a contentious issue between Local 11 and CNN and its contractors”, and to the descriptions citations to the collective bargaining agreement (D.84, L.8-13), as such finding is irrelevant to the underlying issues, and such finding is not supported by any evidence in the Record as a whole. (Tr.9939, L.19 – Tr.9940, L.7; Tr.9637, L.19 - Tr.9638, L.5; Tr.3763, L.7 - Tr.3764, L.18; Tr.13571, L.1-5; Tr.13800, L.22 - Tr.13801, L.16; Tr.6411, L.13-18; GC Exs. 16, 17).
591. To the conclusion of law that Jeff Kinney’s testimony supports a conclusion that “CNN’s decision not to hire Kiederling was discriminatorily motivated” (D.84, L.4-6, 15 – D.86, L.18), as such conclusion of law is contrary to the law.
592. To the finding that Jeff “Kinney’s statements about Kiederling in his affidavit and in this hearing are inconsistent with the assessment when he interviewed Kiederling, that Kiederling was “open to change” (D.86, L.20-22), as such finding is contrary to substantial evidence in the Record as a whole. (Tr.9351, L.23 – Tr.9352, L.20; Tr.9358, L.22 – Tr.9364, L.11; GC Exs. 429, 459; CNNA Exs. 323-24).
593. To the inference that “Jeff Kinney’s rating of Kiederling as the 35th most desirable candidate at the selection meeting does not reflect Kinney’s actual opinion of Kiederling as a potential employee” (D.86, L.22-24), as such inference is unsubstantiated by the evidence in the Record as a whole and is contrary to the law. (Tr.9351, L.23 – Tr.9352, L.20; Tr.9358, L.22 – Tr.9364, L.11; GC Exs. 429, 459; CNNA Exs. 323-24).

594. To the inference that “Kinney’s call was motivated by his belief that Kiederling was a highly competent cameraman, who not only was qualified to be a photojournalist, but also a senior photojournalist” (D.86, L.26-28), as such inference is unsubstantiated by the evidence in the Record.
595. To the finding and conclusion of law that CNN violated Section 8(a)(1) by deciding not to hire Brian Kiederling because it “was motivated by Kiederling’s discussion of one-man bands in his interview” (D.86, L.49-50), as such finding is unsubstantiated by any evidence in the Record and such conclusion of law is contrary to the law and outside the scope of the Complaint. (Tr.9351, L.23 – Tr.9352, L.20; Tr.9358, L.22 – Tr.9364, L.11).
596. To the finding that “CNN did not hire Kiederling as part of its overall plan to avoid recognizing the Union” (D.86, L.50-51), is as such finding is contrary to substantial evidence in the Record as a whole. (Tr.9351, L.23 – Tr.9352, L.20; Tr.9358, L.22 – Tr.9364, L.11; Tr.3699, L.19 - Tr.3700, L.2; Tr.12040, L.18 - Tr.12041, L.1; Tr.8461, L.10 Tr.8462, L.13; Tr.9211, L.1-9; Tr.5459, L.22 - Tr.5460, L.1; Tr.7933, L.6-17; Tr.8214, L.5-9; Tr.9873, L.7-10; Tr.9119, L.5 – Tr.9123, L.13; Tr.9171, L.22 – Tr.9173, L.1; Tr.9180, L.9 – Tr.9181, L.7; Tr.9233, L.10 – Tr.9235, L.12; Tr.9286, L.12 – Tr.9287, L.6; Tr.9290, L.16 – Tr.9293, L.17; Tr.9294, L.23 – Tr.9295, L.5; Tr.9314, L.14 – Tr.9316, L.25; Tr.9353, L.6-23; Tr.12470, L.13 – Tr.12473, L.4; Tr.12511, L.25 – Tr.12512, L.22; Tr.14884, L.6 – Tr.14887, L.11; Tr.8382, L.12 - Tr.8384, L.21; CNNA Exs. 267, 323-24, 476-77; GC Exs. 429, 459).
597. To the finding that there are “many factors that indicate that the Bureau Staffing Project was implemented with a discriminatory motive” (D.86, L.32-33), as such finding is contrary to substantial evidence in the Record as a whole. (*See* Exceptions 14, 23, 34, 204, 246).
598. To the finding that CNN “incompletely explained circumstances surrounding the recruitment and hiring of Gabe Ramirez, Doug Burgess and Richard Frederick as

photojournalists in the New York Bureau” (D.86, L.32-35), as such finding is contrary to substantial evidence in the Record as a whole and is contrary to the law. (Tr.13040, L.5-13; Tr.13388, L.19 - Tr.13390, L.1; Tr.11459, L.23 - Tr.11460, L.7, 18 - Tr.11461, L.13; Tr.4193, L.2-11; Tr.9145, L.13 - Tr.9147, L.6; Tr.13160, L.8 - Tr.13166, L.16; Tr.14966, L.11-14; CNNA Exs. 380, 495; GC Ex. 429).

599. To the inference that “Ramirez was recruited as a stop gap measure to enable CNN to hire fewer former TVS employees” and the same inference “with regard to Doug Burgess” (D.86, L.37-39), as such inference is unsubstantiated by any evidence in the Record as a whole.
600. To the finding that the “circumstances surrounding the hiring of Richard Frederick is even more curious” (D.86, L.43-44), as such finding is contrary to substantial evidence in the Record as a whole. (*See* Exceptions 598, 566, 565; CNNA Exs. 380, 520, 565, 559 Tabs 19, 693, Tab 12).
601. To the finding that “it was a departure from the [hiring] process described by Denius” for Dan Young, CNN hiring manager, to recommend that an individual receive an interview (D.87, L.1-4), as such a finding is contrary to substantial evidence in the Record as a whole. (Tr.13122, L.10 - Tr.13123, L.5; Tr.13143, L.19 - Tr.13145, L.11).
602. To the finding that Dan Young gave Richard Frederick an “overall interview score of 3.2, lower than a number of TVS cameramen who were not hired,” and that the decision not to hire him in DC was unexplained (D.87, L.10-14), as such finding is contrary to substantial evidence in the Record as a whole. (Tr.4193, L.2-11; Tr.13160, L.8 - Tr.13166, L.16; Tr.11382, L.15 - Tr.11384, L.6; CNNA Ex. 693 Tab 12).
603. To the finding that “there was no indication that [Richard Frederick] was a better candidate than the TVS cameramen who were not hired (Peithman, Kiederling, MacLean and Everett),

if judged on a nondiscriminatory basis” (D.87, L.22-24), as such finding improperly substitutes Judge Amchan’s disagreement with CNN’s business decisions for evidence of discrimination, and such finding is contrary to substantial evidence in the Record as a whole, (Tr.4193, L.2-11; Tr.9145, L.13 - Tr.9147, L.6; Tr.13160, L.8 - Tr.13166, L.16; Tr.14966, L.11-14; Tr.11382, L.15 – Tr.11384, L.6; CNNA Exs. 338, 380, 523-26, 559 Tabs 18-19, 693 Tab 12; GC Exs. 280, 429, 520-21).

604. To the finding that Bryan Kane lacked non-linear editing experience, that Rick Denius changed his mind about not recommending Bryan Kane, and that Bryan Kane, Beth Lasch, and Jeremy Moorhead were similarly situated except for the hiring decision (D.87, L.28-30, L.49-51), as such finding is contrary to substantial evidence in the Record as a whole. (Tr.13143, L.19 – Tr.13145, L.15; Tr.4215, L.22 - Tr.4217, L.24; Tr.4030, L.12 - Tr.4034, L.1; CNNA Exs. 64, 377, 381, 512; 559, 565; GC Exs. 228 Tab Q, 425, 429, 519-22).
605. To the finding that Kane was given credit for tape to tape experience for which TVS applicants were not given credit (D.87, L.31-33), as such finding is unsubstantiated by the Record as a whole. CNNA Exs. 377, 381, 559, 565; GC Exs. 429, 519-520.
606. To the finding that Dan Young's evaluations of the demo tapes in NY and DC are “different” (D.87, L.44 – D.88, L.8), as such finding is contrary to substantial evidence in the Record as a whole. (CNNA Exs. 64, 262).
607. To the finding that there were “60 applicants,” and that “CNN considered hiring [Carlos Christen] instead of more highly ranked candidates if Ray Britch was unable to accept [CNN's] offer” (D.88, L.10-13), as such finding is contrary to substantial evidence in the Record as a whole. (Tr.14908, L.6 – Tr.14909, L.18; Tr.9152, L.5-24; CNNA Exs. 487, 693, Tab 3, Tab 7 CNNA-PROD-013846; GC Ex. 412).

608. To the finding that there “is no explanation as to why [Carlos] Christen was ranked so highly in New York after being ranked so low in Washington” (D.88, L.16-17), as such finding is contrary to substantial evidence in the Record as a whole. (Tr.9151, L.15 – Tr.9156, L.9; Tr.9157, L.12 – Tr.9158, L.11; Tr.9344, L.7 - Tr.9345, L.5; Tr.8390, L.24 - Tr.8394, L.25; Tr.8397, L.13-19; Tr.8398, L.10-16, 21 – Tr.8399, L.7; Tr.9140, L.2 - Tr.9142, L.1; Tr.9294, L.23 – Tr.9299, L.3; Tr.8391, L.10-15; Tr.9170, L.21 – Tr.9173, L.1; Tr.14811, L.20 - Tr.14812, L.2; Tr.14814, L.25 - Tr.14815, L.8; Tr.8394, L.1-25; Tr.12485, L.21 – Tr.12496, L.10; Tr.13151, L.16 - Tr.13152, L.15; CNNA Exs. 565, 693; GC Exs. 260 CNNA-012409, 429, 519-22).
609. To the finding that there is no explanation for why Gilbert De La Rosa, a non TVS unit member, was offered a job over Carlos Christen (D.88, L.17-19), as such finding is contrary to substantial evidence in the Record as a whole. (Tr.12894, L.18 - Tr.12897, L.22; CNNA Exs. 565, 693; GC Exs. 429, 519-22)
610. To the finding that there was an “obvious revision or doctoring of [Dan] Young's summary regarding [Carlos] Christen's tape” (D.88, L.21-34), as such finding is unsubstantiated by the evidence in the Record as a whole.
611. To the finding that the “integrity of the entire photojournalist selection process” is called “into question” based on Dan Young's summary of Carlos Christen's video tape (D.88, L.33-34), as such finding is unsubstantiated by the evidence in the Record as a whole. (CNNA Exs. 64, 262).
612. To the finding that Anne Woodward “was unable to give any specifics as to how the selection process operated” (D.88, L.43-44), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.13856, L.13 - Tr.13857, L.17; Tr.13858, L.11-25;

Tr.13859, L.12 – Tr.13860, L.22; Tr.13834, L.5-18; Tr.13837, L.2-23; Tr.13843, L.1 – Tr.13845, L.7; CNNA Exs. 584, 587-91).

613. To the finding that “[I]n many cases it is unclear as to when hiring decisions were made”(D.89, L.3), as such finding is contrary to substantial evidence in the Record as a whole. (*See* Exception 561).
614. To the finding that the timing of CNN’s decision to hire Jorge Galvez as Technical Director in New York is unclear (D.89, L.3-7), as such finding is contrary to substantial evidence in the Record as a whole. (Tr.10227, L.20 – Tr.10233, L.1; Tr.10237, L.7-22; GC Ex. 401).
615. To the finding that “Strauss could not remember the date of the selection meeting or names of anyone present at the selection meeting for technical directors, except for Steve Alperin” (D.89, L.9-10), as such finding is contrary to substantial evidence in the Record as a whole. (Tr.10227, L.20 – Tr.10233, L.1; GC Ex. 401).
616. To the finding that “CNN managers were of the opinion that [Jorge] Galvez was not qualified for the technical director position in New York (D.89, L.15-16), as such finding is unsubstantiated by the evidence in the Record as a whole. (GC Ex. 531 CNNA-006061, CNNA-006071, CNNA-006084).
617. To the finding that “At some point [Jorge Galvez] was deem [sic] to be the sixth most desirable candidate for the Technical Director/Director position” (D.89, L.27-28), as such finding is unsubstantiated by the evidence in the Record as a whole. (Tr.10249, L.8 – Tr.10250, L.19).
618. To the finding that “John Rappa, a TVS bargaining unit member, was deemed the eight most desirable candidate” (D.89, L.29-31), as such finding is contrary to substantial evidence in the Record as a whole and is contrary to the law. (Tr.10249, L.8 - Tr.10250, L.19; GC Ex. 531; CNNA Ex. 567).

619. To the finding that there is “no evidence establishing a nondiscriminatory basis for” hiring Jorge Galvez over John Rappa (D.89, L.30-31), as such finding is unsubstantiated by the evidence in the Record as a whole. (GC Ex. 531; CNNA Ex. 567)
620. To the finding that John Rappa “was fully qualified for [the Technical Director/Director] job” in 2003, and that Lew Strauss’ December 7, 2004 email demonstrates Strauss’ opinion at the time of the Bureau Staffing Project (D.89, L.34-47), as such finding is unsubstantiated by any evidence in the Record as a whole and is irrelevant.
621. To the finding that CNN “failed to present specific evidence as to how decisions were made [in] the selection of technical directors in Washington, D.C.” (D.90, L.7-9), as such finding is contrary to the law.
622. To the conclusion of law that the General Counsel made out its *prima facie* case of discrimination with respect to the hiring of technical directors in Washington, D.C. (D.90, L.10-11), as such conclusion of law is contrary to the law.
623. To the conclusion of law that the General Counsel made out a *prima facie* case with respect to any job category of the Bureau Staffing Project in New York or Washington, D.C. (D.90, L.10-11), as such conclusion of law is contrary to the law.
624. To the conclusion of law that CNN failed to demonstrate that it would not have hired individual bargaining unit members even in the absence of their protected conduct, and/or in the absence of their membership in the Team bargaining units (D.90, L.12-14), as such as such conclusion of law is contrary to the law.
625. To the reliance on *American Gardens Management Co.*, 338 N.L.R.B. 644, 645 (2002) (D.90, L.14), as such case is inapposite with regards to the evidence in the Record and issues in this case as a whole.

626. To the conclusion of law that “the absence of evidence as to why various bargaining unit members were not hired inures to CNN’s detriment” (D.90, L.7-16), as such conclusion of law is contrary to the law.
627. To the finding that “there is absolutely no evidence as to who participated [at the selection and debriefing meeting for the technical director position for Washington, D.C.] and what transpired” (D.90, L.23-D.91, L.23), as such finding is contrary to the evidence in the Record as a whole and is contrary to the law. (GC Ex. 549, 534, Vol. 3 (Jennings, Keller), Vol.4 (Noble), Vol. 5 (Suissa, Taylor); CNNA Ex. 694, Tab 14 (John); CNNA Exs. 529, 583).
628. To the finding that “An example, [sic] of the irregularity of the selection process is the comparative treatment of Jimmy Suissa, a very experienced Team applicant and Christian Keller, a very inexperienced nonTVS applicant” (D.90, L.24-25), as such finding is contrary to the substantial evidence in the Record as a whole. (GC Ex. 549, 534, Vol. 3 (Jennings, Keller), Vol.4 (Noble), Vol. 5 (Suissa, Taylor); CNNA Ex. 649, Tab 42, 694, Tab 14 (John); Tr.15374, L.7-15375, L.18).
629. To the finding that Jimmy Suissa was “a very experienced Team applicant” with respect to the Technical Director position (D.90, L.24-25), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.4888, L.25-Tr.4889, L.24; CNNA Ex. 503, 505).
630. To the evidentiary ruling preventing CNN to introduce evidence establishing Jimmy Suissa as a bad actor, as such ruling is contrary to the law. (Tr.5439, L.11-Tr.5442, L.9).
631. To the finding that “Suissa was possibly the most active union member in the Bureau” (D.90, L.33), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.1493, L.17-Tr.1494, L.2, CNNA Ex.13; Tr.14415, L.22-Tr.14416, L.16; Tr.4295, L.25-Tr.4296, L.18; Tr.4852, L.19-Tr.4853, L.20).

632. To the finding that, of the Union negotiators, Jimmy Suissa “was the one who most regularly aggravated Team’s representatives,” (D.90, L.36-37), as such finding is unsupported by any evidence in the Record as a whole. (Tr.6983, L.10-18; Tr.15375, L.1-25).
633. To the finding that Jimmy Suissa was not a statutory supervisor (D.90, L.45-51), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.5289, L.22-Tr.5290, L.1, CNNA Ex.103, 104; Tr.5292, L.7-17; Tr.5293, L.9-Tr.5294, L.1; Tr.5295, L.12-Tr.5296, L.1; Tr.5303, L.13-L.22; Tr.5304, L.4-Tr.5305, L.19; Tr.5306, L.22-Tr.5307, L.15; Tr.5307, L.21-Tr.5308, L.6; Tr.5308, L.20-22; Tr.5308, L.23-Tr.5309, L.4; Tr.5309, L.9-18; Tr.5436, L.1-Tr.5439, L.7; Tr.5442, L.17-22; Tr.5443, L.4-24; Tr.5444, L.6-Tr.5445, L.5).
634. To the finding that the butcher block for Jimmy Suissa was “prepared by some unknown person at some unknown time” (D.91, L.6-8), as such finding is contrary to the substantial evidence in the Record as a whole. (*See e.g.*, Tr.5787, L.9-Tr.5788, L.7; Tr.5608, L.19-Tr.5609, L.18; Tr.14806, L.3-16; Tr.12484, L.4-Tr.12486, L.11; Tr.15851, L.8-25; Tr.9155, L.7-Tr.9156, L.9; CNNA Exs. 529, 583).
635. To the inference that “the concerns about Suissa’s teamwork and not being a teamplayer [sic] are related to his vigorous efforts on behalf of Local 31” (D.91, L.8-10), as such inference is unsubstantiated by any evidence in the Record as a whole.
636. To the finding that “there is no evidence as to who made this determination [to rate Suissa the 10th most desirable candidate for Technical Director and to rate Keller the 9th], when they made it or how they made it” (D.91, L.15-16), as such finding is contrary to the evidence in the Record as a whole and contrary to the law. (GC Ex. 549, 534, Vol. 3 (Jennings, Keller), Vol.4 (Noble), Vol. 5 (Suissa, Taylor); CNNA Ex. 694, Tab 14 (John); CNNA Exs. 529, 583).

637. To the finding that the process involving Suissa and Keller indicates “a complete lack of correlation between the interview scores, rankings and the hiring decisions” (D.91, L.16-17), as such finding is unsubstantiated by any evidence in the Record as a whole and is contrary to the law. (*See* Exception 293).
638. To the finding that “there is also no nondiscriminatory explanation for CNN’s hiring of Jose Nunez as a technical director in Washington, instead of Suissa and other TVS applicants” (D.91, L.19-20), as such finding is contrary to the evidence in the Record as a whole and is contrary to the law.
639. To the finding that “there is no evidence that Nunez was evaluated in a BSP selection/debriefing meeting” (D.91, L.22-23), as such finding is contrary to the evidence in the Record as a whole and is contrary to the law. (Tr.14815, L.9-12; CNNA Ex. 694, Tab 12 (Nunez)).
640. To the finding that CNN failed to hire Jimmy Suissa because of anti-union animus (D.90, L.33-D.91, L.16), as such finding is unsubstantiated by any evidence in the Record as a whole and is contrary to the law.
641. To the finding that the selection meeting for media coordinators in New York “was apparently held on December 9, 2003 (D.91, L.27-29), as such finding is contrary to the substantial evidence in the Record as a whole. (GC401; CNNA Ex.539).
642. To the reliance on GC Exhibit 508 (D.91, L.28, L.40), as its admission into evidence is contrary to the law. (Tr.10310, L.15-Tr.10312, L.3; Tr.10315, L.14-Tr.10317, L.2; Tr.10317, L.6-Tr.10318, L.7).
643. To the finding that “there is no reliable evidence as to how selections were made or by whom” (D.91, L.28-29), as such finding is contrary to the substantial evidence in the Record as a whole. (CNNA Ex.428-429, 513-514, 518, 539, 540; GC Ex.401; Tr.13166, L.18-

Tr.13168, L.7; Tr.10290, L.17-Tr.10291, L.3; Tr.10291, L.11-Tr.10292, L.6; Tr.10293, L.10-16; Tr.10294, L.4 -Tr.10306, L.3; Tr.10307, L.3-19-Tr.10310, L.4; Tr.10311, L.21-Tr.10312, L.3; Tr.13146, L.6-19; Tr.13150, L.13-Tr.13155, L.23; Tr.13158, L.9-Tr.13159, L.13; Tr.13168, L.8- Tr.13169, L.18; Tr.13169, L.22-Tr.13170, L.25; Tr.12291, L.6-Tr.12994, L.20; Tr.12299, L.21-Tr.12304, L.2).

644. To the finding that the treatment of Dan Scalley, a Team applicant, “strongly suggests discriminatory motive in the selection process” (D.91, L.29-30), as such finding is unsubstantiated by any evidence in the Record as a whole. (GC Ex. 526, TabJJ; CNNA Ex. 429, 539-540, 543, 554).
645. To the finding that there is no evidence as to how the determination was made to rate Scalley as “not strong” instead of “possible” (D.91, L.37-39), as such finding is contrary to the evidence in the Record as a whole and contrary to the law. (Tr.12892, L.1-Tr.12893, L.21; Tr.13151, L.7-Tr.13156, L.23; Tr.13319, L.12-Tr.13320, L.11; Tr.13332, L.3-Tr.13333, L.1; GC Ex. 526, Tab JJ; CNNA Exs. 429, 539-540, 543).
646. To the finding that CNN’s hiring of Dan Scalley as a media coordinator in September 2004 demonstrates that Dan Scalley was qualified for the media coordinator position during the BSP (D.91, L.40-42), as such finding is contrary to the substantial evidence in the Record as a whole, and irrelevant to the issues in the case.
647. To the finding that Dan Scalley was named Media Operations Employee of the Month for March 2006 demonstrates that Dan Scalley was qualified for the media coordinator position during the BSP (D.91, 42-43), as such finding is irrelevant to the issues in this case.
648. To the finding that Matthew Holcombe had no contact with any of these engineers other than during the thirty minute to one hour interview (D.92, L.28-29), as such finding is irrelevant to the issues in this case as a whole.

649. To the finding that Murphy “knew some of the broadcast engineers because he worked in the same building with him [sic] but during TVS’ tenure at the Washington Bureau, there was little interaction between Murphy’s IT department and the broadcast engineers” (D.92, L.33-35), as such finding is irrelevant to the issues in this case as a whole.
650. To the finding that Tu Vu was the only one of the four interviewers who “had significant knowledge of how well the engineers performed their tasks” (D.92, L.35-37; 97, L.17-18), as such finding is irrelevant to the issues in this case as a whole.
651. To the finding that CNN hired Ken Stanford as a Senior BIT Support Engineer without subjecting him to the interview and selection process (D.92, L.40-42), as such finding is irrelevant to the issues in this case as a whole. (GC Ex. 534, Vol. 4 (Peaks), CNNA-PROD0064732).
652. To the finding that GC Ex.558 supports the conclusion that CNN altered Stanford’s title and responsibility “precisely to allow CNN to hire him without subjecting him to the hiring process” (D.92, L.43-44), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.14922, L.24-Tr.14924, L.23).
653. To the finding that Christopher Leonard had never operated a microwave truck before being hired by CNN (D.92, L.46-47, Note 120), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.1879, L.17-24; Tr.2266, L.7-16; Tr.3319, L.9-Tr.3320, L.19; Tr.1990, L.6-11; GC Ex. 153).
654. To the finding that the microwave truck “was operated by cameramen”, most frequently Danny Farkas under Team (D.92, L.47-49, Note 120), as such finding is contrary to the substantial evidence in the Record as a whole. (CNNA Ex. 528; Tr.4147, L.22-Tr.4148, L.1; Tr.4168, L.18-23; Tr.950, L.20-Tr.951, L.25; Tr.1854, L.24-Tr.1855, L.16; Tr.4890, L.22-Tr.4891, L.2; Tr.1824, L.17-Tr.1825, L.13; *see* Exception 468).

655. To the finding that Ken Stanford and Scott Garber were assigned to the CNN National Desk in Atlanta “so they would be non-union” (D.92, L.44-D.93, L.2), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.14957, L.1-Tr.14958, L.8.)
656. To the conclusion of law that the BSP was discriminatorily motivated with respect to all job classifications because of the ALJ’s conclusion that the BSP was discriminatorily motivated with respect to the Washington photojournalists and that the project was one integrated plan (D.93, L.4-6), as such conclusion of law is contrary to the law, and contrary to the evidence in the Record as a whole.
657. To the conclusion that “there is independent evidence of discriminatory motive with regard to the DC engineers” (D.93, L.6-7), as such finding is unsubstantiated by any evidence in the Record as a whole. (*See e.g.*, CNNA Ex. 544, 691, Tab 10, 18).
658. To the finding and conclusion that “one way CNN avoided hiring too many unit members was by hiring employees who had not fully participated in the BSP process soon after it was completed” (D.93, L.28-30), as such finding and conclusion is unsubstantiated by any evidence in the Record as a whole and irrelevant to legal issue of successorship in this case.
659. To the finding and conclusion that Andre Parker and Jordan Placie’s hiring “represents a blatant end-run around the supposedly nondiscriminatory BSP process” (D.93, L.30-32, L.39-42), as such finding based on hiring after the BSP is irrelevant and unsubstantiated by any evidence in the Record as a whole.
660. To the finding that CNN’s hiring of a number of nonTVS unit members in D.C. who had not participated in the BSP “soon after December 6, 2003” in February 2004, including Ivan Burketh, Francis Herbas, Jean Renaud, Jason Strachan, demonstrates evidence of discriminatory motive during the BSP (D.93, L.43-50), as such finding is irrelevant to the

legal conclusion of successorship and unsubstantiated by any evidence in the Record as a whole.

661. To the finding that the lack of evidence that CNN's hiring managers evaluated Placie in a debriefing meeting and compared him with the TVS applicants demonstrates a discriminatory hiring process (D.93, L.31-32), as such finding is contrary to the evidence in the Record as a whole and is contrary to the law.
662. To the finding that there "is no nondiscriminatory explanation for the hiring of Parker and Placie as opposed...to Nick Kiraly" (D.93, L.34-35), as such finding is contrary to the evidence in the Record as a whole and is contrary to the law. (Tr.15859, L.12-Tr.15860, L.1; Tr.15857, L.2—Tr.15858, L.21; Tr. 2262, L.10-Tr.2263, L.11; CNNA Exs. 153, 544, 691, Tab 18, 19, 677, 706; GC Ex. 134, Tab N (Kiraly)).
663. To the finding that Parker was a weak candidate for BIT Support Engineer (D.93, L.39-42, Note 122), as such finding is unsubstantiated by any evidence in the Record as a whole.
664. To the finding, based on several documents in the Record, that CNN "appears to have taken great pains to denigrate" Nick Kiraly's IT experience in the CNN hiring process (D.94, L.1-3), as such finding is unsubstantiated by any evidence in the Record as a whole. (GC Ex. 134, Tab N, CNNA-036610, 36625, 36628, 36632; CNNA Ex. 689, Tab 5, CNNA-21569).
665. To the finding that "As with the photojournalists, it is not exactly clear how the hiring decisions were made with respect to the D.C. engineers" (D.94, L.5-6, 15-16), as such finding is contrary to the substantial evidence in the Record as a whole. (CNNA Ex. 527-, 678; GC Exs. 153, 156, 134, Tab A; Tr.13206, L.7-Tr.13208, L.21; Tr.13209, L.14- Tr.13211, L.22; Tr.13212, L.4- Tr.13214, L.13; Tr.13214, L.20- Tr.13219, L.3; Tr.13221, L.6- Tr.13227, L.9; Tr.13228, L.7- Tr.13232, L.15; Tr.13232, L.22- Tr.13245, L.7; Tr.13248, L.10-23; Tr.13249, L.24- Tr.13250, L.4; Tr.2044, L.3-19; Tr.2051, L.3-Tr.2053, L.2; Tr.2152, L.25-

Tr.2155, L.19; Tr.2157, L.7-21; Tr.2158, L.3-Tr.2159, L.10; Tr.2161, L.16-Tr.2162, L.25; Tr.2224, L.4-19; Tr.2225, L.11-23; Tr.2225, L.24-Tr.2226, L.3; Tr.2230, L.23-Tr.2231, L.20; Tr.2554, L.7-14; Tr.2561, L.13-19).

666. To the finding that “There is no evidence as to whose comments mattered in the hiring process and how they effected [sic] hiring decisions” (D.94, L.7-9), as such finding is contrary to the substantial evidence in the Record as a whole. (*See e.g.*, CNNA Ex. 224, 529; Tr.13225, L.1- Tr.13227, L.9; Tr.13230, L.10-13231, L.19; Tr.13232, L.1-15; Tr.13232, L.22-Tr.13240, L.1; Tr.13243, L.20-Tr.13244, L.19; Tr.13244, L.24-Tr.13245, L.7; Tr.2044, L.3-Tr.2045, L.20; Tr.2051, L.3-22; Tr.1901, L.20-Tr.1902, L.16; GC Ex. 153).
667. To the finding that Marty Garrison “may have been present at the meeting at which the hiring decisions were made” (Tr.94, L.9-11), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.2044, L.3-Tr. 2045, L.20; Tr.2150, L.20-13; CNNA Ex. 529).
668. To the finding that “There is not credible evidence as to what role [Marty Garrison] had, if any” in the hiring decisions” in Washington (D.94, L.11), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.1908, L.10-14; Tr.2044, L.20-Tr.2045, L.7; Tr.2126, L.10-Tr.2127, L.5; Tr.2150, L.20-Tr.2151, L.13).
669. To the finding that “there is no credible evidence as to what role [Jim Hebb] played in the hiring process” in Washington (D.94, L.12-13), as such finding is contrary to the substantial evidence in the Record as a whole. (CNNA Ex.224, 528, 529, 530, 677, GC Ex. 153, 156; Tr.13209, L.14- Tr.13211, L.22; Tr.13212, L.4- Tr.13214, L.13; Tr.13214, L.20- Tr.13219, L.3; Tr.13221, L.6- Tr.13227, L.9; Tr.13228, L.7- Tr.13232, L.15; Tr.13232, L.22- Tr.13245, L.7; Tr.13248, L.10-23; Tr.13851, L.19-Tr.15852, L.21).

670. To the finding that the “individuals hired by CNN instead of Norman, Adkinson, Kiraly and Evans were not obviously better qualified” (D.94, L.16-25), as such finding is contrary to the substantial evidence in the Record as a whole and is contrary to the law. (GC Ex. 134; CNNA Ex. 689, 706).
671. To the finding that based on GC Ex. 595, Tu Vu recognized the “fact” that individuals hired by CNN instead of Norman, Adkinson, Kiraly and Evans were not obviously better qualified (D.94, L.16-25), as such finding is unsubstantiated by such evidence. (GC Ex. 595).
672. To the finding that GC Ex.595, Tu Vu’s email from December 23, 2003, was “motivated by panic” (D.94, L.16-18), as such finding is unsubstantiated by any evidence in the Record as a whole. (GC Ex.595).
673. To the finding that Tu Vu’s statement that he “can not [sic] afford to loose [sic] either Ron or Bobby” demonstrates that Vu agreed that Clemons and Kuczynski’s statement “assumed added work duties that only they are qualified to do” (D.94, L.20-23), as such finding is contrary to the evidence in the Record. (GC Ex.595; Tr.15885, L.9-Tr.15887, L.9).
674. To the finding that CNN’s decision to grant pay increases to Clemons and Kuczynski demonstrates that the individuals hired by CNN instead of Norman, Adkinson, Kiraly and Evans were not obviously better qualified (D.94, L.16-17, 23-25), as such finding is unsubstantiated by any evidence in the Record as a whole. (GC Ex.595).
675. To the finding that Pless’s experience was inferior to that of his competitors or that he was unqualified for the position to which he was hired (D.94, L.27-32), as such finding is contrary to the substantial evidence in the Record as a whole. (GC134, Tab G; CNNA Ex. 528, 544, 689, Tab 14; Tr.2200, L.25-2203, L.13; Tr.2228, L.23-Tr.2229, L.7; Tr.2460, L.8-Tr.2461, L.8; Tr.16268, L.14-20; Tr.15865, L.5-19).

676. To the finding that Vu was “a generally unreliable witness” (D.94, L.34-50), as such finding is unsupported by the Record as a whole and is contrary to the law. (Tr.1990, L.6-25).
677. To the finding that Tu Vu “lacked candor” regarding the “circumstances under which CNN decided to hire Jordan Placie and Andre Parker instead of Nick Kiraly” (D.94, L.34-50, Note 124), as such finding is unsupported by the Record as a whole.
678. To the finding that Tu Vu’s ratings, comments and the presence of a typed rating sheet regarding Nick Kiraly (D.94, L.39-50), demonstrate discrimination against unit members as such finding is unsubstantiated by any evidence in the Record as a whole. (CNNA Ex. 739).
679. To the inference that Tu Vu changed his rating sheet in order to discriminate against unit members (D.94, L.48-50), as such inference is unsubstantiated by any evidence in the Record as a whole. (Tr.16175, L.3-22; CNNA Exs. 710, p.11, Table R.1, 739).
680. To the finding that Craig Fingar’s hiring demonstrates that the individuals hired by CNN were not better qualified than Dennis Norman, Jeff Adkinson, Nick Kiraly, and Bill Evans (D.94, L.16-17, D.95, L.1-8), as such finding is contrary to the substantial evidence in the Record as a whole. (CNNA Ex. 689, Tab 6; Tr.16268, L.21-25; Tr.2229, L.11-Tr.2230, L.19; Tr.1954, L.23-Tr.1958, L.23).
681. To the finding that Fingar “did little, if any, work in the job for which he hired [sic]” (D.95, L.10-11), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.2029, L.20-Tr.2030, L.18; Tr.2576, L.15-Tr.2577, L.5; Tr.2614, L.9-15; Tr.16224, L.16-Tr.16226, L.2; Tr.16228, L.10-Tr.16229, L.22; Tr.16254, L.8-Tr.16255, L.9).
682. To the finding that Fingar spent almost all of his time doing technical drawings (D.95, L.11-12), as such finding is contrary to the substantial evidence in the Record as a whole. (*See* Exception 681).

683. To the finding that the salaries at which CNN hired Steve Pless and Craig Fingar were “far below” what the TVS engineers were paid under the collective bargaining agreement (D.95, L.14-15), as such finding is contrary to the substantial evidence in the Record as a whole. (CNNA Ex.532; Tr.13245, L.8-Tr.13246, L.25; Tr.13247, L.1-Tr.13248, L.9; Tr.2616, L.21-Tr.2617, L.2; Tr.2617, L.20-Tr.2619, L.9).
684. To the finding that “CNN appears to have saving [sic] itself a substantial sum in wage payment as well as the amounts paid in penalties under the union contracts” (D.95, L.15-17), as such finding is contrary to the substantial evidence in the Record as a whole. (*See e.g.*, GC Ex.326, CNNA Ex. 88, 547; Tr.818, L.1-Tr.819, L.2; Tr.12880, L.1-Tr.12881, L.18; Tr.12875, L.14-21; Tr.3831, L.6-24).
685. To the finding that CNN “got rid of the union and some of its members” and appears to have saved itself money that it would have owed under the union contracts (D.95, L.15-17), as such finding is unsubstantiated by the Record as a whole. (Tr.818, L.23-Tr.819, L.2; Tr.12875, L.2-17; Tr.12663, L.1-9).
686. To the finding that at some point CNN considered hiring Nick Kiraly over Steve Pless (D.94, L.51 – D.95, L.19-20), as such finding is unsubstantiated by the evidence in the Record.
687. To the finding that CNN decided to hire Jordan Placie instead of Nick Kiraly for discriminatory reasons (D.95, L.20-21), such finding is unsubstantiated by the evidence in the Record. (Tr.2392, L.20-Tr.2400, 16).
688. To the finding that it “may also be that CNN decided to hire Jordan Placie instead of Kiraly for discriminatory reasons” (D.95, L.21-22), as such finding is contrary to the evidence in the record.

689. To the finding that GC Ex. 145 supports the finding that Vu “expected that CNN would hire Kiraly and Dennis Norman” (D.95, L.22-24, Note 125), as such finding is unsupported by the evidence in the Record as a whole. (GC Ex.145; Tr.2425, L.25-Tr.2427, L.22).
690. To the finding and legal conclusion that “Where it conflicts, I credit the testimony of Bobby Clemons and Ron Kuczynski over that of CNN managers, such as Tu Vu and Joe Murphy” (D.95, L.25-31, Note 126), as such finding is unsupported by the Record and such conclusion is contrary to the law.
691. To the reliance on *Flexsteel Industries*, 315 NLRB 745 (1995), enf’d mem. 83 F. 3d 419 (5<sup>th</sup> Cir. 1996) (D.95, L.26-28, Note 126), as such reliance is contrary to the law and the facts of this case.
692. To the reliance on *Shop Rite Supermarket*, 231 NLRB 500, 505 fn.22 (1977) (D.95, L.29-31, Note 126), as such reliance is contrary to the law and the facts of this case.
693. To the finding that Bobby Clemons performed weekend work on computer-based equipment and used computers while an employee of Team Video (D.95, L.32-33), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.2910, L.1-5).
694. To the finding that the Judge “[found] no reason to discredit Clemons’ testimony” that he received training to fix the teleprompter and performed such work (D.95, L.33-36), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.2909, L.23-Tr.2910, L.5).
695. To the finding that Ron Kuczynski was trained to fix the teleprompter on the weekends though Kuczynski “did not corroborate Clemons’ testimony that Kuczynski was trained to fix the teleprompter on the weekends” (D.95, L.33-35), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.2909, L.23-Tr.2910, L.5).

696. To the adverse inference against CNN for not calling “rank and file employees to testify...but chose to rely on management employees instead” (D.95, L.39-41, Note 126), as such inference is contrary to the law.
697. To the finding that Joe Murphy’s testimony is incredible (D.95, L.44-50, Note 126), as such finding is contrary to the evidence in the Record as a whole and contrary to the law.
698. To the finding that Joe Murphy’s “contention” that he and Rick Cole interviewed Ron Fribush over the telephone is incredible without additional corroborating evidence (D.95, L.46-47, Note 126), as such finding is contrary to the evidence in the Record as a whole and contrary to the law.
699. To the adverse finding against CNN regarding Murphy’s and Cole’s interview of Fribush based on missing interview rating sheets (D.95, L.5-48), as CNN was under no obligation to produce documents insofar as the General Counsel’s and Union’s subpoenas were overbroad, unduly burdensome and unenforceable.
700. To finding that the ALJ “believe[d] that Murphy recognized that there is a consistency problem with CNN hiring Fribush without being interviewed by all four hiring managers, as were other applicants” and therefore his testimony is incredible (D.95, L.49-50, Note 126), as such finding is unsubstantiated by any evidence in the Record as a whole.
701. To the finding that “Fribush was not interviewed by all four hiring managers” (D.96, L.1-6, 42-44, Note 129), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.2098, L.6-11, CNNA Ex.689, Tab 7, CNNA-006748, CNNA-PROD-0021852-61; GC Ex. 134, Tab J, CNNA-014392-401, CNNA-014403).
702. To the finding that William McGraw, Nathan Payne, Thomas Bentz and Adam Eyasu were “essentially computer help desk technicians” prior to December 2003 (D.96, L.16-17), as such finding is contrary to the substantial evidence in the Record as a whole. (GC Ex.134,

- Tabs K, L, M; CNNA Ex. 689, Tabs 2, 12, 13; CNNA Ex. 690, Tab 9; Tr.2018, L.3-Tr.2019, L25).
703. To the finding that William McGraw, Nathan Payne, Thomas Benz and Adam Eyasu's duties "were primarily helping CNN employees deal with personal computer problems, such as logging on to the network (D.96, L.17-19), as such finding is contrary to the substantial evidence in the Record as a whole. (GC Exs.134, Tabs K, L, M; CNNA Ex. 689, Tabs 2, 12, 13; CNNA Ex. 690, Tab 9; Tr.2018, L.3-Tr.2019, L25).
704. To the finding that William McGraw, Nathan Payne, Thomas Benz and Adam Eyasu had not had "any significant experience in the type of work performed by TVS broadcast engineers" (D.96, L.19-20), as such finding is irrelevant to the issues in this case as a whole.
705. To the finding that virtually none of the CNN employees in Washington D.C. or New York lost their jobs in the BSP while almost half of the TVS unit employees lost theirs (D.96, L.22-25), as such finding is irrelevant to the issues in this case and unsupported by any evidence in the Record as a whole.
706. To the finding that "While the lack of IT experience was held against the unit engineers in the hiring process, the lack of engineering knowledge and experience was not held against the non-unit IT applicants" (D.96, L.25-27), as such finding is unsupported by any evidence in the Record as a whole. (CNNA Ex. 528).
707. To the finding that "even for the engineering positions, lack of knowledge and experience did not inure to the detriment of non-TVS applicants" (D.96, L.27-29), as such finding is unsupported by any evidence in the Record as a whole. (GC Ex. 134; CNNA Ex. 689-691).
708. To the finding and conclusion that "whatever knowledge and skills the TVS engineers lacked with regard to IT could have easily been cured by training" (D.96, L.31-32), as such finding is unsupported by any evidence in the Record as a whole and contrary to the law.

709. To the finding that “After the Bureau Staffing Project, the [DC] engineers were not required to be experts in information technology” (D.96, L.32-33), as such finding is unsupported by any evidence in the Record as a whole. (Tr.16241, L.2-Tr.16244, L.14; Tr.2797, L.5-Tr.2799, L.8; Tr.2799, L.9-Tr.2801, L.6; Tr.2576, L.10-Tr.2577, L.5; CNNA Ex. 26.).
710. To the conclusion that, because “engineers were not required to be experts in information technology...it was not necessary to replace many of the engineers to rectify their lack of experience with IT issues or to deal with the new technology CNN has implemented at the DC bureau since 2003” (D.96, L.33-35), as such conclusion is contrary to the substantial evidence in the Record as a whole. (*See* Exception 709; CNNA Exs. 26, 27, 528; Tr.13213, L.2-15; Tr.13214, L.20-Tr.13218, L.14; Tr.1778, L.15-Tr.1780, L.14; Tr.2556, L.17-Tr.2561, L.12; Tr.2561, L.20-Tr.2565, L.19; Tr.2566, L.3-Tr.2569, L.25; Tr.2572, L.11-Tr.2579, L.25; Tr.2585, L.19-Tr.2588, L.19; Tr.2589, L.23-Tr.2591, L.16).
711. To the conclusion that “There is no reason to believe that [training provided by CNN] could not have been done with the TVS engineering workforce, none of whom ever declined training opportunities from TVS or CNN” (D.97, L.8-9), as such conclusion is unsupported by any evidence in the Record and contrary to the law.
712. To the finding that CNN Atlanta “did not...go out and get a new workforce [but] trained the workforce it already had” when implementing technological changes (D.97, L.11-13), as such finding is unsubstantiated by the evidence in the Record.
713. To the finding and conclusion that the Bureau Staffing Project was discriminatory with regard to the DC TVS engineers (D.97, L.15-16), as such finding is unsupported by any evidence in the Record as a whole and such conclusion of law is contrary to the law.
714. To the finding that Tu Vu’s testimony that the TVS engineers could handle every maintenance issue that CNN had in 2003 demonstrates that the BSP was discriminatory with

- regard to TVS engineers (D.97, L.16-21), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.2554, L.1-14; Tr.2556, L.17-Tr.2561, L.19; Tr.2565, L.20-Tr.2566, L.2; Tr.2566, L.3-Tr.2569, L.1; Tr.2569, L.4-25; CNNA Ex. 528).
715. To the finding that “absent evidence that job performance of Norman, Atkinson, Kiraly and Evans was deficient, [Tu Vu’s] rankings are at best counterintuitive” (D.97, L.23-24), as such finding is unsupported by any evidence in the Record as a whole. (*See* Exception 714).
716. To the finding that an applicant’s familiarity with the D.C. Bureau, the equipment at the Bureau, the documentation for projects are, “other things being equal” an asset and makes Team employees more qualified (D.97, L.24-26), as such finding is contrary to the evidence in the Record as a whole and contrary to the law. (Tr.2227, L.16-Tr.2228, L.1).
717. To the finding that “an applicant with this institutional knowledge, [sic] would ordinarily require less training” (D.97, L.26-27), as such finding is contrary to the evidence in the Record as a whole. (Tr.2227, L.16-Tr.2228, L.1).
718. To the finding that “Clemons required extensive training for the new technology implemented after 2003, so it is unclear how much his prior IT experience helped him” (D.97, L.47-48, Note 131), as such finding is contrary to the substantial evidence in the Record as a whole. (CNNA Ex. 460, 462, 471, 715, 716, 717).
719. To the finding that Tu Vu’s statements were contradictory or inconsistent in describing the current operations of the BIT department (D.97, L.29-44, D.98, L.10), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.1913, L.2-19; Tr.2345, L.2-Tr.2346, L.1).
720. To the finding that Ron Kuczynski “does not perform any traditional IT work” and will refer problems to “traditional IT employees” (D.98, L.20-22), as such finding is contrary to

the evidence in the Record as a whole. (Tr.2863, L.12-19; Tr.2866, L.19-Tr.2867, L.21; Tr.2902, L.1-Tr.2903, L.6; Tr.2906, L.5-Tr.2909, L.14; Tr.2911, L.6-8).

721. To the finding that the broadcast engineers and informational technology staff are not fungible (D.98, L.24-25), as such finding is contrary to the evidence in the Record as a whole. (*See e.g.*, Tr.628, L.19 - Tr.629, L.3; Tr.2344, L.22-Tr.2345, L.1; Tr.821, L.22-Tr.822, L.1; Tr.828, L.24- Tr. 829, L.17; Tr.8098, L.25 - Tr.8099, L.2 ; Tr.12679, L.3- Tr.12682, L.10; Tr.2352, L.15-Tr.2353, L.12; Tr.16241 , L.2 - Tr.16242 , L.16 ; Tr.2799, L.4 – Tr.2801, L.6; Tr.2576, L.2-Tr.2577, L.5; Tr.12679, L.19-Tr.12681, L.16; Tr.8179, L.2-Tr.8180, L.15; Tr.8185, L.12-Tr.8188, L.17; Tr.8235, L.2-Tr.8237, L.6; Tr.13086, L.7-25; Tr.7931, L.13-Tr.7933, L.5; Tr.7935, L.15-Tr. 7938, L.11; CNNA Exs. 214-16, 219).
722. To the conclusion that the broadcast engineers and informational technology staff were “even less fungible in the period immediately following the Bureau Staffing Project than they are today” (D.98, L.24-26), as such is irrelevant to the issues in the case. (*See e.g.*, CNNA Ex. 528, 677, 706; Tr.2429, L.11-17).
723. To the finding that the information technology staff was supervised by Joseph Murphy and the broadcast engineers were supervised by George Kinney demonstrates the broadcast engineers and informational technology staff are not fungible (D.98, L.26-28), as such finding is contrary to the substantial evidence in the Record as a whole. (CNNA Ex. 677, 706; Tr.2429, L.11-17).
724. To the conclusion that Joseph Murphy’s testimony that “in the first few months of 2004, the information technology employees were not performing such traditionally broadcast engineering duties as fixing tape decks or cameras and generally pulled only IT cable” (D.98, L.30-32), demonstrates that “CNN’s rationale for replacing its experience [sic] unionized engineers due to their lack of IT background is pretextual” (D.98, L.32-34), as such

conclusion is unsubstantiated by any evidence in the Record as a whole, and contrary to the law. (*See* CNNA Ex. 528, Exceptions 722, 723)

725. To the finding that the “hiring process for studio operators in D.C. provides numerous examples of how difficult it is to determine who made the hiring decisions during the BSP, when those decisions were made and on what basis applicants were selected” (D.98, L.47-49), as such finding is contrary to the substantial evidence in the Record as a whole. (CNNA Ex. 632-36, 689, 694; GC Ex.550, 534; Tr.14543, L.8-Tr.14550, L.12; Tr.14552, L.16-Tr.14554, L.11; Tr.14556, L.21-Tr.14559, L.6; Tr.14574, L.12-Tr.14591, L.4; Tr.14592, L.1-Tr.14594, L.24; Tr.14622, L.25-Tr.14624, L.14; Tr.14672, L.9-Tr.14675, L.14; Tr.14675, L.23-Tr.14679, L.6; Tr.14681, L.15-Tr.14683, L.2; Tr.14693, L.17-Tr.14695, L.9; Tr.14697, L.11-Tr.14698, L.24; Tr.14699, L.15-23; Tr.14700, L.4-Tr.14707, L.25).
726. To the finding that Troy McIntyre was a “generally incredible witness” (D.99, L.4-8), as such finding is unsubstantiated by any evidence in the Record as a whole and contrary to the law.
727. To the finding that “there were changes made in the list of studio operator applicants to be hired that McIntyre did not wish to acknowledge” (D.99, L.7-8), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.14697, L.11-Tr.14698, L.24; Tr.14699, L.15-23; Tr.14700, L.4-Tr.14705, L.14; Tr.14705, L.21-Tr.14706, L.21).
728. To the finding that CNN has offered no explanation for its “reordering” of this list of Studio Operator candidates (D.99,L.10-15), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.14591, L.22-Tr.14592, L.17; Tr.14592, L.22-Tr.14593, L.6; Tr.14697, L.11-Tr.14698, L.24; Tr.14699, L.15-23; Tr.14700, L.4-Tr.14705, L.14; Tr.14705, L.21-Tr.14706, L.21; Tr.14734, L.16-22; Tr.14735, L.9-Tr.14736, L.1; Tr.14737, L.11-Tr.14739, L.2; Tr.14739, L.13-18)

729. To the inference that “the list was reordered so as to hire nonTVS applicants at salaries far below what the Team applicants were earning under the collective bargaining agreement” (D.99, L.17-18), as such inference is contrary to the substantial evidence in the Record as a whole. (*See* Exception 728; Tr.12894, L.8-Tr.12895, L.23; Tr.818, L.23-Tr.819, L.2; Tr.12875, L.2-17; Tr.12663, L.1-9).
730. To the conclusion that growth candidates hired as Studio Operators level 1 at salaries of between \$45,000 and \$52,500 demonstrates that the list was reordered so as to hire nonTVS applicants at salaries far below what the Team applicants were earning under the collective bargaining agreement (D.99, L.19-20), as such finding is contrary to the substantial evidence in the Record as a whole. (*See* Exceptions 728-29)
731. To the finding that “more experienced applicants, including a number of Team Video employees, were hired as Studio Operators level [sic] II, [sic] at salaries ranging from \$65,000-\$68,000” demonstrates that the list was reordered so as to hire nonTVS applicants at salaries far below what the Team applicants were earning under the collective bargaining agreement (D.99, L.20-22), as such finding is contrary to the substantial evidence in the Record as a whole. (*See* Exceptions 728-730).
732. To the reliance on General Counsel Exhibit 270 (D.99, L.21-22), as its admission into evidence is contrary to the law. (Tr.4124, L.1-9; Tr.4126, L.12-17).
733. To the finding that “It is thus obvious that the hiring lists were altered and CNN has offered no explanation for the alteration” based on the facts set forth therein (D.99, L.31-32), as such finding is contrary to the substantial evidence in the Record as a whole. (*See* Exception 725).

734. To the finding that CNN “appears to have hired about 20 studio operators in the BSP” (D.99, L.34), as such finding is contrary to the substantial evidence in the Record as a whole. (CNNA Ex.706, 707).
735. To the finding that eleven of the Studio Operators hired were “relatively inexperienced applicants, none of whom were full time employees of TVS” (D.99, L.34-35), as such finding is contrary to the substantial evidence in the Record as a whole. (CNNA Ex.534, 689, 694; Tr.14697, L.11-TR.14698, L.20; TR. 14699, L.15-23).
736. To the finding that TVS [CNN] went to “great lengths” to hire “relatively inexperienced applicants” as opposed to the TVS applicants (D.99, L.34-40), as such finding is unsubstantiated by any evidence in the Record as a whole.
737. To the finding that Doug McKinley was hired during the BSP “only after a non-unit member declined a job offer” (D.99, L.29-30), as such finding is contrary to the evidence in the Record as a whole. (GC Ex. 534, Vol. 3 (McKinley), CNNA-021246).
738. To the finding that “Two obviously qualified applicants who were not hired in the initial BSP selection were bargaining unit members Adilson Kiyasu and Dennis Faulkner” (D.99, L.39-40), as such finding is contrary to the substantial evidence in the Record as a whole. (GC Ex. 534, Vol. 3 (Kiyasu), CNNA-019129; CNNA Ex. 689, Tab 43, *see e.g.*, CNNA-PROD0152115; GC Ex. 534, Vol. 2 (Faulkner), CNNA-01962; CNNA Ex. 636).
739. To the finding that CNN hired Adilson Kiyasu and Dennis Faulkner within a month and a half of the end of the Team contract demonstrates that Adilson Kiyasu and Dennis Faulkner were both qualified applicants at the time of the BSP (D.99, L.40-42), as such finding is irrelevant to the issues in the case as a whole.

740. To the finding that Troy McIntyre interviewed Kiyasu and gave him “mediocre interview scores” (D.99, L.46-47), as such finding is contrary to the substantial evidence in the Record as a whole. (GC Ex. 534, Vol. 3, CNNA-016342).
741. To the finding that “soon after the BSP, CNN hired 3 studio operators in Washington, [sic] who had not applied and been interviewed during the BSP process” (D.99, L.49-50, Note 133), as such finding is irrelevant to the issues in the case as a whole.
742. To the finding that CNN “hired an additional audio designer in February 2004, [sic] who had not applied during the BSP” (D.99, L.50-51), as such finding is irrelevant to the issues in the case as a whole.
743. To the finding that Kiyasu was ranked 14th out of 29 candidates demonstrates that he was an obviously qualified applicant and his nonhiring reveals discrimination in the rankings or hiring process (D.100, L.1-2), as such finding is contrary to the substantial evidence in the Record as whole. (GC Ex. 534, Vol. 3; Tr.14697, L.11-Tr.14698, L.20; Tr.14699, L.15-23; Tr.14700, L.4-Tr.14707, L.17; CNNA Ex. 635).
744. To the finding that Kiyasu’s reference checks were “extremely positive” (D.100, L.4-5), as such finding is contrary to the substantial evidence in the Record as whole. (GC Ex.534, Vol. 3).
745. To the reliance on GC Exhibit 268 (D.100, L.6-7), as its admission into evidence is contrary to the law. (Tr.4123, L.25-Tr.4124, L.10).
746. To the finding that “For reasons, [sic] totally unexplained, Kiyasu dropped in the list of desirable applicants” (D.100, L.7-8), as such finding is unsupported by the Record as whole.
747. To the conclusion that CNN discriminated against Kiyasu by offering a job to “another TVS unit member, Doug McKinley [sic] instead of Kiyasu” (D.100, L.9-11), as such conclusion is contrary to the law.

748. To the finding that “Despite reservations on the part of Cindy Patrick” CNN offered Kiyasu a position on December 15, 2003 (D.100, L.17-18), as such finding is unsubstantiated by any evidence in the Record as a whole. (GC Ex. 534, Vol.3 (Kiyasu), CNNA-019129; CNNA Ex. 689, Tab 43, CNNA-PROD00152115).
749. To the finding that Kiyasu “resumed his work” at the D.C. Bureau on January 15 (D.100, L.18-19), as such finding is contrary to the substantial evidence in the Record as whole.
750. To the finding that CNN hired several studio operators in DC in February 2004, who had not applied during the BSP (D.100, L.19-20), as such finding is irrelevant to the determination of successorship this case.
751. To the finding that McIntyre interviewed Faulkner and gave him “mediocre interview scores” (D.100, L.26-27), as such finding is contrary to the substantial evidence in the Record as whole. (GC Ex. 534, Vol. 2 (Faulkner) at CNNA-015613).
752. To the finding that Faulkner received “glowing reviews” and therefore he was better qualified than other applicants (D.100, L.29-31), as such finding is contrary to the substantial evidence in the Record as whole. (GC Ex. 534, Vol. 2, CNNA-015601, 015602, 015603; CNNA Ex. 689-691).
753. To the finding that “There was manipulation regarding the hiring process in McKinley’s case as well” (D.100, L.46-50, Note 134), as such finding is unsubstantiated by the evidence in the Record as whole. (GC Ex. 534, Vol. 3).
754. To the finding that Cindy Patrick’s email of December 8, 2003 (GC Ex.534, Vol.2 (Faulkner) CNNA-019162) evidences discrimination in the hiring process (D.100, L.33-39), as such finding is contrary to the evidence in the Record as whole. (GC 534, Vol. 2).
755. To the conclusion that “there is nothing that would lead one to conclude that [Michael DeSilva] was a superior candidate to many TVS applicants who were not hired during the

BSP,” (D.101, L.5-6), as such conclusion is contrary to the substantial evidence in the Record as a whole. (Tr.14606, L.14-Tr.14610, L.22; GC Ex. 534, Vol. 1, CNNA-010594-CNNA-016818, CNNA-02225, CNNA-022259, CNNA-PROD0075177-CNNA-PROD0133886).

756. To the conclusion that the interview scores Troy McIntyre gave to Michael DeSilva were “mediocre,” (D.101, L.9-10), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.10209, L.12-17; Tr.14687, L.23-Tr.14688, L.2; GC Ex. 534, CNNA-016818).

757. To the finding that “it is virtually impossible in certain cases to discern any relationship between CNN’s hiring decisions, the scores applicants received during their interviews, and the entries on the butcher blocks,” (D.101, L.34-36), as such finding is unsupported by the Record. (Tr.14582, L.13-Tr.14590, L.3; *see generally* Exceptions 23, 29, 293, 299, 561, 574, 613, 637, 725, 757, 761).

758. To the finding that the Record evidence for Jeff Noble and Chris Parks demonstrates a lack of relationship between CNN’s hiring decisions, the interview ratings, and the butcher blocks, (D.101, L.36-38), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.14582, L.13-Tr.14590, L.3; GC Ex. 534, Vol. 4, CNNA-016844; GC Ex. 534, Vol. 4, CNNA-015088; GC Ex. 534, Vol. 4, CNNA-016845-CNNA-016858, CNNA-018260-CNNA-018262, CNNA-019094; GC Ex.534, Vol. 4, CNNA-015089-CNNA-015114, CNNA-019152-CNNA-019154, CNNA-019957-CNNA-019969, CNNA-021916-CNNA-021918).

759. To the finding that CNN’s decision not to hire Keith Crennan was a result of his protected activities as a Union steward, (D.101, L.49-50), as such finding is contrary to the substantial

- evidence in the Record as a whole. (Tr.14600, L.3-Tr.14603, L.11; Tr.14685, L.7-Tr.14687, L.18; Tr.14688, L.3-14).
760. To the finding that “Keith Crennan was a competent studio operator” (D.101, L.50-51), as such finding is unsubstantiated in the Record.
761. To the finding that it is “difficult to discern any relationship between the interview, the deliberations afterwards and the hiring decisions” related to Chris Parks and Jeff Noble (D.102, L.13-15), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.14582, L.13-Tr.14590, L.3).
762. To the finding that Christopher Stewart/Stuart did not apply for or was not interviewed for the position of Senior BIT Field Engineer during the BSP, (D.103, L.1-3), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.12693, L.25-Tr.12696, L.12; Tr.12714, L.16-Tr.12715, L.5; CNNA Ex. 456).
763. To the finding that Scott Garber did not apply for or was not interviewed for the position of BIT Field Engineer during the BSP, (D.103, L.1-3), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.12712, L.3-9; Tr.12713, L.23-Tr.12714, L.10).
764. To the conclusion that CNN “essentially replaced” Jeff Jaramello with Christopher Stewart/Stuart and/or Scott Garber, (D.103, L.12-13), as such conclusion is contrary to the substantial evidence in the Record as a whole and contrary to the law. (*See* Exception 552).
765. To the finding that the BSP selection process was malleable in nature, (D.103, L.24-25), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.12932, L.22-Tr.13054, L.14).
766. To the finding that Jeff Polikoff was “able to influence the hiring decisions on the basis of factors not otherwise considered by the hiring managers,” (D.103, L.25-27), as such finding

is contrary to the substantial evidence in the Record as a whole. (Tr.8059, L.11-25; Tr.8067, L.2-Tr.8068, L.3; Tr.7895, L.17-24; GC Ex. 394-C, CNNA-025918, CNNA-024959, CNNA-001881, CNNA-001891).

767. To the finding that Jeff Polikoff's account of CNN's decision not to hire Jeff Jaramello to an engineering position is "not credible," (D.103, L.29), as such finding is unsupported by the Record.
768. To the finding that Chris Stewart/Stuart was not hired through the BSP, (D.103, L.35), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.12693, L.25-Tr.12696, L.12; Tr.12714, L.16-Tr.12715, L.5; CNNA Ex. 456; 553A, Tab 11; CNNA-PROD0074974; CNNA Ex. 554; *See* Exceptions 270, 763).
769. To the finding that CNN Exhibit 531 establishes that Chris Stewart was not hired through the BSP, (D.103, L.35-36), as such finding is contrary to the substantial evidence in the Record as a whole. (*See* Exception 768).
770. To the finding that Suzanne Mackiewicz's 12/15/03 inquiry to Jeff Polikoff demonstrates that Chris Stewart was not hired during the BSP, (D.103, L.35-39), as such finding is contrary to the substantial evidence in the Record as a whole. (*See* Exception 768).
771. To the ALJ's reliance on GC Ex. 558 (D.103, L.40-46), as such reliance is contrary to the law.
772. To the finding that Ken Stanford's title and responsibilities were altered to allow CNN to hire him outside the BSP, (D.103, L.42-44), as such finding is unsubstantiated by the evidence in the Record as a whole.
773. To the finding that the email exchange between Suzanne Mackiewicz and Jeff Polikoff regarding Jeff Jaramello is inconsistent with Jeff Polikoff's testimony, (D.104, L.1-8), as such

finding is unsupported by the Record. (Tr.12700, L.25-Tr.12703, L.4; GC Ex. 394-C, CNNA-PROD0014926).

774. To the finding that “[t]here is no corroboration for Polikoff’s claim that he discussed Jaramello’s alleged rudeness with other hiring managers,” and conclusion that his testimony is incredible (D.104, L.25-26), as such finding and conclusion is contrary to the substantial evidence in the Record as a whole and contrary to the law. (Tr.7894, L.18-Tr.7895, L.2; Tr.7910, L.21-Tr.7911, L.13; Tr.7741, L.17-Tr.7743, L.7).
775. To the conclusion that “there is no credible non-discriminatory explanation for CNN’s decision to replace Jaramello with Garber and/or Stuart” (D.104, L.26-28), as such finding is contrary to the evidence in the Record as a whole. (*See* Exceptions 552, 764, 774).
776. To the finding that “[t]he other nonTVS engineers hired by CNN were also not obviously more qualified than the TVS applicants,” (D.104, L.30-33), as such finding is contrary to the substantial evidence in the Record. (GC Ex. 394; CNNA Exs. 689-91).
777. To the finding that “[a]s with every other part of the bureau staffing project, just how [the NY Broadcast Engineers hiring decisions] were made remains a mystery” (D.104, L.34-38), as such finding is contrary to the substantial evidence in the Record as a whole. (*See* Exceptions 763-76, 778-79; Tr.7698, L.7-Tr.7810, L.4; Tr.7867, L.6-Tr.7904, L.25; Tr.7957, L.2-7985, L.1; Tr.8101, L.18-Tr.8132, L.16; Tr.8202, L.1-Tr.8216, L.3; Tr.13235, L.2-Tr.13245, L.7).
778. To the finding that Jeff Gershgorin agreed that the interview rankings of the applicants were not dispositive and then contradicted himself, (D.104, L.51), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.7983, L.12-Tr.7984, L.7).

779. To the finding that Jeff Polikoff's role in the selection meeting was unclear, (D.104, L.43-D.105, L.2), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.7895, L.17-24; Tr.8114, L.12-25; Tr.8115, L.16-Tr.8118, L.21).
780. To the finding that "there is little reliable or credible evidence as to precisely how [the studio operator] hiring decisions were made, (D.105, L.9-10), as such a finding is contrary to the substantial evidence in the Record as a whole. (See Exceptions 23, 29, 293, 299, 561, 574, 579, 613, 637, 725, 757, 761, 781-89).
781. To the findings that it is "unclear" who attended the debriefing for media coordinators, what decisions were made at the debriefing and who made them, (D.105, L.25-26), as such findings are contrary to the substantial evidence in the Record as a whole. (Tr.13166, L.18-Tr.13169, L.18; Tr.12497, L.17-Tr.12498, L.14; Tr.13332, L.3 – Tr.13333, L.1; Tr.12289, L.7-Tr.12304, L.2; Tr.12892, L.1 – Tr.12893, L.21; Tr.13151, L.7 – Tr.13156, L.23; Tr.13319, L.12 – Tr.13320, L.11; CNNA Exs. 428, 429, 518, 539, 540, 559, 563; GC Exs. 525-26).
782. To the conclusion that Rob Fox's "failure to mention Kim Moscaritolo" in his testimony renders Fox an incredible witness generally, (D.105, L.29-30, 37-40), as such conclusion is unsupported by the Record. (Tr.10286, L.15-Tr.10363, L.5; Tr.12020, L.8-Tr.12348, L.5).
783. To the conclusion that Rob Fox's testimony was "at best incomplete," (D.105, L.31), as such conclusion is contrary to the substantial evidence in the Record as a whole. (Tr.10286, L.15-Tr.10363, L.5; Tr.12020, L.8-Tr.12348, L.5).
784. To the conclusion that Rob Fox's testimony was "at worst intentionally misleading as to material matters," (D.105, L.31-32), as such conclusion is contrary to the substantial evidence in the Record as a whole. (Tr.10286, L.15-Tr.10363, L.5; Tr.12020, L.8-Tr.12348, L.5).

785. To the finding that Rob Fox “was well aware that CNN was going to hire Moscaritolo as a 15th media coordinator without going through the BSP process,” (D.105, L.35-37), as such finding is unsupported by the Record.
786. To the finding that Rob Fox “had not simply forgotten about [Moscaritolo],” (D.105, L.38), as such finding is unsupported by the Record.
787. To the finding that Rob Fox was an “incredible witness” because of his “unwillingness to admit that he changed the scores on numerous interview sheets,” (D.105, L.44-46), as such finding is contrary to the Record as a whole. (Tr.10306, L.19-Tr.10307, L.2; *see generally* Tr.10286, L.15-Tr.10363, L.5; Tr.12020, L.8-Tr.12348, L.5).
788. To the finding that “changes” Rob Fox made to the interview ratings sheets of Keith Crennan, Tracy Organ, Kristi Harper, and/or Mickael Squier were “suspicious” (D.105, L.44-51), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.13168, L.25-Tr.13169, L.13; CNNA Ex. 518).
789. To the finding that the Record is unclear as to whether Ashley Blackmon was present at the debriefing meeting where hiring decisions were made for the media coordinator position, (D.105, L.27-D.106, L.2), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.13166, L.18-23; Tr.12497, L.17-Tr.12498, L.14; Tr.12291, L.6-19).
790. To the finding that William Tipper applied on turnerjobs.com for a job that was the same job as he was performing for Team, (D.106, L.16-17), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.7356, L.19-Tr.7359, L.18; Tr.7363, L.1-24).
791. To the finding that William Tipper performed the same duties as Transportation Facilities Specialist with Turner Properties as he had performed as a courier for TVS, (D.106, L.25-26, 33), as such finding is contrary to the substantial evidence in the Record as a whole.

(Tr.7342, L.7-13; Tr.7346, L.9-19; Tr.7343, L.21-Tr.7344, L.5; Tr.7363, L.25-Tr.7364, L.15; Tr.7427, L.11-Tr.7438, L.21; GC Ex. 386; CNNA Ex. 206).

792. To the finding that after William Tipper became Transportation Facilities Specialist with Turner Properties, he received his work assignments from the CNN assignment desk, (D.106, L.33-34), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.7430, L.25-Tr.7432, L.13; Tr.7446, L.17-Tr.7450, L.20; CNNA Ex. 206).
793. To the finding that William Tipper “spends not more than one hour per week performing duties other than driving,” (D.106, L.37-38), as such finding is unsupported by the Record.
794. To the finding that William Tipper performs “at least some” of his duties as a volunteer, (D.106, L.38), as such finding is unsupported by the Record.
795. To the finding that “Phil Kent, then President of Turner Broadcasting Systems, was either present when the termination of the TVS contracts and the Bureau Staffing Project were first discussed in 2003, or was subsequently briefed on CNN’s plans in this regard,” (D.106, L.44-47), as such finding is unsupported by the Record. (GC Ex. 101, p. 4).
796. To the conclusion that “the transfer of the TVS couriers to Turner Properties was a joint effort by CNN and Turner Broadcasting Systems” to avoid recognizing the union (D.106, L.47-51), as such conclusion is unsupported by the Record as a whole. (Tr.12889, L.23-Tr.12890, L.18).
797. To the conclusion that the transfer of the couriers to Turner Properties was “motivated by the desire to reduce the number of TVS bargaining unit employees in any post-BSP CNN bargaining unit”, (D.106, L.50-51), as such conclusion is unsubstantiated by evidence in the Record.
798. To the conclusion that CNN’s hiring process during the BSP was “blatant[ly] discriminatory,” (D.107, L.6), as such conclusion is contrary to the substantial evidence in

the Record as a whole. (Tr.13045, L.21-Tr.13046, L.2; Tr.12889, L.23-Tr.12890, L.18; Tr.5693, L.16-19; Tr.5694, L.18-21; Tr.8399, L.18-25; Tr.8400, L.11-13; Tr.5906, L.16-Tr.5907, L.7; Tr.2154, L.18-Tr.2155, L.1; Tr.2231, L.8-20; Tr.9366, L.10-12; Tr.13337, L.6-13; Tr.12962, L.23-Tr.12964, L.4; Tr.4154, L.25-Tr.4155, L.18; Tr.12301, L.18-Tr.12302, L.7; Tr.12302, L.23-Tr.12303, L.12; Tr.15849, L.25-Tr.15850, L.11; Tr.2552, L.21-Tr.2553, L.17; Tr.13185, L.1-19; Tr.13186, L.3-6; Tr.12875, L.22-Tr.12876, L.5; CNNA Exs. 554, 706; 710 at Table 0.1).

799. To the conclusion that CNN discriminated against bargaining unit members in its BSP hiring process, (D.107, L.10), as such conclusion is contrary to the substantial evidence in the Record as a whole. (*See* Exception 798).
800. To the finding that “a majority of CNN’s employees would have been former Team bargaining unit employees by any calculation” “but for CNN’s discrimination against bargaining unit members,” (D.107, L.10-12), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.13449, L.19-Tr.13466, L.16; Tr.16112, L.18-Tr.16116, L.13; CNNA Exs. 554, 706).
801. To the finding that additional freelance members of the TVS bargaining unit would have been hired after the BSP “but for CNN’s discriminatory hiring,” (D.107, L.34-36), as such finding is unsupported by the Record.
802. To the finding that “at least 86 members of CNN’s 108 member bargaining unit [in Washington] would have been former TVS unit members” had CNN not discriminated in its hiring, (D.107, L.12-14), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.16112, L.18-Tr.16116, L.13; CNNA Ex. 706).
803. To the finding that CNN “blatant[ly] discriminated” in its hiring in Washington, (D.107, L.14), as such finding is contrary to the substantial evidence in the Record as a whole.

(Tr.13045, L.21-Tr.13046, L.2; Tr.12889, L.23-Tr.12890, L.18; Tr.5693, L.16-19; Tr.5694, L.18-21; Tr.5906, L.16-18; Tr.5906, L.22-Tr.5907, L.7; Tr.2154, L.18-Tr.2155, L.1; Tr.2231, L.8-20; Tr.12962, L.23-Tr.12964, L.4; Tr.4154, L.25-Tr.4155, L.18; Tr.15849, L.25-Tr.15850, L.11; Tr.2552, L.21-Tr.2553, L.17; Tr.13185, L.1-19; Tr.13186, L.3-6; Tr.12875, L.22-Tr.12876, L.5; CNNA Exs. 706; 710 at Table 0.1).

804. To the finding that “[a]t least 125 out of 175” members of CNN’s New York bargaining unit would have been former TVS unit members had CNN not discriminated in its hiring, (D.107, L.14-15), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.13449, L.19-Tr.13466, L.16; CNNA Ex. 554)
805. To the finding that Chris Leonard’s position “could possibly have continued to be filled by freelance engineer Oscar Romay” (D.107, L.25-26), as such finding is contrary to the law.
806. To the finding that Jerry Appleman “was hired but never worked in Washington” (D.107, L.30), as such finding is contrary to the evidence of the Record as a whole. (*See* CNNA Ex. 464).
807. To the finding that CNN would have hired some additional freelance studio employees as of December 5, 2003 in Washington, D.C. “but for CNN’s discriminatory conduct” (D.107, L.34-36), as such finding is contrary to the law.
808. To the finding that “4 full-time unit members lost their jobs and three nonTVS applicants (Fingar, Pless and Fribush) replaced them immediately” (D.107, L.39-40), as such finding is contrary to the substantial evidence in the Record as a whole and contrary to the law. (*See* Exception 50).
809. To the finding that four TVS unit members in the engineering department who were not hired by CNN were “discriminatees,” (D.107, L.42), as such finding is contrary to the substantial evidence in the Record as a whole. (*See* Exception 796).

810. To the finding that some freelancers hired by CNN “were members of the Team bargaining unit by virtue of the number of hours and regularity of their work for Team,” (D.107, L.43-45), as such finding is contrary to the law.
811. To the finding that the 3 engineer positions listed on CNN Exhibit 706 that were filled by Craig Fingar, Stephen Pless and Ronald Fribush would have been filled by TVS unit members “had not CNN discriminated against them,” (D.107, L.18-D.108, L.3), as such finding is unsupported by the Record. (*See* GC Ex. 134; *see generally* Exception 798).
812. To the finding that the 4 TD/Director positions filled by Brooker, Samaniego, Keller and Roberts would have been filled by TVS unit members “had not CNN discriminated against them,” (D.107, L.18-D.108, L.4), as such finding is unsupported by the Record. (*See* GC Ex.534; *see generally* Exception 798).
813. To the finding that the 3 audio designer positions filled by Richman, Till, and Tovarek would have been filled by TVS unit members “had not CNN discriminated against them,” (D.107, L.18-D.108, L.6), as such finding is unsupported by the Record. (*See* GC Ex.534; *see generally* Exception 798).
814. To the finding that the 8 studio operator positions filled by Banks, Connor, Carroll, DeSilva, Hailes, Jordan, Kelly and Parks would have been filled by TVS unit members “had not CNN discriminated against them,” (D.107, L.18-D.108, L.7), as such finding is unsupported by the Record. (*See* GC Ex.534; *see generally* Exception 798).
815. To the finding that Carolyn Stone was not a statutory supervisor for TVS (D.108, L.4-5), as such finding is contrary to the substantial evidence in the Record as a whole and contrary to the law. (CNNA Ex. 649).
816. To the finding that the 16 photojournalist positions filled by Derek Davis, Jose Santos, John Bena, Jeremy Harlan, Daniel Lopez, Jeremy Moorhead, Khalil Abdallah, Ray Britch, Bethany

Chamberland Swain, James "Mike" Haan, Ron Helm, Bryan Pearson, Doug Schantz, Ken Tillis, Floyd Yarmuth, and Jerry Appleman would have been filled by TVS unit members "had not CNN discriminated against them," (D.108, L.10-15), as such finding is unsupported by the Record. (*See* GC Ex. 228A-V; *see generally* Exception 798).

817. To the finding that Jay McMichael was a freelance member of TVS's bargaining unit (D.108, L.14), as such finding is contrary to the substantial evidence in the Record and contrary to Judge Amchan's findings at Tr.74, L.9-13 of the Decision.
818. To the finding that "at least 86 of the 108" post-BSP positions at CNN's Washington bureau would have been occupied by former TVS unit members had CNN not discriminated in its hiring, (D.108, L.14-16), as such finding is contrary to the substantial evidence in the Record as a whole. (*See* Exception 798).
819. To the finding that "were it not for CNN's discrimination, TVS unit members would have held a majority of the[] positions" in New York (D.108, L.19-20), as such finding is contrary to the substantial evidence in the Record as a whole.
820. To the finding that "were it not for CNN's discrimination, TVS unit members would have held a majority" of the post-BSP positions in New York, (D.108, L.19-20), as such finding is contrary to the substantial evidence in the Record as a whole. (*See* Exception 798).
821. To the finding that TVS bargaining unit members were "discriminatorily denied" positions in New York, (D.108, L.21), as such finding is contrary to the substantial evidence in the Record as a whole. (*See* Exception 798).
822. To the finding that the 8 engineer positions filled by Lopez, Labovsky, Reynolds, Smith, Voiculescu, Thomas, Garber and Stewart would have been filled by TVS unit members absent CNN's alleged discrimination, (D.108, L.20-22), as such finding is contrary to the

substantial evidence in the Record as a whole. (*See* GC Exs. 391, 392A, 392B, 393, 394; *see generally* Exception 798).

823. To the finding that the lines coordinator position filled by Chimenti would have been filled by a TVS unit member absent CNN's alleged discrimination, (D.108, L.20-23), as such finding is contrary to the substantial evidence in the Record as a whole. (*See* CNNA Ex. 562; *see generally* Exception 798).

824. To the finding that 18 studio operator positions would have been filled by TVS unit members absent CNN's alleged discrimination, (D.108, L.20-23), as such finding is contrary to the substantial evidence in the Record as a whole. (*See* GC Exs. 527, 528, 529, 530; *see generally* Exception 798).

825. To the finding that the audio designer position in New York would have been filled by a TVS unit member absent CNN's alleged discrimination, (D.108, L.20-23), as such finding is contrary to the substantial evidence in the Record as a whole. (*See* GC Ex. 531; CNNA Ex. 567; *see generally* Exception 798).

826. To the finding that the 3 TD/Director positions in New York would have been filled by TVS unit members absent CNN's alleged discrimination, (D.108, L.20-23), as such finding is contrary to the substantial evidence in the Record as a whole. (*See* GC Ex. 531; CNNA Ex. 567; *see generally* Exception 798).

827. To the finding that 4 floor director positions in New York would have been filled by TVS unit members absent CNN's alleged discrimination, (D.108, L.20-24), as such finding is contrary to the substantial evidence in the Record as a whole. (*See* GC Ex. 524; CNNA Ex. 561; *see generally* Exception 798).

828. To the finding that 14 media coordinator positions in New York would have been filled by TVS unit members absent CNN's alleged discrimination, (D.108, L.20-24), as such finding is

contrary to the substantial evidence in the Record as a whole. (*See* GC Ex. 525, 526; CNNA Ex. 563; *see generally* Exception 798).

829. To the finding that the 14 photojournalist positions in New York filled by Hall, Ramirez, Burgess, Allbritton, DeLaRosa, Hallsworth, Coppin, Frederick, Griola, Kane, Nidam, Tawanda Scott, Pelin, and Tambakakis would have been filled by TVS unit members absent CNN's alleged discrimination, (D.108, L.20-26), as such finding is contrary to the substantial evidence in the Record as a whole. (*See* GC Exs. 519, 520, 521, 522; CNNA Exs. 564, 565; *see generally* Exception 798).
830. To the finding that "at least 125 of the 175 bargaining unit employees [in New York] would have been former TVS bargaining unit members" but for CNN's discrimination in hiring (D.108, L.26-27), as such finding is contrary to the substantial evidence in the Record as a whole. (*See, e.g.*, Tr.13449, L.19-Tr.13466, L.16; Tr.16112, L.18-Tr.16116, L.13; CNNA Exs. 554, 706).
831. To the finding that "daily hires/freelancers were compensated at rates set forth in the [NABET] contracts," (D.108, L.45-46), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.15040, L.4-Tr.15041, L.15; Tr.15983, L.8-Tr.15987, L.16; GC Exs. 8, 9, 15, 17; CNNA Exs.698, 699, 700).
832. To the finding that freelancers "were paid the same penalties as full-time employees if they missed a meal, had their schedule changed, or were called into work without a sufficient interval after their prior shift," (D.108, L.46-48), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.4639, L.17-Tr.4640, L.8; GC Ex. 8, 9).
833. To the finding that freelancers were paid "certain types of premium pay," (D.108, L.48), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.14489, L.5-Tr.14490, L.2; Tr.4639, L.17-Tr.4640, L.8).

834. To the finding that Team was required to obtain CNN's advance approval before hiring freelancers, (D.109, L.1-2), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.15395, L.2-18; Tr.513, L.13-Tr.514, L.6).
835. To the finding that CNN contends Team's freelance or daily hire employees were independent contractors, (D.109, L.11-12), as such finding is unsupported by the evidence in the Record.
836. To the finding that CNN carries the burden to prove that Team freelancers were independent contractors (D.109, L.11-31), as such finding is contrary to the law.
837. To the finding that, in determining whether freelance or daily hire employees should be included in a bargaining unit for successorship analyses, "the Board considers whether the employees perform unit work, and those employees' regularity of employment," (D.109, L.43-44), as such finding is contrary to the law.
838. To the finding that *Trump Taj Mahal Casino*, 306 NLRB 294 (1992), states the Board's test for whether freelance or daily hire employees should be included in a bargaining unit for successorship analyses, (D.109, L.42-44), as such finding is contrary to the law.
839. To the finding that *DIC Entertainment, L.P.*, 328 NLRB 660 (1999) is an appropriate line of authority for successorship analyses, (D.109, L.45-49), as such finding is contrary to the law.
840. To the finding that the *Davison-Paxson* formula is an appropriate one for use in successorship analyses (D.109, L.49-50), as such finding is contrary to the law. (Tr.15079, L.11-Tr.15083, L.6).
841. To the finding that Team's payroll records accurately demonstrate which freelance/daily hire employees worked 15 days or over 150 hours of regular time within the year prior to the termination of the Team contracts (D.110, L.1-3), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.15047, L.5 – Tr.15048, L.17).

842. To the finding that all freelance/daily hire employees listed in Team's payroll Records who worked regularly for Team throughout 2003, those whose names are listed in the Amended Appendices C and D of the Second Amended Consolidated Complaint, and those whose names appear in GC Exs. 578 and 579 should be deemed members of the TVS bargaining units, (D.110, L.1-6), as such finding is contrary to the substantial evidence in the Record as a whole and contrary to the law.
843. To the finding that "by any standard most of the freelancers listed as discriminates on G.C. Exh. 579, the amended Complaint Appendix D, were members of the Team Video bargaining unit in New York" (D.110, L. 27-29), as such finding is contrary to the law.
844. To the finding that the Team payroll records submitted by the General Counsel are "the most probative evidence" of which Team freelancers worked 30 days in calendar year 2003, (D.110, L.34-36), as such finding is contrary to the substantial evidence in the Record as a whole. (CNN Ex. 642; Tr.15048, L.7-17; Tr.15054, L.12-Tr.15056, L.11).
845. To the finding that more than 2 of the 64 Team freelancers worked 30 days in calendar year 2003, (D.110, L.34-36), as such finding is contrary to the substantial evidence in the Record as a whole. (CNNA Ex. 642).
846. To the finding that General Counsel was in compliance with the judge's rulings and directives when it introduced TVS payroll records from the New York Bureau during the Washington, D.C. portion of the hearing (D.110, L.37-40), as such finding is contrary to the rulings made at the hearing. (Tr.9917, L.9-Tr.9919, L.7; Tr.10027, L.5-Tr.10031, L.20; Tr.10444, L.15-Tr.10446, L.15; Tr.15066, L.7-Tr.15075, L.9; Tr.15125, L.25-Tr.15130, L.23; CNNA Ex. 738).
847. To the finding that CNN's counsel raised no objection to General Counsel's statement on April 10, 2008 that it would introduce Team's New York payroll Records during the

Washington, D.C. portion of the hearing (D.110, L.41-45), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.9917, L.9-Tr.9919, L.7; Tr.10027, L.5-Tr.10031, L.20; Tr.10444, L.15-Tr.10446, L.15; Tr.15066, L.7-Tr.15075, L.9; Tr.15125, L.25-Tr.15130, L.23; CNNA Ex. 738).

848. To the finding that there is “competent evidence” contained in the General Counsel’s Exhibits 566, 567, 568, 569, and 571 that Team’s New York freelance employees performed bargaining unit work, (D.110, L.10-25), as such finding is unsupported by the Record. (Tr.14979, L.18-Tr.15065, L.13).
849. To the conclusion that “by any standard” the New York freelancers listed on General Counsel Exhibit 579 are “discriminatees,” (D.110, L.27), as such finding is unsupported by the Record and contrary to the law.
850. To the finding that “most of” the New York freelancers listed on General Counsel Exhibit 579 were members of the Team bargaining unit in New York, (D.110, L.27-29), as such finding is unsupported by the Record.
851. To the finding that the freelancers listed on lines 1-21 of page 111 of the Decision were members of the Team bargaining unit in New York, (D.110, L.27-D.111, L.21), as such finding is unsupported by the Record.
852. To the conclusion that “rough calculations” are a sufficient basis for awarding backpay to the freelancers listed on lines 1-21 of page 111 of the Decision, (D.110, L.27-D.111, L.21), as such conclusion is contrary to the law.
853. To the finding that anyone who works in excess of 150 hours (15 ten-hour days) is part of the Team bargaining unit for successorship purposes, (D.110, L.29-31), as such finding is contrary to the law.

854. To the finding that Appendix D to the Amended Complaint is a reliable list of freelancers for the purpose of determining who is part of the Team bargaining unit in New York (D.110, L.27-29), as such finding is contrary to the substantial evidence in the Record as a whole.
855. To the finding that Phillip Hadrovic was a regular full-time Team employee and not a freelancer (D.111, L.44-52) as such finding is contrary to the substantial evidence in the Record as a whole. (GC Exs. 17, 21, 528 (Hadrovic)).
856. To the finding that Shimon Baum, Anthony Ioannou, Jeffrey Greenstein, John Conroy, Kevin Lishawa, David Weber, Jonathan O'Bierne and Jonathan Reiss should be "counted as Team bargaining unit members in determining successorship" (D.111, L.30-36) as such finding is contrary to the substantial evidence in the Record as a whole, and contrary to the law. (CNNA Exs. 553, Tabs 63, 66, 68, 86, 125, 142, 155, and 172, 554, 650-653; GC Ex. 21).
857. To the finding that Emmanuel Agomuoh, Donna Lacey, Fred Schall, Paul Skaife, Joseph Wade and Aaron Webster "worked full time virtually every day at the D.C. bureau in 2003 and by any standard would be considered members of the Team bargaining unit" (D.111, L.40-D.112, L.2) as such finding is contrary to the substantial evidence in the Record as a whole, and contrary to the law. (CNNA Exs. 642, 706-707; GC Exs. 2, 9, 110).
858. To the finding that Oscar Romay should be considered part of the bargaining unit (D.112, L.2-5) as such finding is contrary to the substantial evidence in the Record as a whole, and contrary to the law. (CNNA Exs. 642, 706-707; GC Exs. 2, 9, 110).
859. To the finding that Jay McMichael, Tawana Smith, Raeshawn Smith and Kenneth White should be considered members of the Team bargaining unit for purposes of successorship (D.112, L.9-12) as such finding is contrary to the substantial evidence in the Record as a

whole and contrary to the law. (Tr.15974, L.15-Tr.15975, 4; Tr.15980, L.12-Tr.15981, L.3; Tr.15399, L.8-19; CNNA Exs. 642, 697, 706-707; GC Exs. 2, 9, 110).

860. To the finding that the decision to terminate the ENGAs was motivated in substantial part by CNN's alleged determination to get rid of NABET (D.112, L.24-26) as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.2230, L.23-Tr.2231, L.20; Tr.5693, L.16-24; Tr. 9366, L.10-12; Tr. 13337, L.6-17; Tr.12963, L.4-Tr.12964, L.4; Tr. 4154, L.14-Tr.4156, L.7; Tr. 5904, L.18-Tr.5907, L.7; Tr.12301, L.18-Tr.12303, L.12; Tr.15849, L.25-Tr.15850, L.24; Tr.12889, L.23-Tr.12891, L.3; Tr.12894, L.1-7; Tr.2552, L.8-Tr.2553, L.20; Tr.12537, L.11-Tr.12538, L.13; Tr.12540, L.7-Tr.12543, L.12; Tr.12563, L.1-Tr.12564, L.8; Tr.12567, L.3-19; Tr.12383, L.3-Tr.12387, L.2; Tr.12391, L.4-Tr.12410, L.22; Tr.12411, L.8-Tr.12412, L.21; CNNA Exs. 434-37, 473-474; Tr.12446, L.22-Tr.12451, L.5; Tr.12864, L.10-Tr.12866, L.15; Tr. 821, L.4-Tr.822, L.24; Tr.12873, L.3-17; Tr.12875, L.2-Tr.12876, L.5; Tr.4169, L.6-17; Tr.4185, L.10-12; Tr.9427, L.3-11).
861. To the conclusion of law that CNN is "precluded from relying on [the decision to terminate the ENGAs] in refusing to recognize the historic unit (D.112, L.25-26), as such conclusion of law is contrary to the law.
862. To the findings that Complaint paragraph 22(b) is true and that the functional integration of positions was part of CNN's overall discriminatory plan (D.112, L.26-28) as such findings are contrary to the substantial evidence in the Record as a whole. (*See* Exception 860).
863. To the finding that CNN had an "overall discriminatory plan" (D.112, L.28), as such finding is unsubstantiated by the Record as a whole and contrary to the law.
864. To the conclusion of law that CNN "cannot be allowed to profit from its illegal conduct aimed at dilution of the bargaining unit" (D.112, L.28-30) as such conclusion of law is contrary to the law.

865. To the conclusion of law that the historical unit is still appropriate (D.112, L.30, 37-46, D.113, L.2), as such conclusion of law is contrary to the law.
866. To the conclusion of law that “it hardly matters whether the historical unit is appropriate or not” (D.112, L.32-33) as such conclusion of law is contrary to the law.
867. To the conclusions of law that CNN is a successor employer who discriminated against unit employees, and that CNN is required to bargain with NABET and return to the status quo if requested by NABET (D.112, L.33-35) as such conclusions are contrary to the law.
868. To the finding that Team employees would have “continued to serve as the primary, and in some areas, the only employees performing their traditional duties. ... had CNN not discriminatorily refused to hire many all [sic] the members of the TVS bargaining unit” (D.112, L.44-D.113, L.2), as such finding is contrary to the substantial evidence in the Record as a whole, and contrary to the law. (*See* Exceptions 798-833; Tr.13449, L.19-Tr.13466, L.16; Tr.16112, L.18-Tr.16116, L.13; CNNA Exs. 554, 706, 707).
869. To the conclusion of law that a historical unit will be found appropriate even if it would not be appropriate under Board standards were it were being organized for the first time (D.113, L.4-6), as such conclusion is contrary to the law.
870. To the conclusion of law that what CNN is attempting is an accretion (D.113, L.8-28) as such conclusion is contrary to the law.
871. To the conclusions of law that it is inappropriate to accrete any employees who were not in Team’s bargaining unit into the CNN bargaining unit, and that “[s]uch accretion deprives former Team employees of their statutory rights and at the same time deprives those who were not members of the Team bargaining unit of their right to decide whether or not they wish to be represented by a Union” (D.113, L.30-34) as such conclusions are contrary to the law.

872. To the finding that “if it were not for CNN’s discrimination, Team unit members would have constituted a majority of any CNN bargaining unit” (D.113, L.34-36) as such finding is contrary to the substantial evidence in the Record as a whole and contrary to the law. (*See e.g.*, Tr.13449, L.19-Tr.13466, L.16; Tr.16112, L.18-Tr.16116, L.13; CNNA Exs. 554, 706-707).
873. To the finding that the appropriate bargaining unit in the DC bureau consists of photojournalists and senior photojournalists, studio operators, lighting specialists, TD/directors, audio designers, field and support broadcast engineers, couriers, and media coordinators (D.113, L.38-43) as contrary to the substantial evidence in the Record as a whole and contrary to the law. (*See e.g.*, CNNA Exs. 87-88, 677, 706-707; Tr.15901, L.11-Tr.15903, L.3; Tr.15915, L.12-Tr.15917, L.1; Tr.10320, L.6-Tr.10321, L.18; Tr.12229, L.4-Tr.12223, L.4; Tr.15922, L.14-21; Tr.15918, L.12-Tr.15919, L.1; Tr.15924, L.18-Tr.15926, L.14; Tr.15930, L.12-Tr.15933, L.13; Tr.15928, L.13-22; Tr.209, L.15-Tr.210, L.17; Tr.1455, L.7-Tr.1458, L.23; Tr.1439, L.12-16; Tr.1081, L.6-Tr.1086, L.15; Tr.12891, L.17-24; Tr.14063, L.17-Tr.14065, L.23; Tr.14651, L.7-13; Tr.14721, L.11-23; Tr.14646, L.20-Tr.14649, L.24; Tr.14643, L.15-Tr.14647, L.6; Tr.2578, L.8-Tr.2579, L.25; Tr.628, L.4-Tr.629, L.3; Tr.2344, L.2-Tr.2345, L.1; Tr.1781, L.3-23; Tr.821, L.4-Tr.822, L.24; Tr.828, L.24-Tr.829, L.19; Tr.2559, L.2-Tr.2564, L.8; Tr.2822, L.5-Tr.2823, L.24; Tr.16241, L.2-Tr.16242, L.16; Tr.2797, L.3-Tr.2801, L.6; Tr.2576, L.10-Tr.2577, L.5; Tr.2359, L.1-Tr.2360, L.14; Tr.2093, L.7-Tr.2094, L.22; Tr.16230, L.21-Tr.16232, L.2; Tr.1728, L.8-12; Tr.2429, L.9-17; Tr.2018, L.3-Tr.2019, L.25; Tr.15869, L.1-20; Tr.9591, L.5-10; Tr.14197, L.8-Tr.14198, L.2; Tr.13245, L.13-Tr.13246, L.18).
874. To the finding that the appropriate bargaining unit in the NY bureau consists of photojournalists, studio operators, audio designers, TD/directors, field and support

engineers, floor directors, and media coordinators (D.113, L.45-48) as contrary to the substantial evidence in the Record as a whole and contrary to the law. (*See e.g.*, CNNA Exs. 87-88, 554; Tr.12229, L.4-Tr.12233, L.4; Tr.12238, L.15-Tr.12239, L.12; Tr.12241, L.14-Tr.12244, L.4; Tr.296, L.9-Tr.297, L.3; Tr.209, L.15-Tr.210, L.17; Tr.1455, L.7-Tr.1458, L.23; Tr.10151, L.2-19; Tr.11857, L.9-Tr.11859, L.12; Tr.11912, L.22-Tr.11918, L.9; Tr.11834, L.23-Tr.11835, L.24; Tr.11903, L.14-Tr.11906, L.10; Tr.11838, L.25-Tr.11841, L.6; Tr.10713, L.2-Tr.10714, L.8; Tr.11970, L.18-Tr.11975, L.14; Tr.10410, L.8-Tr.10412, L.2; Tr.11989, L.10-23; Tr.11993, L.24-Tr.11998, L.17; Tr.12001, L.1-Tr.12009, L.7; Tr.11922, L.3-Tr.11930, L.15; Tr.10496, L.24-Tr.10498, L.4; Tr.10574, L.15-Tr.10575, L.25-Tr.11928, L.5-Tr.11936, L.15; Tr.11940, L.10-Tr.11941, L.15; Tr.12098, L.2-Tr.12099, L.22; Tr.11947, L.1-21; Tr.628, L.4-Tr.629, L.3; Tr.821, L.4-Tr.822, L.24; Tr. 828, L.24-Tr.829, L.19; Tr.8098, L.21-Tr.8099, L.2; Tr.8003, L.13-Tr.8006, L.15; Tr.12679, L.16-Tr.12682, L.10; Tr.8185, L.12-Tr.8188, L.17; Tr.8236, L.13-Tr.8237, L.6; Tr.7843, L.18-24; Tr.7860, L.10-Tr.7861, L.11; Tr.8064, L.5-15; Tr.8001, L.2-Tr.8002, L.9; Tr.8086, L.6-Tr.8090, L.20; Tr.15869, L.1-20; Tr.9591, L.5-10; Tr.14197, L.8-Tr.14198, L.2; Tr.13245, L.13-Tr.13246, L.18).

875. To the finding that Joe Murphy did not credibly contradict the testimony of Bobby Clemons and Ron Kuczynski “that for the most part the tasks they performed after December 6, 2003 are essentially the same as they were prior to that date, and that the duties of the IT employees are essentially the same” (D.114, L.11-15) as such finding is contrary to the substantial evidence in the Record as a whole. (*See e.g.*, Tr.16222, L.13-Tr.16244, L.14; Tr.16247, L.5-Tr.16250, L.3; CNNA Exs. 714, 715).

876. To the finding that Bobby Clemons and Ron Kuczynski testified that for the most part the work that they performed after December 6, 2003 are essentially the same as they were prior to that date, and that the duties of the it employees did not change (D.114, L.11-15) as such

finding is contrary to the substantial evidence in the Record as a whole. (Tr.2797, L.5-Tr.2801, L.23; Tr.2902, L.1-Tr.2903, L.6; Tr.2904, L.6-Tr.2607, L.2; Tr.2908, L.5-Tr.2909, L.22; Tr.2911, L.6-8).

877. To the finding that Joe Murphy did not testify with any specificity as to engineers' involvement in IT work because he did not know what that involvement was (D.114, L.20-22) as such findings are contrary to the substantial evidence in the Record as a whole. (Tr.16223, L.24-Tr.16226, L.12; Tr.16226, L.23-Tr.16229, L.24; Tr.16232, L.13-Tr.16237, L.5).

878. To the finding that Tu Vu "indirectly supervised" any engineers during the time that Team was the contractor, and/or that he supervised engineers through Team manager John Cunha while Team was the contractor (D.114, L.22-25), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.15282, L.5-18; Tr.15283, L.4-21).

879. To the finding that Joe Murphy's testimony was inaccurate or misleading or it was unclear that he had first-hand knowledge (D.114, L.35-36), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.16219, L.13-Tr.16285, L.13; Tr.2014, L.22-Tr.2119, L.11).

880. To the conclusion that Joe Murphy's testimony should not be taken a face value (D.114, L.34), as such conclusion is unsubstantiated by the Record as a whole.

881. To the inference that Joe Murphy and Rick Cole did not interview Ron Fribush (D.115, L.1) as such conclusion is contrary to the substantial evidence in the Record as a whole. (Tr.2089, L.8-12; GC Ex. 134, Tab J).

882. To the inference that Joe Murphy testified that he interviewed Ron Fribush on the telephone "because he recognized that the fact that he did not is an indication as to how unfair the BSP

selection process was to Team applicants” (D.115, L.8-10), as such inference is contrary to the substantial evidence in the Record as a whole. (Tr.2089, L.8-Tr.2090, L.4).

883. To the finding that Joe Murphy’s testimony “tacitly confirmed [Bobby Clemmons and Ron Kuczynski’s] testimony that the IT involvement of engineers was limited to such basic tasks as rebooting a computer” (D.115, L.29-30), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.16223, L.24-Tr.16226, L.12; Tr.16226, L.23-Tr.16229, L.24; Tr.16232, L.13-Tr.16237, L.5; Tr.2343, L.17-Tr.2345, L.1; Tr.2797, L.5-Tr.2801, L.23; Tr.2902, L.1-Tr.2903, L.6; Tr.2904, L.6-Tr.2607, L.2; Tr.2908, L.5-Tr.2909, L.22; Tr.2911, L.6-8).

884. To the finding that with the exception of testimony from Ed Scholl, no other testimony from any CNN engineer in New York was credible (D.115, L.36), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.7817, L.5-Tr.7939, L.3; Tr.7945, L.6-Tr.8068, L.9; Tr.8085, L.6-Tr.8238, L.4).

885. To the assumption that Ed Scholl’s testimony that BIT employees of different backgrounds respond together to a problem means that engineers and IT employees determine whether the problem will be fixed by a broadcast engineer or a computer specialist (D.115, L.38-41), as such assumption is unsubstantiated by the Record as a whole.

886. To the conclusion that because engineers and IT personnel call upon each other in complex situations that “there is no evidence that would lead me to conclude that IT employees in New York must be included, or should be included, in a bargaining unit that includes broadcast engineers” (D.115, L.45-47) as such conclusion is contrary to the substantial evidence in the Record as a whole and contrary to the law. (Tr.8108, L.8-Tr.8110, L.14; Tr.8149, L.9-Tr.8155, L.15; Tr.8156, L.23-Tr.8158, L.11; Tr.8166, L.13-Tr.8172, L.15; Tr.8178, L.14-Tr.8197, L.9; CNNA Exs. 211, 213-219, 221, 554; Tr.8205, L.6-Tr.8206, L.4;

Tr.8211, L.2-18; Tr.8220, L.13-Tr.8222, 19; Tr.1997, L.18-Tr.7999, L.16; Tr.8001, L.2-Tr.8002, L.9; Tr.8003, L.13-Tr.8006, L.15; Tr.8008, L.11-Tr.8009, L.7; Tr.8011, L.17-Tr.8012, L.11; Tr.8065, L.7-Tr.8066, L.4; Tr.7821, L.19-Tr.7824, L.13; Tr.7827, L.7-Tr.7829, L.15; Tr.7843, L.2-24; Tr.7920, L.15-Tr.7921, L.17; Tr.7922, L.18-Tr.7924, L.20).

887. To the finding that “audio designers” were in the former unit (D.116, L.10), as such finding is contrary to the substantial evidence in the Record. (GC Ex. 586, Tab 5; Tr.10263, L.2-Tr.10265, L.3; Tr.10415, L.15-Tr.10417, L.2; Tr.11861, L.12-Tr.11862, L.4).
888. To the finding that Production Assistants in Washington should not be included in a CNN bargaining unit because they reported to Warren Arenstein, who did not supervise work that was previously done by Team bargaining unit employees (D.116, L.24-38) as such findings are contrary to the substantial evidence in the Record as a whole and contrary to the law. (Tr.15900, L.14-20; Tr.15902, L.20-Tr.15903, L.15; CNNA Exs. 87-88, 679; Tr.15905, L.23-Tr.15906, L.7; Tr.15930, L.24-Tr.15931, L.20; Tr.15960, L.9-24; Tr.15869, L.1-20; Tr.9591, L.5-20; Tr.14197, L.8-Tr.14198, L.2; Tr.13245, L.13-Tr.13246, L.18).
889. To the findings that Technical Production Managers in Washington were managerial employees, were not supervised by anyone who supervised employees performing what previously was bargaining unit work, and that they should be excluded from any bargaining unit (D.116, L.44-48), as such finding is contrary to the substantial evidence in the Record as a whole and contrary to the law. (Tr.14643, L.11-Tr.14647, L.6; Tr.14400, L.23; Tr.14403, L.10).
890. To the conclusion that Lines Coordinators performed primarily administrative duties instead of technical duties, and that therefore they should not be included in any bargaining unit (D.117, L.6-10), as such conclusion is contrary to the substantial evidence in the Record as a whole and contrary to the law. (Tr.11847, L.4-Tr.11848, L.17; Tr.10476, L.14-25; Tr.10480,

L.6-22; Tr.10496, L.24-Tr.10498, L.12; Tr.10500, L.7-22; Tr.10503, L.2-18; Tr.10510, L.4-20; Tr.10534, L.14-Tr.10535, L.6; Tr.10558, L.18-Tr.10560, L.25; Tr.10574, L.6-Tr.10576, L.5; Tr.11889, L.6-22; Tr.5047, L.23-Tr.5048, L.18; Tr.11922, L.3-Tr.11936, L.15; Tr.11945, L.6-19; Tr.10574, L.15-Tr.10575, L.25; Tr.11940, L.10-Tr.11941, L.15; Tr.12098, L.2-Tr.12099, L.22; Tr.11947, L.1-21; Tr.14643, L.15-Tr.14647, L.6; Tr.2578, L.8-Tr.2579, L.25).

891. To the conclusion of law that the characterization of job duties as “administrative” rather than “technical” is a basis for exclusion from a production bargaining unit (D.117, L.6-10), as such conclusion is contrary to the law.
892. To the finding that Lines Coordinators should be excluded from any bargaining unit because they are supervised by Lois Cioffi, who did not supervise any employees who previously did bargaining unit work (D.117, L.14-18) as such finding is contrary to the substantial evidence in the Record as a whole and contrary to the law. (*See* Exception 891; Tr.10153, L.12-17; Tr.651, L.1-Tr.652, L.3; Tr.11889, L.2-9; Tr.10382, L.19-Tr.10383, L.14; CNNA 554).
893. To the finding that there is strong evidence of discriminatory motive in the hiring of lines coordinators in New York, based on the failure to hire Mary Theodore, who was a TVS bargaining unit supervisor (D.117, L.20-29), as such finding is unsubstantiated by the evidence in the Record as a whole and is contrary to the law.
894. To the conclusion that there is no credible explanation for CNN not hiring Mary Theodore as a Lines Coordinator (D.117, L.25-26), as such finding is contrary to the substantial evidence in the Record as a whole. (CNNA Exs. 519-521; Tr.13172, L.25-Tr.13178, L.9; Tr.13181, L.1-19; Tr.12298, L.11-Tr.12999, L.20).
895. To the finding that the movement of George Chimenti into a lines coordinator position is “suspicious” (D.117, L.26-29), as such finding is contrary to the substantial evidence in Record as a whole. (Tr.10722, L.16-Tr.10724, L.3; Tr.10498, L.24-Tr.10499, L.13).

896. To the finding that Technical Production Managers in New York are managerial employees who should be excluded from any bargaining unit (D.118, L.2-5), as such finding is contrary to the substantial evidence in the Record as a whole, and contrary to the ALJ's finding that Team personnel who exercised exactly the same duties were not supervisors under the Act, and should be included in the successorship calculation, (D.107-108, 113). (*See e.g.*, Tr.11847, L.4-Tr.11848, L.17; Tr.11944, L.23-Tr.11945, L.5).
897. To the conclusion that Editor/ Producers should be excluded from any bargaining unit (D.118, L.9-27) as such conclusion is contrary to the substantial evidence in the Record as a whole and contrary to the law. (*See e.g.*, Tr.10328, L.1-Tr.10329, L.21; Tr.12229, L.4-Tr.12232, L.21; Tr.12241, L.14-Tr.12246, L.7; Tr.10709, L.13-Tr.10710, L.2; CNNA Ex: 4; GC Exs. 10, 19; Tr.15922, L.14-21; Tr.12238, L.15-Tr.12239, L.12; Tr.296, L.9-Tr.297, L.3; Tr.209, L.15-Tr.210, L.17; Tr.1455, L.7-Tr.1458, L.23; Tr.15918, L.12-Tr.15919, L.1; Tr.15733, L.3-Tr.15734, L.7; Tr.15755, L.4-19; Tr.15930, L.24-Tr.15932, L.20; Tr.15956, L.19-Tr.15957, L.25).
898. To the conclusion that the Editor/Producers exercised greater judgment than former unit employees (D.118, L.13-27), as such conclusion is contrary to the substantial evidence in the Record as a whole. (Tr.10328, L.1-Tr.10329, L.21; Tr.12238, L.15-Tr.12239, L.12; Tr.10709, L.13-Tr.10710, L.5; CNNA Ex. 4; Tr.210, L.6-17; Tr.1438, L.22-Tr.1439, L.20; Tr.1455, L.7-Tr.1456, L.15; Tr.1081, L.6-22, Tr.1083, L.3-Tr.1086, L.15).
899. To the conclusion that Editor/Producers in Washington should be excluded from the unit because Warren Arenstein, their supervisor, did not supervise any employees who previously performed work of team bargaining unit members (D.118, L.25-27), as such conclusion is contrary to the law.

900. To the conclusion of law that CNN was a successor to Team (D.118, L.34), as such conclusion is contrary to the substantial evidence in the Record as a whole and contrary to the law.
901. To the conclusion of law that CNN hired a majority of team bargaining unit members in the historical unit, which the ALJ found to be the appropriate unit (D.118, L.34-36), as such conclusion of law is contrary to the law.
902. To the conclusions that former unit members were hired to do essentially the same jobs that they previously performed for Team and that these former employees produced the same product for CNN that they did when they worked for Team (D.118, L.36-43), as such conclusions are contrary to the substantial evidence in the Record as a whole. (*See e.g.*, Tr.2797, L.5-Tr.2801, L.23; Tr.2902, L.1-Tr.2903, L.6; Tr.2904, L.6-Tr.2607, L.2; Tr.2908, L.5-Tr.2909, L.22; Tr.2911, L.6-8; Tr.16222, L.13-Tr.16244, L.14; Tr.16247, L.5-Tr.16250, L.3; CNNA Exs. 380, 422, Tabs 1, 3, 5, 8-11, 13, 714-715; Tr.16223, L.24-Tr.16226, L.12; Tr.16226, L.23-Tr.16229, L.24; Tr.16232, L.13-Tr.16237, L.5; Tr.8108, L.8-Tr.8110, L.14; Tr.8149, L.9-Tr.8155, L.15; Tr.8156, L.23-Tr.8158, L.11; Tr.8166, L.13-Tr.8172, L.15; Tr.8178, L.14-Tr.8197, L.9; Tr.9206, L.10-Tr.9207, L.16; Tr.14858, L.6-Tr.14859, L.7; Tr.11344, L.4-Tr.11345, L.12; Tr.15438, L.10-Tr.15439, L.6; Tr.14870, L.1; Tr.14871, L.19; Tr.15610, L.21-Tr.15612, L.12; Tr.11647, L.22-Tr.11648, L.13; Tr.15779, L.17-25; Tr.9635, L.8-23; Tr.11375, L.21-Tr.11376, L.25; Tr.10228, L.24-Tr.10229, L.19; Tr.8449, L.14-Tr.8450, L.18; Tr.10538, L.2-19; Tr.12255, L.11-Tr.12256, L.20; Tr.11827, L.7-22; Tr.10263, L.2-Tr.10265, L.3; Tr.10415, L.25-Tr.10417, L.2; Tr.11861, L.12-Tr.11862, L.4; Tr.11869, L.1-Tr.11870, L.21).
903. To the conclusion that were Team unit members not hired to do “essentially the same jobs they had performed for Team”, “CNN’s hiring would resemble Dr. Baker’s conclusions for

what the results of a random selection would look like” (D.118, L.39-41), as such conclusion is contrary to the substantial evidence in the Record as a whole. (CNNA Ex. 710; Tr.16142, L.4-17; Tr.16143, L.2-Tr.16165, L.13; Tr.16169, L.1-Tr.16187, L.7; Tr.16192, L.8-Tr.16198, L.9).

904. To the finding that former unit employees also produced the same product for CNN that they did when they worked for Team (D.118, L.41-42), as such finding is contrary to the substantial evidence in the Record as a whole. (*See e.g.*, Tr.9206, L.10-Tr.9207, L.16; Tr.14858, L.6-Tr.14859, L.7; Tr.11344, L.4-Tr.11345, L.12; Tr.15438, L.10-Tr.15439, L.6; Tr.14870, L.1; Tr.14871, L.19; Tr.15610, L.21-Tr.15612, L.12; Tr.11647, L.22-Tr.11648, L.13; Tr.15779, L.17-25; Tr.9635, L.8-23; CNNA Exs. 380, 422, Tabs 1, 3, 5, 8-11, 13; Tr.11375, L.21-Tr.11376, L.25; Tr.10228, L.24-Tr.10229, L.19; Tr.8449, L.14-Tr.8450, L.18; Tr.10538, L.2-19; Tr.12255, L.11-Tr.12256, L.20; Tr.11827, L.7-22; Tr.10263, L.2-Tr.10265, L.3; Tr.10415, L.25-Tr.10417, L.2; Tr.11861, L.12-Tr.11862, L.4; Tr.11869, L.1-Tr.11870, L.21).

905. To the finding that the non-Team employees who were hired during the Bureau Staffing Project were mere replacements for Team employees who were not hired (D.118, L.44-45), as such findings are contrary to the substantial evidence in the Record as a whole. (*See* Exceptions 480; Tr.3829, L.17-Tr.3830, L.7; Tr.12886, L.19-Tr.12889, L.15; Tr.12889, L.23-Tr.12890, L.18; Tr.2215, L.14-18; Tr.2225, L.24-Tr.2226, L.3; Tr.7703, L.23-Tr.7704, L.3; Tr.7759, L.7-17; Tr.5543, L.12-19; Tr.1918, L.11-23; Tr.14889, L.7-11; Tr.13185, L.20-23; Tr.12962, L.23-Tr.12963, L.3; Tr.12299, L.10-20).

906. To the finding that the former Team employees continued to work in the same location at CNN for several months until they moved to the Time Warner Center (D.118, L.52-D.119, L.1), as such finding is contrary to the evidence in the Record as a whole. (*See e.g.*, Tr.8175,

L.8-Tr.8176, L.21; Tr.8178, L.24-Tr.8180, L.15; Tr.12037, L.23-Tr.12038, L.24; Tr.12189, L.20-Tr.12190, L.24).

907. To the findings that while employed by Team, Team employees were given instructions by CNN supervisors rather than Team supervisors, and that after the Bureau Staffing Project, these same former Team employees were managed by these same CNN supervisors (D.119, L.1-4), as such findings are contrary to the substantial evidence in the Record as a whole. (*See* Exceptions 143-144).
908. To the findings that CNN employees performed bargaining unit work, that they performed essentially the same work they performed for Team and that most employees continued to spend most of the day performing the same tasks and using the same skills that they had used in their work for Team (D.119, L.11-16) as such findings are contrary to the substantial evidence in the Record as a whole. (*See* Exceptions 902, 904, 905, 906).
909. To the conclusion of law that even if CNN personnel are performing bargaining unit work, but performing fewer tasks than before, or performing tasks in addition to those they performed for Team, these facts do not negate the continuity of the enterprise (D.119, L.16-23), as contrary to the law.
910. To the finding that CNN's jobs of studio operator and audio designer focusing on specific duties "does not negate the substantial continuity of its operations when compared to TVS's operations" (D.119, L.32-38), as such finding is contrary to the substantial evidence in the Record and contrary to the law.
911. To the finding that John Silva testified that there was no fundamental change in the tasks performed by former Team employees immediately after the end of the Team contract (D.119, L.40-49) as contrary to the substantial evidence in the Record as a whole. (Tr.11821, L.17-Tr.11826, L.3).

912. To the finding that the addition or subtraction of job duties would not be likely to change Team employees' attitudes sufficiently to defeat a finding of continuity of the enterprise (D.119, L.51-D.120, L.2), as such finding is contrary to the law and unsupported by any evidence in the Record. (Tr.9657, L.22-Tr.9660, L.8; CNNA Ex. 731).
913. To the findings that CNN offered no evidence that credibly establishes that CNN employees hired during the BSP were performing substantially different or additional tasks than they did for Team for the majority of their workday, and that for the first 6 months following the termination of the Team contracts all photojournalists were performing the same work as Team technicians for the vast majority of their workday, and that the same held true for most photojournalists even after their first 6 months of employment (D.120, L.6-13) as such findings are contrary to the substantial evidence in the Record as a whole. (*See* Exception 908).
914. To the finding that regarding studio personnel, CNN relies upon changes in New York that occurred when CNN moved to the Time Warner Center, or that occurred a year after the team contracts were terminated (D.120, L.15-19), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.13087, L.10-18; Tr.12147, L.13-Tr.12148, L.14; Tr.2799, L.9-24; Tr.2911, L.6-8; Tr.16222, L.13-Tr.16234, L.17; CNNA Ex. 714; Tr.8211, L.2-18; Tr.8001, L.2-Tr.8002, L.9; Tr.8003, L.13-Tr.8006, L.15; Tr.8008, L.11-Tr.8009, L.7; Tr.7827, L.7-Tr.7832, L.22; Tr.12678, L.4-Tr.12679, L.2; Tr.11488, L.12-Tr.11491, L.2).
915. To the conclusion of law that December 6, 2003 and January 17, 2004 constitute the substantial and representative complement dates when successorship must be determined as a matter of law (D.120, L.15-19), as such conclusion is contrary to the law and the substantial evidence in the Record as a whole. (*See, e.g.* CNNA Exs. 213, 270, 462, 696;

Tr.12744, L.23-Tr.12745, L.3; Tr.12246, L.8-15; Tr.9336, L.18-23; Tr.13693, L.12-17; Tr.14196, L.24-Tr.14198, L.2; Tr.11825, L.17-22; Tr.12755, L.23-Tr.12756, L.12; Tr.11488, L.12-Tr.11491, L.2; Tr.14563, L.7-Tr.14564, L.7).

916. To the finding that it is totally irrelevant to the attachment of the bargaining obligation that these employees also received training and that they were assisted by CNN employees from other bureaus (D.120, L.22-24, 42-48) as such finding is contrary to the law.
917. To the finding that there was always a hiatus in all cases where successorship was not found (D.120, L.42-48), as such finding is contrary to the law.
918. To the finding that on the days immediately following the end of the Team contracts, unit employees did their jobs in precisely the same manner as they did it on the last day of the team contracts with essentially the same equipment (D.120, L.26-28) as such finding is contrary to the substantial evidence in the Record as a whole. (*See, e.g.*, Tr.11488, L.12-Tr.11491, L.2; Tr.10547, L.17-Tr.10548, L.12; Tr.10698, L.23-Tr.10702, L.21; Tr.10733, L.7-Tr.10734, L.12; Tr.11821, L.17-Tr.11875, L.11; Tr.11931, L.5-Tr.11938, L.17).
919. To the finding that the employees' testimony regarding the changed nature of their job, or lack thereof, is more credible than their managers' testimony regarding same (D.120, L.30-33), as such finding is contrary to the law and the substantial evidence in the Record as a whole. (*See, e.g.*, Tr.13087, L.10-18; Tr.12147, L.13-Tr.12148, L.14; Tr.7923, L.14-Tr.7924, L.20; Tr.7934, L.12-17; Tr.8149, L.9-Tr.8150, L.24; Tr.8151, L.6-Tr.8153, L.14; Tr.8165, L.6-Tr.8172, L.15; CNNA Ex.212; Tr.8176, L.14-21; Tr.8178, L.24-Tr.8181, L.3; Tr.8446, L.1-Tr.8451, L.10; Tr.10536, L.12-Tr.10537, L.6; Tr.10547, L.17-Tr.10548, L.12; Tr.10698, L.23-Tr.10702, L.21; Tr.10706, L.15-Tr.10707, L.15; Tr.10733, L.7-Tr.10734, L.12; Tr.11830, L.7-Tr.11846, L.15; Tr.11816, L.15-Tr.11862, L.17; Tr.11821, L.17-Tr.11875, L.11; Tr.11931, L.5-Tr.11938, L.17; Tr.12224, L.21-Tr.12228, L.19).

920. To the finding that “almost all, if not all, of the CNN managers who testified demonstrated the unreliability of their testimony when discussing the BSP” (D.120, L.32-33), as such finding is unsubstantiated by the evidence in the Record as a whole and contrary to the law.
921. To the finding that temporary employees were needed because “some nonTVS employees hired during the BSP did not work for the D.C. or New York Bureaus in the first year of their employment” (D.120, n.152, L.35-41), as such finding is contrary to the evidence in the Record as a whole. (CNNA Exs. 273, 284, 356, 717; Tr.11825, L.2-15; Tr.3839, L.19-Tr.3839, L.6; Tr.9258, L.6-25; Tr.9419, L.1-9; Tr.11561, L.4-25; Tr.11821, L.17-Tr.11823, L.2; Tr.6289, L.5-17; Tr.12250, L.12-21; Tr.15620, L.23-Tr.15621, L.13; Tr.14713, L.3-6).
922. To the conclusion of law that “many of the changes CNN relies upon in arguing that it is not a successor were violations of Section 8(a)(5) of the Act” (D.121, L.2-3), as such conclusion of law is contrary to the law.
923. To the conclusion of law that CNN “was not entitled to unilaterally set the initial terms and conditions of employment due to its illegal refusal to recognize and bargain with the Union and its discriminatory hiring practices” (D.121, L.3-5), as such conclusion of law is contrary to the law.
924. To the conclusion of law that CNN made “illegal unilateral changes” and cannot rely on these changes to prove it is a successor (D.121, L.5-6), as such conclusion of law is contrary to the law.
925. To the reliance on *Precision Industries*, 302 N.L.R.B. 661, 711 (1996), as it does not support the proposition for which it is stated (D.121, L.5-6), and such reliance is contrary to the law and the evidence in the Record as a whole.

926. To the finding that Stacy Leitner and Dennis Finnegan's "stake in the outcome of this hearing is far less than that of CNN managers, such as Rob Fox" (D.121, L.31-36), as such finding is unsubstantiated by the evidence in the Record as a whole.
927. To the finding that Rob Fox's testimony regarding media coordinators' duties is not credible and lacked candor, (D.121, L.11-16, L.43-44), as such finding is contrary to the substantial evidence in the Record as a whole and is contrary to the law. (Tr.10286, L.15 - Tr.10363, L.5; Tr.12020, L.3 - Tr.12348, L.7; CNNA Exs.413-17).
928. To the finding that "Fox's testimony generally and specifically about what employees actually did as media coordinators" is incredible (D.121, L.43-44), as such finding is contrary to the substantial evidence in the Record as a whole and contrary to the law.
929. To the finding that "statements in [the] performance reviews, or 'TPMPs' which are contrary to the testimony of Leitner and Finnegan" should be "discount[ed]" because the TPMPs "were very likely were [sic] structured with the instant litigation in mind" (D.121, L.37-39), as such finding is unsubstantiated by the evidence in the Record as a whole and is contrary to the law. (CNNA Ex. 422; *see* Exceptions 487-91).
930. To the finding that "after January 17, 2004, media coordinators did exactly the same tasks that a studio technician performed for TVS," at the same location and that media coordinators performed "essentially the same functions that were performed by Team bargaining unit members" after "moving to the Time Warner Center in March or April 2004" (D.121, L.18-24), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.10327, L.16 - Tr.10346, L.2; Tr.12113, L.5 - Tr.12118, L.15; Tr.12037, L.5-22; Tr.8446, L.8 - Tr.8451, L.10; Tr.12119, L.1 - Tr.12163, L.13; Tr.12173, L.20 - Tr.12175, L.12; Tr.10536, L.12 - Tr.10537, L.2; Tr.10537, L.10 - Tr.10538, L.19; Tr.10541, L.9 - Tr.10543, L.4; Tr.10545, L.16 -20; Tr.10547 L.4 - Tr.10548, L.9; Tr.10555, L.17-Tr.10556,

L.8; Tr.10566, L.21 – Tr.10573, L.4; Tr.12119, L.1-TR.12128, L.14; Tr.12246, L.8 – Tr.12249, L.14; CNNA Exs. 355-57, 422, Tab 1 CNNA-PROD0136764, Tab 2 CNNA-PROD0133756, Tab 3, CNNA-PROD0137285-86, Tab 4 CNNA-PROD0137697, Tab 5 CNNA-PROD138237, 423; GC Ex. 514).

931. To the finding that the “QC function of the media coordinators” is a major part of media coordinators’ job (D.121, L.45-47), as such finding is contrary to the substantial evidence in the Record as a whole. (*See* Exception 930).
932. To the finding that “as a media coordinator, the only change from [Dennis Finnegan’s] duties with Team was that he was entering metadata” (D.121, n.157, L.48-50), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.10795, L.14 – Tr.10811, L.5; Tr.10812, L.14 – Tr.10821, L.1; Tr.10794, L.15 – Tr.10795, L.7; Tr.10825, L.21 – Tr.10828, L.24; Tr.10829, L.25 – Tr.10831, L.25; Tr.10834, L.19 – Tr.10835, L.2; Tr.12127, L.3-Tr.12128, L.14; Tr.10560, L.11-25; CNNA Exs. 300, 356-57, 365-66).
933. To the finding that media coordinators inputted similar data into the computer that had previously been written on a tape label (D.121, L.23-29), as such finding is contrary to the evidence in the Record as a whole. (Tr.12124, L.15 – Tr.12125, L.21; Tr.12127, L.3 – Tr.12128, L.14; Tr.8447, L.10 – Tr.8450, L.4; Tr.10334, L.2 – Tr.10336, L.11).
934. To the finding that the “media coordinator’s file management function was functionally the same as the recycling of tapes performed by Team” (D.121, L.28 – D.122, L.2), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.10341, L.16 – Tr.10343, L.24; Tr.8446, L.8 – Tr.8451, L.10; Tr.12119, L.1 – Tr.12132, L.3; Tr.10572, L.13 – Tr.10573, L.4; CNNA Ex. 417, 422, Tab 1 CNNA-PROD0136764, 66, Tab 5 CNNA-PROD138237, Tab 9 CNNA-PROD0139254, Tab 10 CNNA-PROD0139370, CNNA-PROD0139374, Tab 11 CNNA-PROD0155420).

935. To the finding that the editorial elements to the media coordinator position were “an insignificant part of the job” (D.122, L.1-2), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.10336, L.12 – Tr.10339, L.6; Tr.12037, L.5-22; Tr.12113, L.5 – Tr.12118, L.6; Tr.8446, L.8 – Tr.8449, L.13; Tr.12128, L.15 - Tr.12130, L.3; Tr.10341, L.16 – Tr.10343, L.24; Tr.12202, L.3 – Tr.12203, L.17; Tr.10566, L.21 – Tr.10573, L.4; Tr.10564, L.11 – Tr.10566, L.18; CNNA Exs. 422, Tab 1 CNNA-PROD0136767-68, Tab 4 CNNA-PROD0137702, CNNA-PROD0137687, CNNA-PROD0137688-89, Tab 5 CNNA-PROD0138237, Tab 8 CNNA-PROD0138906, Tab 9 CNNA-PROD0139254, CNNA-PROD0139258, Tab 10 CNNA-PROD0139370, CNNA-PROD0139372, Tab 11 CNNA-PROD0155420, Tab 12 CNNA-PROD0139647-48, Tab 13 CNNA-PROD0139737).
936. To the finding that the quality control function of the media coordinators was the same as the QC function under team (D.122, 12-13), as such finding is contrary to the evidence in the Record as a whole. (Tr.12041, L.2-19; Tr.11937, L.13 – Tr.11938, L.2; Tr.12224, L.21 - Tr.12228, L.8).
937. To the finding that metadata includes “includes the slug (somewhat like naming a computer file), running time (trt), source of the footage, whose attention the footage was directed and sometimes an in and out cue for a sound byte” (D.122, L.15-17), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.10332, L.1 – Tr.10336, L.11; Tr.10563, L.15 – Tr.10566, L.18; Tr.12119, L.1 – Tr.12128, L.14; CNNA Ex. 417).
938. To the finding that metadata is “very similar” to the information “recorded on the label of tapes by TVS studio personnel in 2003” (D.122, L.17-18), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.10332, L.1 – Tr.10336, L.11; Tr.10563, L.15 – Tr.10566, L.18; Tr.12119, L.1 – Tr.12128, L.14; CNNA Ex. 417).

939. To the finding that “CNN’s job description of the media coordinator position includes many tasks that some, many or most of the media coordinators generally did not perform”, including editing, tape producing and deciding what footage went to air (D.122, L.21-23), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.10327, L.16 – Tr.10346, L.2; Tr.12113, L.5 – Tr.12118, L.15; Tr.12037, L.5-22; Tr.8446, L.8 – Tr.8451, L.10; Tr.12119, L.1 – Tr.12138, L.2; Tr.12173, L.20 – Tr.12175, L.12; Tr.10536, L.12 – Tr.10537, L.2; Tr.10537, L.10 – Tr.10538, L.19; Tr.10541, L.9 – Tr.10543, L.4; Tr.10545, L.16 – Tr.10546, L.20; Tr.10547 L.4 – Tr.10548, L.9; Tr.10555, L.17 – Tr.10556, L.8; Tr.10566, L.21 – Tr.10573, L.4; Tr.10557, L.6-13; Tr.10825, L.21 – Tr.10828, L.24; CNNA Exs. 355-57, 422; GC Ex. 514).
940. To the finding that media coordinators “deleted stale material from the server,” which was “usually done pursuant to strict guidelines from CNN management personnel” (D.122, L.23-25), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.10341, L.16 – Tr.10343, L.24; Tr.12130, L.4 – Tr.12132, L.3; Tr.10572, L.13 – Tr.10573, L.4; Tr.10812, L.14 – Tr.10814, L.1; CNNA Ex. 422, Tab 1 CNNA-PROD0136766, Tab 9 CNNA-PROD0139254, CNNA-PROD0139258, Tab 10 CNNA-PROD0139370, 74).
941. To the finding, based on Stacy Leitner’s testimony, that Team studio employees did not rotate through various assignments except for tape operators (D.122, L.29-35), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.10264, L.2-23; 10524, L.19 – Tr.10525, L.15; Tr.948, L.7-9; Tr.12873, L.18 – Tr.12875, L.1; Tr.4909, L.5 – Tr.4910, L.13; Tr.5389, L.6 – Tr.5391, L.13; Tr.11782, L.7 – Tr.11784, L.16; Tr.11814, L.13 – Tr.11815, L.23; T.11827, L.7 – Tr.11828, L.1; Tr.11855, L.2-5; Tr.4908, L.9-20; CNNA Ex. 402).

942. To the finding that CNN managers' testimony was "self-serving" and not credible, unless corroborated (D.123, L.9-11), as such finding is unsubstantiated by the evidence in the Record as a whole and is contrary to the law.
943. To the finding that employee statements regarding their duties contained in CNN performance reviews are accorded with "little weight" because "in many cases the declarants were not subject to cross-examination" (D.123, L.46-49), as such finding is contrary to the law.
944. To the finding that "[t]here is no credible evidence that the tasks of employees working as technical director or a floor director changed significantly after the Team contracts ended in New York or Washington" (D.123, L.25-27), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.11903, L.14 – Tr.11904, L.25; Tr.11869, L.1 – Tr.11876, L.23; Tr.11832, L.6 – Tr.11836, L.11; Tr.14641, L.24 – Tr.14642, L.8; CNNA Exs. 408-09; GC Ex. 586, Tab 5).
945. To the finding that with regard to studio operations, CNN "renamed many positions" and the work performed within studio operations "is essentially the same work that was performed by the technicians in 2003" (D.123, L.30-36), as such finding is contrary to the substantive evidence in the Record. (*See, e.g.*, Tr.14860, L.14 – Tr.14861, L.1; Tr.10264, L.2 – Tr.10266, L.1; Tr.10587, L.10-23; Tr.12873, L.18-Tr.12875, L.1; Tr.8449, L.14 – Tr.8451, L.10; Tr.10327, L.19 - Tr.10343, L.24; Tr.12871, L.17 – Tr.12872, L.12; Tr.10558, L.18 - Tr.10560, L.25; Tr.11936, L.25 – Tr.11938, L.17; Tr.10771, L.3-22; Tr.11847, L.4 - Tr.11848, L.17; Tr.10413, L.8 – Tr.10417, L.11; Tr.824, L.4-15; Tr.11911, L.16 – Tr.11913, L.25; Tr.11903, L.14 – Tr.11904, L.25; Tr.11869, L.1 – Tr.11876, L.23; Tr.11832, L.6 – Tr.11836, L.11; Tr.10415, L.11 – Tr.10417, L.11; T.11827, L.7 – Tr.11828, L.1; CNNA Exs. 211, 214-

18, 221, 407 CNNA-PROD0135822, CNNA-PROD0135825, 408 CNNA-PROD0071653, 409 CNNA-PROD0075695, 410 CNNA-PROD0134239, 413; GC Ex. 586 Tab 5).

946. To the finding that “[t]echnical directors hired by CNN performed essentially the same tasks as technical directors working for Team” (D.123, L.42-43), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.11903, L.14 – Tr.11904, L.20; Tr.11869, L.1 – Tr.11876, L.23; Tr.11832, L.6 – Tr.11836, L.11; CNNA Exs. 408-09; GC Ex. 586, Tab 5).

947. To the finding that “[s]tudio personnel for CNN performed tasks that were essentially the same as tasks as performed for Team” (D.124, L.9-12), as such finding is contrary to the substantial evidence in the Record as a whole. (*See, e.g.*, Exception 945).

948. To the finding that after terminating the Team contract, “CNN generally assigned studio personnel to specific tasks on a permanent basis or semi-permanent, i.e., camera operator or QC operator” (D.124, L.8-9), as such finding is contrary to the substantial evidence in the Record. (Tr.11827, L.7 – Tr.11829, L.2; Tr.10264, L.2 – Tr.10266, L.22; Tr.12873, L.18 – Tr.12875, L.1; Tr.10415, L.25 – Tr.10417, L.2; GC Exs. 514, 586, Tab 5).

949. To the conclusion of law that CNN employees’ failure to perform all of the tasks they performed for Team has “no bearing” on “CNN’s status as a successor employer” (D.124, L.9-12), as such conclusion of law is contrary to the law.

950. To the finding that “the CNN position of audio designer is the same job as that of a Team Video audio technician or ‘A-1,’” that the jobs serve the same function, that “the nature of their job did not change; they merely performed it with much more sophisticated equipment” (D.124, 25-29), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.11857, L.9 – Tr.11859, L.21; Tr.11861, L.12 – Tr.11862, L.17; Tr.11866, L.2 – Tr.11868, L.19; Tr.11911, L.16 – Tr.11914, L.12; Tr.10413, L.8 – Tr.10417,

L.11; Tr.10434, L.9 – Tr.10437, L.18; Tr.10439, L.14 – Tr.10441, L.4; Tr.824, L.4-15; Tr.13863, L.22 – Tr.13868, L.18; Tr.2566, L.3 – Tr.2568, L.9; CNNA Exs. 407; GC Ex. 586 Tab 5).

951. To the finding that Audio Designers' responsibilities requires each employee to "sit in a control room, monitor audio levels and play music from a computer server on cue from the director" (D.124, L.36-37), as such finding is contrary to the substantial evidence in the Record as a whole. (*See* Exception 950).
952. To the finding that Audio Designers' tasks are "essentially the same tasks TVS employees performed" (D.124, L.36-38), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.11862, L.1-17; CNNA Exs. 407 CNNA-PROD0135822, CNNA-PROD0135825, 410 CNNA-PROD0134239).
953. To the finding that "CNN hired former TVS studio personnel to do the same jobs on the day following the end of the TVS contract in Washington that TVS unit members performed the previous day" (D.124, L.44-49), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.824, L.4-15; Tr.13863, L.22 – Tr.13868, L.18; Tr.13968, L.15 – Tr.13969, L.12; Tr.14031, L.6 – Tr.14039, L.23; Tr.14043, L.15 – Tr.14053, L.3; Tr.2566, L.3 – Tr.2568, L.9; Tr.14627, L.15 – Tr.14632, L.25; Tr.14649, L.3-15; TR.14653, L.2 – Tr.14658, L.2; Tr.14666, L.9 – Tr.14667, L.21; CNNA Ex. 603-07, 631).
954. To the finding that "[t]he job of the audio designer in Washington during the year 2004 hardly changed at all from the audio tasks performed by studio technicians under Team" and that the "tasks performed by the studio operators also changed very little, if at all," once Team left (D.125, L.23-27), as such finding is contrary to the substantial evidence in the Record as a whole. (*See e.g.*, Tr.824, L.4-15; Tr.13863, L.22 – Tr.13868, L.18; Tr.13968, L.15 – Tr.13969, L.12; Tr.14031, L.6 – Tr.14039, L.23; Tr.14043, L.15 – Tr.14053, L.3; Tr.2566,

L.3 – Tr.2568, L.9; Tr.14627, L.15 – Tr.14632, L.25; Tr.14649, L.3-15; TR.14653, L.2 – Tr.14658, L.2; Tr.14666, L.9 – Tr.14667, L.21; Tr.14860, L.14 – Tr.14861, L.1; Tr.10264, L.2 – Tr.10266, L.1; Tr.10587, L.10-23; Tr.12873, L.18-Tr.12875, L.1; Tr.8449, L.14 – Tr.8451, L.10; Tr.10327, L.19 - Tr.10343, L.24; Tr.12871, L.17 – Tr.12872, L.12; Tr.10558, L.18 - Tr.10560, L.25; Tr.11936, L.25 – Tr.11938, L.17; Tr.10771, L.3-22; Tr.11847, L.4 - Tr.11848, L.17; Tr.10413, L.8 – Tr.10417, L.11; Tr.824, L.4-15; Tr.11911, L.16 – Tr.11913, L.25; Tr.11903, L.14 – Tr.11904, L.25; Tr.11869, L.1 – Tr.11876, L.23; Tr.11832, L.6 – Tr.11836, L.11; Tr.10415, L.11 – Tr.10417, L.11; T.11827, L.7 – Tr.11828, L.1; CNNA Exs. 211, 214-18, 221, 407 CNNA-PROD0135822, CNNA-PROD0135825, 408 CNNA-PROD0071653, 409 CNNA-PROD0075695, 410 CNNA-PROD0134239, 413, 603-07, 631; GC Ex. 586 Tab 5).

955. To the finding that the “tasks performed by the studio operators also changed very little, if at all” (D.125, L.27-29), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.14860, L.14 – Tr.14861, L.1; Tr.10264, L.2 – Tr.10266, L.1; Tr.11837, L.17 – Tr.11841, L.6; Tr.11915, L.17 – Tr.11916, L.10; Tr.10587, L.10-23; Tr.12873, L.18-Tr.12875, L.1; Tr.8449, L.14 – Tr.8451, L.10; Tr.10327, L.19 - Tr.10343, L.24; Tr.12871, L.17 – Tr.12872, L.12; Tr.10558, L.18 - Tr.10560, L.25; Tr.11936, L.25 – Tr.11938, L.17; Tr.10771, L.3-22; Tr.11847, L.4 - Tr.11848, L.17; Tr.10413, L.8 – Tr.10417, L.11; Tr.824, L.4-15; Tr.11911, L.16 – Tr.11913, L.25; Tr.11903, L.14 – Tr.11904, L.25; Tr.11869, L.1 – Tr.11876, L.23; Tr.11832, L.6 – Tr.11836, L.11; Tr.10415, L.11 – Tr.10417, L.11; T.11827, L.7 – Tr.11828, L.1; CNNA Exs. 211, 214-18, 221, 407 CNNA-PROD0135822, CNNA-PROD0135825, 408 CNNA-PROD0071653, 409 CNNA-PROD0075695, 410 CNNA-PROD0134239, 413; GC Ex. 586 Tab 5).

956. To the finding that the jobs of CNN studio personnel have not materially changed from Team jobs due to their editorial involvement in CNN's shows, and that there was not material change during the first year after the Team contract (D.125, L.31-39), as such finding is contrary to the substantial evidence in the Record as a whole. (*See e.g.*, Tr.10558, L.18 - Tr.10560, L.25; Tr.12228, L.20 - Tr.12233, L.4; Tr.8449, L.14 - Tr.8451, L.10; Tr.824, L.4-15; CNNA Exs. 407 CNNA-PROD0135822, CNNA-PROD0135825, 408 CNNA-PROD0071653, 409 CNNA-PROD0075695, 410 CNNA-PROD0134239, 413, 422 Tab 1 CNNA-PROD0136766, Tab 3 CNNA-PROD0137292, CNNA-PROD0137285-86, Tab 5 CNNA-PROD0138248, CNNA-PROD0138237, CNNA-PROD0138274, Tab 8 CNNA-PROD0138905-06, CNNA-PROD0138900, Tab 9 CNNA-PROD0139254-55, Tab 10 CNNA-PROD0139370, Tab 11 CNNA-PROD0155420, Tab 13 CNNA-PROD0139737, CNNA-PROD0139787; GC Ex. 586 Tab 5).
957. To the finding that studio personnel are not editorially involved (D.125, L.31-33), as such finding is unsupported by the evidence in the Record as a whole.
958. To the finding that the editorial component of the photojournalist job relates exclusively to pitching stories and editing (D.125, L.45-46), as such finding is contrary to the substantial evidence in the Record as a whole. (*See e.g.*, Tr.15611, L.23 - Tr.15612, L.12; Tr.11344, L.4-25; Tr.15438, L.10 - Tr.15444, L.12; Tr.15779, L.17-25; Tr.13582, L.25 - Tr.13583, L.23; Tr.13584, L.11 - Tr.13585, L.10; Tr.11371, L.20 - Tr.11372, L.20; Tr.11376, L.13-25; Tr.9635, L.8 - Tr.9636, L.23; Tr.9645, L.15 - Tr.9646, L.21; Tr.11421, L.3-19; Tr.11668, L.8-24; Tr.13591, L.22 - Tr.13593, L.7; CNNA Exs. 380, 701-02; GC Ex. 227).
959. To the finding that Team crews in Washington worked as "one-man bands" on one-third of their assignments (D.125, L.49 - D.126, L.1), as such finding is contrary to the substantial

evidence in the Record as a whole. (Tr.4577, L.16-20; Tr.6262, L.9-11; Tr.6810, L.20-25; Tr.6977, L.19-22; Tr.7036, L.7-12; Tr.11179, L.10-13; Tr.13801, L.7-16).

960. To the finding that “[i]mmediately after the end of the Team contracts, the CNN photojournalists did the same work that TVS camera and audio technicians performed with the essentially the same equipment” (D.126, L.7-9), as such finding is contrary to the substantial evidence in the Record as a whole. (*See e.g.*, Tr.13552, L.22-25; Tr.15994, L.15 – Tr.16013, L.7; Tr.15775, L.23 – Tr.15776, L.16; Tr.2348, L.15 – Tr.2349, L.1; Tr.6285, L.20 – Tr.6286, L.11; Tr.6289, L.5-17; Tr.6290, L.10-17; Tr.14563, L.7 – Tr.14564, L.19; Tr.11577, L.24 – Tr.11578, L.24; CNNA Exs. 377, 701; GC Ex.227).
961. To the conclusion that the day after the Team contract was terminated is the date used to determine whether CNN is a successor (D.126, L.9-10), as such conclusion is contrary to the law.
962. To the finding that “many, if not most or all, the CNN photojournalists did little or no editing through mid-2004” (D.126, L.14-15), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.11639, L.16 – Tr.11642, L.7; Tr.15691, L.9-21; Tr.15693, L.10-25; Tr.15465, L.11 – Tr.15466, L.18; Tr.15994, L.15 – Tr.16013, L.7; Tr.15496, L.5 – Tr.15497, L.17; Tr.15603, L.6-19; Tr.11372, L.12-20; Tr.11376, L.13-25; CNNA Exs. 380, 667, 669, 701-02; GC Ex.227).
963. To the inference that CNN is “outsourcing...the work formerly done by bargaining unit employees” based on testimony from Daniel Meara, CNN’s Photojournalist Manager, (D.126, L.22-41), as such inference is contrary to the law and is contrary to the substantial evidence in the Record as a whole. (Tr.5909, L.8 – Tr.5911, L.2; Tr.11581, L.2-18; Tr.9617, L.5 – Tr.9620, L.18; Tr.14066, L.3-17; Tr.6293, L.9 – Tr.6294, L.1; Tr.9576, L.5-15; Tr.11577, L.24 – Tr.11578, L.24).

964. To the finding that CNN photojournalists tasks are “materially unchanged” from TVS camera operators’ tasks (D., 127, L.20-22), as such finding is contrary to the substantial evidence in the Record as a whole. (*See e.g.*, Tr.15994, L.22 – Tr.16037, L.23; Tr.9636, L.21-23; Tr.9813, L.22 – Tr.9814, L.9; Tr.15603, L.6-19; Tr.11372, L.12-20; Tr.13803, L.18 – Tr.13804, L.5; Tr.15611, L.23 – Tr.15612, L.12; Tr.11344, L.4-25; Tr.15438, L.10 – Tr.15444, L.12; Tr.15779, L.17-25; Tr.13582, L.25 – Tr.13583, L.23; Tr.13584, L.11 – Tr.13585, L.10; Tr.11371, L.20 – Tr.11372, L.20; Tr.11376, L.13-25; Tr.9635, L.8 – Tr.9636, L.23; Tr.9645, L.15 – Tr.9646, L.21; Tr.11421, L.3-19; Tr.11668, L.8-24; Tr.13591, L.22 – Tr.13596, L.14; CNNA Exs. 377, 380, 569, 701-02; GC Ex. 227).
965. To the finding that photojournalists must do as they are “told by CNN reporters and producers” regarding how to photograph or record a scene (D.127, L.22-23), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.15994, L.22 – Tr.16041, L.13; Tr.11376, L.13-25; Tr.11371, L.20 – Tr.11372, L.20; Tr.13582, L.25 – Tr.13585, L.10; Tr.15736, L.11 – Tr.15738, L.14; Tr.15710, L.16 – Tr.15712, L.4; Tr.13594, L.8 – Tr.13595, L.24; Tr.11377, L.18 – Tr.11380, L.16; CNNA Exs. 377, 380, 701-02; GC Ex. 227).
966. To the finding that it was rare for photojournalists to “pitch” stories, and that “[t]here is no evidence that [pitching stories] was a material part of their duties in early 2004” (D.127, L.23-25, 27-28), as such finding is contrary to the substantial evidence in the Record as a whole. (*See e.g.*, Tr.15994, L.22 – Tr.15997, L.2; Tr.15603, L.6-19; Tr.11372, L.12-20; Tr.11376, L.13-25; Tr.13550, L.10-21; Tr.13582, L.25 – Tr.13587, L.22; Tr.13591, L.22 – Tr.13596, L.14; Tr.13629, L.16-19; Tr.13602, L.16-22; CNNA Exs. 380, 569-70; 701-02; GC Ex. 227).
967. To the finding that David Jenkins “performs his job in essentially the same manner as he performed it for Team” (D.127, L.36-40), as such finding is contrary to the substantial

evidence in the Record as a whole. (Tr.4799, L.14 – Tr.4801, L.10; Tr.4778, L.8 – Tr.4779, L.10).

968. To the finding that Doug Schantz' testimony concerning editing in the field and utilizing DNG techniques supports a finding that in 2004, "CNN photojournalists did little that was different from what Team camera operators had done the year before" (D.128, L.11-19), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.15691, L.1 – Tr.15701, L.22; Tr.15703, L.18 – Tr.15704, L.3; Tr.15734, L.19 – Tr.15737, L.6; Tr.15739, L.3-17; Tr.15723, L.22 – Tr.15724, L.1; CNNA Exs. 669-72).
969. To the finding that Doug Schantz "made it clear that when he works with a reporter, the reporter has the final say as to what goes into a package," that "[h]e confers with the reporter before he begins editing and makes whatever changes to the package the reporter wants," and that "[h]e confers with reporters and producers before asking any questions in an interview" (D.128, L.29-32), as such finding is contrary to Doug Schantz' testimony. (Tr.15736, L.11 – Tr.15738, L.14; Tr.15684, L.15-25; Tr.15687, L.16 – Tr.15688, L.6; Tr.15695, L.16 – Tr.15697, L.18; Tr.15710, L.16 – Tr.15712, L.4; Tr.15715, L.14 – Tr.15716, L.7; CNNA Ex. 670).
970. To the finding that Bethany Chamberland Swain has "occupied a management or quasi-management position for the past three years" (D.129, L.4-12), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.16092, L.8-20; Tr.16033, L.13 – Tr.16035, L.14; Tr.15994, L.15-21; Tr.11371, L.20 – Tr.11372, L.20; Tr.13572, L.14 – Tr.13573, L.15; CNNA Exs. 701-704).
971. To the finding that Bethany Chamberland Swain was "a director/editor at Newsource before being hired at CNN; she was not primarily a photographer" (D.129, L.9-10), as such finding

is contrary to the Bethany Chamberland Swain's testimony and evidence in the Record as a whole. (Tr.15992, L.20 – Tr.15993, L.18; CNNA Ex. 705).

972. To the finding that Bethany Chamberland Swain acted as a producer during her trip to Afghanistan in October 2006, and in 2007, while covering the Anna Nicole Smith Story in Florida (D.129, L.12-15), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.11371, L.20 – Tr.11372, L.20; Tr.16092, L.8-20; Tr.16022, L.18 – Tr.16024, L.6; Tr.16033, L.13 – Tr.16035, L.14).
973. To the finding that “Abdallah’s 2007 TPMP indicates that [Bethany Chamberland] Swain was spending a significant amount of time working as an assignment editor” (D.129, L.50-51), as such finding is contrary to the evidence in the Record as a whole. (Tr.16092, L.8-20; Tr.16033, L.13 – Tr.16035, L.14; Tr.15994, L.15-21; Tr.11371, L.20 – Tr.11372, L.20; Tr.13572, L.14 – Tr.13573, L.15; CNNA Exs. 676 CNNA-PROD0156007, 701-04).
974. To the finding that Bethany Chamberland Swain’s “writing, producing, editing and ‘pitching’ was done in addition to her regularly assigned tasks” (D.129, L.32-39), as such finding is unsubstantiated by the evidence in the Record as a whole.
975. To the finding that “other rank and file employees called as witnesses by CNN testified to only a few examples of pitching stories” (D.129, L.35-36), as such finding is contrary to the substantial evidence in the Record as a whole. (*See e.g.*, Tr.15994, L.22 – Tr.15997, L.2; Tr.15603, L.6-19; Tr.11372, L.12-20; Tr.11376, L.13-20; Tr.13550, L.10-21; Tr.13582, L.25 – Tr.13587, L.22; Tr.13591, L.22 – Tr.13596, L.14; Tr.13629, L.16-19; Tr.13602, L.16-22; Tr.7300, L.10 – Tr.7301, L.14; Tr.4589, L.14-17; Tr.9702, L.3-9; Tr.9777, L.3-10; Tr.11609, L.24 – Tr.11610, L.7; Tr.11739, L.2-11; Tr.13801, L.21 – Tr.13802, L.10; Tr.14431, L.3-10; Tr.15710, L.16 – Tr.15712, L.4; CNNA Exs. 380, 569-70; 701-02; GC Ex. 227).

976. To the finding that Bethany Chamberland Swain “testified to only two occasions when she saw another photojournalist working on their own story for the weekend editor” (D.129, 36-37), as such finding is contrary to Bethany Chamberland Swain’s testimony and is irrelevant to the underlying issues. (Tr.16067, L.4 – Tr.16069, L.24).
977. To the finding that “[t]here is no credible evidence that when Swain performed the normal work of a photojournalist that she did anything substantially different than Team camera technicians did for at least 95% of her working hours”(D.130, L.2-4), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.9636, L.21-23; Tr.9813, L.22 – Tr.9814, L.9; Tr.11371, L.20 – Tr.11372, L.20; Tr.11376, L.13-20; Tr.11639, L.16 – Tr.11642, L.7; Tr.13550, L.10-21; Tr.13582, L.25 – Tr.13587, L.22; Tr.13591, L.22 – Tr.13596, L.14; Tr.13602, L.16-22; Tr.13629, L.16-19; Tr.13803, L.18 – Tr.13804, L.5; Tr.15465, L.11 – Tr.15466, L.18; Tr.15603, L.6-19; Tr.15691, L.1 – Tr.15701, L.22; Tr.15703, L.18 – Tr.15704, L.3; Tr.15723, L.22 – Tr.15724, L.1; Tr.15734, L.19 – Tr.15737, L.6; Tr.15739, L.3-17; Tr.15994, L.22 – Tr.16047, L.21; CNNA Exs. 380, 569-70, 669-72, 701-04; GC Ex. 227)
978. To the finding that “it is unclear how much of the time in the last couple of years Swain has worked as a photojournalist” (D.130, L.4-5), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.9636, L.21-23; Tr.9813, L.22 – Tr.9814, L.9; Tr.11371, L.20 – Tr.11372, L.20; Tr.11376, L.13-20; Tr.11639, L.16 – Tr.11642, L.7; Tr.13550, L.10-21; Tr.13582, L.25 – Tr.13587, L.22; Tr.13591, L.22 – Tr.13596, L.14; Tr.13602, L.16-22; Tr.13629, L.16-19; Tr.13803, L.18 – Tr.13804, L.5; Tr.15465, L.11 – Tr.15466, L.18; Tr.15603, L.6-19; Tr.15691, L.1 – Tr.15701, L.22; Tr.15703, L.18 – Tr.15704, L.3; Tr.15723, L.22 – Tr.15724, L.1; Tr.15734, L.19 – Tr.15737, L.6; Tr.15739, L.3-17; Tr.15994, L.22 – Tr.16047, L.21; CNNA Exs. 380, 569-70, 669-72, 701-04; GC Ex. 227)

979. To the finding that “Swain has done a lot of work that is not part of the job for which she was hired” (D.130, L.5-6), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.9636, L.21-23; Tr.9813, L.22 – Tr.9814, L.9; Tr.11371, L.20 – Tr.11372, L.20; Tr.11376, L.13-20; Tr.11639, L.16 – Tr.11642, L.7; Tr.13550, L.10-21; Tr.13582, L.25 – Tr.13587, L.22; Tr.13591, L.22 – Tr.13596, L.14; Tr.13602, L.16-22; Tr.13629, L.16-19; Tr.13803, L.18 – Tr.13804, L.5; Tr.15465, L.11 – Tr.15466, L.18; Tr.15603, L.6-19; Tr.15691, L.1 – Tr.15701, L.22; Tr.15703, L.18 – Tr.15704, L.3; Tr.15723, L.22 – Tr.15724, L.1; Tr.15734, L.19 – Tr.15737, L.6; Tr.15739, L.3-17; Tr.15994, L.22 – Tr.16047, L.21; CNNA Exs. 380, 569-70, 669-72, 701-04; GC Ex. 227)
980. To the finding that Craig Fingar has done a lot of work that is not part of the job for which he was hired (D.130, L.5-6), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.2029, L.20-Tr.2030, L.18; Tr.2576, L.15-Tr.2577, L.5; Tr.2614, L.9-15; Tr.16224, L.16-Tr.16226, L.2; Tr.16228, L.10-Tr.16229, L.22; Tr.16254, L.8-Tr.16255, L.9).
981. To the finding that Khalil Abdallah’s “testimony shows how rare it was for photojournalists to use DNG techniques (laptop editing, FTP, satellite transmission with a BGAN) throughout 2004 and even later” (D.130, L.13-15), as such finding is contrary to the substantial evidence in the Record as a whole. (*See e.g.*, Tr.15776, L.10-16; Tr.15780, L.13 – Tr.15829, L.3; Tr.15994, L.22 – Tr.15997, L.2; Tr.15603, L.6-19; Tr.11372, L.12-20; Tr.11376, L.13-20; Tr.13550, L.10-21; Tr.13582, L.25 – Tr.13587, L.22; Tr.13591, L.22 – Tr.13596, L.14; Tr.13629, L.16-19; Tr.13602, L.16-22; Tr.7300, L.10 – Tr.7301, L.14; Tr.4589, L.14-17; Tr.9702, L.3-9; Tr.9777, L.3-10; Tr.11609, L.24 – Tr.11610, L.7; Tr.11739, L.2-11; Tr.13801, L.21 – Tr.13802, L.10; Tr.14431, L.3-10; Tr.15710, L.16 – Tr.15712, L.4; CNNA Exs 380, 569-70; 674-76, 701-02; GC Ex. 227).

982. To the finding that “CNN counsel led Khalil Abdallah to testify that he edited a story for Andrea Koppel on a G4 laptop at the D.C. Bureau, not in the field in 2004” (D.130, L.24-25), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.15775, L.23 – Tr.15777, L.25; Tr.15792, L.18 – Tr.15794, L.4; CNNA Ex. 674).
983. To the finding that Khalil Abdallah’s testimony about editing a story for Andrea Koppel on a G4 laptop at the D.C. Bureau in 2004 “could not have been shot early in 2004” because “Abdallah did not start working with [Martin] Dougherty until mid 2004 at the earliest” and that CNNA Ex. 674 indicates that the story occurred after April 11, 2005 (D.130, L.47-49), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.15775, L.23 – Tr.15777, L.25; Tr.15792, L.18 – Tr.15794, L.4; CNNA Ex. 674).
984. To the finding that Abdallah’s testimony “indicates only a few occasions in 2004, 2005 and 2006, when he used any DNG techniques and only a handful of occasions when he edited in the field using laptop editing” (D.130, L.28-31), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.15776, L.10-16; Tr.15780, L.13 – Tr.15829, L.3; CNNA Exs. 656, 674-76).
985. To the finding that Abdallah’s comment in his 2006 TPMP stated that he “was able to edit a few PKG’s [packages] this year” gives no indication of any “editorial involvement’ on the part of Abdallah” (D.130, L.33-36), as such finding is contrary to the evidence in the Record. (Tr.15810, L.24 – Tr.15812, L.23; CNNA Ex. 675).
986. To the finding that “there is evidence that CNN decided to hire [Team’s White House crews] before the BSP interviews got underway” (D.130, L.42-43), as such finding is contrary to the evidence in the Record as a whole. (Tr.13777, L.17-Tr.13778, L.10; GC Ex. 261).
987. To the finding that the “work for the White House crews did not change at all when the Team Contract ended” and that they “did not do any laptop computer editing . . . nor did

they pitch many, if any, stories” (D.130, 43-45). (Tr.15465, L.11 – Tr.15466, L.18; Tr.15687, L.16 – Tr.15690, L.14; 15691, L.1 – Tr.15701, L.22; Tr.15703, L.18 – Tr.15704, L.3; Tr.15734, L.19 – Tr.15737, L.6; Tr.15739, L.3-17; Tr.15723, L.22 – Tr.15724, L.1; Tr.4746, L.18 – Tr.4747, L.10; CNNA Exs. 669-72).

988. To the finding that Richard Shine’s work did not change at all when the Team contract ended (D. 130, L.43-45, D.131, L.6-12) as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.9617, L.5-16; Tr.9619, L.16-18; Tr.9620, L.7-15; Tr.9623, L.15-23; Tr. 9629, L.8-15; Tr.9635, L.8-Tr.9636, L.20; Tr.9637, L.19-Tr.9638, L.5; Tr.9639, L.14-Tr.9640, L.17; Tr.9645, L.5-20, Tr.9645, L.21-Tr.9646, L.4; Tr.9646, 11-21; Tr.9648, L.7-19; Tr.9653, L.20-Tr.9654, L.22; Tr.9655, L.4-6; CNNA Ex.299; CNNA Ex.300; CNNA Ex.301).

989. To the finding that Steve Machalek’s work did not change at all when the Team contract ended (D.131, L.16-24) as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.9727, L.4-Tr.9728, L.14; Tr.9730, L.7-Tr.9731, L.7; Tr.9738, L.22-Tr.9741, L.20; Tr.9742, L.18-Tr.9744, L.9; Tr.9747, L.3-Tr.9748, L.6; CNNA Exs. 307, 309-311).

990. To the finding that Thomas Miuccio’s work did not change at all when the Team contract ended (D.131, L.28-36) as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.9776, L.5-21; Tr.9777, L.3-10; Tr.9779, L.14-20; Tr.9784, L.5-22, Tr.9798, L.19-Tr.9799, L.16; Tr.9809, L.11-Tr.9812, L.10; Tr.9813, L.22-Tr.9814, L.11; Confidential Session (1-7) Tr.4, L.15-Tr.5, L.2; Tr.9816, L.10-20; Tr.9817, L.2-6; Tr.9817, L.16-Tr.9818, L.3; CNNA Ex. 317-320).

991. To the finding that Daniel Meara’s work did not change at all when the Team contract ended (D.131, L.38-D.132, L.21) as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.11544, L.2-Tr.11547, L.5; Tr.11564, L.1-Tr.11565, L.7; Tr.11565,

L.18-Tr.11566, L.8; Tr.11568, L.12-18; Tr.11569, L.9-Tr.11570, L.11; Tr.11572, L.18-25; Tr.11576, L.5-7; Tr.11576, L.25-Tr.11577, L.12; Tr.11577, L.24-Tr.11579, L.6; Tr.11579, L.22-Tr.11580, L.9; Tr.11580, L.15-Tr.11581, L.18; Tr.11582, L.2-Tr.11588, L.24; Tr.11591, L.21-Tr.11594, L.4; CNNA Ex. 389-390).

992. To the finding that Daniel Meara's "testimony also establishes that the job of CNN photojournalist is not materially different from that of a Team field technician" (D.131, L.40-42), as such finding is contrary to the substantial evidence in the Record as a whole.

993. To the finding that "[w]hile it's not clear which of the New York photojournalists' work is typical; [sic] it's clearly not Hallsworth" (D.132, L.38-39) as such finding is as such finding is contrary to the substantial evidence in the Record in a whole. (GC Ex.227, 228; CNNA Ex. 380-1, 390, 393, 470, 542, 689; GC Ex.543; Tr.11344, L.4-25; Tr.11376, L.13-Tr.11377, L.6; Tr.9206, L.10-Tr.9207, L.16; Tr.14870, L.2-9, 25-Tr.14871, L.19; Tr.15611, L.23-Tr.15612, L.12; Tr.15779, L.17-Tr.15782, L.14; Tr.13582, L.25-Tr.13584, L.5; Tr.13585, L.22-Tr.13587, L.22; Tr.11544, L.2-9; Tr.11545, L.10-Tr.11547, L.5; Tr.11564, L.1-Tr.11565, L.7; Tr.11565, L.18-Tr.11566, L.8; Tr.11568, L.12-18; Tr.11569, L.9-Tr.11570, L.11; Tr.11572, L.18-25; Tr.11576, L.5-7; Tr.11576, L.25-Tr.11577, L.12; Tr.11577, L.24-Tr.1157, L.6; Tr.11579, L.22-Tr.11580, L.9; Tr.11580, L.15-Tr.11581, L.18; Tr.11582, L.2-Tr.11588, L.24; Tr.11591, L.21-Tr.11594, L.4).

994. To the reliance on GC Ex. 483 (D.132, L.15-19) as its admission into evidence is contrary to the law. (Tr.9989, L.8-Tr.9992, L.4).

995. To the finding that Desmond Garrison doing very little camera work while working for Team and doing less than other audio technicians demonstrates that CNN did not have to hire new people to perform the tasks of a photojournalist (D.133, L.4-8) as such finding is contrary to the substantial evidence in the Record in a whole. (CNNA Ex. 398-401;

Tr.11706, L.14-Tr.11708, L.13; Tr.11713, L.9-Tr.11714, L.17; Tr.11718, L.20-Tr.11719, L.19).

996. To the finding that the fact that Desmond Garrison has become an “excellent photojournalist” demonstrates that CNN did not have to hire new people to perform the tasks of a photojournalist (D.133, L.5-8) as such finding is contrary to the substantial evidence in the Record in a whole. (CNNA Ex. 398-401; Tr.11706, L.14-Tr.11708, L.13; Tr.11713, L.9-Tr.11714, L.17; Tr.11718, L.20-Tr.11719, L.19).
997. To the finding that the engineers also do essentially the same work that TVS engineers performed (D.133, L.20) as such finding is contrary to the substantial evidence in the Record in a whole. (Tr.13214, L.7-Tr.13219, L.3; Tr.12682, L.18-Tr.12684, L.11; Tr.12692, L.20-Tr.12693, L.24; Tr.7920, L.15-Tr.7921, L.17; Tr.1825, L.1-17; Tr.1889, L.15-19; Tr.2352, L.15-Tr.2353, L.20; Tr.2359, L.22-Tr.2360, L.14; Tr.2572, L.11-Tr.2577, L.5; Tr.16262, L.21-Tr.16263, L.6; Tr.12679, L.19-Tr.12682, L.10; Tr.8175, L.9-Tr.8178, L.17; Tr.821, L.4-Tr.822, L.24; Tr.13219, L.10-24; Tr.8065, L.7-Tr.8066, L.4; Tr.7821, L.14-Tr.7824, L.13; Tr.7917, L.14-Tr.7924, L.20; Tr.7931, L.13-Tr.7933, L.5; Tr.7934, L.2-Tr.7935, L.14; CNNA Exs. 36, 528, 586, Tab 5, 689-91; GC 134).
998. To the finding that the equipment serves the same purpose and “the fact that the equipment is now digital, i.e. computer-based, does not alter the fact that the essential tasks of the engineers are the same” (D.133, L.22-25) as such finding is contrary to the substantial evidence in the Record in a whole. (Tr.13086, L.6-Tr.13087, L.7; Tr.13087, L.10-18; Tr.13087, L.20-Tr.13089, L.20; Tr.12682, L.18-Tr.12684, L.11; Tr.12692, L.20-Tr.12693, L.24; Tr.7920, L.15-Tr.7921, L.17; Tr.1825, L.1-17; Tr.1889, L.15-19; Tr.2352, L.15-Tr.2353, L.25; Tr.2359, L.22-Tr.2360, L.14; Tr.2572, L.11-Tr.2577, L.5; Tr.16262, L.21-Tr.16263, L.11; Tr.12679, L.3-15; Tr.12679, L.19-Tr.12682, L.10; Tr.8175, L.9-Tr.8178, L.10; Tr.821,

L.4-Tr.822, L.24; Tr.13214, L.7-Tr.13219, L.3, Tr.13219, L.10-24; Tr.8065, L.7-Tr.8066, L.4, Tr.7821, L.19-Tr.7824, L.13; Tr.7917, L.14-Tr.7919, L.8; Tr.7920, L.15-Tr.7924, L.20; Tr.7931, L.13-Tr.7933, L.5; Tr.7934, L.2-Tr.7935, L.14; CNNA Ex.528; CNNA Ex.36; GC Ex.586, Tab 5; CNNA Ex.689; CNNA Ex.690, CNNA Ex.691).

999. To the reliance on *Pennsylvania Transformer Tech., Inc. v. NLRB*, 254 F.3d 217 (D.C. Cir. 2001) (D.133, L.30-33) as such case is inapposite to the evidence in the Record and issues in this case as a whole.
1000. To the reliance on *Food & Commercial Workers Local 152 v. NLRB*, 768 F.2d 1463, 1470 (D.C. Cir. 1985) as such case is inapposite to the evidence in the Record and issues in this case as a whole.
1001. To the finding that the changes in job duties that took effect as a result of the BSP were insufficient to alter employee attitude toward union representation (D.133, L.42-50), as such finding is unsubstantiated by the evidence in the record and contrary to the law.
1002. To the finding that “photojournalists went out o[n] the same type of assignments they covered for Team Video” (D.133, L.46-47), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.9637, L.19-Tr.9638, L.5; Tr.9747, L.3-Tr.9748, L.6; Tr.9810, L.11-17; Tr.11591, L.21-Tr.11592, L.2; Tr.13801, L.7-16; Tr.9246, L.9-Tr.9247, L.4; Tr.9395, L.8-Tr.9396, L.13-Tr.9397, L.11; Tr.11545, L.3-9; Tr.11591, L.21-Tr.11592, L.2; Tr.13630, L.1-22; Tr.16040, L.20-Tr.16041, L.1; Tr.9810, L.11-Tr.9811, L.4; Tr.9637, L.19-Tr.9638, L.5; Tr.9747, L.22-Tr.9748, L.6; Tr.11670, L.19-Tr.11675, L.24; CNNA Ex. 269 CNNA-PROD0021168; Tr.11577, L.24-Tr.11579, L.10; Tr.6293, L.9-23; Tr.11408, L.4-25; Tr.11635, L.13-Tr.11638, L.14; Tr.11639, L.16-Tr.11640, L.11; Tr.11656, L.1-Tr.11660, L.17; Tr.11650, L.21-Tr.11651, L.5; Tr.11650, L.7-17; Tr.15452, L.1-Tr.15453, L.14; Tr.11720, L.2-

Tr.11722, L.23; Tr.15687, L.10-Tr.15688, L.19; Tr.15703, L.18-Tr.15704, L.3; Tr.11715, L.2-12; CNNA Exs. 396-97).

1003. To the finding that “the changes in the [former TVS employees’] duties and responsibilities, particularly in the six months following the end of the TVS contracts were relatively minor” (D.134, L.1-4) as such finding is unsupported by the substantial evidence in the Record as a whole.
1004. To the conclusion of law that the changes in the former Team employees’ duties and responsibilities were insufficient to defeat successorship (D.134, L.1-4) as such conclusion of law is contrary to the law.
1005. To the reliance on *Marine Spill Response Corp.*, 348 NLRB No.92 (2006), slip op. pp.6-7, (D.134, L.1-3) as such case is inapposite to the evidence in the Record and issues in this case as a whole.
1006. To the finding that Robert Cummings was constructively discharged, or was a victim of a constructive refusal to hire (D.134, L.28-44) as such finding is contrary to the law and unsupported by any evidence in the Record as a whole. (GC Ex.391, Tab D; CNNA Exs.209, 242, 244; Tr.8689, L.24-Tr.8692, L.5; Tr.8753, L.8-19; Tr.8757, L.18-Tr.8758, L.1; Tr.7795, L.14-Tr.7798, L.11).
1007. To the finding that CNN “did not tell Cummings his status either because it had no intention of offering him a job or wanted him to take the Disney job and thus reduce the number of TVS bargaining unit employees it would hire” (D.134, L.41-44) as unsubstantiated by any evidence in the Record as a whole.
1008. To the reliance on *Crystal Princeton Refining Co.*, 222 NLRB 1068, 1069 (1976) (D.134, L.32-37) as such case is inapposite to the evidence in the Record and issues in this case as a whole.

1009. To the finding that Dennis Finnegan did not spend a regular and substantial portion of his work time while working for TVS performing supervisory functions (D.134, L.19-20, L.47-48), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.10689, L.16-Tr.10690, L.4; Tr.10736, L.19-Tr.10739, L.19; Tr.10741, L.22-Tr.10743, L.14; Tr.10745, L.6-Tr.10746, L.16; Tr.10754, L.14-23, Tr.10840, L.21-25; Tr.10838, L.18-Tr.10839, L.7; Tr.10835, L.14-Tr.10836, L.5).
1010. To the finding that CNN did not establish that Dennis Finnegan and other part-time supervisors met the Section 2(11) criteria (D.134, L.48-51), as such finding is contrary to the substantial evidence in the Record as a whole and contrary to the law. (Tr.6896, L.7-Tr.6901, L.7; Tr.6954, L.3-Tr.6955, L.19; Tr.7219, L.9-7220, L.25; Tr.10689, L.16-10690, L.4, Tr.10736, L.19-Tr.10739, L.19; Tr.10741, L.22-Tr.10743, L.14; Tr.10744, L.9-Tr.10746, L.16; Tr.10754, L.14-23, Tr.10840, L.21-25; Tr.10838, L.18-Tr.10839, L.7; Tr.10835, L.14-Tr.10836, L.5; Tr.10467, L.8-10468, L.21; Tr.10520, L.13-Tr.10525, L.23; Tr.10526, L.9-Tr.10527, L.4; Tr.10530, L.10-24; Tr.10531, L.5-Tr.10533, L.15; Tr.11955, L.6-Tr.11957, L.18; 6318, L.25-Tr.6320, L.8; Tr.15390, L.1-Tr.15391, L.4; Tr.6551, L.24-Tr.6552, L.6; CNNA Ex.130-134).
1011. To the finding that Team supervisors were "hands-on utility employees" (D.134, L.23-D.135, L.18), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.10689, L.16-Tr.10690, L.4; Tr.10736, L.19-Tr.10739, L.19; Tr.10741, L.22-Tr.10743, L.14; Tr.10745, L.6-Tr.10746, L.16; Tr.10754, L.14-23; Tr.10840, L.21-25; Tr.10838, L.18-Tr.10839, L.7; Tr.10835, L.14-Tr.10836, L.5; Tr.11286, L.13-Tr.11289, L.17; Tr. 11291, L.7-Tr.11292, L.16; Tr.12293, L.20-Tr.11294, L.23; Tr.11296, L.2-Tr.11297, L.4; Tr.11297, L.18-Tr.11298, L.14, Tr.11298, L.24-Tr.11299, L.18; Tr.11803, L.25-Tr.11806, L.16; Tr.8631, L.7-

15; Tr.8720, L.7-Tr.8722, L.17; Tr.8732, L.17-Tr.8735, L.15; Tr.8735, L.23-Tr.8736, L.18; Tr.8593, L.5-Tr.8594, L.4; Tr.8594, L.16-Tr.8595, L.1).

1012. To the reliance on Dennis Finnegan's testimony regarding duties of Team supervisors (D.134, L.23-D.135, L.18), as such reliance is inconsistent with the Judge's earlier finding that Dennis Finnegan was not a Team supervisor under Section 2(11).

1013. To the finding that according to CNNA Ex. 103, a "bargaining unit supervisor was to notify TVS manager Mike Marcus when somebody called in sick, make a note of employee mistakes and call the engineering department if equipment needed repair" (D.135, L.21-24), as such finding is contrary to the evidence in the Record. (CNNA Ex. 103).

1014. To the finding that the duties of bargaining unit supervisors were "much more limited" than what is set forth in CNNA Ex. 103 (D.135, L.21-25), as such finding is contrary to the substantial evidence in the Record as a whole. (CNNA Exs. 103, 235, 557, 649; TVS Exs.12, 16-17, 29; Tr.8576, L.18-Tr.8577, L.24; Tr.8580, L.1-12; Tr.8581, L.17-20; Tr.8582, L.8-Tr.8583, L.1; Tr.8594, L.16-Tr.8595, L.1; Tr.8612, L.24-Tr.8613, L.13; Tr.8614, L.2-Tr.8616, L.21; Tr. 8708, L.22-Tr.8711, L.11; Tr.8713, L.11-Tr.8715, L.12; Tr.8716, L.2-Tr.8718, L.4; Tr.8720, L.15-18; Tr.8730, L.10-Tr.8731, L.22; Tr.8735, L.3-10; Tr.8737, L.22-25; Tr.10520, L.13-Tr.10521, L.15; Tr.10524, L.19-Tr.10525, L.23; Tr.10531, L.5-Tr.10533, L.15; Tr.11781, L.9-Tr.11787, L.18; Tr.11796, L.10-Tr.11801, L.18; Tr.11808, L.23-Tr.11809, L.3; Tr.13069, L.7-Tr.13076, L.21; Tr.13078, L.8-Tr.13079, L.7; Tr.6954, L.3-Tr.6955, L.19; Tr.7219, L.9-Tr.7221, L.1; Tr.10745, L.6-Tr.10746, L.16; Tr.11291, L.16-Tr.11292, L.16 Tr.11293, L.20-Tr.11294, L.23; Tr.11817, L.6-12, 25-Tr.11818, L.5; Tr.11798, L.8-23; Tr.10255, L.12-Tr.10257, L.2; Tr.6318, L.25-Tr.6320, L.8).

1015. To the finding that TVS supervisors made assignments with the "guidance of a manager" (D.135, L.51-Tr.136, L.37, Note 178) as such finding is contrary to the substantial evidence

in the Record as a whole. (TVS Ex.29; CNNA Ex.103; CNNA Ex.649; TVS Ex.12; Tr.8612, L.24-Tr.8613, L.13; Tr.8614, L.2-20; Tr.8582, L.8-Tr.8583, L.1; Tr. 8708, L.22-Tr.8711, L.11; Tr.8713, L.11-Tr.8715, L.9; Tr.8715, L.10-12; Tr.8716, L.2-Tr.8718, L.4; Tr.8720, L.15-18; Tr.8735, L.3-10; Tr.8737, L.22-25; Tr.10520, L.13-Tr.10521, L.15; Tr.10524, L.19-Tr.10525, L.1; Tr.10531, L.5-Tr.10533, L.15; Tr.11781, L.9-Tr.11787, L.18; Tr.11796, L.10-Tr.11801, L.18; Tr.11808, L.23-Tr.11809, L.3; Tr.13069, L.7-Tr.13076, L.21; Tr.13078, L.8-Tr.13079, L.7).

1016. To the reliance on testimony by Dennis Finnegan regarding the work of TVS supervisors (D.135, L.51-Tr.136, L.37, Note 178) as such reliance is contrary to the law.
1017. To the finding that "TVS employees were generally assigned to tasks on a permanent or semi-permanent [basis], such as camera and audio" (D.136, L.1-2), as such finding is contrary to the substantial evidence in the Record as a whole.
1018. To the finding that "the only real issue [with regard to the TVS bargaining unit supervisors] is whether they are statutory supervisors by virtue of their authority to assign other employees to tasks" (D.136, L.22-23, 38-39) as such finding is contrary to the substantial evidence in the Record as a whole and contrary to the law. (CNNA Exs. 103, 557, 649; TVS Exs.12, 16-17, 29; GC Exs.21, 110; Tr.8576, L.18-Tr.8577, L.24; Tr.8580, L.1-12; Tr.8581, L.17-20; Tr.8582, L.8-Tr.8583, L.1; Tr.8594, L.16-Tr.8595, L.1; Tr.8612, L.24-Tr.8613, L.13; Tr.8614, L.2-Tr.8616, L.21; Tr. 8708, L.22-Tr.8711, L.11; Tr.8713, L.11-Tr.8715, L.12; Tr.8716, L.2-Tr.8718, L.4; Tr.8720, L.15-18; Tr.8730, L.10-Tr.8731, L.22; Tr.8735, L.3-10; Tr.8737, L.22-25; Tr.10520, L.13-Tr.10521, L.15; Tr.10524, L.19-Tr.10525, L.23; Tr.10531, L.5-Tr.10533, L.15; Tr.11781, L.9-Tr.11787, L.18; Tr.11796, L.10-Tr.11801, L.18; Tr.11808, L.23-Tr.11809, L.3; Tr.13069, L.7-Tr.13076, L.21; Tr.13078, L.8-Tr.13079, L.7; Tr.6954, L.3-Tr.6955, L.19; Tr.7219, L.9-Tr.7221, L.1; Tr.10745, L.6-Tr.10746, L.16; Tr.11291, L.16-

Tr.11292, L.16 Tr.11293, L.20-Tr.11294, L.23; Tr.11817, L.6-12, 25-Tr.11818, L.5; Tr.11798, L.8-23; Tr.10255, L.12-Tr.10257, L.2; Tr.6318, L.25-Tr.6320, L.8).

1019. To the finding that TVS supervisors are not supervisors “in that there is no evidence that the[y] were held accountable by TVS management for the performance of other employees” (D.136, L.23-26), as such finding is contrary to the substantial evidence in the Record as a whole and contrary to the law. (Tr.11798, L.14-23; Tr.10255, L.12-Tr.10257, L.2; Tr.10738, L.23-Tr.10739, L.2; Tr.10745, L.13-Tr.10746, L.16; Tr. 10468, L.16-21).
1020. To the reliance on *ITT Corp.*, 265 NLRB 1480, 1481 (1982) (D.136, L.42-45) as such case is no longer good law and is contrary to established Board law.
1021. To the reliance on *Wesco Electrical Company*, 232 NLRB 479 (1982) (D.136, L.42-45) as such case is contrary to established Board law.
1022. To the finding that “there is absolutely no evidence that [Jimmy Suissa, Joe Mosley and Ed Scholl] were being held accountable for the performance of other employees” when Team removed them from their supervisor positions (D.136, L.47-52) as such finding is contrary to the evidence in the Record. (Tr.5308, L.23-Tr.5309, L.18; CNNA Ex. 104; Tr.13083, L.7-19; CNNA Ex. 502; Tr.8755, L.5-18).
1023. To the finding that there is “no evidence” that Bill Greene and Bob Cummings had supervisory authority (D.137, L.1-2) as such finding is contrary to the substantial evidence in the Record as a whole and contrary to the law. ((Cummings) Tr.8636, L.19-Tr.8637, L.19; Tr. 8708, L.28-Tr.8709, L.24; Tr.8709, L.25-Tr.8711, L.17-Tr.8712, L.10; Tr.8713, L.11-16; Tr.8713, L.18-Tr.8715, L.9; Tr.8715, L.10-12; Tr.8716, L.2-Tr.8718, L.4; Tr.8720, L.15-18; CNNA Ex. 235; Tr.8730, L.10-Tr.8731, L.22; Tr.8735, L.3-10; Tr.8737, L.122-25; Tr.8043, L.1-Tr.8045, L.9; Tr.8045, L.24-Tr.8047, L.5; Tr.8501, L.10-Tr.8502, L.24; 8504, L.2-Tr.8506, L.13; Tr.8561, L.7-18, Tr.8562, L.4-14; Tr.8576, L.18-Tr.8577, L.24; Tr.8580, L.1-

12; Tr.8581, L.17-Tr.8583, L.1; Tr.8584, L.23-Tr.8585, L.1; Tr.8594, L.16-Tr.8595, L.1; Tr.8614, L.2-Tr.8616. L.25; Tr.8623, L.9-13).

1024. To the conclusion of law that, when Bill Greene and Bob Cummings' directed employees to stay late to complete a task, they were not "responsibly directing" employees (D.137, L.9-13), as such conclusion of law is contrary to the law.
1025. To the conclusion of law that, when TVS bargaining unit supervisors assigned employees to tasks based on their judgment as to employees' skills, TVS supervisors were not "responsibly directing" or assigning employees (D.137, L.19-22), as such conclusion of law is contrary to the law.
1026. To the reliance on *Shaw, Inc.*, 350 NLRB No. 37 (2007) as the standard regarding when an employee's authority in assigning work is an exercise of independent judgment (D.137, L.19-22, L.49-52, Note 181), as such case is inapposite to the evidence in the Record and issues in this case as a whole.
1027. To the reliance on *Volair Contractors, Inc.*, 341 NLRB 673, 675 fn.10 (2004) as the standard regarding when an employee's authority in assigning work is an exercise of independent judgment (D.137, L.19-22), as such case is inapposite to the evidence in the Record and issues in this case as a whole.
1028. To the reliance on *S.D.I. Operating Partners, L.P.*, 321 NLRB 111 (1996) as the standard regarding when an employee's authority in assigning work is an exercise of independent judgment (D.137, L.19-22), as such case is inapposite to the evidence in the Record and issues in this case as a whole.
1029. To the conclusion of law that TVS supervisors are not Section 2(11) statutory supervisors (D.137, L.24-25) as such conclusion of law is contrary to the law.

1030. To the finding and conclusion of law that “the degree of discretion exercised by the TVS bargaining unit supervisors in assigning work is insufficient to deem these individuals to be supervisors within the meaning of Section 2(11)” (D.137, L.41-43), as such finding and conclusion are contrary to the substantial evidence in the Record as a whole and contrary to the law.
1031. To the finding that CNN discriminatorily failed to hire Dennis Norman (D.138, L.5) as such finding is contrary to the evidence in the Record as a whole. (Tr.1894, L.13-Tr.1895, L.2; Tr.1895, L.12-20; Tr.1900, L.23-Tr.1901, L.8; Tr.2251, L.16-Tr.2252, L.25; Tr.2256, L.21-Tr.2258, L.17; Tr.2259, L.15-Tr.2260, L.8; Tr.2297, L.5-Tr.2299, L.7; Tr.2077, L.22-Tr.2078, L.25; GC Ex.134, Tab C; GC Ex.140; GC Ex. 149, GC Ex. 152; GC Ex. 153).
1032. To the finding and conclusion of law that Dennis Norman’s direction of Team employees who worked on the Crossfire show does not demonstrate independent judgment, (D.138, L.10-30), as such finding and conclusion of law is contrary to the evidence in the Record and contrary to the law. (Tr.3137, L.15-Tr.3138, L.24; GC Ex.162).
1033. To the conclusion of law that Rick Morse was not a statutory supervisory (D.138, L.34-36) as such conclusion of law is contrary to the law.
1034. To the finding that Greg Robertson and Geoff Parker would call the Team assignment desk and ask if they could hire freelance lighting specialists (D.138, L.43-45), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.6897, L.9-Tr.6899, L.3; Tr.6954, L.3-Tr.6955, L.19; Tr.7219, L.9-7220, L.22).
1035. To the conclusion of law that Greg Robertson and Geoff Parker were not statutory supervisors based on their hiring or effective recommendation of hiring of freelancers for White House work (D.138, L.45-50), as such conclusion of law is contrary to the law.

1036. To the finding that CNN presented no evidence that Greg Robertson and Geoff Parker had the authority to hire, fire, discharge or discipline other employees or to effectively recommend such action (D.138, L.51-D.139, L.1), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.6897, L.9-Tr.6899, L.3; Tr.6954, L.3-Tr.6955, L.19; Tr.7219, L.9-7220, L.22).
1037. To the finding that Team or CNN “clearly independently determined whether additional lighting specialists were needed at the White House” (D.139, L.4-5), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.6897, L.9-Tr.6899, L.3; Tr.6954, L.3-Tr.6955, L.19; Tr.7219, L.9-7220, L.22).
1038. To the finding that “the origins of the decision to terminate the TVS contracts and implement the Bureau Staffing Project and why this decision was made are shrouded in mystery” (D. 139, L.11-12), as such finding is contrary to the substantial evidence in the Record as a whole. (*See e.g.*, Tr.802, L.21-Tr.803, L.25; Tr.815, L.7-Tr.816, L.3; Tr.12881, L.19-Tr.12882, L.1; Tr.12875, L.2-21; Tr.12873, L.3-17; GC Ex.101).
1039. To the finding that the fact that development of the BSP began before a meeting in mid to late July 2003 demonstrates that the decision to terminate the TVS contracts may have been made prior to the July 2003 meeting (D.139, L.14-35), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.802, L.21-Tr.803, L.25; Tr.12881, L.19-Tr.12882, L.1; GC Ex. 101; Tr.12416, L.24-Tr.12416, L.5).
1040. To the finding that John Courtney’s testimony regarding attending a meeting regarding the BSP other than the July meeting demonstrates that the decisions to terminate the TVS contracts and embark on the BSP may have been made prior to the July 2003 meeting (D.139, L.23-24), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.802, L.21-Tr.803, L.25; Tr.12881, L.19-Tr.12882, L.1; GC Ex. 101).

1041. To the inference that John Courtney attended a different meeting than the one conducted on April 3 (D.139, L.24-26), as such an inference is contrary to the substantial evidence in the Record as a whole. (Tr.12449, L.25-Tr.12450, L.5).
1042. To the finding that Jim Hebb's testimony that he was working on the BSP around the spring of 2003 demonstrates that the decisions to terminate the TVS contracts and embark on the BSP may have been made prior to July 2003 (D.139, L.26-27) as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.802, L.21-Tr.803, L.25; Tr.12881, L.19-Tr.12882, L.1; GC Ex. 101; Tr.12416, L.24-Tr.12416, L.5).
1043. To the finding that CNNA Ex. 527 demonstrates that the decisions to terminate the TVS contracts and embark on the BSP may have been made prior to July 2003 (D.139, L.28-30) as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.802, L.21-Tr.803, L.25; Tr.12881, L.19-Tr.12882, L.1; GC Ex. 101; Tr.12416, L.24-Tr.12416, L.5).
1044. To the finding that the decision "to terminate the TVS contracts and embark on the BSP may have been made prior to the date indicated by Ms. Patrick...and that there were other meetings and discussions about this initiative about which she did not testify and about which there is little or no evidence in this record" (D.139, L.32-35) as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.802, L.21-Tr.803, L.25; Tr.12881, L.19-Tr.12882, L.1; GC Ex. 101; Tr.12416, L.24-Tr.12416, L.5; Tr.9080, L.24-Tr.9081, L.14; Tr.9083, L.17-Tr.9085, L.19; Tr.8343, L.24-Tr.8349, L.1; Tr.8090, L.21-Tr.8092, L.5; Tr.8202, L.1-Tr.8203, L.11; Tr.8212, L.2-19; Tr.3814, L.24-Tr.3815, L.12).
1045. To the finding that "CNN made efforts to reduce the number of bargaining unit positions as early as March 2002" (D.139, L.45-46, Note 184) as such finding is unsubstantiated by any evidence in the Record as a whole.

1046. To the finding that CNN made a concerted effort to restructure the editor/producer positions so that the Union could not successfully claim that these jobs remained in the unit (D.139, L.45-47, Note 184) as such finding is contrary to the substantial evidence in the Record as a whole.
1047. To the reliance on GC Exhibit 559 as its admission into evidence is contrary to the law. (Tr.14925, L.19-Tr.14928, L.14).
1048. To the finding that GC Ex. 559 supports the finding that CNN made a concerted effort to restructure the editor/producer positions so that the Union could not successfully claim that these jobs remained in the unit (D.139, L.45-47, Note 184) as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.12473, L.25-Tr.12474, L.25; Tr.1090, L.14-19; Tr.296, L.3-Tr.298, L.22).
1049. To the finding that satellite truck operators in Washington and New York were assigned to the national desk in Atlanta in order to keep them out of the bargaining unit (D.139, L.47-49, Note 184) as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.14953, L.1-Tr.14924, L.23).
1050. To the reliance on GC Ex. 558 (D.139, L.47-49, Note 184) as its admission into evidence is contrary to the law. (Tr.14953, L.1-Tr.14924, L.23).
1051. To the finding that CNN was looking for a way to deprive employees of union representation in drafting position descriptions for the photojournalists in early 2003 (D.139, L.49-51) as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.12448, L.2-16; Tr.12470, L.22-Tr.12473, L.4; Tr.14855, L.23-Tr.14856, L.20; GC Ex. 227).
1052. To the finding that "there is no evidence as to the basis on which the final decision [to terminate the Team contract] was made, or by whom" (D.140, L.5-6), as such finding is

contrary to the substantial evidence in the Record as a whole. (Tr.740, L.1-Tr.741, L.15; Tr.802, L.21-Tr.803, L.25; Tr.815, L.7-Tr.816, L.2; Tr.818, L.23-Tr.819, L.23; Tr.12880, L.1-Tr.12882, L.1; Tr.12875, L.14-21; Tr.12873, L.3-17; GC Ex.101).

1053. To the finding that “one of the striking things about this case is how little specific evidence Respondent presented on issues that really matter, such as why various individuals were hired in the Bureau Staffing Project and why other individuals were not hired” (D.140, L.8-10), as such finding is contrary to the substantial evidence in the Record as a whole and contrary to the law. (GC Exs. 134; 227 - 229, 232, 233, 235, 241, 247, 249, 260, 261, 333, 339, 411, 429, 430, 452 - 454, 459, 519 - 531; 534; 543; CNNA Exs.64, 68, 71, 92 - 95, 97 - 100, 126 - 128, 147, 148, 172, 173, 190, 197, 232, 258 - 264, 266, 267, 275 - 281, 287, 288, 298, 299, 476, 477; 481, 495, 498, 508, 509, 517, 541, 541A, 544, 551, 559 - 567; 639, 640, 689 - 694).
1054. To the finding that CNN expected litigation at the outset of the BSP “since it had in-house counsel involved in every step of the process and involved outside counsel at meetings before the BSP was launched” (D.140, L.12-14), as such finding is unsubstantiated by the Record.
1055. To the finding that there is little credible documentation of what occurred during the BSP (D.140, L.18-20), as such finding is contrary to the substantial evidence in the Record as a whole.
1056. To the finding that Respondent’s witnesses “generally had trouble remembering what transpired” (D.140, L.18-19), as such finding is contrary to the substantial evidence in the Record as a whole.

1057. To the adverse finding against CNN based on allegedly missing documents (D.140, L.18-26), as CNN was under no obligation to produce documents insofar as the General Counsel's and Union's subpoenas were overbroad, unduly burdensome and unenforceable.
1058. To the finding that CNN did little to preserve a record of how decisions were made, by whom and when they were made (D.140, L.21-22), as such finding is contrary to the substantial evidence in the Record as a whole. (*See, e.g.*, CNNA Exs. 38; 351; 428; 429; 494; 495; 518; 520; 526; 533; 534; 535; 536; 537; 538; 539; 540; 588; 589; GC Exs. 333; 241; 260; 261; 265; 427; 450; 451; 453; 454; 507; 547; 548; 549; 550).
1059. To the finding that CNN's inability to find butcher blocks for engineers in New York and Washington demonstrates that CNN did little preserve a record of how decisions were made, by whom and when they were made (D.140, L.21-22), as such finding is contrary to the substantial evidence in the Record as a whole. (*See, e.g.*, Tr.13243, L.4-19; CNNA Exs. 68, 351, 428; 429; 494; 495; 518; 520; 526; 533; 534; 535; 536; 537; 538; 539; 540; 588; 589; GC Exs. 333; 241; 260; 261; 265; 427; 450; 451; 453; 454; 507; 547; 548; 549; 550).
1060. To the finding that the presence of in-house counsel Scott Porter at debriefing meetings for engineers aggravates the failure to locate the butcher blocks for engineering candidates in both DC and NY (D.140, L.24-26), as such finding is contrary to the law.
1061. To the finding that Anne Woodward's testimony regarding the selection of Audio Designers in Washington, D.C. demonstrates that hiring decisions were not made by hiring managers at selection/debriefing meetings (D.140, L.32-37, 51 Note 185) as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.13856, L.13 - Tr.13857, L.17; Tr.13858, L.11-25; Tr.13859, L.12 - Tr.13860, L.22; Tr.13834, L.5-18; Tr.13837, L.2-23; Tr.13838, L.3-23; Tr.13839, L.12-Tr.13846, L.18; CNNA Exs. 584; 587; 588; 589; 590; 591; Tr.12892, L.1-Tr.12893, L.21).

1062. To the finding that there is “no explanation” as to why CNN hired Steve Tovarek and Cory Hall, nonTVS applicants, as opposed to Darrin White (D.140, L.39-40), as such finding is contrary to the substantial evidence in the Record as a whole. (GC Ex. 534, Tab John Otth; GC Ex. Tab Peter Mohen; GC Ex. 534, Tab Paul Miller).
1063. To the finding that Anthony Williams’ ratings demonstrate that Darrin White should have been hired for the Audio Designer position (D.140, L.40-45), as such finding is unsubstantiated by any evidence in the Record as a whole. (GC Ex. 534, Tab John Otth; GC Ex. Tab Peter Mohen; GC Ex. 534, Tab Paul Miller).
1064. To the finding that Woodward’s ratings of Darrin White demonstrate that he should have been hired for the Audio Designer position (D.140, L.47-49), as such finding is unsubstantiated by any evidence in the Record as a whole. (GC Ex. 534, Tab John Otth; GC Ex. Tab Peter Mohen; GC Ex. 534, Tab Paul Miller).
1065. To the finding there is no evidence as to why CNN did not hire Darrin White, (D.141, L.5-7), as such finding is unsubstantiated by the Record, and contrary to the law.
1066. To the finding that CNN failed to establish the presence of critical personnel at the debriefing/selection meetings (D.141, L.28-34), as such finding is contrary to the substantial evidence in the Record as a whole. (*See, e.g.*, Tr.13172, L.25-Tr.13173, L.5; Tr.10210, L.19-Tr.10211, L.6; Tr.10394, L.6-25; Tr.13320, L.12-19; Tr.13330, L.19-Tr.13331, L.1; Tr.8115, L.16-Tr.8116, L.9; Tr.15847, L.19-Tr.15848, L.16; Tr.2044, L.3-Tr.2045, L.20; Tr.1997, L.20-Tr.1998, L.12; Tr.7891, L.17-Tr.7892, L.17; Tr.7967, L.3-19; Tr.13232, L.1-15; Tr.13229, L.1-Tr.13230, L.6; General Counsel Ex. 401; Tr.13166, L.18-23; Tr.12291, L.6-Tr.12292, L.7; Tr.14805, L.5-22; Tr.8376, L.6-18; Tr.5784, L.5-Tr.5785, L.2; Tr.13191, L.9-17; Tr.5897, L.11-21; Tr.9293, L.18-23; Tr.12501, L.11-Tr.12502, L.3; Tr.12484, L.9-21; Tr.9137, L.6-14).

1067. To the finding that it is unclear from the record whether Ashley Blackmon was involved in the ranking of media coordinator candidates (D.141, L.29-39), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.13166, L.18-23; Tr.12497, L.17-Tr.12498, L.14; Tr.12291, L.6-19).
1068. To the finding that there is ambiguity as to who attended the debriefing meetings and what role they played (D.141, L.39-40), as such finding is contrary to the substantial evidence in the Record as a whole. (*See, e.g.*, Tr.13172, L.25-Tr.13173, L.5; Tr.10210, L.19-Tr.10211, L.6; Tr.10394, L.6-25; Tr.13320, L.12-19; Tr.13330, L.19-Tr.13331, L.1; Tr.8115, L.16-Tr.8116, L.9; Tr.15847, L.19-Tr.15848, L.16; Tr.2044, L.3-Tr.2045, L.20; Tr.1997, L.20-Tr.1998, L.12; Tr.7891, L.17-Tr.7892, L.17; Tr.7967, L.3-19; Tr.13232, L.1-15; Tr.13229, L.1-Tr.13230, L.6; GC Ex. 401; Tr.13166, L.18-23; Tr.12291, L.6-Tr.12292, L.7; Tr.14805, L.5-22; Tr.8376, L.6-18; Tr.5784, L.5-Tr.5785, L.2; Tr.13191, L.9-17; Tr.5897, L.11-21; Tr.9293, L.18-23; Tr.12501, L.11-Tr.12502, L.3; Tr.12484, L.9-21; Tr.9137, L.6-14; Tr.13027, L.14-Tr.13029, L.4; Tr.13033, L.3-Tr.13045, L.9).
1069. To the conclusion that the BSP process was discriminatory because certain CNN witnesses could not recall who exactly was present at the debriefing meetings (D.141, L.39-40), as such conclusion is unsubstantiated by the Record.
1070. To the finding that John Courtney's testimony on "certain issues" was "clearly inaccurate," (D.142, L.3-6, 15-22), as such finding is contrary to substantial evidence in the Record as a whole. (*See generally* Tr.12371, L.17-Tr.12522, L.9; *see also* Tr.12472, L.12-Tr.12473, L.4; Tr.12511, L.25-Tr.12512, L.22; Tr.12495, L.12-Tr.12496, L.5; Tr.12503, L.13-Tr.12506, L.9; Tr.12515, L.18-Tr.12517, L.14; Tr.12518, L.9-Tr.12520, L.14;).
1071. To the inference that John Courtney was "well aware" that one of the BSP's "principal objectives was to get rid of NABET" (D.142, L.23-27), as such inference is contrary to the

substantial evidence in the Record as a whole. (Tr.12451, L.6-14; Tr.12466, L.16-Tr.12468, L.24).

1072. To the inference that John Courtney was “aware that CNN planned to bring Ray Britch from London...and thus get rid of TVS unit member Luis Munoz,” (D.142, L.27-29), as such inference is unsubstantiated by the Record. (*See* Exception 451).
1073. To the finding that John Courtney was “silent” about post-interview, pre-debriefing-meeting conversations about New York photojournalists, despite not having been asked questions about them, (D.142, L.30-32), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.12480, L.21-Tr.12482, L.14; Tr.12484, L.4-Tr.12496, L.10).
1074. To the finding that John Courtney was aware of but did not testify about how applicants were categorized as “very strong possible,” “possible,” etc., despite not having been asked questions about how applicants were categorized, (D.142, L.33-34), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.12484, L.4-Tr.12496, L.10).
1075. To the finding that John Courtney knew but did not testify about how CNN created an uneven playing field for many TVS applicants and that “TVS applicants had no [] advocates” in the debriefing process, despite not having been asked questions about this issue, (D.142, L.35-39), as such findings are unsubstantiated by the Record. (*See generally* Tr.12371, L.17-Tr.12522, L.9; *see also* Tr.9480, L.24-Tr.9484, L.10; Tr.9150, L.10-Tr.9151, L.14; Tr.9406, L.1-14).
1076. To the finding that John Courtney’s interview of Doug Schantz and Bethany Chamberland gave those individuals an advantage or an “advocate” that TVS applicants did not have (D.142, L.36-39), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.9480, L.24-Tr.9484, L.10; Tr.9150, L.10-Tr.9151, L.14; Tr.9406, L.1-14).

1077. To the finding that Troy McIntyre, Jeff Polikoff and Jeff Kinney testified on certain issues in a manner that was “clearly inaccurate,” (D.142, L.36), as such finding is contrary to the substantial evidence in the Record as a whole. (*See generally* Tr.14529, L.17-Tr.14753, L.5; Tr.12700, L.25-Tr.12702, L.25; Tr.11511, L.4-Tr.11514, L.17; GC Ex. 496).
1078. To the finding that “many CNN managers, including Cindy Patrick, John Courtney, Jeff Gershgorn, Tu Vu, Matt Holcombe, Lew Strauss, Loren Kile, Jim Hebb, Gina LaRussa, and Rob Fox were not forthcoming about matters they were aware of, such as the fact that CNN hired employees who had not gone through the Bureau Staffing Project application, interview and debriefing meeting process for positions subject to the BSP,” and the conclusion that these witnesses were not credible (D.142, L.8-13, 49-51), where they were not asked about such matters, as such a finding is completely unsubstantiated by the Record and contrary to the law. (*See* Exceptions 33, 195, 212, 262, 268, 269-271, 274-76, 305, 519, 579, 660, 741-42, 750, 768).
1079. To the finding that Loren Kile inaccurately testified that qualified candidates applying for a position subject to the BSP after the debriefing session for that position would “go through the same process” as candidates who applied prior to the debriefing (D.142, L.40-46), as such finding is unsubstantiated by the Record. (Tr.13047, L.6-22; *see also* Exceptions 1078).
1080. To the finding that Jim Hebb’s testimony that there was only one debrief/selection meeting for engineers in New York is inconsistent with Loren Kile’s testimony regarding the process through which candidates applying for BSP positions after the debriefing went through, and therefore that Loren Kile’s testimony is inaccurate, (D.142, L.40-46), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.13047, L.6-22).
1081. To the finding that Loren Kile is an incredible witness because she “lacked candor” regarding the process that applied to candidates who applied for a position after a debriefing

session (D.142, L.47-49), as such finding is unsubstantiated by the Record and contrary to the law. (*See, e.g.*, Tr.13047, L.6-22).

1082. To the finding that “[m]any CNN witnesses, including, but not limited to, Cindy Patrick, John Courtney, Jeff Gershgor, Tu Vu, Matthew Holcombe, Lew Strauss, Loren Kile, Jim Hebb, Gina LaRussa and Rob Fox...are not credible,” (D.142, L.8-13), as such finding is unsubstantiated by the evidence in the Record as a whole.
1083. To the finding and ruling that “[m]any CNN witnesses, including, but not limited to, Cindy Patrick, John Courtney, Jeff Gershgor, Tu Vu, Matthew Holcombe, Lew Strauss, Loren Kile, Jim Hebb, Gina LaRussa and Rob Fox...when testifying...appeared to be more interested in supporting a litigation theory than in testifying candidly,” (D.142, L.8-D.143, L.1), as such finding is contrary to the evidence in the Record as a whole and the ruling is contrary to the law.
1084. To the reliance on *In Re Lexus of Concord*, 330 N.L.R.B. 1409, 1412 n.9 (2000) and *Carruthers Ready Mix*, 262 N.L.R.B. 739 (1982), (D.143, L.1-2), as the cases do not support the proposition for which they are cited, (D.142, L.8-D.143, L.1), and such reliance is contrary to the law and the evidence in the Record as a whole.
1085. To the conclusion that “virtually all the testimony of [CNN’s] managers, hiring managers, recruiters, and human resource personnel and other agents” was self-serving and/or incredible, unless corroborated by other credible evidence (D.143, L.4-6), as such finding is unsubstantiated by the evidence in the Record as a whole and contrary to the law.
1086. To the ruling declining to credit all testimony of CNN’s managers unless corroborated by other credible evidence, (D.143, L.4-6), as such ruling is contrary to the law and is unsupported by the Record as a whole. (*See* Exceptions 321-22).

1087. To the finding that Troy McIntyre was “a particularly incredible witness,” (D.143, L.11-12), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.14529, L.10-Tr.14753, L.5).
1088. To the finding that Troy McIntyre’s testimony about CNNA Exhibit 635 is false, (D.143, L.12-23), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.14743, L.8-16; CNN Ex. 635).
1089. To the inference that there were changes made in the list of applicants to be hired for the studio operator position in Washington after the debrief, but McIntyre “did not wish to acknowledge” them, (D.143, L.22-23), as such inference is unsubstantiated by the Record.
1090. To the ruling rejecting the testimony of CNN’s labor statistician expert witness, Dr. Mary Baker, establishing that the BSP was non-discriminatory, (D.142, L.32-33), as such ruling is contrary to the law.
1091. To the finding that Dr. Mary Baker concluded that the BSP was actually biased in favor of TVS unit employees (D.143, L.34-36), as such finding is contrary to the evidence in the Record as a whole. (Tr.16177, L.6-Tr.16178, L.22; CNNA Ex. 710, Tables O.1 and I.1, Figures O.1b and O.1a).
1092. To the finding that Dr. Mary Baker’s statistical analysis did not take into account the non-TV S applicants who allegedly were interviewed after the debriefing meetings and thus her findings regarding the process are unreliable and incredible, (D.143, L.36-39), as such finding is unsubstantiated by the Record and contrary to the law.
1093. To the finding that Dr. Mary Baker’s analysis is unreliable and should be rejected because her statistical analysis did not take into account the possibility that TV S applicants were better qualified than non-TV S applicants because they had been performing the jobs they

were applying for, (D.143, L.41-43), as such finding is contrary to the substantial evidence in the Record as a whole. (*See, e.g.* Exception 247).

1094. To the finding that Dr. Baker's analysis and conclusion is unreliable because she "ignored the fact that almost 100% of the CNN incumbents who were subjected to the BSP kept their jobs," (D.143, L.44-45), as such finding is contrary to the substantial evidence in the record as a whole. (Tr.16163, L.11-Tr.16164, L.7; Tr.16165, L.15-Tr.16168, L.14).
1095. To the finding that the numbers on the butcher block sheets in GC Exhibit 534, vols. 1-5 "correlate exactly" to the numbers to the left of each name on CNNA Exhibit 635, (D.143, L.46-47), as such finding is contrary to the substantial evidence in the Record as a whole. (GC Ex. 534, Vols. 1-5; CNNA Ex. 635).
1096. To the finding that Troy McIntyre is incredible because there is no documentation to corroborate his testimony that he familiarized himself with the studio operator candidates that Anne Woodward previously interviewed prior to the debriefing, (D.143, L.25-31-D.144, L.18), as such finding is contrary to the law and there is no evidence to the contrary in the Record.
1097. To the finding that Troy McIntyre "did not claim to have notes" of his interviews with the five candidates Anne Woodward interviewed at the debriefing, (D.144, L.24-25), as such finding is irrelevant to the issues in this case. (Tr.14585, L.25-Tr.14586, L.1).
1098. To the finding that Troy McIntyre's testimony that he interviewed applicants who had been previously interviewed by Anne Woodward is false, (D.144, L.25-27), as there is no evidence in the Record to the contrary.
1099. To the finding that five applicants interviewed by Anne Woodward "were considered for employment without the input of anyone who interviewed them during the BSP" (D.144, L.25-27, L.28-31), as such finding is unsubstantiated by the Record.

1100. To the finding that CNN's hiring of Dennis Faulkner and Adilson Kiyasu "after the BSP" shows that either individual was "clearly qualified" in comparison with other candidates in the BSP (D.144, L.35-37), as such finding is unsubstantiated by the Record, irrelevant to the issues in the case, and contrary to the law. (GC Ex. 534, Vols. 2, 3; GC Ex. 550; CNNA Exs. 633, 635, 689).
1101. To the finding that Troy McIntyre's testimony regarding newly hired studio operators' doing no work other than training during their first week at CNN was inaccurate, (D.144, L.39-43), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.14565, L.6-22; Tr.14712, L.3-Tr.14714, L.5; CNNA Exs. 462, 465, 636).
1102. To the finding that Troy McIntyre's testimony was "totally unreliable insofar as it supports CNN's theory of this case," (D.144, L.39-48), as such finding is contrary to the evidence in the Record as a whole and contrary to the law. (*See e.g.*, Tr.14529, L.10-Tr.14753, L.5; Tr.14710, L.4-Tr.14713, L.17; CNN Ex. 636).
1103. To the adverse finding against CNN based on documents not produced at trial (D.144, L.44-48), as CNN was under no obligation to produce documents insofar as the General Counsel's and Union's subpoenas were overbroad, unduly burdensome and unenforceable.
1104. To the finding that newly-hired personnel in CNN's Washington bureau did a "substantial" amount of production work during their first week as CNN employees (D.144, L.48-51), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.13963, L.14-Tr.13967, L.5; Tr.14198, L.17-Tr.14203, L.20; Tr.14378, L.5-23).
1105. To the finding that "in many cases" CNN failed to establish that its management witnesses had first-hand knowledge of their subordinates' work, duties, and experience, or failed to establish a proper foundation for their testimony, (D.145, L.9-11), as such finding is unsubstantiated by the Record as a whole.

1106. To the finding that unnamed CNN management witnesses “destroyed their credibility” when testifying about the BSP, (D.145, L.11-12), as such finding is unsubstantiated by the Record as a whole.
1107. To the conclusion that unnamed CNN management witnesses’ testimony about their subordinates’ job duties “cannot be accepted at face value”, (D.145, L.12), as such conclusion is unsupported by the Record as a whole.
1108. To the conclusion that in all cases where the testimony of a “rank and file” CNN employee conflicts with the testimony of a “management” witness regarding the scope of the employee’s duties, the “rank and file” employee’s testimony is credited, (D.145, L.13-15), as such conclusion is unsubstantiated by the Record and contrary to the law.
1109. To the adverse inference against CNN for not calling as witnesses “rank and file” CNN engineers, studio operators, media coordinators, audio designers, technical directors, information technology employees, floor directors or editor/producers (D.145, L.33-51), as such inference is contrary to the law.
1110. To the finding that “much” of Bethany Chamberland Swain’s work for CNN is “different from or in addition to the photojournalist’s job for which she was hired,” (D.145, L.46-48), as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.15611, L.23-Tr.15613, L.12; Tr.14870, L.2-Tr.14873, L.16; Tr.9206, L.10-Tr.9207, L.16; Tr.15779, L.17-25; Tr.11521, L.3-Tr.11522, L.24; Tr.15595, L.4-Tr.16043, L.13; GC Ex. 227; CNNA Exs. 701, 702, 703, 704).
1111. To the finding that Jesse Spilka was acting as an agent of CNN with respect to the statement he allegedly made to Ed DeLauter, *i.e.*, “that CNN was not taking the Union with it to the Time Warner Center and that CNN would only hire 50% of the bargaining unit in order to

get rid of the Union,” (D.145, L.24-27), as such finding is contrary to the law. (Tr.8555, L.2-18).

1112. To the finding that Jesse Spilka told Ed DeLauter “that CNN was not taking the Union with it to the Time Warner Center and that CNN would only hire 50% of the bargaining unit in order to get rid of the Union,” (D.145, L.24-27), as such finding is contrary to the evidence in the Record as a whole. (Tr.8526, L.5-Tr.8527, L.6; Tr.8553, L.10-Tr.8557, L.4).
1113. To the finding that the Complaint should be dismissed against Team “largely because CNN, rather the [sic] Team, is the party that has the resources . . . to remedy the unfair labor practices in this case” (D.146, L.11-13), as such finding is contrary to the law.
1114. To the conclusion of law that CNN and Team were joint employers of Team’s employees at CNN’s New York bureau prior to January 17, 2004 and at CNN’s Washington, D.C. Bureau prior to December 6, 2003, (D.146, L.21-23), as such conclusion is contrary to the law and the evidence in the Record as a whole.
1115. To the conclusion of law that, as a joint employer, CNN violated the Act by refusing and failing to comply with the collective bargaining agreements between Team and NABET Local 11 after January 17, 2004 and between Team and NABET Local 31 after December 6, 2003, (D.146, L.25-27), as such conclusion is contrary to the law and the evidence in the Record as a whole.
1116. To the conclusion of law that CNN is a successor employer to Team at CNN’s Washington, D.C. and New York bureaus, (D.146, L.29-30), as such conclusion is contrary to the law and the evidence in the Record as a whole.
1117. To the conclusion of law that CNN forfeited its right to set the initial terms and conditions of employment of the employees it hired through the BSP because CNN discriminatorily failed to hire many Team bargaining unit members at its Washington and New York bureaus

and CNN illegally refused to recognize the Charging Parties as the bargaining representatives of employees CNN hired through the BSP ,(D.146, L.35-36), as such conclusion is contrary to the law and the evidence in the Record as a whole.

1118. To the conclusion of law that CNN discriminatorily failed to hire many Team bargaining unit members at its Washington and New York bureaus, (D.146, L.32-33), as such conclusion is contrary to the law and the evidence in the Record as a whole.

1119. To the conclusion of law that CNN illegally refused to recognize the Charging Parties as the bargaining representatives of employees CNN hired through the BSP, (D.146, L.33-34), as such conclusion is contrary to the law and the evidence in the Record as a whole.

1120. To the conclusion of law that CNN violated Section 8(a)(1) and (3) and (5) in implementing the Bureau Staffing Project and conducting the BSP in a discriminatory manner to achieve a non-union technical workforce at its Washington, D.C. and New York bureaus, (D.146, L.38-40), as such conclusion is contrary to the law and the evidence in the Record as a whole.

1121. To the conclusion of law that CNN violated Section 8(a)(1) and (3) in limiting the number of Team Video bargaining unit members it hired during the Bureau Staffing Project in order to avoid having to recognize and bargain with NABET Locals 11 and 31, (D.146, L.42-44), as such conclusion is contrary to the law and the evidence in the Record as a whole.

1122. To the conclusion of law that CNN violated Section 8(a)(1) and 8(a)(5) by refusing to recognize and bargain with Locals 11 and 31 (D.146, L.46-47), as such conclusion is contrary to the law and the evidence in the Record as a whole.

1123. To the conclusion of law that CNN violated Section 8(a)(1) and 8(a)(5) by making changes to the employment conditions of former Team Video bargaining unit members without

offering the Unions the opportunity to bargain (D.146, L.49-51), as such conclusion is contrary to the law and the evidence in the Record as a whole.

1124. To the conclusion of law that the Team Video bargaining unit "supervisors" are not "supervisors" within the meaning of Section 2(11) of the Act, (D.147, L.1-2), as such conclusion is contrary to the law and the evidence in the Record as a whole.
1125. To the conclusion of law that CNN, by Karen Curry, violated Section 8(a)(1) by telling employees explicitly or implicitly that CNN intended to operate with a nonunion technical workforce, and left CNN employees with an understanding that if they exercised their Section 7 rights, CNN would not hesitate to interfere with, restrain or coerce them in the exercise of such rights, (D.147, L.4-7), as such conclusion is contrary to the law and the evidence in the Record as a whole.
1126. To the conclusion of law that CNN, by Jeff Kinney, violated Section 8(a)(1) by telling employees "in essence that their relationship to the Team Video bargaining unit disqualified them from employment with CNN," (D.147, L.9-11), as such conclusion is contrary to the law and the evidence in the Record as a whole.
1127. To the conclusion of law that CNN, by Lou/Lew Strauss, violated Section 8(a)(1) by "confirming an employee's suspicions that" CNN intended to operate its technical staff in New York without a union at the end of the Team Video contract, (D.147, L.13-15), as such conclusion is contrary to the law and the evidence in the Record as a whole.
1128. To the conclusion of law that CNN, by Danielle Whelton, violated Section 8(a)(1) by telling an employee that there would be no union at CNN's Washington bureau after CNN hired its own technical workforce, (D.147, L.17-18), as such conclusion is contrary to the law and the evidence in the Record as a whole.

1129. To the findings and conclusions of law contained in the Remedy section of the decision, (D.147, L.26-D.148, L.13), as such findings are unsubstantiated by the Record, and conclusions of law are contrary to the law.
1130. To the recommended remedial Order, (D.148, L.15-D.150, L.27), as such Order is contrary to the law and the Record as a whole.
1131. To the conclusion that such remedial Order is appropriate in this case despite the significantly changed circumstances and length of time that has passed since the events in this case transpired, (D.148, L.15-D.150, L.27), as such conclusion is contrary to the law.

## II. FAILURE TO FIND EXCEPTIONS

CNN America excepts:

1. To the failure to find and conclude that CNN and Team Video were not joint employers, as such failure to find and conclude is contrary to the substantial evidence in the Record as a whole and contrary to the law.
2. To the failure to find and conclude that, as a matter of law, to establish joint employer status, there must be evidence that the putative employer meaningfully affects matters relating to the employment relationship such as hiring, firing, discipline, supervision, and direction' of the other employer's employees, as such failure to find and conclude is contrary to the law.
3. To the failure to find and conclude that, as a matter of law, the Board's analysis of joint employment focuses on *direct and immediate* control over the essential terms and conditions of employment as opposed to *indirect* control, as such failure to find and conclude is contrary to the law.

4. To the failure to find that CNN and Team were separate business entities, as such failure to find is contrary to the substantial evidence in the Record as a whole and contrary to the law. (Tr.368-Tr.369; Tr.3603; Tr.15162-Tr.15165).
5. To the failure to find that there was no common ownership or management between CNN and Team, as such failure to find is contrary to the substantial evidence in the Record as a whole and contrary to the law. (Tr.368-Tr.369; Tr.3603; Tr.15162-Tr.15165).
6. To the failure to find that CNN and Team negotiated arms'-length separate ENGAs covering certain newsgathering functions in CNN's Washington, D.C. and New York bureaus, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.15198-Tr.15199; Tr.15162-Tr.15166; Tr.15176-Tr.15178; Tr.8432-Tr.8433; Tr.391; Tr.432-Tr.433; Tr.3515; CNNA Exs. 225, 226; GC Exs. 178-79).
7. To the failure to find that following termination of the ENGAs, CNN and Team have had no on-going business relationship, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.3663; Tr.15189).
8. To the failure to find that Team reserved sole and exclusive control over the essential terms and conditions of employment of its employees, as such failure to find is contrary to the substantial evidence in the Record as a whole. (GC Ex. 40, § 4(b), § 15(e); GC Ex. 70A, 70C).
9. To the failure to find that, when Team became the contractor in Washington and in New York, it interviewed all applicants for employment before hiring them, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.15168-Tr.15169; Tr.875-Tr.879; Tr.906-Tr.908; Tr.3605-Tr.3606; Tr.11226-Tr.11227; Tr.15281).
10. To the failure to find that Applicants filled out Team applications, and submitted them to Team management, as such failure to find is contrary to the substantial evidence in the

Record as a whole. (Tr.908; Tr.15281; Tr.11224; Tr.11226-Tr.11227; GC Ex. 44; CNNA Exs. 38, 78, 105, 150, 175, 189, 241, 248, 288, 313, 326, 338, 387, 403, 596; TVS Ex. 1).

11. To the failure to find that applicants were interviewed by Team management; no CNN managers or employees participated, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.11279; Tr.15284-15285; Tr.15168-15169; Tr.875-879; Tr.906-Tr.908; Tr.3605-3606; Tr.15379).
12. To the failure to find that Team management decided who to hire in Washington and New York; CNN did not make those decisions, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.13646-Tr.13648; Tr.875-Tr.876; Tr.878; Tr.906-Tr.907; Tr.3605-Tr.3606; Tr.3666-Tr.3670; Tr.15189; Tr.15284-Tr.15285; Tr.15380-Tr.15381; Tr.11243; Tr.11245-Tr.11246; Tr.11167; TVS Ex. 11; CNNA Ex. 227).
13. To the failure to find that Team made its own discipline and discharge decisions, as such failure to find is contrary to the substantial evidence in the Record as a whole.
14. To the failure to find that Team conducted its own personnel investigations and made decisions regarding the discipline or discharge of Team employees, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.15336; Tr.11279 Tr.3322-Tr.3325; CNNA Exs. 45-47; Tr.3662; Tr.11126-Tr.11129; Tr.11277; TVS Exs. 27-28).
15. To the failure to find that CNN was not involved in disciplining or terminating Team employees, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.11129; Tr.3762; Tr.15298-15299).
16. To the failure to find that CNN did not participate in any grievance proceeding related to any Team employee, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.10634; Tr.1731; Tr.3617; Tr.11041-11042).

17. To the failure to find that Local 11 and Team conducted quarterly meetings to discuss grievances and other issues related to the terms and conditions of employment of Team's employees and CNN did not participate in these meetings, nor was it asked to do so, as such failure to find is contrary to the substantial evidence in the Record as a whole. (TVS Ex. 20).
18. To the failure to find that CNN was not involved in the settlement of grievances between Team and Team employees, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.11254-Tr.11258; Tr.10628-Tr.10634; CNNA Ex. 359, 233, 360; Tr.11268-Tr.11269; TVS Ex. 24; Tr.8559-Tr.8560; Tr.5087-Tr.5088; Tr.15372-15373; GC Ex. 312).
19. To the failure to find that Team maintained its own payroll for its employees, as such failure to find is contrary to the substantial evidence in the Record as a whole.
20. To the failure to find that salaries and other terms and conditions of employment for Team personnel were either set by Team, at its sole discretion, or dictated by the collective bargaining agreements between Team and NABET Local 31 or Local 11, as such failure to find is contrary to the substantial evidence in the Record as a whole. (GC Exs. 9, 16, 17; CNNA Ex. 58; Tr.4781; Tr.15169-Tr.15171; Tr.3606; Tr.3609; Tr.4781).
21. To the failure to find that Team withheld taxes from its employees' paychecks and paid all government employment and unemployment taxes in connection with its employees, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.15042; Tr.14982-Tr.14983; Tr.15007-Tr.15008; GC Exs. 545, 546, 565, 566, 571; Tr.9854; Tr.15177).
22. To the failure to find that any adjustments to salary were addressed with Team, not CNN, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.3209-Tr.3210; Tr.15180; Tr.3606; TVS Ex. 31).

23. To the failure to find that Team awarded merit pay to its employees and that all decisions regarding who should receive merit pay, as well as if and when to distribute it, were made solely by Team, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.528; Tr.3493; Tr.3569; Tr.3625-Tr.3626; Tr.3694-Tr.3695; Tr.3706; Tr.15181; Tr.15295-Tr.15296; Tr.11253-Tr.11254; Tr.11164-Tr.11166; TVS Exs. 16, 33).
24. To the failure to find that Team handled payment of expenses for Team employees, advancing Team employees money in order to cover travel costs and reimbursing its employees for expenses when the employees returned, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.15039; Tr.4759-Tr.4761; CNNA Ex. 84; Tr.487; Tr.6665-Tr.6666; CNNA Ex. 156; GC Exs. 478-80).
25. To the failure to find that Team's benefit plans were separate and distinct from CNN's, as such failure to find is contrary to the substantial evidence of Record as a whole.
26. To the failure to find that Team employees at all times were covered by Team employee benefit plans, not by plans maintained by CNN, as such failure to find is contrary to the evidence in the Record as a whole. (Tr.3688-Tr.3690; Tr.3119; Tr.3256-Tr.3257; Tr.3262; Tr.2808; Tr.4735).
27. To the failure to find that severance payments and all other financial obligations owed to Team employees at the termination of the ENGAs (*i.e.*, unused vacation and sick leave, 401(k), unpaid overtime, outstanding loans to an employee's LeggMason account, etc.) were paid by Team, not CNN, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.305-Tr.306; Tr.11050).
28. To the failure to find that Team had its own Human Resources department, including an on-site Human Resources employee assigned in Washington, Kathy Swiger, who assisted Team employees with all benefits and Human Resources questions and forms, as such failure to

find is contrary to the substantial evidence in the Record as a whole. (Tr.464-Tr.465; Tr.14981; Tr.2809; Tr.3119-Tr.3120; Tr.4739; Tr.6661; Tr.7218; Tr.5315; CNNA Ex. 153).

29. To the failure to find that Team negotiated with NABET on its own, without CNN's involvement, as such failure to find is contrary to the substantial evidence in the Record as a whole.
30. To the failure to find that, during the negotiations between Team and Local 31 for the initial collective bargaining agreement, NABET members picketed Team's offices, which were located in Georgetown at the time; no picketing was conducted at CNN's facility located at 820 1st St., N.E., Washington, D.C., as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.3699; Tr.4290; Tr.4292-Tr.4298; Tr.4299-Tr.4309; Tr.4336-Tr.4344; Tr.4345-Tr.4347; Tr.4926; Tr.7067-Tr.7068).
31. To the failure to find that CNN is not a signatory to any of the collective bargaining agreements between Team and NABET Local 31 and/or TVSNY and NABET Local 11, as such failure to find is contrary to the substantial evidence in the Record as a whole. (GC Exs. 8, 9, 16, 17).
32. To the failure to find that CNN did not participate in the collective bargaining negotiations between Team and NABET, either in New York or in Washington, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.242-Tr.243; Tr.900-Tr.901; Tr.11240; Tr.11256; Tr.10091-Tr.10092; GC Ex. 8; Tr.5464-Tr.5465).
33. To the failure to find that Team retained its own legal counsel regarding labor relations matters, and did not consult with or seek advice from CNN or CNN's counsel, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.3605; Tr.3608; Tr.11041-Tr.11042; Tr.10635).

34. To the failure to find that CNN has never been a party to any bargaining agreement with NABET at any time, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.303).
35. To the failure to find that Team supervised its own employees, as such failure to find is contrary to the substantial evidence in the Record as a whole.
36. To the failure to find that Team employed a full complement of supervisory personnel to supervise Team employees working on CNN's premises, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.370-Tr.373; Tr.15291-Tr.15293; Tr.11028-Tr.11032; Tr.11159-Tr.11161; GC Exs. 99, 431; TVS Exs. 3, 9, 11, 13).
37. To the failure to find that Team provided its employees the contact information for on-call Team managers for issues that arose when no Team supervisor was present, as such failure to find is contrary to the substantial evidence in the Record as a whole. (TVS Ex. 9).
38. To the failure to find that Team also employed Shift Supervisors who were in charge of Team operations in their given area, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.5289; Tr.14335-Tr.14336; Tr.15401; Tr.10467; CNNA Exs. 103, 557, 649; GC Ex. 21; TVS Exs. 12, 29, 30, 31).
39. To the failure to find that Team managed its employees' work schedules and time records, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.11280-Tr.11281; Tr.14982; Tr.15029; Tr.15356-Tr.15358; Tr.15360; Tr.15393-Tr.15394; Tr.15290; Tr.15303-Tr.15304; Tr.2901; Tr.3117-Tr.3118; CNNA Exs. 119, 139, 239, 294-Tr.297, 572, 699; GC Exs. 180, 335, 567-569).
40. To the failure to find that Team field crews were informed of their schedules for the following day by calling an automated number (the Audex) maintained by Team containing detailed information concerning the assignments for the following day, as such failure to find

is contrary to the substantial evidence in the Record as a whole. (Tr.1627; Tr.4749; Tr.3574; Tr.5949-Tr.5950; Tr.5963; Tr.5977; Tr.6020; Tr.6075; Tr.6179; Tr.6247; Tr.6460; Tr.6795; Tr.6915; Tr.7017; Tr.7348; Tr.7485; Tr.13526-Tr.13527; Tr.14173; Tr.15359; Tr.15389; Tr.15391; Tr.15406; CNNA Ex. 83).

41. To the failure to find that Team personnel in the field who were not on out of town travel reported each morning and each evening to the Team Assignment Desk, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.4484-Tr.4485; Tr.6086-Tr.6087; CNNA Ex. 83).
42. To the failure to find that Team personnel were required to check in with the Team Assignment Desk during the course of the day and were also required to keep their radios on and report at the end of any assignment in the field, to determine if Team wished to assign them to another task, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.6086-Tr.6087; CNNA Exs. 83, 120).
43. To the failure to find that Team disciplined Sarah Pacheco for not maintaining regular communication with the assignment desk via her assigned radio, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.6562-Tr.6563; Tr.6697; CNNA Ex. 162).
44. To the failure to find that Team studio and engineering employees also signed in and out with Team, recorded their hours on Team timesheets, and submitted those timesheets to Team, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.4756; Tr.6082; Tr.6361-Tr.6362; Tr.6800; Tr.14982; CNNA Exs. 119, 120, 159; GC Exs. 567-568).

45. To the failure to find that Team handled all requests from Team employees for vacation and other time away from work, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.7208; Tr.2899; 3036; Tr.6376; Tr.6085; Tr.9586).
46. To the failure to find that Team shift supervisors fielded sick calls and other last minute attendance issues, and contacted Team management to schedule replacements, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.5303; Tr.13996).
47. To the failure to find that Team drafted, implemented, and maintained its own employee manual without any input from or approval by CNN, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.3683; Tr.11278; Tr.15198; CNNA Exs. 5, 44, 50, 54).
48. To the failure to find that the Union took issue with Team's employee manual at one point, and ultimately bargained over it with Team, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.3745; Tr.308-Tr.309; Tr.10079-Tr.10080).
49. To the failure to find that CNN had no training responsibilities for Team employees, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.5527; Tr.1183; Tr.1608; Tr.6873; Tr.6006; Tr.5022-Tr.5023; Tr.1437; Tr.1187; Tr.15219; CNNA Ex. 11).
50. To the failure to find that Team employees also trained themselves on how to use new equipment, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.1608).
51. To the failure to find that neither NABET Local 31 nor NABET Local 11, prior to filing the unfair labor practice charges currently in litigation in this case, ever filed unfair labor practice

charges against CNN for any reason, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.3614; Tr.15173; Tr.5456).

52. To the failure to find that, when Team took over from Potomac in 1997, NABET Local 31 filed unfair labor practice charges against Team in connection with its refusal to hire several Potomac employees, but never filed any charges against CNN, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.3614; CNNA Exs. 48, 49).
53. To the failure to find that neither NABET Local 31 nor NABET Local 11 has ever filed a representation petition naming CNN as the employer of any individuals either union sought to represent, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.1541; Tr.8444-Tr.8445).
54. To the failure to find that the Union did not raise the issue of joint employment between Team and CNN until months after CNN announced that it was terminating the ENGAs, as such failure to find is contrary to the substantial evidence in the Record as a whole. (GC Exs. 25, 27).
55. To the failure to find that, as a matter of law, the Union's failure to claim the existence of a joint employer relationship until after the contract was being cancelled mitigated in favor of a finding that no joint employment relationship existed, as such failure to find and conclude is contrary to the evidence in the Record as a whole, and contrary to the law.
56. To the failure to find that NABET Local 31 threatened CNN with a co-employment lawsuit in 1998 in an attempt to force CNN to pressure Team to reach agreement with the Union on the first Team/NABET collective bargaining agreement in Washington, D.C., NABET Local 31 apparently looked into the possibility of bringing such lawsuit against CNN, but did not bring any such lawsuit against CNN at that time, as such failure to find is contrary to the

substantial evidence in the Record as a whole. (Tr.7058-Tr.7061; Tr.7263; GC Exs. 378, 379; CNNA Ex. 192).

57. To the failure to find that, in connection with the termination of the ENGAs, Team, not CNN, sent WARN Act notices to Local 31, on October 3, 2003, and to Local 11, on October 23, 2003, notifying both unions of a mass layoff, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.10638; GC Exs. 21, 110).
58. To the failure to find that neither NABET Local 31 nor NABET Local 11 ever filed any claim or lawsuit alleging that CNN had an obligation to file a WARN Act notice concerning these individuals, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.262-263; Tr.282-283; Tr.290-292; Tr.10639).
59. To the failure to find and conclude that, as a matter of law, routine direction by Producers and Directors does not establish joint employer status, as such failure to find and conclude is contrary to the law.
60. To the failure to find that the level of direction and control by Team supervisors to Team employees was greater than any direction provided by a CNN agent, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.5366-Tr.5367).
61. To the failure to find that, to the extent CNN offered any direction at all to Team personnel directly, such direction was limited and routine, related solely to CNN's exercise of control over the content of its broadcast, was not related to "how" Team employees performed their jobs, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.6184-Tr.6185; Tr.4502-Tr.4504; Tr.5965; Tr.5967; Tr.5970; Tr.5977-Tr.5978; Tr.5984; Tr.6493; Tr.6497-Tr.6498; Tr.4552-Tr.4553; Tr.6979; Tr.7505).

62. To the failure to find that, in the studios and control rooms, CNN producers and directors controlled the content and look of the news broadcast, but did not direct Team personnel with regard to how to perform their jobs. (Tr.5079; Tr.5130-Tr.5131; Tr.5366-Tr.5367).
63. To the failure to find that the General Counsel did not present any evidence of any CNN director or producer instructing a Team employee about the specifics of how to perform his or her job, as such failure to find is contrary to the substantial evidence in the Record as a whole.
64. To the failure to find that, in both New York and Washington, Team personnel exercised their own judgment about how best to perform their jobs and, at times, would offer suggestions to CNN producers and reporters on how to achieve the look CNN was after, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.4790; Tr.6070; Tr.6432; Tr.7639; Tr.4494; Tr.4544).
65. To the failure to find that Team and its own personnel created multiple manuals instructing Team personnel on the specifics of Team's operations, as such failure to find is contrary to the substantial evidence in the Record as a whole. (GC Exs. 61, 162; TVS Ex. 34; CNNA Exs. 111, 134, 615, 618).
66. To the failure to find that Team personnel performed these aspects of their jobs without specific direction from anyone, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.6347; Tr.6349-Tr.6350; Tr.9588; Tr.4658-Tr.4659; Tr.4783; Tr.5984; Tr.7627; Tr.3806; Tr.2649-Tr.2652; Tr.2663-Tr.2664).
67. To the failure to find that several former Team cameramen testified that deciding how to shoot a piece was a collaborative effort, not an exercise in control by CNN, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.9581-Tr.9582; Tr.11549-Tr.11550; Tr.4790-Tr.4791; Tr.4490-Tr.4491; Tr.6912-Tr.6913; Tr.6347).

68. To the failure to find that several witnesses testified that, when they disagreed with a direction they received from a CNN employee, they would do what they thought best in accordance with their expertise and professional judgment, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.4662-Tr.4663; Tr.6350; Tr.3006-Tr.3007).
69. To the failure to find that that Team alone was responsible for making assignments to its employees and that, to the extent CNN made requests for specific personnel on certain assignments, the decision about whether CNN's request could be granted resided solely with Team, as such failure to find is contrary to the substantial evidence in the Record as a whole.
70. To the failure to find that, with regard to field crew assignments, the Team Assignment Desk, staffed by Team Scheduling Managers, was responsible for making and distributing field crew assignments, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.11032; Tr.3370).
71. To the failure to find that Team's Director of Scheduling Services, Mike Marcus, attended daily meetings with CNN producers, directors, assignment editors and others in which CNN decided what news stories CNN was going to cover the next day, and that after CNN decided what it was going to cover, Marcus, or one of the Team scheduling managers he supervised, would assign the Team personnel to the various assignments, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.15356-Tr.15365; Tr.15387; Tr.438; Tr.3771; Tr.11152-Tr.11154).
72. To the failure to find that when breaking news changed the priority of assignments during a day, it was the Team assignment desk, not CNN, who made adjustments to the Team crews' schedules to cover those new assignments, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.15361).

73. To the failure to find that Team Studio Operations Managers in Washington and New York assigned work to Team studio employees, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.374; Tr.11029; Tr.11778; Tr.11791-Tr.11792; GC Ex. 431).
74. To the failure to find that it was the Team managers — not CNN — who made all assignments of Team personnel, including denying CNN requests for particular Team employees, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.15305; Tr.15367-Tr.15369; Tr.15393-Tr.15394; GC Ex. 180).
75. To the failure to find that, when CNN added or changed a program, the CNN producer informed Team of the change, and Team managers handled schedule changes for the studio technicians, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.3576).
76. To the failure to find that Team Engineering Managers were responsible for assigning work to Team engineers, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.882; Tr.962).
77. To the failure to find that the CNN Engineering Manager reviewed plans for long-term projects with Team's Engineering Manager, and the Team manager then assigned the staff necessary to implement CNN's plans, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.1873; Tr.8710; Tr.13081-Tr.13082; Tr.13090; CNNA Ex. 501).
78. To the failure to find that Team Shift Supervisors also assigned Team employees to daily engineering projects, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.13069; Tr.13078-Tr.13082; Tr.13085; Tr.13090; Tr.2689; Tr.2698-Tr.2699; Tr.2809-Tr.2810; Tr.2826; Tr.2829; Tr.8708; Tr.8737; CNNA Ex. 33).

79. To the failure to find that if an engineer's assignment needed to be changed during the day, because an engineer needed to take a break or was leaving for the day, Team managers or supervisors reassigned the project to another employee who could complete the task, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.13069; Tr.13078-Tr.13079; Tr.2825-Tr.2829; Tr.8583; CNNA Ex. 33).
80. To the failure to find that, if new assignments came in during the middle of the day, Team managers or supervisors assigned Team engineers based on their availability or their specialty, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.13069; Tr.13078-Tr.13079; Tr.2670; Tr.2674; Tr.2684; Tr.2706; Tr.2666; CNNA Ex. 33).
81. To the failure to find that Team also dispatched its maintenance engineers as needed to service remote installations in and around Washington or New York, such as the White House or the United Nations, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.1742; Tr.2630; 2670; Tr.2684; Tr.2831).
82. To the failure to find that, even when CNN made requests for certain Team employees, the decision about which Team employee to staff on each project ultimately rested with Team, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.442; Tr.444-Tr.445; Tr.9046-Tr.9047; Tr.1752-Tr.1753; Tr.15341-Tr.15342).
83. To the failure to find that Team provided supervision for its employees at remote sites, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.370-Tr.373; Tr.15291-Tr.15293; Tr.11028-Tr.11032; Tr.11159-Tr.11161; GC Exs. 99, 431; TVS Exs. 3, 9, 11, 13).
84. To the failure to find that, with regard to assignments at the White House, Team alone assigned its employees to the White House on three month rotations, as such failure to find

is contrary to the substantial evidence in the Record as a whole. (Tr.15389; Tr.15392; Tr.6306; Tr.6368).

85. To the failure to find that, subject to Team's approval, the White House crew was permitted to decide amongst themselves what shifts they wanted to work at the White House, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.6308; Tr.6343; CNNA Ex. 129; Tr.15389; Tr.15391; Tr.7219).
86. To the failure to find that the Team White House crew did not sign in or out with CNN, but rather was required to report to work each day at the Team Assignment Desk at the CNN bureau in Washington both before and after working at the White House, except when traveling with the President, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.1612-Tr.1613; Tr.1627; Tr.6362-Tr.6363; Tr.6368; CNNA Ex. 139).
87. To the failure to find that Team field personnel on travel with the President were required to contact the Team Assignment Desk on a daily basis to record their time, overtime, and/or missed meals, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.6364-Tr.6366; CNNA Ex. 119; Tr.6917; CNN Ex. 83).
88. To the failure to find that Team employed Shift Supervisors who were in charge of Team operations in their given area and assigned an Engineer in Charge to lead at remote sites, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.5289; Tr.14335-Tr.14336; Tr.15401; Tr.10467; Tr.2795-Tr.2796; Tr.3124; CNNA Exs. 103, 557, 649; GC Ex. 21; TVS Exs. 12, 29, 30, 31).
89. To the failure to find that, with regard to the White House specifically, because of the nature of the assignments at the White House, Team personnel required little if any direction, as

such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.6319-Tr.6321; Tr.6347-Tr.6348; CNNA Exs. 133, 134; Tr.6914).

90. To the failure to find that Team employees required little if any direction on how to perform their job during international traveling assignments with the President or other governmental dignitaries, as such failure to find is contrary to the substantial evidence in the Record as a whole. (*See, e.g.*, Tr.6348-Tr.6353).
91. To the failure to find that instructions received from CNN producers were analogous to the types of instructions Team personnel received from producers from other networks when Team was assigned to cover events as part of pool coverage, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.1665-Tr.1666; Tr.6284; Tr.6358; Tr.3253-Tr.3256; Tr.4143-Tr.4145).
92. To the failure to find that Rick Morse was commonly considered the unofficial Team supervisor at the White House and received additional compensation for the added responsibilities, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.15390; CNNA Exs. 131, 132, 133).
93. To the failure to find that Rick Morse and Jeff Adkinson provided training for up to 40 Team employees on White House procedures, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.6319-21; CNNA Ex. 134).
94. To the failure to find that Rick Morse, Gregory Robertson, Geoffrey Parker, and David Berman would inform the Team desk as to the schedules for Team personnel at the White House, as such failure to find is contrary to the substantial evidence in the Record as a whole. (CNNA Ex. 129; Tr.1629; Tr.6186; Tr.6896-98).
95. To the failure to find that Robertson, Parker, and Berman, Team's White House lighting specialists, would notify the Team scheduling desk when lighting freelancers should be hired

to cover at the White House, specify which freelancers should be hired, at times call the freelancers directly to hire them, and then direct their work at the White House, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.6897-Tr.6898; Tr.7219-20).

96. To the failure to find that Dennis Norman was the Engineer in Charge on the "Crossfire" set and supervised eight to twelve Team personnel, including camera, audio, and field technicians, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.2888; Tr.2984-Tr.2986; Tr.2992; Tr.3054; Tr.3124-Tr.3125; Tr.14246- Tr.14247; Tr.2635; GC Exs. 162, 163; CNNA Ex. 201).
97. To the failure to find that Brad Simons was also involved in the planning and production phases of "Crossfire," as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.15328-29; Tr.2985; CNNA Ex. 201).
98. To the failure to find that CNN directors and producers communicated any requests they had to Norman, who in turn directed Team personnel to comply with the requests, as such failure to find is contrary to the substantial evidence in the Record as a whole. (*See, e.g.*, Tr.3125).
99. To the failure to find that when Norman was absent from the Crossfire set Jeff Adkinson covered for him, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.2641; Tr.2643; Tr.3190).
100. To the failure to find that Team management also supervised Team employees and handled any tardiness or performance issues at "Crossfire," as such failure to find is contrary to the substantial evidence in the Record as a whole. (*See, e.g.*, Tr.14248).
101. To the failure to find that, as a matter of law, CNN approval of overtime does not establish joint employer status, as such failure to find and conclude is contrary to the law.

102. To the failure to find that, when a Team employee had a complaint about his or her overtime, those complaints were addressed to Team, not CNN, as such failure to find is contrary to the substantial evidence in the Record as a whole. (*See, e.g.*, Tr.1531).
103. To the failure to find that Team employees filed grievances against Team, not CNN, for failure to assign overtime, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.1105; GC Ex. 102-C, GC Ex. 102-V).
104. To the failure to find that, under the ENGAs, CNN deposited into a commercial bank account on a monthly basis funds to be paid out during each month by Team for its labor costs, which amount was based on certain wage and benefit forecasts, as determined by Team, to provide the services required by CNN for the particular month, as such failure to find is contrary to the substantial evidence in the Record as a whole. (GC Ex. 40, § 2(c)(i)).
105. To the failure to find that, in the event that Team's labor costs in any given month exceeded the monthly forecast for that month, CNN was required to make appropriate adjustments to the amount deposited into Team's bank account for that month, as such failure to find is contrary to the substantial evidence in the Record as a whole. (GC Ex. 40, § 2(c)(ii)).
106. To the failure to find that, to control the amount of these adjustments, CNN retained the right to approve overtime and other additional wage increases incurred by Team in covering assignments requested by CNN. (GC Ex. 40, § 2(c)(ii); Tr.9061-64; Tr.15397).
107. To the failure to find and conclude that, as a matter of law, this type of reservation of approval right is common in cost-plus arrangements and has repeatedly been held by the Board not to create a joint employment relationship, as such a failure to find and conclude is contrary to established Board law.

108. To the failure to find and conclude, as a matter of law, that the use of CNN credentials by Team employees does not establish joint employer status, as such failure to find and conclude is contrary to the law. (Tr.7030; Tr.3260).
109. To the failure to find that CNN did not hold Team's employees out to the public as its own, as such failure to find is contrary to the substantial evidence in the Record as a whole.
110. To the failure to find that only recognized news organizations were able to acquire credentials, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.6383; Tr.3124; Tr.8598; Tr.6487).
111. To the failure to find that Team submitted the requests for credentials to the credentialing entity (Department of State, Congress, etc.), not CNN, and the requests made clear that the applicant was a "full-time employee of Team Video Services, the contractor serving CNN's Washington Bureau," as such failure to find is contrary to the substantial evidence in the Record as a whole. (CNNA Exs. 90, 91, 166, 194; Tr.3281-Tr.3282; Tr.6721; Tr.8598-600).
112. To the failure to find that the allegations contained within Paragraph 9(c) of the Second Amended Consolidated Complaint are unsupported by the Record, do not constitute a violation of Section 8(a)(1) of the Act, and neither prove nor are evidence of anti-union animus, as such failure to find is contrary to the substantial evidence in the Record as a whole and contrary to the law. (*See, e.g.*, Tr.8751, L.22-Tr.8753, L.12; Tr.8684, L.4-25; Tr.13585, L.3-4).
113. To the failure to find that the allegations contained within Paragraph 9(d) of the Second Amended Consolidated Complaint are unsupported by the Record, do not constitute a violation of Section 8(a)(1) of the Act, and neither prove nor are evidence of anti-union animus, as such failure to find is contrary to the substantial evidence in the Record as a

whole and contrary to the law. (*See, e.g.*, Tr.8553, L.-Tr.8555, L.12; Tr.8486, L.25-Tr.8488, L.6).

114. To the failure to find that the allegations contained within Paragraph 9(e) of the Second Amended Consolidated Complaint are unsupported by the Record, do not constitute a violation of Section 8(a)(1) of the Act, and neither prove nor are evidence of anti-union animus, as such failure to find is contrary to the substantial evidence in the Record as a whole and contrary to the law. (*See, e.g.*, Tr.2331, L.23-Tr.2333, L.21; Tr.3063, L.10-Tr.3065, L.1; Tr.2968, L.2-Tr.2969, L.6).
115. To the failure to find that the allegations contained within Paragraph 9(j) of the Second Amended Consolidated Complaint are unsupported by the Record, do not constitute a violation of Section 8(a)(1) of the Act, and neither prove nor are evidence of anti-union animus, as such failure to find is contrary to the substantial evidence in the Record as a whole and contrary to the law. (*See, e.g.*, Tr.13296, L.25-Tr.13301, L.1; Tr.8891, L.5-Tr.8894, L.6).
116. To the failure to find that the addition of Paragraph 9(k) to the Second Amended Consolidated Complaint on day 74 of the 82-day hearing, over CNN's objection, was prejudicial to CNN and contrary to the law.
117. To the failure to find that the allegations contained within Paragraph 23 of the Second Amended Consolidated Complaint are unsupported by the Record, do not constitute a violation of Section 8(a)(1) of the Act, and neither prove nor are evidence of anti-union animus, as such failure to find is contrary to the substantial evidence in the Record as a whole and contrary to the law. (*See, e.g.*, Tr.8751, L.22-Tr.8753, L.12; Tr.8684, L.4-25; Tr.13585, L.3-4; Tr.8553, L.-Tr.8555, L.12; Tr.8486, L.25-Tr.8488, L.6; Tr.2331, L.23-

Tr.2333, L.21; Tr.3063, L.10-Tr.3065, L.1; Tr.2968, L.2-Tr.2969, L.6; Tr.13296, L.25-Tr.13301, L.1; Tr.8891, L.5-Tr.8894, L.6).

118. To the failure to find that CNN did not interfere with, restrain, and/or coerce CNN employees in the exercise of the rights guaranteed in Section 7 in violation of Section 8(a)(1) of the Act as alleged in Paragraph 23 of the Second Amended Consolidated Complaint, as such failure to find is contrary to the substantial evidence in the Record as a whole and contrary to the law. (*See, e.g.*, Tr.8751, L.22-Tr.8753, L.12; Tr.8684, L.4-25; Tr.13585, L.3-4; Tr.8553, L.-Tr.8555, L.12; Tr.8486, L.25-Tr.8488, L.6; Tr.2331, L.23-Tr.2333, L.21; Tr.3063, L.10-Tr.3065, L.1; Tr.2968, L.2-Tr.2969, L.6; Tr.13296, L.25-Tr.13301, L.1; Tr.8891, L.5-Tr.8894, L.6).
119. To the failure to find that the General Counsel did not demonstrate what constitutes “all material times” within the meaning of Paragraph 4 of the Second Amended Consolidated Complaint and did not prove that each and every individual set forth in Paragraph 4 of the Second Amended Consolidated Complaint, at all material times, was a Supervisor within the meaning of Section 2(11) of the Act and/or an agent of CNN within the meaning of Section 2(13) of the Act, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law.
120. To the failure to find that CNN did not discharge any Team employees named in Appendices A and B as alleged in Paragraph 13 of the Second Amended Consolidated Complaint, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (Tr.290, L.25-Tr.291, L.24; GC Exs. 21, 110).
121. To the failure to find that CNN was not obligated by the ENGAs or the Act to inform the unions of its decision to terminate the ENGAs as alleged in Paragraph 16 of the Second

Amended Consolidated Complaint, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (*See, e.g.*, GC Ex. 40).

122. To the failure to find that CNN was not obligated by the ENGAs or the Act to afford the unions an opportunity to bargain regarding the decision to terminate the ENGAs as alleged in Paragraph 16 of the Second Amended Consolidated Complaint, as such failure to find is contrary to the substantial evidence in the Record as a whole and contrary to the law (*See, e.g.*, GC Ex. 40).
123. To the failure to find that since December 8, 2003 in its Washington Bureau and January 19, 2004 in its New York Bureau, CNN has not expanded and/or packed the bargaining unit to avoid a successorship obligation as alleged in Paragraph 17(b) of the Second Amended Consolidated Complaint, as such failure to find is contrary to the substantial evidence in the Record as a whole and contrary to the law.
124. To the failure to find that the General Counsel did not prove CNN discriminated against or otherwise violated Sections 8(a)(1) and/or 8(a)(3) of the Act with respect to Marcus Bassett, Doriann Bertino, Jeffrey Carlough, Paul Cutting, John Diaconu, Michael Diana, John Fanning, Todd Ferrand, Glen Kriegsman, Stephen Lima, Kathy McLaughlin, Mark Peters, Daniel Rodriguez, Mike Sollenberger, Robert Sullivan, Dennis Faulkner, Chris Hamilton, David Jenkins, Michael Kauffman, Adilson Kiyasu, Mark Marchione, Ralph Marcus, Paul Skaife, Jim Suddeth, Robert Cummings, Vince Everett, Brian Kiederling, Perry McLean, Jonathan Smith, Mary Theodore, Charles Anderson, Keith Crennan, Jimmy Suissa, John Urman, Darin White, Luis Munoz, Jeffrey Noble, Dennis Norman and Sarah Pacheco and, therefore, the allegations contained within Paragraph 19 of the Second Amended Consolidated Complaint with respect to these individuals are unsupported by the Record, do not constitute a violation of Sections 8(a)(1) and/or 8(a)(3) of the Act, and neither prove nor

are evidence of anti-union animus, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (*See, e.g.*, CNNA Exs. 321, 543, 544, 550-556, 560-567, 689-695; GC Exs. 228, 519-531, 543).

125. To the failure to find that the General Counsel did not prove CNN discriminated against or otherwise violated Section 8(a)(3) of the Act with respect to Brian Kiederling, Jonathan Smith, Keith Crennan, David Jenkins, Ralph Marcus, Dennis Norman, Sarah Pacheco and Jimmy Suissa and, therefore, the allegations contained within Paragraph 20 of the Second Amended Consolidated Complaint with respect to these individuals are unsupported by the Record, do not constitute a violation of Section 8(a)(3) of the Act, and neither prove nor are evidence of anti-union animus, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law.
126. To the failure to find that the General Counsel did not prove that CNN discriminated against former Team employees who were offered positions by CNN during the BSP, specifically, Paul Cutting, John Diaconu, Dennis Faulkner, Chris Hamilton, David Jenkins, Adilson Kiyasu, and Mark Marchione, and, therefore, the allegations contained within Paragraph 19 of the Second Amended Consolidated Complaint with respect to these individuals are unsupported by the Record, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (*See, e.g.*, CNNA Exs. 550-556, 560-567, 689-695; GC Exs. 228, 519-531, 543).
127. To the failure to find that CNN did not discriminate against John Fanning to whom it offered a position during the BSP, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law (*See, e.g.*, Tr.15844, L.8-15).
128. To the failure to find that Jonathan Smith was not a fulltime employee of Team Video Services in New York, a union member included in the unit described in Paragraph 5(a) of

the Second Amended Consolidated Complaint, a shop steward, or a union activist and, as such, CNN did not discriminate against Jonathan Smith as alleged in Paragraph 20 of the Second Amended Consolidated Complaint, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (*See, e.g.*, GC Exs. 15-17, 21; CNNA Ex. 321).

129. To the failure to find that Hugo Gaggioni, CNN's industry expert, offered complete, fully credible testimony that was not contested by the General Counsel, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (*See, e.g.*, Tr.12527, L.13-Tr.12591, L.12; CNNA Exs. 439-441).
130. To the failure to find that Hugo Gaggioni's testimony demonstrated that CNN has led the industry in terms of introducing and using this file-based technology, which has "changed completely the workflow" involved in producing a news program and earned CNN numerous awards, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (*See, e.g.*, Tr.12536, L.17-Tr.12538, L.13; Tr.12539, L.23-Tr.12543, L.12; Tr.12574, L.7-Tr.12578, L.4; CNNA Exs. 440, 441).
131. To the failure to find that Hugo Gaggioni's testimony demonstrated that in a file-based system, the information stored in the files must be digital even though digital media does not necessarily have to be stored on a computer in a file-based system, as the digital information can be stored on tape and processed in a linear, step-by-step manner using the same workflow as analog media as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (*See, e.g.*, Tr.12536, L.17-Tr.12538, L.13; Tr.12539, L.23-Tr.12543, L.12; Tr.12574, L.7-Tr.12575, L.18).
132. To the failure to find that Hugo Gaggioni's testimony demonstrated that when Team worked at CNN, the inability to access media and the need to copy tapes in real-time fashion

simultaneously constrained the news production process, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (*See, e.g.*, Tr.12534, L.6-20).

133. To the failure to find that Hugo Gaggioni's testimony demonstrated that in the new file-based world, media is much more widely and quickly available such that once on a server, media can be accessed by many employees simultaneously, even in different locations, and it does not have to be copied, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (*See, e.g.*, Tr.12534, L.6- Tr.12538, L.13).
134. To the failure to find that Hugo Gaggioni's testimony demonstrated that the shift in technology from analog, tape-based technology to digital, file-based technology has altered the processes by which CNN gathers, edits, and produces its news programming, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (*See, e.g.*, Tr.12539, L.23-Tr.12543, L.12).
135. To the failure to find that Hugo Gaggioni's testimony demonstrated that the ability of multiple people in different locations to quickly search for and access file-based media means that it can use the same footage for multiple networks and shows at the same time, thereby speeding up the production process for all of its programming, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (*See, e.g.*, Tr.12539, L.23-Tr.12543, L.12).
136. To the failure to find that Hugo Gaggioni's testimony demonstrated that file-based technology also has advanced the editing process significantly, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (*See, e.g.*, Tr.12539, L.23-Tr.12543, L.12).

137. To the failure to find that Hugo Gaggioni's testimony demonstrated that even if material was recorded on "digital" media, if the media was tape-based, editing still had to be done in a linear fashion, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (*See, e.g.*, Tr.12545, L.2-20).
138. To the failure to find that Hugo Gaggioni's testimony demonstrated that CNN's empowering personnel in the field to edit stories and make editorial decisions about news programming was spawned an entirely new workflow, increased the throughput of CNN news production, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (*See, e.g.*, Tr.12563, L.1-Tr.12564, L.8; Tr.12536, L.17-Tr.12538, L.13; Tr.12539, L.23-Tr.12543, L.12).
139. To the failure to find that Hugo Gaggioni's testimony demonstrated that CNN has been a one of the first news corporations to utilize digital newsgathering and the marriage of field editing and FTP transmission, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (*See, e.g.*, Tr.12536, L.17-Tr.12538, L.13; 12539, L.23-Tr.12543, L.12; CNNA Ex. 438).
140. To the failure to find that Hugo Gaggioni's testimony demonstrated that the news industry is very competitive with respect to the speed of news coverage, and the use of file-based technology offers a competitive advantage, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (*See, e.g.*, Tr.12534, L.6- Tr.12538, L.13).
141. To the failure to find that Hugo Gaggioni's testimony demonstrated that new broadcast and production equipment introduced at CNN since the BSP requires more "IT" support, and less traditional "engineering" or maintenance support, as such failure to find is contrary to

the uncontradicted evidence in the Record as a whole and contrary to the law. (*See, e.g.*, Tr.12567, L.3-Tr.12569, L.19).

142. To the failure to find that Hugo Gaggioni's testimony demonstrated that CNN's changes to its workflow and technology allow a photojournalist with journalistic skills to shoot the video, edit the video, create the perspective, their viewpoint, and transmit the news almost completely finished directly from the moment of happening directly to air in an emergency, all of which was inconceivable and not possible with analog, tape technology, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (*See, e.g.*, Tr.12536, L.17-Tr.12538, L.13; Tr.12539, L.23-Tr.12543, L.12).
143. To the failure to find that Dr. Mary Baker, a Ph.D. labor economist and applied statistician, offered complete, fully credible testimony that was not contested by any expert of the General Counsel, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (Tr.16137, L.22-Tr.16198, L.9; CNNA Ex. 710).
144. To the failure to find that Dr. Baker's testimony and findings demonstrate that Team candidates were actually advantaged in the BSP hiring process as a whole, as such failure to find is contrary to the substantial evidence in the Record as a whole. (*See, e.g.*, Tr.16147, L.9-Tr.16198, L.9; Tables O.1 and I.1, Figures O.1b and O.1a).
145. To the failure to find that Dr. Baker's testimony and findings demonstrate that Team employees were highly statistically significantly favored when compared to non-Team applicants with regard to selection for interviews in numbers consistent with their representation among all applicants for CNN jobs in the BSP, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (Tr.16137, L.22-Tr.16198, L.9; CNNA Ex. 710).

146. To the failure to find that Dr. Baker's testimony and findings demonstrate that Team employees were highly statistically significantly favored when compared to non-Team applicants with regard to who were interviewed received job offers in numbers proportionate to their representation among all applicants interviewed, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (Tr.16137, L.22-Tr.16198, L.9; CNNA Ex. 710).
147. To the failure to find that Dr. Baker's testimony and findings demonstrate that Team employees were highly statistically significantly favored when compared to non-Team applicants with regard to who received job offers in numbers reflective of their representation among all applicants, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (Tr.16137, L.22-Tr.16198, L.9; CNNA Ex. 710).
148. To the failure to find that Dr. Baker's testimony and findings demonstrate that in New York and Washington, D.C., CNN selected for interviews more than double the number of Team employees that would be expected in an entirely neutral process, a rate exceeding the number of Team interviews expected in a neutral process by no less than 188, a result highly statistically significant at 26.86 standard deviations, and a zero probability such is attributable to chance, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (*See, e.g.*, CNNA Ex. 710).
149. To the failure to find that that the data on interviews and job offers extended by CNN fail to provide statistical support for the proposition that former Team employees were underselected for interviews or job offers during the hiring process, and fail to support a finding of discrimination, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (*See, e.g.*, CNNA Ex. 710).

150. To the failure to find that Dr. Baker's testimony and findings demonstrate that former Team employees were favored strongly in the BSP, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (*See, e.g.*, CNNA Ex. 710).
151. To the failure to find that Dr. Baker's testimony and findings demonstrate that 18 CNN hiring managers rated Team applicants higher in interviews than non-Team candidates, five of which did so to a statistically significant degree, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (*See, e.g.*, CNNA Ex. 710).
152. To the failure to find that Dr. Baker's testimony and findings demonstrate that three CNN hiring managers rated Team and non-Team employees exactly the same or within 0.01 of the same average rating, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (*See, e.g.*, CNNA Ex. 710).
153. To the failure to find that the hiring managers who rated Team applicants higher than or equal to non-Team candidates in interviews, Andy Parsons, Anne Woodward, Barclay Palmer, Clayton Sizemore, Edith Chapin, Jeff Gershgor, Jeff Kinney, Joe Murphy, Lew Strauss, Lois Cioffi, Matt Speiser, Michael Poley, Michelle Lackey, RJ Fletcher, Rick Cole, Rob Fox, Steve Alperin, Steve Redisch, Steve Stahl, Troy McIntyre, and Tu Vu, did not discriminate against Team applicants during the interviews or in their ratings and that the interview scores are not evidence of anti-union animus, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (*See, e.g.*, CNNA Ex. 710).
154. To the failure to find that Dr. Baker's testimony and findings demonstrate that two CNN hiring managers rated Team applicants lower than non-Team applicants, and neither did so to

a statistically significant degree, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (*See, e.g.*, CNNA Ex. 710).

155. To the failure to find that Dr. Baker's testimony and findings demonstrate that among all applicants, CNN offered jobs to almost four times as many Team employees as would be expected in a neutral process, that the actual number of offers to Team employees exceeded the expected number by 90, a result highly statistically significant at 18.48 standard deviations, and there is a zero probability of a chance occurrence, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (*See, e.g.*, CNNA Ex. 710).
156. To the failure to find that Dr. Baker's testimony and findings demonstrate that among only applicants who were interviewed, CNN offered jobs to 16 more Team employees than would be expected in a neutral process, a result highly statistically significant at 2.01 standard deviations, and there is a 3.65% probability of a chance occurrence, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (*See, e.g.*, CNNA Ex. 710).
157. To the failure to find that Dr. Baker's testimony and findings demonstrate that BIT hiring managers Vu, Cole, Holcombe, and Murphy consistently rated Team candidates more highly than or approximately equal to non-Team applicants, selected Team candidates for interviews and extended them offers in far greater numbers than would expected in a neutral hiring process, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (*See, e.g.*, CNNA Ex. 710).
158. To the failure to find that Dr. Baker's testimony and findings demonstrate that Team candidates in Washington and New York received 188 more interviews than would be expected in a non-discriminatory hiring process, a highly statistically significant result with

26.86 standard deviations and a 0.00% probability of chance occurrence, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (*See, e.g.*, CNNA Ex. 710).

159. To the failure to find that Dr. Baker's testimony and findings demonstrate that Team candidates in Washington and New York received 16 more job offers than would be expected in a non-discriminatory hiring process, a statistically significant result with 2.66 standard deviations and a 0.71% probability of chance occurrence, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (*See, e.g.*, CNNA Ex. 710).
160. To the failure to find that Dr. Baker's testimony and findings demonstrate that Team candidates were unmistakably favored by during the BSP, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (*See, e.g.*, CNNA Ex. 710).
161. To the failure to find that CNN hired two-thirds of the union stewards and officers who applied for positions during the BSP, including Skip Nocciolo, Michael Gittleman, Peter Morris, Paul Miller, Martin Dougherty, Ken Tuohey, Greg Robertson, Larry Greenberg, Fred Schang, Robert Brennan, Matt Moskowitz, Dan Meara, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole.
162. To the failure to find that a wall-to-wall production unit is the only appropriate unit in the broadcast industry and that partial units comprised of a subset of a wall-to-wall unit is inappropriate, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (Tr.286, L.11-Tr.287, L.8; CNNA Exs. 554, 706; GC Ex. 10).

163. To the failure to find that the General Counsel did not present any evidence that the historical unit remained appropriate, as such failure to find is contrary to the substantial evidence in the Record as a whole.
164. To the failure to find that the historical unit was inappropriate, as such failure to find is contrary to the law.
165. To the failure to find that Team supervisors were supervisors within the meaning of Section 2(11) of the Act and, therefore, should not be counted in the unit for purposes of successorship, as such failure to find is contrary to the substantial evidence in the Record as a whole and contrary to the law. (Tr.6954, L.10-Tr.6955, L.9; Tr.7219, L.17-Tr.7220, L.22; Tr.10689, L.16-Tr.10690, L.4; Tr.10736, L.19-Tr.10739, L.19; Tr.11292, L.17-Tr.11294, L.23; Tr.11781, L.9-Tr.11787, L.7; Tr.11797, L.3-Tr.11800, L.23; Tr.15287, L.15-20; Tr.15312, L.2-Tr.15313, L.5; Tr.6897, L.9-Tr.6901, L.6; Tr.6930, L.20-Tr.6932, L.5; Tr.6319, L.5-Tr.6321, L.9; CNNA Exs. 103, 130-132, 134, 557, 649; TVS Exs. 12, 16, 29, 31; GC Exs. 8, 9, 21, 73, 110).
166. To the failure to find that Team freelancers in New York were explicitly excluded from the bargaining unit pursuant to the collective bargaining agreements, Team freelancers in Washington were neither treated as nor considered to be bargaining unit members by Team and NABET, and Team freelancers in New York and Washington did not consider permanent or continued employment from Team, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (Tr.15975, L.3-Tr.15988, L.3; GC Exs. 8, 9 at §§ 3.2, 3.5(a), 4.2(a), 10.1-10.7, 11.1-11.3, 12.1-12.6, 15.3, 19.1; GC. Exs. 10, 15-17, 21, 110; GC Ex. 102-A, -X, -Y, -AA, -CC; CNNA Exs. 10, 127, 171).

167. To the failure to find that the test articulated in *DIC Entertainment, L.P.*, 328 N.L.R.B. 660 (1999) and proposed by the General Counsel is inappropriate in the context of the broadcast television news industry, as such failure to find is contrary to the law.
168. To the failure to find that Team freelancers should not be counted in the unit for successorship purposes, as such failure to find is contrary to the law.
169. To the failure to find that CNN did not operate normally December 6-14, 2003 in Washington and January 17-25, 2004 in New York, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (CNNA Exs. 213, 270-273, 284, 356, 461-466, 696, 717; GC Ex. 323).
170. To the failure to find that the substantial and representative complement dates were December 15, 2003 in Washington, and January 26, 2004 in New York, as such failure to find is contrary to the substantial evidence in the Record as a whole and contrary to the law. (Tr.14196, L.24-Tr.14197, L.7; CNNA Exs. 213, 270-273, 284, 356, 461-466, 696, 717; GC Ex. 323).
171. To the failure to find that there is no substantial continuity between CNN's and Team's operations, as such failure to find is contrary to the substantial evidence in the Record as a whole and contrary to the law.
172. To the failure to find that CNN and Team are not in the same business, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (*See, e.g.*, Tr.15190, L.14-23; Tr.342, L.21-Tr.343, L.9).
173. To the failure to find that CNN operates in new facilities in both New York and Washington than it did when Team performed work for CNN, as such failure to find is contrary to the substantial evidence in the Record as a whole and contrary to the law. (*See, e.g.*, Tr.14633, L.12-Tr.14644, L.5; CNNA Exs. 211, 212, 414, 442-445).

174. To the failure to find that CNN hires in the photojournalist, media coordinator, audio designer, and technical director positions, and in the Operations and BIT departments, do not perform the same jobs under the same working conditions as they did under Team, as such failure to find is contrary to the substantial evidence in the Record as a whole and contrary to the law. (*See, e.g.*, Tr.12862, L.17-Tr.12867, L.4; Tr.12867, L.25-Tr.12870, L.4; CNNA Exs. 87, 88, 146, 270, 272, 300, 413, 414, 454, 462-464, 471, 475, 654, 667).
175. To the failure to find that CNN hires do not have the same supervisors as they did under Team, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (*See, e.g.*, CNNA Exs. 554, 706; GC Exs. 71, 99).
176. To the failure to find that CNN's production process is different than when Team was the contractor, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (Tr.12862, L.17-Tr.12867, L.4; Tr.12867, L.25-Tr.12870, L.4; CNNA Exs. 87, 88, 146, 270, 272, 300, 413, 414, 424, 434-437, 454, 462-464, 471, 475, 554, 654, 667, 706).
177. To the failure to find that the IPE and TWC cost CNN tens of millions of dollars more than the ENGAs, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (Tr.12870, L.9-Tr.12875, L.1; Tr.12384, L.11-Tr.12390, L.1; Tr.12409, L.17-Tr.12415, L.3; Tr.818, L.1-Tr.819, L.23; Tr.12663, L.1-23; GC Ex. 326).
178. To the failure to find that CNN did not save money implementing the IPE and developing the TWC when compared to the costs of the ENGAs, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (Tr.12870, L.9-Tr.12875, L.1; Tr.12384, L.11-Tr.12390, L.1; Tr.12409, L.17-Tr.12415, L.3; Tr.818, L.1-Tr.819, L.23; Tr.12663, L.1-23; GC Ex. 326).

179. To the failure to find that CNN's decision to terminate the ENGAs lies at the core of entrepreneurial control and is outside the scope of mandatory bargaining, as such failure to find is contrary to the law.
180. To the failure to find that until CNN terminated its contracts with Team, NABET never before had sought to bargain directly with CNN, despite CNN having a contractual relationship with Team in Washington since 1997, and in New York since 2002, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (*See, e.g.*, Tr.11049, L.25-Tr.11051, L.5).
181. To the failure to find that in Mark Peach's conversation with Kathryn Kross on October 3, 2003, Mr. Peach never claimed that CNN had any duty to negotiate with Local 31 concerning the termination of the Team agreements, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole. (Tr.1349, L.17-Tr.1354, L.10; Tr.1359, L.10-Tr.1361, L.16; Tr.1364, L.16-Tr.1365, L.18).
182. To the failure to find that in their October 3, 2003 conversation, Mr. Peach never asked Ms. Kross to bargain about anything, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole. (Tr.1349, L.17-Tr.1354, L.10; Tr.1359, L.10-Tr.1361, L.16; Tr.1364, L.16-Tr.1365, L.18).
183. To the failure to find that in their October 3, 2003 conversation, Mr. Peach did not demand recognition or suggest that CNN owed a joint employer's duty not to terminate (or conversely to hire) the Team personnel represented by Local 31, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (Tr.1349, L.17-Tr.1354, L.10; Tr.1359, L.10-Tr.1361, L.16; Tr.1364, L.16-Tr.1365, L.18).

184. To the failure to find that McEwan's October 7, 2003 letter to Karen Curry did not claim an existing relationship between Local 11 and CNN, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (G.C. Ex. 22).
185. To the failure to find that at no point in his October 7, 2003 letter to Ms. Curry did Mr. McEwan demand that CNN admit it was a joint employer and bargain with Local 11 concerning the termination of the ENGA's or the termination of the Team personnel represented by the Local, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (G.C. Ex. 22).
186. To the failure to find that the November 18, 2003 letter from Morton Bahr to Jim Walton disavows an existing joint employer relationship between CNN and Team Video, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (G.C. Ex. 23).
187. To the failure to find that neither Local 31 or Local 11 made any demand to bargain with CNN until December 8, 2003 and January 23, 2004, respectively, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole and contrary to the law. (G.C. Exs. 25, 27).
188. To the failure to find that the collective bargaining agreement between Team and Local 31 expressly provides that "(i)f CNN cancels or otherwise terminates its contract with the Company, except as provided herein (including severance pay and any duty to bargain), all obligations required by this Agreement shall cease upon the effective termination date of the CNN contract," as such failure to find is contrary to the uncontradicted evidence in the Record as a whole. (G.C. Ex. 9, Article XX, p. 28).
189. To the failure to find, based on the express language of Article XX of the collective bargaining agreement between Team Video and Local 31, that Local 31 is precluded from

bringing a failure to bargain claim as a matter of law, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole. (G.C. Ex. 9, Article XX, p. 28).

190. To the failure to find that the collective bargaining agreement between Team and Local 11 is limited to the operation and maintenance of equipment “contracted for by the Company to be performed at the Cable News Network facility at 5 Penn Plaza, New York, New York (or any successor CNN New York Bureau facility located in the New York City metropolitan area, including New Jersey) . . . ,” as such failure to find is contrary to the uncontradicted evidence in the Record as a whole. (G.C. Ex. 17, Art. IX, § 9.1).
191. To the failure to find, based on the express language of Article IX of the collective bargaining agreement between Team Video and Local 11, that Local 11 is precluded from bringing a failure to bargain claim as a matter of law, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole. (G.C. Ex. 17, Art. IX, § 9.1).
192. To the failure to find that Messrs. Peach and McEwan were experienced NABET officials who knew how to make a bargaining demand, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole. (*See, e.g.*, Tr.207, L.17-Tr.209, L.15; Tr.10599, L.25-Tr.10601, L.12).
193. To the failure to find that the photojournalist and media coordinator positions were designed to achieve maximum efficiency and advantage from the implementation of the IPE technology and workflow, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole. (*See, e.g.*, CNNA Exs. 433-437).
194. To the failure to find that the photojournalist position required knowledge, skills and abilities that differed dramatically from that of a Team Field Technician, including editorial judgment and responsibility, the skill to edit in the field using G4 laptops and Final Cut Pro, ability to handling any audio (and lighting) associated with their shooting, and participation in the

broader CNN Photojournalist operation across the country and around the world, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole. (*See, e.g.*, Tr.12862, L.17-Tr.12867, L.4, CNNA Ex. 475).

195. To the failure to find that the photojournalist position required experience applying the editorial judgment of a journalist on nonlinear editing technology, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole. (*See, e.g.*, Tr.12862, L.17-Tr.12867, L.4, CNNA Ex. 475).
196. To the failure to find that the nonlinear editing experience requirement of photojournalist position consisted of both experience at applying editorial judgment to create and edit packages and a familiarity with nonlinear editing software programs such as Final Cut Pro, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole. (*See, e.g.*, Tr.12862, L.17-Tr.12867, L.4, CNNA Ex. 475).
197. To the failure to find that the media coordinator position required skills and abilities, particularly editorial responsibility, that differed from that of a Team Studio Technician, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole (*See, e.g.*, Tr.12113, L.5-Tr.12126, L.7).
198. To the failure to find that media coordinators perform quality control checks on incoming fees as only one of their many different responsibilities and do so using different equipment than used by Team studio technicians, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole. (*See, e.g.*, Tr.8449, L.14-Tr.8550, L.18; Tr.12255, L.11-Tr.12256, L.20).
199. To the failure to find that the media coordinator position required editorial skills not exercised by Team studio technicians, specifically they highlight (both in the metadata and via email) the editorially significant parts of the feeds to make sure that the shows have the

footage that they need, decide which feeds should be stored on the server, work with shows to decide when media should be deleted off the server, are required to be familiar with CNN's basic approach to newsgathering, its ethical standards, and have an understanding of current events, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole. (*See, e.g.*, Tr.8449, L.14-Tr.8550, L.18; Tr.12255, L.11-Tr.12256, L.20).

200. To the failure to find that CNN's consideration of candidates who presented themselves after a debriefing session but before offers were made is not evidence of discrimination but rather an effort to hire the best qualified candidates, as such failure to find is contrary to the substantial evidence in the Record as a whole.
201. To the failure to find that Myron Leake, Sarah Pacheco, Chris Hamilton, David Jenkins, Larry Langley, Mark Marchione, Luis Munoz, James Norris, John Urman, Charles Anderson, Danny Farkas, and Martin Jiminez were less qualified than those who were hired, and that they were rated and ranked in good faith, as such failure to find is contrary to the substantial evidence in the Record as a whole. (*See, e.g.*, CNNA Exs. 553, 689, 710; GC Exs. 228, 543).
202. To the failure to find that the TPMPs are admissions binding on the witnesses called by the General Counsel, and that their testimony in conflict with those admissions is incredible, as such failure to find is contrary to the substantial evidence in the Record as a whole and contrary to the law.
203. To the failure to find that CNN offered a photojournalist job to Thomas Michael Greene and did not discriminate against him, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole. (CNNA Ex. 544; GC Ex. 543, Greene Tab, CNNA-PROD0075913).
204. To the failure to find that hiring managers alone made decisions about which candidates to hire during the BSP, as such failure to find is contrary to the substantial evidence in the

- Record as a whole. (See, e.g., Tr.14582, L.13-Tr.14591, L.4; Tr.13033, L.3-Tr.13047, L.22; Tr.13049, L.17-Tr.13051, L.8).
205. To the failure to find that all testimony by CNN managers that is consistent with the testimony of “rank and file” employees is credible, as such failure to find is contrary to the substantial evidence in the Record as a whole. (See, e.g., Tr.15611, L.23-Tr.15613, L.12; Tr.14870, L.2-Tr.14873, L.16; Tr.9206, L.10-Tr.9207, L.16; Tr.15779, L.17-25; Tr.11521, L.3-Tr.11522, L.24; Tr.11695, L.1-Tr.11696, L.10; Tr.15687, L.16-Tr.15701, L.7; Tr.15595, L.5-Tr.16043, L.13).
206. To the failure to find, based on Jay McMichael’s testimony, that freelancers had no community of interest with bargaining unit employees in Washington and New York and should not be considered part of the unit for successorship purposes, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.15975, L.3-Tr.15988, L.3).
207. To the failure to find that the DDI process and CNN practice—before, during, and since the BSP—anticipates that the order of offers may be re-arranged in light of the range of experiences and skills required particularly when candidates decline offers, which alters the mix of skills in the pool of hires, as such failure to find is contrary to the substantial evidence in the Record as a whole. (See, e.g., Tr.15975, L.3-Tr.15988, L.3; Tr.11594, L.22-Tr.11595, L.6).
208. To the failure to find that no hidden columns existed in CNN salary spreadsheets used during the BSP, as such failure to find is contrary to the uncontradicted evidence in the Record as a whole. (See, e.g., Tr.13342, L.6-Tr.13343, L.7; CNNA Exs. 540, 541).

209. To the failure to find and conclude that CNN did not discriminate against Team applicants in the hiring process, as such failure to find and conclude is contrary to the substantial evidence in the Record as a whole and contrary to the law.
210. To the failure to find and conclude that CNN is not a successor employer to Team Video Service in Washington or New York, as such failure to find and conclude is contrary to the substantial evidence in the Record as a whole and contrary to the law.
211. To the failure to find that some of the Team employees hired during the BSP quit their jobs soon after they were hired, as such a finding is contrary to the substantial evidence in the Record as a whole. (*See, e.g.*, Tr.13692, L.17-Tr.13693, L.11; Tr.13694, L.18-Tr.13695, L.3; Tr.6028, L.15-24; Tr.6035, L.9-16).
212. To the failure to find that employees hired during the BSP were not performing the same or similar work as Team employees had performed, as such failure to find is contrary to the substantial evidence in the Record as a whole.
213. To the failure to find that testimony of Local 31, Local 11 or General Counsel witnesses about the BSP is, in some cases, inaccurate as such failure to find is contrary to the substantial evidence in the Record as a whole.
214. To the failure to find that the testimony of any General Counsel, Local 11 or Local 31 witness should be credited without being corroborated by other credible evidence as such failure to find is contrary to the law.
215. To the failure to find that the requirements for the photojournalist position, involving non-linear editing, among others, were well in place before the email from Matt Speiser to Cynthia Patrick had been sent (GC Ex. 553), as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.14854, L.7-22; Tr.12470, L.22 - Tr.12471, L.7; CNNA Exs. 93, 196; GC Ex. 227).

216. To the failure to find that the photojournalist position questionnaire was not changed after Matt Speiser sent his email to Cynthia Patrick (D.51, L.22-25), as such failure to find is unsupported by the Record as a whole. (*See, e.g.*, GC Ex. 227).
217. To the failure to find that emphasis on non linear editing was part of a larger change in the core technology used by CNN in terms of its upgrade at the Time Warner Center and the upgrade to a full production facility in Washington, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.12383, L.25 - Tr.12387, L.2; Tr.12407, L.20 - Tr.12408, L.17; Tr.12436, L.25 - Tr.12439, L.17; Tr.12446, L.13 - Tr.12448, L.16).
218. To the failure to find that TVS applicants and non TVS applicants received the same information regarding positions at CNN, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.12976, L.8-21; Tr.6628, L.8 - Tr.6629, L.10; Tr.13106, L.24 - Tr.13112, L.2; Tr.13113, L.13 - Tr.13115, L.1; CNNA Exs. 503-05).
219. To the failure to find that DC photojournalists are used not only in DC but also for national and international coverage, as such failure to find is contrary to the substantial evidence in the Record. (*See, e.g.*, Tr.5909, L.8 - Tr.5911, L.2; Tr.14066, L.3-17; Tr.6293, L.9 - Tr.6294, L.1; Tr.13604, L.16 - Tr.13607, L.16; Tr.15820, L.20 - Tr.15823, L.4; Tr.15995, L.5 - Tr.16047, L.21; Tr.11401, L.25 - Tr.11402, L.24; CNNA Exs. 670-72, 674-76, 703-04).
220. To the failure to find that the "growth candidates" were qualified candidates who had experience or expertise that other candidates lacked (D.53, L.17-18 - D.54, L.1-4), as such failure to find is contrary to the substantial evidence in the Record as a whole. (*See e.g.*, Tr.3776, L.7 - Tr. 3778, L.23; Tr.12894, L.8 - Tr.12898, L.15; Tr.14968, L.13 - Tr.14969, L.22; Tr.14829, L.14 - Tr.14831, L.18; Tr.14884, L.24 - Tr.14887, L.11; TR.11705, L.23 - Tr.11706, L.21; Tr.11713, L.1 - Tr.11715, L.12; CNNA Exs. 400, 689; GC Exs. 228, 520, 534).

221. To the failure to find that Cynthia Patrick's testimony was credible, as such failure to find is unsubstantiated by the evidence in the Record as a whole and contrary to the law.
222. To the failure to find that the pay of growth candidates varied like the pay of non-growth candidates, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.13353, L.17 – Tr.13357, L.14; Tr.13358, L.16-25; CNNA Exs. 543-44).
223. To the failure to find that cost savings was not a factor in CNN's decisions related to the hiring or implementation of the Bureau Staffing Project (D.54, L.49-51), as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.14951, L.8 – Tr.14952, L.25; Tr.818, L.23 - Tr.819, L.2, Tr.12880, L.1 - Tr.12881, L.18, Tr.12875, L.2-21; Tr.12663, L.1-13; Tr.3946, L.24 – Tr.3947, L.7; Tr.5907, L.8-15).
224. To the failure to find that "candidates who had only a few years of small market experience" were hired based on other qualities they possessed (D.55, L.32-33), as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.15439, L.13 - Tr.15442, L.12; GC Ex. 693, Tab 12; CNNA Exs. 558, 673).
225. To the failure to find that Rick Denius' interview notes show a concern with Sarah Pacheco's non-linear editing proficiency gap, as such failure to find is contrary to the substantial evidence in the Record as a whole. (GC Ex. 233).
226. To the failure to find that Sarah Pacheco failed to submit a demo tape during the application process and that she did not engage in any significant editing since 1990, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.4006, L.9 – Tr.4007, L.1; Tr.6750, L.19 - Tr.6751, L.3; CNNA Ex. 64, 100 CNNA-026531, GC Ex. 233).
227. To the failure to find that CNN's hiring decisions in the Bureau Staffing Project were based on the widely used Development Dimensions International Targeted Selection method and applied in a nondiscriminatory manner, as such failure to find is contrary to the substantial

evidence in the Record as a whole. (Tr.12937, L.16 - Tr.12941, L.24; Tr.2230, L.20 - Tr.2231, L.20; Tr.2552, L.8 - Tr.2555, L.15; Tr.4154, L.14 - Tr.4155, L.18; Tr.4184, L.20 - Tr.4185, L.12; Tr.5693, L.16 - Tr.5694, L.21; Tr.5904, L.18 - Tr.5905, L.25; Tr.9366, L.4 - 17; Tr.12301, L.18 - Tr.12304, L.2; Tr.12889, L.23 - Tr.12891, L.3; Tr.12963, L.4 - Tr.12964, L.4; Tr.13017, L.24 - Tr.13018, L.9; Tr.13027, L.2 - Tr.13028, L.16; Tr.13183, L.18 - Tr.13186, L.19; Tr.13337, L.6-17; CNNA Exs. 476-77).

228. To the failure to find that timing and selection of Chris Hamilton's for an offer was the result of his position on the ranking list, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.4104, L.24 - Tr.4105, L.21; CNNA Ex. 517; GC Ex.259).
229. To the failure to find that the CNN hiring managers were not aware of any union activism by Chris Hamilton, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.4100, L.17 - Tr.4102, L.8; Tr.4104, L.24 - Tr.4105, L.21).
230. To the failure to find that Chris Hamilton was less qualified than those who received better rankings, and that he was rated and ranked in good faith, as such failure to find is contrary to the substantial evidence in the Record as a whole. (*See, e.g.*, Tr.5823, L.6 - Tr.5824, L.23; GC Ex. 228 Tab Q, 241, 259).
231. To the failure to find that none of the CNN hiring managers was aware of any union activism by Dave Jenkins as the failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.4292, L.12-Tr.4308, L.25; Tr.4336, L.14-Tr.4347, L.24).
232. To the failure to find that Dave Jenkins was less qualified than those candidates ranked above him, and that he was rated and ranked in good faith as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.3869, L.23-Tr.3948, L.6; Tr.3959, L.7-Tr.4116, L.23; Tr.4135, L.7-Tr.4139, L.6; Tr.4154, L.14-Tr.4224, L.20; Tr.5538, L.23-

Tr.5594, L.5; Tr.5600, L.9-Tr.5715, L.3; Tr. 5738, L.4-Tr. 5908, L.11; Tr.5640, L.16-24; GC Exs. 228, Tab C, 261; GC Exs. 227, 228, 241, 247, 260, 261, 266 267, 543 (Vols. I-IV); CNNA Exs. 64, 66-69, 689, 693).

233. To the failure to find that Dave Jenkins' work after he was hired demonstrates that he was less qualified with respect to non-linear editing than the non-TVS candidates who were hired in Washington as such failure to find is contrary to the substantial evidence in the Record as a whole. (CNNA Ex. 95).
234. To the failure to find that none of the CNN hiring managers was aware of any union activism by Larry Langley as such failure to find is contrary to the substantial evidence in the Record as a whole.
235. To the failure to find that Larry Langley assaulted and threatened a journalist who stepped into his shot, had numerous behavioral problems with CNN and Team personnel, was rated and ranked in good faith, and was less qualified than the candidates who were selected as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.5724, L.15-Tr.5911, L.20; Tr.5506, L.5-Tr.5715, L.8; Tr.3755, L.14-Tr.4226, L.19; CNNA Ex. 113; GC Ex. 228, Tab D; GC Exs. 227, 228, 241, 247, 260, 261, 543 (Vols. I-IV); CNNA Exs. 66-69, 689, 693).
236. To the failure to find that Larry Langley failed timely to submit a resume tape, CNN reminded him to submit a tape, and the tape he submitted was of lesser quality as compared to the tapes submitted by hires, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.5610, L.9-Tr.5611, L.2; Tr.4201, L.4-25; CNNA Ex. 64, 328).
237. To the failure to find that Marchione was selected when he was because he was next on the ranking list to fill an opening created by a resignation or a decline, as such failure to find is

contrary to the substantial evidence in the Record as a whole. (Tr.4204, L.1-Tr.4205, L.2; GC Exs. 230, 261; CNNA Ex. 70).

238. To the failure to find that none of the CNN hiring managers was aware of any union activism by Marchione as such failure to find is contrary to the substantial evidence in the Record as a whole.

239. To the failure to find that Marchione was less qualified than those who were ranked above him, and that he was rated and ranked in good faith as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.3869, L.23-Tr.3948, L.6; Tr.3959, L.7-Tr.4116, L.23; Tr.4135, L.7-Tr.4139, L.6; Tr.4154, L.14-Tr.4224, L.20; Tr.5538, L.23-Tr.5594, L.5; Tr.5600, L.9-Tr.5715, L.3; Tr. 5738, L.4-Tr. 5908, L.11; GC Exs. 227, 228, 241, 247, 260, 261, 543 (Vols. I-IV); CNNA Exs. 64, 66-70, 689, 693).

240. To the failure to find that none of the CNN hiring managers was aware of any union activism by Luis Munoz as such failure to find is contrary to the evidence in the Record as a whole.

241. To the failure to find that Luis Munoz was less qualified than those who were ranked above him, and that he was rated and ranked in good faith as such failure to find is contrary to the substantial evidence in the Record as a whole. (GC Exs. 227, 228, 241, 247, 260, 261, 266, 267, 543 (Vols. I-IV); CNNA Exs. 64, 66-70, 689, 693).

242. To the failure to find that none of the CNN hiring managers was aware of any union activism by Jim Norris as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.5710, L.9-13).

243. To the failure to find that Jim Norris interviewed poorly and his tape was poor as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.5709, L.13-Tr.5710, L.16; CNNA Ex. 64; GC Ex. 228, Tab G).

244. To the failure to find that Jim Norris was less qualified than those who were ranked above him, and that he was rated and ranked in good faith as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.5709, L.13-Tr.5710, L.16; CNNA Ex. 64; GC Ex. 228, Tab G; GC Exs. 227, 228, 241, 247, 260, 261, 266, 267, 543 (Vols. I-IV); CNNA Exs. 64, 66-69, 689, 693).
245. To the failure to find that CNN hiring managers were unaware that John Urman “participated in handbilling in front of the CNN building during the Union’s contract negotiations with TVS in 1998” (D.65, L. 24-26), as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.6745, L.2-13; Tr.6575, L.18-Tr.6576, L.12).
246. To the failure to find that none of the CNN hiring managers was aware of any union activism by John Urman as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.6745, L.2-13; Tr.6575, L.18-Tr.6576, L.12).
247. To the failure to find that John Urman was less qualified than those who were ranked above him, and that he was rated and ranked in good faith as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.3869, L.23-Tr.3948, L.6; Tr.3959, L.7-Tr.4116, L.23; Tr.4135, L.7-Tr.4139, L.6; Tr.4154, L.14-Tr.4224, L.20; Tr.5538, L.23-Tr.5594, L.5; Tr.5600, L.9-Tr.5715, L.3; Tr. 5738, L.4-Tr. 5908, L.11; CNNA Ex. 64; GC Ex. 228, Tab I; GC Exs. 227, 228, 241, 247, 250, 251, 255, 260-262, 267, 543, Vol. IV, Urman Tab, CNNA-PROD0037382, 543 (Vols. I-IV); CNNA Exs. 64, 66-69, 689, 693).
248. To the failure to find that none of the CNN hiring managers was aware of any union activism by Charles Anderson as there is no evidence in the Record to the contrary.
249. To the failure to find that Charles Anderson was less qualified than those who were hired, and that he was rated and ranked in good faith as such failure to find is contrary to the

substantial evidence in the Record as a whole. (Tr.4147, L.14-21; Tr.3869, L.23-Tr.3948, L.6; Tr.3959, L.7-Tr.4116, L.23; Tr.4135, L.7-Tr.4139, L.6; Tr.4154, L.14-Tr.4224, L.20; Tr.5538, L.23-Tr.5594, L.5; Tr.5600, L.9-Tr.5715, L.3; Tr. 5738, L.4-Tr. 5908, L.11; CNNA Ex. 64; GC Ex. 228, Tab A; GC Exs. 110, 227, 228, 241, 247, 250, 251, 255, 260-262, 267, 543 (Vols. I-IV); CNNA Exs. 64, 66-69, 689, 693).

250. To the failure to find that nobody at CNN was aware that Chris Leonard was “dying of brain cancer when CNN hired him,” as there is no evidence in the Record to the contrary.
251. To the failure to find that if Chris Leonard suffered from terminal cancer at the time he applied for a position with CNN, CNN was prohibited by law, such as the American’s with Disabilities Act, from holding Chris Leonard’s disability against him in hiring decisions, as such failure to find is contrary to the law.
252. To the failure to find that none of the CNN hiring managers was aware of any union activism by Danny Farkas as there is no evidence in the Record to the contrary.
253. To the failure to find that Danny Farkas was less qualified than those who were hired for photojournalist and field engineer, including Leonard, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.2415, L.5-Tr.2416, L.9; GC Ex. 543, Vol. II, Farkas Tab; G.C. Ex. 134, Tab I, CNNA Ex. 689, Tab10; 690, Tab 10; GC Exs. 134, 143, 144, 152, 153, 156; CNNA Exs. 30, 223, 678).
254. To the failure to find that the hiring of Chris Leonard, in spite of his medical condition, is evidence of the lack of discriminatory animus based on TVS bargaining unit status, as such failure to find is contrary to the law and the Record as a whole. (G.C. Ex. 134, Tab I, CNNA Ex. 689, Tab 10, 690, Tab 10; GC Exs. 134, 144, 152, 153, 156; CNNA Exs. 30, 223, 678).

255. To the failure to find that none of the CNN hiring managers was aware of any union activism by Myron Leake, as there is no evidence in the Record to the contrary.
256. To the failure to find that Myron Leake was less qualified than those who were hired, and that he was rated and ranked in good faith.
257. To the failure to find that none of the CNN hiring managers was aware of any union activism by Martin Jimenez.
258. To the failure to find that Martin Jimenez was less qualified than those who were hired, and that he was rated and ranked in good faith.
259. To the failure to find that Martin Jimenez's answer to interview questions suggested a failure to adhere to ethical journalism standards. (GC Ex. 543, Vol.2, Tab Jimenez at CNNA-016375-016384, CNNA-016387-016396).
260. To the failure to find that none of the CNN hiring managers was aware of any union activism by any rejected candidate, as such failure to find is contrary to the substantial evidence in the Record as a whole.
261. To the failure to find that the Team candidates who were not selected were less qualified than the candidates who were hired, and that all of them were rated and ranked in good faith, as such failure to find is contrary to the substantial evidence in the Record as a whole.
262. To the failure to find that the TPMPs of CNN employees demonstrate that the jobs performed by CNN employees were substantially different from those performed by Team employees, as such failure to find is contrary to the substantial evidence on the Record as a whole.
263. To the failure to find that Ben Coyte's testimony was credible, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.12353, L.6-Tr.12370, L.25; Tr.15430, L.2-Tr.15673, L.19).

264. To the failure to find that CNN offered a photojournalist job to Mike Greene and hired him on December 6, 2003, as such failure to find is contrary to the substantial evidence in the Record as a whole. (GC Ex. 543, Vol. 2, Greene Tab).
265. To the failure to find that CNN was aware that Mike Greene was a union negotiator, as there is no evidence in the Record to the contrary.
266. To the failure to find that the Team applicants who were not selected were less qualified than Khalil Abdallah, for reasons including the lack of experience with editing, non-linear editing, and other skills required in the new job, as such failure to find is contrary to the substantial evidence in the Record as a whole.
267. To the failure to find that Khalil Abdallah's work after he was hired demonstrates that he was qualified for the job, as such failure to find is contrary to the substantial evidence in the Record as a whole.
268. To the failure to find that the Team applicants who were not selected were less qualified than John Bena, as such a failure to find is contrary to the substantial evidence in the Record as a whole.
269. To the failure to find that John Bena's work after he was hired demonstrates that he was qualified for the job, as such a failure to find is contrary to the substantial evidence in the Record as a whole.
270. To the failure to find that Bethany Chamberland Swain was qualified, as such failure to find is contrary to the substantial evidence in the Record as a whole. (GC Ex. 228, Tab L; Tr.15991, L.14-Tr.15994, L.14; CNNA Ex. 705).
271. To the failure to find that the Team applicants who were not selected were less qualified than Bethany Chamberland Swain, as such failure to find is contrary to the substantial evidence in the Record as a whole.

272. To the failure to find that Bethany Chamberland Swain has won multiple awards for her work for CNN, that she was engaged in story pitches, non-linear editing and story creation from the day of her arrival at CNN, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.15994, L.15-Tr.16020, L.1; Tr.16022, L.12-Tr.16040, L.19; CNNA Exs. 703, 704).
273. To the failure to find that Bethany Chamberland Swain's work after she was hired demonstrates that she was qualified for the job, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.15994, L.15-Tr.16020, L.1; Tr.16022, L.12-Tr.16040, L.19; CNNA Exs. 703, 704).
274. To the failure to find that Mike Haan and Jerry Appleman were more qualified than Mark Marchione and Chris Hamilton, as such failure to find is contrary to the substantial evidence in the Record as a whole.
275. To the failure to find that the Team applicants who were not selected were less qualified than Mike Haan and Jerry Appleman, as such failure to find is contrary to the substantial evidence in the Record as a whole.
276. To the failure to find that Mike Haan's work after he was hired demonstrates that he was qualified for the job, as such failure to find is contrary to the substantial evidence in the Record as a whole.
277. To the failure to find that the Team applicants who were not selected were less qualified than Jeremy Harlan, as such failure to find is contrary to the substantial evidence in the Record as a whole.
278. To the failure to find that Jeremy Harlan's work after he was hired demonstrates that he was qualified for the job, as such failure to find is contrary to the substantial evidence in the Record as a whole.

279. To the failure to find that the TVS applicants who were not selected were less qualified than Ron Helm, as such failure to find is contrary to the substantial evidence in the Record as a whole.
280. To the failure to find that Ron Helm's work after he was hired demonstrates that he was qualified for the job, as such failure to find is contrary to the substantial evidence in the Record as a whole.
281. To the failure to find that the timing of offers was based on many factors, including when references were cleared and when new positions were approved or vacancies resulted from declines, as such failure to find is contrary to the substantial evidence in the Record as a whole.
282. To the failure to find that the Team applicants who were not selected were less qualified than Jay McMichael, as such failure to find is contrary to the substantial evidence in the Record as a whole.
283. To the failure to find that Jay McMichael's work after he was hired demonstrates that he was qualified for the job, as such failure to find is contrary to the substantial evidence in the Record as a whole.
284. To the failure to find that the Team applicants who were not selected were less qualified than Jeremy Moorhead, as such failure to find is contrary to the substantial evidence in the Record as a whole.
285. To the failure to find that Jeremy Moorhead's work after he was hired demonstrates that he was qualified for the job, as such failure to find is contrary to the substantial evidence in the Record as a whole.
286. To the failure to find that Bryan Pearson was experienced and skilled at non-linear editing and Final Cut Pro, as well as all other photojournalist skills, such that he was made a trainer

for the position, as such failure to find is contrary to the substantial evidence in the Record as a whole. (See Exception 101; Tr.12778, L.24-Tr. 12779, L.7).

287. To the failure to find that the Team applicants who were not selected were less qualified than Bryan Pearson, as such failure to find is contrary to the substantial evidence in the Record as a whole.
288. To the failure to find that Bryan Pearson's work after he was hired demonstrates that he was qualified for the job, as such failure to find is contrary to the substantial evidence in the Record as a whole.
289. To the failure to find that the Team applicants who were not selected were less qualified than Jose Santos, as such failure to find is contrary to the substantial evidence in the Record as a whole.
290. To the failure to find that Jose Santos' work after he was hired demonstrates that he was qualified for the job, as such failure to find is contrary to the substantial evidence in the Record as a whole.
291. To the failure to find that the Team applicants who were not selected were less qualified than Doug Schantz, as such failure to find is contrary to the substantial evidence in the Record as a whole.
292. To the failure to find that Doug Schantz's work after he was hired demonstrates that he was qualified for the job, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.15439, L.12-Tr.15440, L.4; Tr.15468, L.9-22; Tr.11359, L.22-Tr.11360, L.15).
293. To the failure to find that the TVS applicants who were not selected were less qualified than Ken Tillis, as such failure to find is contrary to the substantial evidence in the Record as a whole.

294. To the failure to find that Ken Tillis's work after he was hired demonstrates that he was qualified for the job, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.15438, L.10-Tr.15440, L.4; Tr.15452, L.16-Tr.15453, L.11).
295. To the failure to find that the Team applicants who were not selected were less qualified than Floyd Yarmuth, as such failure to find is contrary to the substantial evidence in the Record as a whole. (GC Ex. 228, Tab V; CNNA Ex. 64; Tr.12895, L.8-23; Tr.15438, L.10-15439, L.20).
296. To the failure to find that Floyd Yarmuth's work after he was hired demonstrates that he was qualified for the job, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.12895, L.8-23; Tr.15438, L.10-15439, L.20; Tr.15495, L.5-Tr.15497, L.17; Tr.15498, L.19-Tr.15499, L.10; CNNA Ex. 662).
297. To the failure to find that none of the CNN hiring managers was aware of any union activism by Brian Kiederling. (Tr.9939, L.19 - Tr.9940, L.10).
298. To the failure to find that Brian Kiederling was less qualified than those who were hired, and that he was rated, ranked, and rejected in good faith, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.9351, L.23 - Tr.9352, L.20; Tr.9358, L.22 - Tr.9364, L.11; GC Exs. 429, 459, 519-22; CNNA Exs. 323-24, 565, 559).
299. To the failure to find that Gabe Ramirez, Doug Burgess, and Richard Frederick were more qualified than the TVS candidates who were not selected, and that there was no evidence of discrimination in their selection, as such failure to find is contrary to substantial evidence in the Record as a whole. (Tr.13040, L.5-13; Tr.13388, L.19 - Tr.13390, L.1; Tr.11459, L.23 - Tr.11460, L.7, 18 - Tr.11461, L.13; Tr.4193, L.2-11; Tr.9145, L.13 - Tr.9147, L.6; Tr.13160, L.8 - Tr.13166, L.16; Tr.14966, L.11-14; Tr.11382, L.15 - Tr.11384, L.6; Tr.11459, L.23 - Tr.11460, L.7, 18 - Tr.11461, L.13; Tr.9151, L.15 - Tr.9156, L.9; Tr.9157, L.12 - Tr.9158,

L.11; Tr.9344, L.7 - Tr.9345, L.5; Tr.8390, L.24 - Tr.8394, L.25; Tr.8397, L.13-19; Tr.8398, L.10-16, 21 - Tr.8399, L.7; Tr.9140, L.2 - Tr.9142, L.1; Tr.9294, L.23 - Tr.9299, L.3; Tr.8391, L.10-15; Tr.9170, L.21 - Tr.9173, L.1; Tr.14811, L.20 - Tr.14812, L.2; Tr.14814, L.25 - Tr.14815, L.8; Tr.8394, L.1-25; Tr.12485, L.21 - Tr.12496, L.10; Tr.13151, L.16 - Tr.13152, L.15; CNNA Exs. 380, 495, 565, 559 Tabs 15, 19, 693, Tab 12; GC Exs. 241, 250, 260, 261, 429, 519-22, 543).

300. To the failure to find that the TVS applicants who were not selected were less qualified than Richard Frederick, as such failure to find is contrary to substantial evidence in the Record as a whole. (*See, e.g.*, Tr.4193, L.2-11; Tr.9145, L.13 - Tr.9147, L.6; Tr.13160, L.8 - Tr.13166, L.16; Tr.14966, L.11-14; Tr.11382, L.15 - Tr.11384, L.6; Tr.3776, L.7 - Tr.3778, L.23; GC Exs. 429, 519-22; CNNA Exs. 380, 520, 559, 565, 559 Tab 19, 693 Tab 12).
301. To the failure to find that Richard Frederick's work after he was hired demonstrates that he was qualified for the job, as such failure to find is contrary to substantial evidence in the Record as a whole. (*See, e.g.*, Tr.11382, L.15 - Tr.11384, L.6; CNNA Ex. 380).
302. To the failure to find that TVS applicants who were not selected were less qualified than Bryan Kane, as such failure to find is contrary to substantial evidence in the Record as a whole. (Tr.3776, L.7 - Tr.3778, L.23; CNNA Exs. 377, 381, 559, 565; GC Exs. 429, 519-520).
303. To the failure to find that Bryan Kane's work after he was hired demonstrates that he was qualified for the job, as such failure to find is contrary to substantial evidence in the Record as a whole. (Tr.11390, L.20 - Tr.11392, L.13; Tr.11470, L.20 - Tr.11474, L.6; CNNA Exs. 377, 381; GC Ex. 520).
304. To the failure to find that Carlos Christen had Spanish skills that were needed in NY for CNN Espanol, and other non-hired candidates did not have these foreign language skills, as

such failure to find is contrary to substantial evidence in the Record as a whole. (Tr.14908, L.6 – Tr.14909, L.18; Tr.3999, L.8-17; CNNA Ex. 693, Tab 7 CNNA-PROD-013846; GC Exs. 260 CNNA-012409, 519-22, 556).

305. To the failure to find that the testimony of all CNN witnesses was credible, as such failure to find is contrary to the substantial evidence of the Record as a whole and contrary to the law.
306. To the failure to find that General Counsel never inquired into the “specifics” of Lew Strauss’ discussion with Steve Alperin concerning the strengths and weaknesses of the candidates being considered (D.89, L.10-12).
307. To the failure to find that Lew Strauss and Alperin rated Team Video applicants well above others in the interview scores, that Strauss preferred Team candidates, and that there was no basis for believing that John Rappa was an active union member, as such failure to find is contrary to the substantial evidence in the Record as a whole. (CNNA Exs. 567, 710 Table O.1, R.1; GC Ex. 531).
308. To the failure to find that union stewards and activists in Washington D.C. were hired by CNN and continue to work at CNN as such finding is contrary to the substantial evidence in the Record as a whole. (*See, e.g.*, Tr.4854, L.4-25; Tr.1412, L.9-21; Tr.1356, L.12-Tr.1357, L.3; Tr.1410, L.10-17; Tr.1503, L.21-Tr.1504, L.22; Tr.1558, L.14-17; Tr.1563, L.12-Tr.1564, L.2; Tr.4196, L.10-23; Tr.4197, L.18-24; CNNA Exs.9, 543, Vol.3, CNNA-PROD0075250-1; GC Exs. 261, 543, Vol.1, CNNA-PROD0070364, CNNA-022427, CNNA-PROD0075179, Vol.2, CNNA-PROD0070969-70, CNNA-PROD0071049-50, CNNA-PROD0075235, Vol.4, CNNA-PROD0075286, CNNA-010646-7).
309. To the failure to find that CNN hiring managers were unaware of Jimmy Suissa’s union activism, as such failure to find is contrary to the substantial evidence in the Record as a whole.

310. To the failure to find that all TVS bargaining unit supervisors were statutory supervisors (D.90, L.45-51), as such finding is contrary to the substantial evidence in the Record as a whole. (*See e.g.*, CNNA Exs. 130, 502, 557, 649; TVS Exs. 12, 16, 17, 29, 31; GC Ex. 8-9, 21, 73, 110; Tr.5292, L.19-Tr.5293, L.8; Tr. 6954, L.10-Tr.6955, L.9; Tr.7219, L.3-Tr.7221, L.1; Tr.15390, L.1-17; Tr.10689, L.16- Tr.10690, L.4; Tr.10736, L.19-Tr.10739, L.19; Tr.10467, L.8-12; Tr.10467, L.19- Tr.10468, L.24; Tr.15312, L.2-Tr.15313, L.5; Tr.5293, L.19-Tr.5294, L.1; Tr.8631, L.7-15; Tr.8501, L.10-20; Tr.8594, L.16-Tr.8595, L.1; Tr.13067, L.13-Tr.13068, L.5; Tr.11781, L.17-Tr.11787, L.7; Tr.11796, L.19-Tr.11800, L.23; Tr.13078, L.8-Tr.13079, L.7; Tr.15287, L.7-20; Tr.15312, L.2- Tr.15313, L.5; Tr.11813, L.7-10; Tr.11955, L.6-Tr.11957, L.18; Tr.13995, L.22-Tr.13998, L.10; Tr.8576, L.18-Tr.8577, L.18; Tr.8720, L.7-14; Tr.8581, L.8-Tr.8583, L.1; Tr.11291, L.7- Tr.11293, L.19; Tr.13069, L.7-20; Tr.11783, L.13-Tr.11787, L.2; Tr.11816, L.20- Tr.11817, L.12; Tr.11296, L.2-Tr.11297, L.4; Tr.11798, L.8-Tr.11800, L.3; Tr.6897, L.9-Tr.6898, L.5; Tr.6302, L.21-Tr.6303, L.16).
311. To the failure to find that CNN proved its BIT hiring decisions were necessary due to the merger of its IT and engineering department, as such failure to find is contrary to the substantial evidence in the Record as a whole. (*See e.g.*, CNNA Exs. 527, 528; Tr.2053, L.3-12; Tr.2344, L.22-Tr.2345, L.1; Tr.821, L.22-Tr.822, L.24; Tr.13214, L.7-Tr.13219, L.3; Tr.8211, L.2-18; Tr.3816, L.19-Tr.3817, L.10; Tr.1727, L.1-12; Tr.1905, L.22-Tr.1907, L.2).
312. To the failure to find that the butcher block for Jeff Noble was prepared at a debriefing session, (D.102, L.1), as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.14582, L.13-19; Tr.14586, L.2-6).
313. To the failure to find that BIT production support specialists, BIT system administrators, electronic graphics operators, editor/producers, operations managers, technical production managers, lines coordinators, scenic coordinator, are included in the appropriate unit in New

York, as such a failure to find is contrary to the substantial evidence as a whole and contrary to the law. (*See e.g.*, CNNA Exs. 87-88, 554; Tr.628, L.4-Tr.629, L.3; Tr.821, L.4-Tr.822, L.24; Tr. 828, L.24-Tr.829, L.19; Tr.8098, L.21-Tr.8099, L.2; Tr.8003, L.13-Tr.8006, L.15; Tr.12679, L.16-Tr.12682, L.10; Tr.8185, L.12-Tr.8188, L.17; Tr.8236, L.13-Tr.8237, L.6; Tr.7843, L.18-24; Tr.7860, L.10-Tr.7861, L.11; Tr.8064, L.5-15; Tr.8001, L.2-Tr.8002, L.9; Tr.8086, L.6-Tr.8090, L.20; Tr.15869, L.1-20; Tr.9591, L.5-10; Tr.14197, L.8-Tr.14198, L.2; Tr.13245, L.13-Tr.13246, L.18).

314. To the failure to find that BIT production support specialists, BIT system administrators, BIT systems developer, BIT technical analyst, editor/producers, production assistants, tape editors, tape evaluators are included in the appropriate unit in DC, as such a failure to find is contrary to the substantial evidence as a whole and contrary to the law. (*See e.g.*, CNNA Exs. 87-88, 677, 706; Tr.628, L.4-Tr.629, L.3; Tr.2344, L.2-Tr.2345, L.1; Tr.1781, L.3-23; Tr.821, L.4-Tr.822, L.24; Tr.828, L.24-Tr.829, L.19; Tr.2559, L.2-Tr.2564, L.8; Tr.2822, L.5-Tr.2823, L.24; Tr.16241, L.2-Tr.16242, L.16; Tr.2797, L.3-Tr.2801, L.6; Tr.2576, L.10-Tr.2577, L.5; Tr.2359, L.1-Tr.2360, L.14; Tr.2093, L.7-Tr.2094, L.22; Tr.16230, L.21-Tr.16232, L.2; Tr.1728, L.8-12; Tr.2429, L.9-17; Tr.2018, L.3-Tr.2019, L.25; Tr.15869, L.1-20; Tr.9591, L.5-10; Tr.14197, L.8-Tr.14198, L.2; Tr.13245, L.13-Tr.13246, L.18).
315. To the failure to find that CNN was not operating normally until December 15, 2003, in Washington, and January 26, 2004, in New York, as such failure to find is contrary to the substantial evidence in the Record as a whole.
316. To the failure to find that CNN managers testified credibly about the changed nature of the work performed after the BSP, as such a failure to find is contrary to the law.
317. To the failure to find that Team freelancers are not part of the unit for successorship purposes, as such a failure to find is contrary to the law.

318. To the failure to find Stacy Leitner's poor performance evaluation was a result of her refusal to perform her "editorial" responsibilities as a media coordinator, as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.10566, L.21 – Tr.10573, L.4; Tr.12202, L.3 – Tr.12203, L.17; CNNA Ex. 358, CNNA-PROD0072263).
319. To the failure to find that employee witnesses testified about "editorial aspects" of their job (D.121, L.41-43), as such failure to find is contrary to the evidence in the Record as a whole. (*See, e.g.*, Tr. 10566, L.21-Tr.10573, L.4).
320. To the failure to find that Dennis Finnegan's testimony that he entered slugs that producers gave him and did not determine slugs himself is not generally representative of media coordinators' performance of their job duties (D.121, L.51 – D.122, L.40), as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.10814, L.9 – Tr.10816, L.19; Tr.10327, L.16 – Tr.10346, L.2).
321. To the failure to find that CNN's production tasks performed by its Operations and Media Operations groups are more expansive than "continuing to ingest incoming video and audio material and insuring its quality" and that their roles have changed regarding how any signals are transmitted to air (D.123, L.33-35), as such failure to find is contrary to the evidence in the Record as a whole. (*See, e.g.*, Tr.10264, L.2 – Tr.10266, L.1; Tr.8449, L.14 – Tr.8451, L.10; Tr.11936, L.25 – Tr.11938, L.17; Tr.10327, L.19 - Tr.10343, L.24; Tr.12871, L.17 – Tr.12872, L.12; Tr.10558, L.18 - Tr.10560, L.25; Tr.10771, L.3-22; Tr.11847, L.4 - Tr.11848, L.17; Tr.10413, L.8 – Tr.10417, L.11; Tr.824, L.4-15; Tr.11911, L.16 – Tr.11913, L.25; Tr.11903, L.14 – Tr.11904, L.25; Tr.11869, L.1 – Tr.11876, L.23; Tr.11832, L.6 – Tr.11836, L.11; Tr.10415, L.11 – Tr.10417, L.11; T.11827, L.7 – Tr.11828, L.1; CNNA Exs. 214-18, 221, 407 CNNA-PROD0135822, CNNA-PROD0135825, 408 CNNA-PROD0071653, 409 CNNA-PROD0075695, 410 CNNA-PROD0134239, 413, 422 Tab 1 CNNA-

PROD0136766, Tab 3 CNNA-PROD0137292, CNNA-PROD0137285-86, Tab 5 CNNA-PROD0138248, CNNA-PROD0138237, CNNA-PROD0138274, Tab 8 CNNA-PROD0138905-06, CNNA-PROD0138900, Tab 9 CNNA-PROD0139254-55, Tab 10 CNNA-PROD0139370, Tab 11 CNNA-PROD0155420, Tab 13 CNNA-PROD0139737, CNNA-PROD0139787; GC Ex. 586 Tab 5).

322. To the failure to find that Robert Jackson's email to Bob Hesskamp on November 18, 2003, reflects only staffing for the transition weekend and does not reflect CNN's post-transition operations (D.124, L.44-45), as such failure to find is contrary to the evidence in the Record as a whole. (GC Ex. 534).
323. To the failure to find that David Jenkins did not perform all the required duties of a photojournalist and he lost typical traveling photojournalist assignments as a result (D.127, L.36-40), as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.4807, L.14 – Tr.4812, L.24; Tr.4844, L.25 – Tr.4845, L.10, 19 – Tr.4847, L.4; Tr.4848, L.5 – Tr.4849, L.15; Tr.4745, L.6-13; Tr.4826, L.9 – Tr.4827, L.8; CNNA Ex. 95 CNNA-PROD0142281; GC Ex. 227).
324. To the failure to find that the stories Tim Garraty suggested during his tenure with Team were outside the scope of his position (Tr.127, L.45-46), as such failure to find is contrary to the evidence in the Record as a whole. (Tr.13801, L.23 – Tr.13803, L.5; Tr.13808, L.1-22; Tr.13810, L.17-21; Tr.13591, L.22 – Tr.13593, L.7; CNNA Exs. 581-82).
325. To the failure to find that John Bodnar's questions to interviewees were not similar in nature, scope, and frequency while he was at CNN as compared to when he was with TVS, and that questions asked while working at Team were neither permitted nor encouraged (D.128, L.5-7), as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.13587, L.14-22; Tr.13591, L.22 – Tr.13593, L.7; CNNA Exs. 569-70).

326. To the failure to find that John Bodnar has pitched more than “several stories” during his tenure as a CNN photojournalist (D.128, L.4-5), as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.13550, L.10-21; Tr.13582, L.25 – Tr.13587, L.22; Tr.13591, L.22 – Tr.13596, L.14; Tr.13629, L.16-19; Tr.13602, L.16-22; CNNA Exs. 569-70).
327. To the failure to find that “normal work of a [CNN] photojournalist” includes tasks typically attributed to directors, producers, and editors (D.129, L.4-19; D.130, L.2-6), as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.9636, L.21-23; Tr.9813, L.22 – Tr.9814, L.9; Tr.11371, L.20 – Tr.11372, L.20; Tr.11376, L.13-20; Tr.11639, L.16 – Tr.11642, L.7; Tr.13550, L.10-21; Tr.13582, L.25 – Tr.13587, L.22; Tr.13591, L.22 – Tr.13596, L.14; Tr.13602, L.16-22; Tr.13629, L.16-19; Tr.13803, L.18 – Tr.13804, L.5; Tr.15465, L.11 – Tr.15466, L.18; Tr.15603, L.6-19; Tr.15691, L.1 – Tr.15701, L.22; Tr.15703, L.18 – Tr.15704, L.3; Tr.15723, L.22 – Tr.15724, L.1; Tr.15734, L.19 – Tr.15737, L.6; Tr.15739, L.3-17; Tr.15994, L.22 – Tr.16037, L.23; CNNA Exs. 380, 569-70, 669-72, 701-04; GC Ex. 227).
328. To the failure to find that Bethany Chamberland Swain’s pitching, editing, composing, and producing of stories is “any more than a miniscule portion of her work for CNN” (D.129, L.24-25), as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.15994, L.22 – Tr.16047, L.21; CNNA Exs. 701-04).
329. To the failure to find that Khalil Abdallah edited a four minute piece in the field of South Carolina in 2004 (D.130, L.27-28), as such failure to find is contrary to the substantial evidence in the Record as a whole. (Tr.15775, L.23 – Tr.15777, L.25; Tr.15792, L.18 – Tr.15794, L.4; Tr.15796, L.24 – Tr.15797, L.24; CNNA Ex. 656).

330. To the failure to find that union stewards and activists in New York were hired by CNN and continue to work at CNN as such finding is contrary to the substantial evidence in the Record as a whole. (Tr.9407, L.13-Tr.9408, L.22; CNNA Exs. 361, 559 Tab 27 CNNA-010722-23; GC Exs. 523 CNNA-PROD0071938-39, CNNA-010813-14, 430 CNNA-PROD0035237, 522 CNNA-022074, 530 CNNA-010919-20).

### III. PROCEDURAL EXCEPTIONS

#### A. Exceptions to Evidentiary Rulings on CNN's Foundation (Authentication and Relevance) Objections

CNN America excepts:

1. To the ruling that admits a document offered by the General Counsel without any foundation, overruling CNN's objection (GC Ex. 43), as such ruling is contrary to the Federal Rules of Evidence. (Tr.906, L.1-18).
2. To the ruling that admits a document offered by the General Counsel without any foundation, overruling CNN's objection (GC Ex. 150), as such ruling is contrary to the Federal Rules of Evidence. (Tr.2447, L.8-21).
3. To the ruling that admits two documents offered by the General Counsel without any foundation, overruling CNN's and Team's objections (GC Exs. 78, 179), as such ruling is contrary to the Federal Rules of Evidence. (Tr.3484, L.3 – Tr.3485, L.9).
4. To the ruling that admits a document offered by the General Counsel without any foundation, overruling CNN's objection (GC Ex. 181), as such ruling is contrary to the Federal Rules of Evidence. (Tr.3488, L.16 – Tr.3489, L.8).
5. To the ruling that admits documents offered by the General Counsel without any foundation, overruling CNN's objection (GC Exs. 91-97), as such ruling is contrary to the Federal Rules of Evidence. (Tr.3597, L.2 – Tr.3598, L.8).

6. To the ruling that admits a document offered by the General Counsel without any foundation, overruling CNN's objection (GC Ex. 237), as such ruling is contrary to the Federal Rules of Evidence. (Tr.4041, L.18 – Tr.4042, L.3).
7. To the ruling that admits a document offered by the General Counsel without any foundation, overruling CNN's objection (GC Ex. 238), as such ruling is contrary to the Federal Rules of Evidence. (Tr.4043, L.3-10).
8. To the ruling that admits a document offered by the General Counsel without any foundation for the portion of the document containing handwriting, overruling CNN's objection (GC Ex. 250; D.41, L.19-23), as such ruling is contrary to the Federal Rules of Evidence. (Tr.4076, L.8 - 25).
9. To the ruling that admits a document offered by the General Counsel without any foundation for the portion of the document containing handwriting, overruling CNN's objection (GC Ex. 251), as such ruling is contrary to the Federal Rules of Evidence. (Tr. 4077, L.19-25).
10. To the ruling that admits a document offered by the General Counsel without any foundation for the portion of the document containing handwriting, overruling CNN's objection (GC Ex. 255), as such ruling is contrary to the Federal Rules of Evidence. (Tr. 4085, L.16-22).
11. To the ruling that admits a document offered by the General Counsel without any foundation for the portion of the document containing handwriting, overruling CNN's objection (GC Ex.262), as such ruling is contrary to the Federal Rules of Evidence. (Tr. 4106, L.18 – Tr.4107, L.2; D.45, L.17-23).
12. To the ruling that admits a document offered by the General Counsel without any foundation for the portion of the document containing handwriting, overruling CNN's

objection (GC Ex. 267), as such ruling is contrary to the Federal Rules of Evidence. (Tr. 4116, L.25 – Tr.4117, L.7).

13. To the ruling that admits a document offered by the General Counsel without any foundation, and allows questioning of the witness about the document despite the witness' testimony that he was not familiar with the document, overruling CNN's objection (GC Ex. 268), as such ruling is contrary to the Federal Rules of Evidence. (Tr. 4121, L.1-23, Tr.4124, L.1-18; D.7, L.34; D.35, L.14; D. 36, L.15; D. 42, L.40 – D.43, L.19; D.53, L.24; D.64, L.24-25; D.100, L.6-7; D.143, L.18-23).
14. To the ruling that admits a document offered by the General Counsel without any foundation, overruling CNN's objection (GC Ex. 269), as such ruling is contrary to the Federal Rules of Evidence. (Tr. 4126, L.3-6; D.7, L.34; D.35, L.14; D. 36, L.15; D. 88, L.10-11).
15. To the ruling that admits a document offered by the General Counsel without any foundation, overruling CNN's objection (GC Ex. 270), as such ruling is contrary to the Federal Rules of Evidence. (Tr. 4126, L.16-19; D.7, L.34; D.35, L.30-33; D.36, L.15; D.47, L.21-23; D.47, L.51-52; D.55, L.33-35; D.64, L.49-51; D.96, L.41; D.99, L.17-22).
16. To the ruling that admits a document offered by the General Counsel without any foundation, overruling CNN's objection (GC Ex. 271), as such ruling is contrary to the Federal Rules of Evidence. (Tr. 4127, L.24- Tr.4129, L.3).
17. To the ruling that admits a document offered by the General Counsel without any foundation, overruling CNN's objection (GC Ex. 272), as such ruling is contrary to the Federal Rules of Evidence. (Tr. 4129, L.16-21; D.47, L.51-52).

18. To the ruling that admits a document offered by the General Counsel without any foundation, overruling CNN's objection (GC Ex. 328), as such ruling is contrary to the Federal Rules of Evidence. (Tr. 5868, L.14 – Tr.5871, L.2; D.60, L.41- D.61, L.1).
19. To the ruling that allows the General Counsel to question a witness about a class of documents (rundowns) even though the witness testified that she did not know the answer to the questions and could not discern the answer from the face of the documents overruling CNN's objection for lack of foundation, as such ruling is contrary to the Federal Rules of Evidence. (Tr. 5961, L.15-25)
20. To the ruling that admits a document offered by the General Counsel without any foundation, overruling CNN's objection (GC Ex.400), as such ruling is contrary to the Federal Rules of Evidence. (Tr. 7906, L.24-Tr.7908, L.4).
21. To the ruling that admits exhibit offered by the General Counsel without any foundation, overruling CNN's objection (GC Ex. 481), as such ruling is contrary to the Federal Rules of Evidence. (Tr. 9980, L.22-Tr.9981, L.2).
22. To the ruling that admits a document offered by the General Counsel with insufficient evidence of the document's authenticity, overruling CNN's objection (GC Ex.496), as such ruling is contrary to the Federal Rules of Evidence. (Tr. 10119, L.19-Tr.10130, L.2; D.26 L. 32-35; D.26, L. 49; D.27, L. 4-32; D.142, L. 3-6).
23. To the ruling that admits documents offered by the General Counsel without any foundation, overruling CNN's objection (GC Exs. 498-506), as such ruling is contrary to the Federal Rules of Evidence. (Tr. 10249, L.25-Tr.10250, L.19; D.38, L.26-27; D.38, L.46-48).
24. To the ruling that admits exhibit offered by the General Counsel without any foundation, overruling CNN's objection (GC Exs.508-509), as such ruling is contrary to the Federal Rules of Evidence. (Tr. 10315, L.14-Tr.10318, L.7; D.91 L.27-28, 39-40; D.105, L.21-23).

25. To the ruling that admits documents offered by the General Counsel without any foundation, overruling CNN's objection (GC Exs. 510-513), as such ruling is contrary to the Federal Rules of Evidence. (Tr. 10406, L.18-Tr.10407, L.6; D.31, L.35-40).
26. To the ruling that admits documents offered by the General Counsel without any foundation, and without any opportunity for CNN to cross examine a witness regarding the documents, overruling CNN's objection (GC Exs. 566-569), as such ruling is contrary to the Federal Rules of Evidence. (Tr. 15066, L.7-Tr.15076, L.8; Tr.15110, L.6-18; D.110, L.15-17; D.100, L. 28-32).
27. To the ruling that admits exhibit offered by the General Counsel, overruling CNN's relevance objection (GC Ex.3), as such ruling is contrary to the Federal Rules of Evidence. (Tr. 217, L.13-18).
28. To the ruling that admits exhibit offered by the General Counsel, overruling CNN's relevance objection (GC Ex.11), as such ruling is contrary to the Federal Rules of Evidence. (Tr. 231, L.14-25).
29. To the ruling that admits exhibits offered by the General Counsel, overruling Team's relevance objection (GC Exs. 34-48), as such ruling is contrary to the Federal Rules of Evidence. (Tr. 364, L.9-Tr.365, L.1).
30. To the ruling that admits exhibit offered by the General Counsel, overruling CNN's relevance objection (GC Ex.51), as such ruling is contrary to the Federal Rules of Evidence. (Tr. 973, L.18-25).
31. To the ruling that admits testimony offered by the General Counsel, overruling CNN's relevance objection (Tr. 1134, L.6-Tr.1137, L.11), as such ruling is contrary to the Federal Rules of Evidence.

32. To the ruling that admits testimony offered by the General Counsel, overruling CNN's relevance objection (Tr. 1085, L.8-17), as such ruling is contrary to the Federal Rules of Evidence.
33. To the ruling that admits exhibit offered by the General Counsel, overruling CNN's relevance objection (GC Ex. 102), as such ruling is contrary to the Federal Rules of Evidence. (Tr. 1116, L.25-Tr.1117, L.12; Tr.1119, L.5-11).
34. To the ruling that admits testimony offered by the General Counsel, overruling CNN's relevance objection (Tr. 1159, L.9-Tr.1160, L.6), as such ruling is contrary to the Federal Rules of Evidence.
35. To the ruling that admits testimony offered by the General Counsel, overruling CNN's relevance objection (Tr. 1170, L.6-Tr.1171, L.21), as such ruling is contrary to the Federal Rules of Evidence.
36. To the ruling that admits testimony offered by the General Counsel, overruling CNN's relevance objection (Tr. 1173, L.6-Tr.1177, L.12), as such ruling is contrary to the Federal Rules of Evidence.
37. To the ruling that admits testimony offered by the General Counsel, overruling CNN's relevance objection (Tr. 1177, L.16-23), as such ruling is contrary to the Federal Rules of Evidence.
38. To the ruling that allows the General Counsel to elicit testimony about events in 1994, overruling CNN's relevance objection (Tr. 1594, L.9-Tr.1595, L.13), as such ruling is contrary to the Federal Rules of Evidence.
39. To the ruling that admits testimony offered by the General Counsel, overruling CNN's relevance objection (Tr. 1576, L.12-17), as such ruling is contrary to the Federal Rules of Evidence.

40. To the ruling that admits testimony offered by the General Counsel, overruling CNN's relevance objection (Tr. 1587, L.4-23), as such ruling is contrary to the Federal Rules of Evidence.
41. To the ruling that admits evidence offered by the General Counsel, overruling CNN's relevance and hearsay objections (GC Ex. 132), as such ruling is contrary to the Federal Rules of Evidence. (Tr. 1658, L.16-Tr.1661, L.17; Tr.1667, L.12-Tr.1668, L.11).
42. To the ruling that admits evidence offered by the General Counsel, overruling CNN's relevance objection (GC Ex.133), as such ruling is contrary to the Federal Rules of Evidence. (Tr. 1676, L.10-Tr.1677, L.5).
43. To the ruling that that admits evidence offered by the General Counsel, overruling CNN's relevance objection (GC Ex. 224), as such ruling is contrary to the Federal Rules of Evidence. (Tr. 3722, L.8-14).
44. To the ruling that admits testimony offered by the General Counsel, overruling CNN's relevance objection (Tr. 4259, L.6-10), as such ruling is contrary to the Federal Rules of Evidence.
45. To the ruling that objects to the admission of documents proffered by CNN on the basis of relevance (CNNA Exs. 74-76), as such ruling is contrary to the Federal Rules of Evidence. (Tr. 4720, L.3-Tr.4723, L.16).
46. To the ruling that that admits evidence offered by the General Counsel, overruling CNN's relevance objection (GC Ex. 337), as such ruling is contrary to the Federal Rules of Evidence. (Tr. 6166, L.8-11).
47. To the ruling that admits testimony offered by the General Counsel, overruling CNN's relevance objection (Tr. 6271, L.21-Tr.6272, L.4), as such ruling is contrary to the Federal Rules of Evidence.

48. To the ruling that that admits evidence offered by the General Counsel, overruling CNN's relevance objection (GC Exs. 348-52), as such ruling is contrary to the Federal Rules of Evidence. (Tr. 6528, L.22-Tr.6532, L.15).
49. To the ruling that overrules CNN's relevance objection (Tr. 7157, L.4-Tr.7158, L.16), as such ruling is contrary to the Federal Rules of Evidence.
50. To the ruling that admits testimony offered by the General Counsel, overruling CNN's relevance objection (Tr. 7161, L.2-15), as such ruling is contrary to the Federal Rules of Evidence.
51. To the ruling that that admits evidence offered by the General Counsel, overruling CNN's relevance objection (GC Ex. 415), as such ruling is contrary to the Federal Rules of Evidence. (Tr. 8276, L.14-Tr.8277, L.1).
52. To the ruling that that admits evidence offered by the General Counsel, overruling CNN's relevance objection (GC Ex.418), as such ruling is contrary to the Federal Rules of Evidence. (Tr. 8277, L.16-Tr.8278, L.4).
53. To the ruling that that admits evidence offered by the General Counsel, overruling CNN's relevance objection (GC Ex.418), as such ruling is contrary to the Federal Rules of Evidence. (Tr. 8280, L.1-Tr.8281, L.17).
54. To the ruling that that admits evidence offered by the General Counsel, overruling CNN's relevance objection (GC Ex. 428), as such ruling is contrary to the Federal Rules of Evidence. (Tr. 8411, L.16-Tr.8412, L.2).
55. To the ruling that that admits evidence offered by the General Counsel, overruling CNN's relevance objection (GC Ex.431), as such ruling is contrary to the Federal Rules of Evidence. (Tr. 8490, L.3-15).

56. To the ruling that sustains the General Counsel's relevance objection, and excludes testimony proffered by CNN (Tr. 9714, L.12-Tr.9715, L.13), as such ruling is contrary to the Federal Rules of Evidence.
57. To the ruling that admits testimony offered by the General Counsel, overruling CNN's relevance objection (Tr. 9773, L.5-10), as such ruling is contrary to the Federal Rules of Evidence.
58. To the ruling that admits testimony offered by the General Counsel, overruling CNN's relevance objection (Tr. 9939, L.19-Tr.9940, L.7; D.84, L.8-9), as such ruling is contrary to the Federal Rules of Evidence.
59. To the ruling that that admits evidence offered by the General Counsel, overruling CNN's relevance objection (GC Ex.493), as such ruling is contrary to the Federal Rules of Evidence. (Tr. 10019, L.6-16).
60. To the ruling that admits testimony offered by the General Counsel, overruling CNN's relevance objection (Tr. 13698, L.7-Tr.13699, L.2), as such ruling is contrary to the Federal Rules of Evidence.
61. To the ruling that admits testimony offered by the General Counsel, overruling CNN's relevance objection (Tr. 13703, L.7-22), as such ruling is contrary to the Federal Rules of Evidence.
62. To the ruling that admits testimony offered by the General Counsel, overruling CNN's relevance objection (Tr. 14151, L.3-Tr.14152, L.14), as such ruling is contrary to the Federal Rules of Evidence.
- B. Exceptions to Evidentiary Rulings on CNN's HEARSAY Objections
63. To the ruling that admits hearsay evidence over CNN's objection (GC Ex. 105 A-F), as such ruling is contrary to the Federal Rules of Evidence. (Tr. 1130, L.20-Tr.1137, L.11).

64. To the ruling that admits hearsay evidence over the objection of TVS (GC Ex.132), as such ruling is contrary to the Federal Rules of Evidence. (Tr. 1667, L.12-Tr.1668, L.11).
65. To the ruling that admits hearsay evidence over CNN's objection (Tr. 2711, L.2-Tr.2713, L.8), as such ruling is contrary to the Federal Rules of Evidence.
66. To the ruling that admits hearsay evidence over CNN's objection (Tr. 4108, L.20-Tr.4109, L.14), as such ruling is contrary to the Federal Rules of Evidence.
67. To the ruling that admits hearsay evidence over CNN's objection (GC Ex.263), as such ruling is contrary to the Federal Rules of Evidence. (Tr. 4108, L.20-Tr.4109, L.14).
68. To the ruling that admits hearsay evidence over CNN's objection (GC Ex. 264), as such ruling is contrary to the Federal Rules of Evidence. (Tr. 4111, L.13-21).
69. To the ruling that admits hearsay evidence over CNN's objection (Tr. 4429, L.6-Tr.4430, L.15; Tr. 4431, L.11-Tr.4432, L.3; Tr. 4432, L.14-Tr.4433, L.15; Tr. 4434, L.12-17), as such ruling is contrary to the Federal Rules of Evidence.
70. To the ruling that admits hearsay evidence over CNN's objection (Tr. 7553, L.8-Tr.7559, L.9), as such ruling is contrary to the Federal Rules of Evidence.
71. To the ruling that admits hearsay evidence over CNN's objection (Tr. 10045, L.16-Tr.10046, L.24), as such ruling is contrary to the Federal Rules of Evidence.
72. To the ruling that admits hearsay evidence over CNN's objection (Tr. 10602, L.24-Tr.10603, L.15; Tr. 10604, L.11-18), as such ruling is contrary to the Federal Rules of Evidence.
73. To the ruling that admits hearsay evidence over CNN's objection (Tr. 10870, L.22-Tr.10871, L.19; Tr. 10873, L.5-Tr.10876, L.3; D.21, L.29-D.23, L.17), as such ruling is contrary to the Federal Rules of Evidence.
74. To the ruling that admits hearsay evidence over CNN's objection (Tr. 14152, L.5-Tr.14156, L.20), as such ruling is contrary to the Federal Rules of Evidence.

75. To the ruling sustaining the General Counsel's hearsay objection to testimony offered by CNN (Tr. 15445, L.21-Tr.15446, L.19; Tr. 15447, L.5-Tr.15451, L.5; Tr. 15462, L.15-23; Tr. 15479, L.10-Tr.15481, L.19), as such ruling is contrary to the Federal Rules of Evidence because the testimony qualified under one or more hearsay exceptions. (D.69, L.5-33).

C. **Exceptions to Rulings on CNN's Objection to Producing All Documents Reviewed by a Witness In Advance of Testifying**

76. To the ruling that CNN must produce to the General Counsel all documents that Cindy Patrick reviewed during the months leading up to trial, as such ruling is contrary to Federal Rule of Evidence 612. (Tr. 676, L.22-Tr.686, L.7; Tr.757, L.15-Tr.761, L.2).

77. To the ruling that each party must produce to the opposing parties all documents that its witnesses have reviewed during the previous six months, as such ruling is contrary to Federal Rule of Evidence 612. (Tr. 1063, L.9-Tr.1065, L.9)

78. To the ruling that the witness must identify documents that the witness reviewed in preparation for his/her testimony and which refreshed his/her recollection generally, as such ruling is contrary to Federal Rule of Evidence 612. (*See e.g.*, Tr.13900, L.4-Tr.13901, L.6; Tr.328, L.1-Tr.338, L.5; Tr.865, L.3 – Tr.866, L.14; Tr.2015, L.9-20; Tr.2123, L.25 – Tr.2124, L.13; Tr.2766, L.11 – Tr.2767, L.19; Tr.7909, L.24 – Tr.7910, L.11; Tr.8031, L.15-Tr.8032, L.8; Tr.8421, L.23-Tr.8422, L.8)

D. **Exceptions to Rulings on CNN's Objections to Order and Timing of Witness Examination**

79. To the ruling that (1) overrules CNN's objection that the General Counsel has started, but not finished, its examinations of Cindy Patrick, Larry D'Anna, and Richard Morse, and CNN has not been permitted the opportunity to conduct its examination of those witnesses; and (2) overrules CNN's further objection that new witnesses will be called by the General

provided to CNN previously (GC Ex. 475), as such ruling is contrary to applicable law. (Tr. 9959, L.12-Tr.9961, L.12).

102. To the ruling admitting exhibit offered by the General Counsel, overruling CNN's objection that the document was responsive to CNN's subpoena to Local 11 but had not been provided to CNN previously (GC Ex. 476), as such ruling is contrary to applicable law. (Tr. 9962, L.4-12).
103. To the ruling admitting exhibit offered by the General Counsel, overruling CNN's objection that the document was responsive to CNN's subpoena to Local 11 but had not been provided to CNN previously (GC Ex. 477), as such ruling is contrary to applicable law. (Tr. 9964, L.17-22).
104. To the ruling admitting exhibits offered by the General Counsel, overruling CNN's objection that the documents were responsive to CNN's subpoena to Local 11 but had not been provided to CNN previously (GC Exs. 478-450), as such ruling is contrary to applicable law. (Tr. 9974, L.19-Tr.9975, L.5).
105. To the ruling admitting exhibit offered by the General Counsel, overruling CNN's objection that the document was responsive to CNN's subpoena to Local 11 but had not been provided to CNN previously (GC Ex. 481), as such ruling is contrary to applicable law. (Tr. 9980, L.22-Tr.9981, L.2).
106. To the ruling admitting exhibit offered by the General Counsel, overruling CNN's objection that the document was responsive to CNN's subpoena to Local 11 but had not been provided to CNN previously (GC Ex. 483), as such ruling is contrary to applicable law. (Tr. 9991, L.24-Tr.9992, L.4).
107. To the ruling admitting exhibit offered by the General Counsel, overruling CNN's objection that the document was responsive to CNN's subpoena to Local 11 but had not been

provided to CNN previously (GC Ex. 484), as such ruling is contrary to applicable law. (Tr. 9992, L.21-Tr.9993, L.3).

108. To the ruling admitting exhibit offered by the General Counsel, overruling CNN's objection that the document was responsive to CNN's subpoena to Local 11 but had not been provided to CNN previously (GC Ex. 485), as such ruling is contrary to applicable law. (Tr. 9993, L.18-24).
109. To the ruling admitting exhibit offered by the General Counsel, overruling CNN's objection that the document was responsive to CNN's subpoena to Local 11 but had not been provided to CNN previously (GC Ex. 486), as such ruling is contrary to applicable law. (Tr. 9995, L.5-10).
110. To the ruling admitting exhibit offered by the General Counsel overruling CNN's objection that the document was responsive to CNN's subpoena to Local 11 but had not been provided to CNN previously, (GC Ex. 492), as such ruling is contrary to applicable law. (Tr. 10018, L.12-17).
111. To the ruling admitting exhibit offered by the General Counsel overruling CNN's objection that the document was responsive to CNN's subpoena to Local 11 but had not been provided to CNN previously, (GC Ex. 493), as such ruling is contrary to applicable law. (Tr. 10019, L.6-16).
112. To the ruling granting in part Local 11's petition to revoke Subpoena B441504, served on the union by CNN, as such ruling is contrary to applicable law. (CNNA Ex. 721, para. 2).
113. To the denial of CNN's motion to quash the testimony of witnesses Bodnar and Garraty, overruling CNN's objection that such testimony was cumulative, as such ruling is contrary to applicable law. (CNNA Ex. 732, 734).

114. To the denial of CNN's motion to quash the General Counsel's subpoena recalling Loren Kile in Washington, DC, overruling CNN's objection that she had already testified in New York about both Washington and New York hiring practices (CNNA Ex. 735), as such ruling is contrary to applicable law. (Tr. 14354, L.11-24).

115. To the denial of CNN's motion to quash the General Counsel's subpoena recalling Cindy Patrick in July of 2008, overruling CNN's objection that she had already testified extensively on several previous occasions (CNNA Ex. 736, 737), as such ruling is contrary to applicable law.

G. Exceptions to Rulings on CNN's Assertions of Attorney Client and/or Work Product Privilege

116. To the ruling that work product protection does not attach until the first complaint in this case was filed, and to his ruling that CNN must produce two documents for which CNN asserted a claim of privilege (Tr. 5914, L.2-Tr.5921, L.11), as such rulings are contrary to applicable law.

117. To the ruling that one document on CNN's privilege log was not protected by privilege, and to his ruling that another document was only partially protected (GC Exs. 389, 390), as such rulings are contrary to applicable law. (Tr. 7601, L.5-Tr.7604, L.13).

118. To the ruling that CNN must turn over to him for *in camera* review all the documents on its second revised privilege and redaction logs dated between January 2003 and February 2004 (Tr. 7687, L.1-6), as such ruling is contrary to applicable law.

119. To the Board's ruling affirming the ALJ's ruling at Tr. 7687, L.1-6 regarding the production of privileged documents for *in camera* review, as such ruling is contrary to applicable law. (*CNN America, Inc.*, 352 N.L.R.B. 448 (2008)).

75. To the ruling sustaining the General Counsel's hearsay objection to testimony offered by CNN (Tr. 15445, L.21-Tr.15446, L.19; Tr. 15447, L.5-Tr.15451, L.5; Tr. 15462, L.15-23; Tr. 15479, L.10-Tr.15481, L.19), as such ruling is contrary to the Federal Rules of Evidence because the testimony qualified under one or more hearsay exceptions. (D.69, L.5-33).

C. **Exceptions to Rulings on CNN's Objection to Producing All Documents Reviewed by a Witness In Advance of Testifying**

76. To the ruling that CNN must produce to the General Counsel all documents that Cindy Patrick reviewed during the months leading up to trial, as such ruling is contrary to Federal Rule of Evidence 612. (Tr. 676, L.22-Tr.686, L.7; Tr.757, L.15-Tr.761, L.2).

77. To the ruling that each party must produce to the opposing parties all documents that its witnesses have reviewed during the previous six months, as such ruling is contrary to Federal Rule of Evidence 612. (Tr. 1063, L.9-Tr.1065, L.9)

78. To the ruling that the witness must identify documents that the witness reviewed in preparation for his/her testimony and which refreshed his/her recollection generally, as such ruling is contrary to Federal Rule of Evidence 612. (*See e.g.*, Tr.13900, L.4-Tr.13901, L.6; Tr.328, L.1-Tr.338, L.5; Tr.865, L.3 – Tr.866, L.14; Tr.2015, L.9-20; Tr.2123, L.25 – Tr.2124, L.13; Tr.2766, L.11 – Tr.2767, L.19; Tr.7909, L.24 – Tr.7910, L.11; Tr.8031, L.15-Tr.8032, L.8; Tr.8421, L.23-Tr.8422, L.8)

D. **Exceptions to Rulings on CNN's Objections to Order and Timing of Witness Examination**

79. To the ruling that (1) overrules CNN's objection that the General Counsel has started, but not finished, its examinations of Cindy Patrick, Larry D'Anna, and Richard Morse, and CNN has not been permitted the opportunity to conduct its examination of those witnesses; and (2) overrules CNN's further objection that new witnesses will be called by the General

Counsel before these and other witnesses are completed (Tr. 1648, L.2 -Tr. 1653, L.14), as such ruling is contrary to Federal Rule of Evidence 611.

80. To the failure to rule on CNN's objection that the General Counsel "reserves the right" to recall a witness (Joe Murphy) whose examination is already complete on the grounds that it may need to question the witness on documents later produced, which CNN objected on the grounds that any documents relating to the subject of the witness's testimony had been produced long ago (Tr. 2098, L.22 -Tr. 2099, L.19), as such failure to rule is contrary to the Federal Rule of Evidence 611.
81. To the ruling that overrules CNN's and Team's objections to the General Counsel's practice of refusing to call its witness back immediately after their direct examination so that CNN and Team can conduct their examination immediately after the General Counsel's, and instead calling new witnesses (Tr. 3164, L.4-Tr.3165, L.18) as such ruling is contrary to Federal Rule of Evidence 611.
82. To the ruling that overrules CNN's objection to the General Counsel's practice of calling witnesses but not finishing the testimony and thereby delaying CNN's opportunity to conduct its examination (Tr. 5932, L.13-Tr.5934, L.3), as such ruling is contrary to Federal Rule of Evidence 611.
83. To the ruling denying CNN's verbal motion to strike the testimony of Richard Morse on the grounds that there had been two months' delay between the first time the General Counsel called him and the second time the General Counsel called him, and CNN had not been permitted to cross-examine him in the interim (Tr. 6155, L.4-22), as such ruling is contrary to applicable law.

84. To the ruling that overrules CNN's objection that allowing the General Counsel to call witnesses in piecemeal fashion is inappropriate and prejudicial (Tr. 6200, L.12-Tr.6201, L.11), as such ruling is contrary to applicable law.
85. To the ruling that overrules CNN's objection to the General Counsel's re-calling of Matt Holcombe to testify in Washington, DC which objection was based on the fact that Mr. Holcombe had already testified about Washington issues while testifying in New York, (Tr. 7697, L.1-Tr.7698, L.4), as such ruling is contrary to Federal Rule of Evidence 611.
86. To the ruling that overrules CNN's objection to the General Counsel's statement that it "reserves the right" to defer its examination of Loren Kile (Tr. 13054, L.22-Tr.13056, L.24), as such ruling is contrary to Federal Rule of Evidence 611.
87. To the ruling that overrules CNN's objection to the General Counsel's re-calling of Lauren Kile to testify in Washington, DC, which objection was based on the fact that Ms. Kile was subject to cross-examination while testifying in New York (Tr. 14353, L.18-Tr.14355, L.2, CNNA Ex. 735), as such ruling is contrary to Federal Rule of Evidence 611.
88. To the ruling that overrules CNN's objection to the General Counsel's re-calling of Loren Kile to testify in Washington, DC, which objection was based on (1) the fact that Ms. Kile was subject to cross-examination while testifying in New York, and (2) the fact that attorney Dorothy Foley, who sought to conduct the cross examination, was present in New York and could have conducted the cross-examination then (Tr. 14760, L.5-Tr.14761, L.3), as such ruling is contrary to Federal Rule of Evidence 611.
89. To the ruling that overrules CNN's objection to the General Counsel's re-calling of Cindy Patrick (Tr. 14846, L.6-Tr.14849, L.1, CNNA Ex. 736), as such ruling is contrary to Federal Rule of Evidence 611.

90. To the ruling that directs Cindy Patrick to take the stand to answer questions posed by counsel for Local 31, overruling CNN's objection that she was not under subpoena and Local 31 had the chance on four previous occasions to cross-examine her (Tr. 15145, L.13-Tr.15149, L.13), as such ruling is contrary to Federal Rule of Evidence 611.

E. **Exceptions to Rulings on CNN's Objections to the General Counsel's Summary of Evidence/Demonstrative Evidence Exhibits**

91. To the ruling that admits into evidence charts prepared by the General Counsel that summarize evidence contained in GC Exhibit 134, overruling CNN's objection to the summaries as incomplete and inaccurate (Tr. 2381, L.3-Tr.2392, L.19, GC Exs. 135-139), as such ruling is contrary to Federal Rule of Evidence 1006.

92. To the ruling granting the General Counsel's petition to revoke subpoenas served on Mr. Biggar and Mr. Collopy, which were served by CNN for the purpose of obtaining testimony from them on the summaries of evidence they prepared and which were admitted into evidence at GC Exs. 135-139 (Tr. 15532, L.16-Tr.15537, L.15), as such ruling is contrary to Federal Rule of Evidence 1006.

F. **Exceptions to Rulings Related to Subpoenas**

93. To the ruling that the subpoenas issued to CNN by the General Counsel and Local 31 were enforceable (Tr. 114, L.17-Tr.118, L.14), as such ruling is contrary to applicable law and the Federal Rules of Civil Procedure.

94. To the ruling requiring CNN to provide the General Counsel and Local 31 with a list of the documents it was withholding from production based on a claim of privilege or because the document existed in native format (Tr. 1709, L.8-13), as such ruling is contrary to applicable law and the Federal Rules of Civil Procedure.

95. To the ruling admitting exhibits offered by the General Counsel, overruling CNN's objection that the documents were responsive to CNN's subpoena to Local 31 but had not

been provided to CNN previously (GC Exs. 285-288), as such ruling is contrary to applicable law. (Tr. 4329, L.2-15; Tr. 4333, L.20-Tr.4335, L.25).

96. To the ruling admitting exhibits offered by the General Counsel, overruling CNN's objection that the documents were responsive to CNN's subpoena to Local 11 but had not been provided to CNN previously (GC Exs. 467-470), as such ruling is contrary to applicable law. (Tr. 9948, L.12-Tr.9949, L.12).
97. To the ruling admitting exhibits offered by the General Counsel, overruling CNN's objection that the document was responsive to CNN's subpoena to Local 11 but had not been provided to CNN previously (GC Ex. 471), as such ruling is contrary to applicable law. (Tr. 9952, L.22-Tr.9955, L.7).
98. To the ruling admitting exhibit offered by the General Counsel, overruling CNN's objection that the document was responsive to CNN's subpoena to Local 11 but had not been provided to CNN previously (GC Ex. 472), as such ruling is contrary to applicable law. (Tr. 9956, L.3-11).
99. To the ruling admitting exhibit offered by the General Counsel, overruling CNN's objection that the document was responsive to CNN's subpoena to Local 11 but had not been provided to CNN previously (GC Ex. 473), as such ruling is contrary to applicable law. (Tr. 9957, L.4-13).
100. To the ruling admitting exhibit offered by the General Counsel, overruling CNN's objection that the document was responsive to CNN's subpoena to Local 11 but had not been provided to CNN previously (GC Ex. 474), as such ruling is contrary to applicable law. (Tr. 9958, L.13-21).
101. To the ruling admitting exhibit offered by the General Counsel, overruling CNN's objection that the document was responsive to CNN's subpoena to Local 11 but had not been

provided to CNN previously (GC Ex. 475), as such ruling is contrary to applicable law. (Tr. 9959, L.12-Tr.9961, L.12).

102. To the ruling admitting exhibit offered by the General Counsel, overruling CNN's objection that the document was responsive to CNN's subpoena to Local 11 but had not been provided to CNN previously (GC Ex. 476), as such ruling is contrary to applicable law. (Tr. 9962, L.4-12).
103. To the ruling admitting exhibit offered by the General Counsel, overruling CNN's objection that the document was responsive to CNN's subpoena to Local 11 but had not been provided to CNN previously (GC Ex. 477), as such ruling is contrary to applicable law. (Tr. 9964, L.17-22).
104. To the ruling admitting exhibits offered by the General Counsel, overruling CNN's objection that the documents were responsive to CNN's subpoena to Local 11 but had not been provided to CNN previously (GC Exs. 478-450), as such ruling is contrary to applicable law. (Tr. 9974, L.19-Tr.9975, L.5).
105. To the ruling admitting exhibit offered by the General Counsel, overruling CNN's objection that the document was responsive to CNN's subpoena to Local 11 but had not been provided to CNN previously (GC Ex. 481), as such ruling is contrary to applicable law. (Tr. 9980, L.22-Tr.9981, L.2).
106. To the ruling admitting exhibit offered by the General Counsel, overruling CNN's objection that the document was responsive to CNN's subpoena to Local 11 but had not been provided to CNN previously (GC Ex. 483), as such ruling is contrary to applicable law. (Tr. 9991, L.24-Tr.9992, L.4).
107. To the ruling admitting exhibit offered by the General Counsel, overruling CNN's objection that the document was responsive to CNN's subpoena to Local 11 but had not been

- provided to CNN previously (GC Ex. 484), as such ruling is contrary to applicable law. (Tr. 9992, L.21-Tr.9993, L.3).
108. To the ruling admitting exhibit offered by the General Counsel, overruling CNN's objection that the document was responsive to CNN's subpoena to Local 11 but had not been provided to CNN previously (GC Ex. 485), as such ruling is contrary to applicable law. (Tr. 9993, L.18-24).
  109. To the ruling admitting exhibit offered by the General Counsel, overruling CNN's objection that the document was responsive to CNN's subpoena to Local 11 but had not been provided to CNN previously (GC Ex. 486), as such ruling is contrary to applicable law. (Tr. 9995, L.5-10).
  110. To the ruling admitting exhibit offered by the General Counsel overruling CNN's objection that the document was responsive to CNN's subpoena to Local 11 but had not been provided to CNN previously, (GC Ex. 492), as such ruling is contrary to applicable law. (Tr. 10018, L.12-17).
  111. To the ruling admitting exhibit offered by the General Counsel overruling CNN's objection that the document was responsive to CNN's subpoena to Local 11 but had not been provided to CNN previously, (GC Ex. 493), as such ruling is contrary to applicable law. (Tr. 10019, L.6-16).
  112. To the ruling granting in part Local 11's petition to revoke Subpoena B441504, served on the union by CNN, as such ruling is contrary to applicable law. (CNNA Ex. 721, para. 2).
  113. To the denial of CNN's motion to quash the testimony of witnesses Bodnar and Garraty, overruling CNN's objection that such testimony was cumulative, as such ruling is contrary to applicable law. (CNNA Ex. 732, 734).

114. To the denial of CNN's motion to quash the General Counsel's subpoena recalling Loren Kile in Washington, DC, overruling CNN's objection that she had already testified in New York about both Washington and New York hiring practices (CNNA Ex. 735), as such ruling is contrary to applicable law. (Tr. 14354, L.11-24).

115. To the denial of CNN's motion to quash the General Counsel's subpoena recalling Cindy Patrick in July of 2008, overruling CNN's objection that she had already testified extensively on several previous occasions (CNNA Ex. 736, 737), as such ruling is contrary to applicable law.

G. **Exceptions to Rulings on CNN's Assertions of Attorney Client and/or Work Product Privilege**

116. To the ruling that work product protection does not attach until the first complaint in this case was filed, and to his ruling that CNN must produce two documents for which CNN asserted a claim of privilege (Tr. 5914, L.2-Tr.5921, L.11), as such rulings are contrary to applicable law.

117. To the ruling that one document on CNN's privilege log was not protected by privilege, and to his ruling that another document was only partially protected (GC Exs. 389, 390), as such rulings are contrary to applicable law. (Tr. 7601, L.5-Tr.7604, L.13).

118. To the ruling that CNN must turn over to him for *in camera* review all the documents on its second revised privilege and redaction logs dated between January 2003 and February 2004 (Tr. 7687, L.1-6), as such ruling is contrary to applicable law.

119. To the Board's ruling affirming the ALJ's ruling at Tr. 7687, L.1-6 regarding the production of privileged documents for *in camera* review, as such ruling is contrary to applicable law. (*CNN America, Inc.*, 352 N.L.R.B. 448 (2008)).

120. To the Board's ruling affirming the ALJ's ruling at Tr. 7687, L.1-6 regarding the production of privileged documents for *in camera* review, as such ruling was not issued by a quorum of a properly constituted three-member panel. (*CNN America, Inc.*, 352 N.L.R.B. 448 (2008)).
121. To the ruling refusing to admit into evidence a document offered by CNN because it is "incomplete" (*i.e.*, part of the document was redacted for privilege), and to his ruling that CNN must either put the whole document in or wait until the District Court decides whether the document is properly redacted for privilege, overruling CNN's objection that the General Counsel had been allowed to submit incomplete documents (CNNA Ex. 666), as such rulings are contrary to applicable law. (Tr. 15606, L.4-Tr.15610, L.20).

H. **Exceptions to Rulings on CNN's Assertions of Reporter's Privilege**

122. To the ruling that exhibits offered by the General Counsel were not protected by the reporter's privilege, overruling CNN's objection that the documents were privileged and were obtained by the witness improperly (GC Exs. 294, 295), as such ruling is contrary to applicable law. (Tr. 4469, L.10-Tr.4471, L.21).
123. To the ruling that an exhibit offered by CNN, which had been redacted in part based on a claim of reporter's privilege, is not protected by the reporter's privilege and must be introduced in unredacted form (CNNA Ex. 655), as such ruling is contrary to applicable law. (Tr. 15508, L.18-Tr.15514, L.1).
124. To the ruling denying CNN's petition to revoke the General Counsel's subpoena to the extent it relies on an assertion of reporter's privilege (CNNA Ex. 725), as such ruling is contrary to applicable law. (Tr. 16291, L.8-10).
125. To the Board's ruling affirming the ALJ's ruling at Tr. 16291, L.8-10, regarding CNN's assertion of reporter's privilege, as such ruling is contrary to applicable law. (*CNN America, Inc.*, 352 N.L.R.B. No. 85 (May 30, 2008); CNNA Ex. 725).

126. To the Board's ruling affirming the ALJ's ruling at Tr. 16291, L.8-10, regarding CNN's assertion of reporter's privilege, as such ruling was not issued by a quorum of a properly constituted three-member panel. (*CNN America, Inc.*, 352 N.L.R.B. No. 85 (May 30, 2008); CNNA Ex. 725).

I. **Exceptions to Rulings Admitting Evidence Offered by the General Counsel Regarding New York Events After the Board Rested its Case in New York**

127. To the ruling allowing the General Counsel to ask questions regarding New York issues after the General Counsel had closed its case in New York, overruling CNN's objection, as such ruling is contrary to applicable law. (Tr. 13822, L.16-Tr.13823, L.17).

128. To the ruling that allows the General Counsel to introduce a New York document from 2002 into evidence after the General Counsel had closed its case in New York, overruling CNN's objection that the document pertains to New York and is outside the time frame of the BSP (GC Ex. 559), as such ruling is contrary to applicable law. (Tr. 14925, L.24-Tr.14928, L.11).

129. To the ruling that allows the General Counsel to introduce New York documents into evidence after the General Counsel had closed its case in New York, overruling CNN's objection that the documents pertain to New York and are irrelevant (GC Exs. 561, 562), as such ruling is contrary to applicable law. (Tr. 14931, L.20-Tr.14932, L.15).

130. To the ruling that allows the General Counsel to introduce TVSNY payroll documents regarding freelancers into evidence after the General Counsel had closed its case in New York, overruling CNN's objections that (1) admitting the documents would violate the ALJ's previous ruling that after the New York case was closed, new documents would not be admitted unless they were disclosed following the subpoena enforcement proceedings, and (2) CNN would not have an opportunity to cross-examine a witness regarding the

documents (GC Exs. 566-569), as such ruling is contrary to applicable law. (Tr.15066, L.7 – Tr.15076, L.8; Tr.15110, L.6-18).

131. To the ruling that allows the General Counsel to introduce a New York document into evidence after the General Counsel had closed its case in New York, overruling CNN's objection that the document pertains to New York and is highly prejudicial (GC Ex.571), as such ruling is contrary to applicable law. (Tr. 15090, L.25-Tr.15091, L.6).
132. To the ruling that allows the General Counsel to introduce New York documents into evidence after the General Counsel had closed its case in New York, overruling CNN's objections that (1) admitting the documents would violate Judge Amchan's previous ruling that after the New York case was closed, new documents would not be admitted unless they were disclosed following the subpoena enforcement proceedings, and (2) the documents pertain to New York and are irrelevant (GC Exs. 580-583, 585-588) as such ruling is contrary to applicable law. (Tr. 15126, L.12-Tr.15130, L.15; Tr. 15141, L.5-12).
133. To the ruling that allows the General Counsel to introduce New York documents into evidence after the General Counsel had closed its case in New York, overruling CNN's objections that (1) admitting the documents would violate Judge Amchan's previous ruling that after the New York case was closed, new documents would not be admitted unless they were disclosed following the subpoena enforcement proceedings, and (2) the resulting prejudice could not be cured (GC Exs. 589, 590), as such ruling is contrary to applicable law. (Tr. 15223, L.23-Tr.15228, L.10).
134. To the ruling that allows the General Counsel to introduce New York documents into evidence after the General Counsel had closed its case in New York, overruling CNN's objections (GC Ex. 182), as such ruling is contrary to applicable law. (Tr. 15238, L.15-Tr.15244, L.9).

135. To the ruling that allows the General Counsel to ask questions about New York events after the General Counsel had rested its case in New York, overruling CNN's objection, as such ruling is contrary to applicable law. (Tr. 15244, L.10-19).
136. To the ruling that allows the General Counsel to introduce a New York document into evidence after the General Counsel had closed its case in New York, overruling CNN's and Team's objections (GC Ex. 592), as such ruling is contrary to applicable law. (Tr. 15246, L.23-Tr.15248, L.20).
137. To the ruling that allows the General Counsel to introduce a New York document into evidence after the General Counsel had closed its case in New York, overruling CNN's objections (GC Ex. 593), as such ruling is contrary to applicable law. (Tr. 15255, L.19-Tr.15256, L.7).

J. Exceptions to Rulings Regarding Regional Director Wayne Gold's Letter of June 15, 2007

138. To the rulings regarding the letter sent by Regional Director Wayne Gold of June 15, 2007, which rulings (1) denied CNN's request that Judge Amchan conduct an investigation into the letter, (2) denied CNN's request that Judge Amchan refrain from hearing testimony until the investigation was complete, and (3) ordered the Regional Director to send a letter reflecting CNN's position, as such rulings are contrary to applicable law. (Tr. 133, L.15-21; Tr. 135, L.12-24; Tr. 136, L.11-14: 543, L.7-Tr.549, L.23).
139. To the ruling granting the petitions to revoke subpoenas B-441499 and B-441540, which had been served by CNN on the General Counsel and the Regional Director, seeking information related to Mr. Gold's June 15, 2007 letter, as such ruling is contrary to applicable law. (Tr. 1449, L.10-25).

K. Exceptions to Rulings Permitting the General Counsel to Amend the Complaint

140. To the ruling that overrules CNN's objection and allows the General Counsel to amend the Appendices to the complaint to identify alleged additional freelancers as discriminatees in New York and Washington, as such ruling is contrary to applicable law. (Tr. 15111, L.6-Tr.15116, L.15).
141. To the ruling that overrules CNN's objection and allows the General Counsel to amend the complaint to add a sub-paragraph (k) to Paragraph 9 describing an alleged statement by CNN Executive White House Producer Danielle Whelton, as such ruling is contrary to applicable law. (Tr. 15093, L.23-Tr.15094, L.11).
142. To the ruling that overrules CNN's objection and allows the General Counsel to amend paragraphs of the complaint stating allegations about CNN's New York operations, as such ruling is contrary to applicable law. (Tr. 15125, L.3-24).
143. To the ruling that overrules the arguments set out by CNN in CNNA 738 in opposition to the General Counsel's proposed amendments to the complaint, as such ruling is contrary to applicable law. (CNNA Ex. 738).

L. Exceptions to Rulings Regarding Other Procedural and Evidentiary Issues

144. To the rulings (1) denying TVS's motion to strike testimony on the grounds that the testimony was incorrectly predicated on an incomplete exhibit introduced by the General Counsel, and (2) denying TVS's motion to strike the incomplete exhibit itself, as such rulings are contrary to applicable law. (Tr. 1057, L.15-Tr.1059, L.2; Tr. 1061, L.14-Tr.1062, L.13, GC Exs. 70-C, 70-C-1):
145. To the ruling that admits exhibits offered by the General Counsel (GC Exs. 102A-102GG), overruling CNN's objection that the exhibits, which concern grievances lodged during a period of time, do not represent a complete collection of the grievances, as such ruling is contrary to applicable law. (Tr. 1113, L.14-23; Tr. 1116, L.25-Tr.1117, L.10).

146. To the ruling that CNN may not ask questions of a witness directed at discovering whether his prior testimony was based on his own recollection or on information he obtained from others, as such ruling is contrary to applicable law. (Tr. 1514, L.3-Tr.1520, L.10).
147. To the ruling that allows the General Counsel to ask a leading question on direct examination, overruling CNN's objection, as such ruling is contrary to applicable law. (Tr. 1550, L.11-15).
148. To the ruling that admits an exhibit into evidence, overruling CNN's objections that that the document seems to be comprised of several different documents or portions of documents (GC Ex. 159), is duplicative of documents already in record, and the witness had never seen it before and could not authenticate it, as such ruling is contrary to applicable law. (Tr. 2500, L.13-Tr.2505, L.23).
149. To the ruling that admits exhibits into evidence, overruling CNN's objections that the document are unsigned drafts of letters, and that the witness testified that he did not prepare the drafts and could not be sure that the final signed versions of the letters were identical to the drafts (GC Exs. 176, 177), as such ruling is contrary to applicable law. (Tr. 3407, L.2-Tr.3410, L.7).
150. To the ruling that admits an exhibit into evidence, overruling CNN's objections that the document is not complete, and that a complete version had been produced to the General Counsel years earlier (GC Ex. 244), as such ruling is contrary to applicable law. (Tr. 4060, L.24-Tr.4062, L.11).
151. To the ruling that that admits exhibits into evidence, overruling CNN's objections that the documents were illegally obtained by the witness and the government (GC Exs. 294, 295), as such ruling is contrary to applicable law. (Tr. 4469, L.10-Tr.4478, L.18).

152. To the ruling that admits into evidence an exhibit offered by the General Counsel, overruling CNN's objection that the document is not accurate (GC Ex. 310), as such ruling is contrary to applicable law. (Tr. 5059, L.11-17).
153. To the ruling that admits into evidence exhibits offered by the General Counsel, overruling CNN's objection that the documents are not accurate (GC Exs. 314-316), as such ruling is contrary to applicable law. (Tr. 5128, L.8-15).
154. To the ruling that rejects an exhibit offered by CNN, sustaining an objection that the witness had not seen the document and could not remember receiving it, and rejecting CNN's argument that exhibits offered by the General Counsel under the same circumstances had been admitted (CNNA Ex. 109), as such ruling is contrary to applicable law. (Tr. 5339, L.20-Tr.5342, L.10).
155. To the ruling that CNN may not question witness Jimmy Suissa regarding the nature of the direction given to him by CNN producers, as such ruling is contrary to applicable law. (Tr. 5365, L.2-Tr.5368, L.6).
156. To the ruling that rejects an exhibit offered by CNN, sustaining an objection that the witness had not created the document, and rejecting CNN's argument that exhibits offered by the General Counsel under the same circumstances had been admitted (CNNA Ex. 113), as such ruling is contrary to applicable law. (Tr. 5429, L.6-Tr.5430, L.10).
157. To the ruling that rejects an exhibit offered by CNN, sustaining an objection that, even though the witness was familiar with the contents, and even though the document contained party admissions, the witness had not created the document, and rejecting CNN's argument that exhibits offered by the General Counsel under the same circumstances had been admitted (CNNA Ex.126), as such ruling is contrary to applicable law. (Tr. 6136, L.13-Tr.6138, L.7).

158. To the ruling that rejects an exhibit offered by CNN, sustaining an objection that the witness had not seen the document, and rejecting CNN's argument that exhibits offered by the General Counsel under the same circumstances had been admitted (CNNA Ex. 137), as such ruling is contrary to applicable law. (Tr. 6338, L.24-Tr.6339, L.15).
159. To the ruling that overrules CNN's objections to the General Counsel repeatedly asking the witness the same questions that already had been asked of him in his prior testimony, as such ruling is contrary to applicable law. (Tr. 7697, L.4-Tr.7698, L.1; Tr. 7699, L.4-8; Tr. 7717, L.11-21; Tr. 7720, L.1-6).
160. To the ruling sustaining objections to CNN's questions about the witness's opinion of whether a change in circumstances affected his desire to vote on union representation, as such ruling is contrary to applicable law. (Tr. 9656, L.17-Tr.9660, L.4).
161. To the ruling that admits an exhibit comprised of a collection of pay stubs, overruling CNN's objection that the collection was incomplete (GC Ex. 465), as such ruling is contrary to applicable law. (Tr. 9901, L.18-Tr.9902, L.14).
162. To the ruling that overrules CNN's objection to duplicative testimony, as such ruling is contrary to applicable law. (Tr. 10861, L.11-25).
163. To the ruling that CNN may not ask a witness called by the General Counsel a question that would impeach her credibility, as such ruling is contrary to applicable law. (Tr. 10930, L.19-Tr.10932, L.13; GC Ex. 516).
164. To the ruling that counsel for CNN should not ask certain questions of a witness, and rejecting CNN's argument that the questions pertained to an important document, as such ruling is contrary to applicable law. (Tr. 12032, L.10-Tr.12034, L.24, CNNA Ex. 413).

165. To the ruling that overrules CNN's objection that the General Counsel was provided more latitude with the scope of voir dire than CNN, as such ruling is contrary to applicable law. (Tr. 12069, L.18-Tr.12071, L.14).
166. To the ruling that overrules CNN's objection that the cross-examination by the General Counsel was beyond the scope of the direct examination, as such ruling is contrary to applicable law. (Tr. 12496, L.11-Tr.12497, L.7).
167. To the ruling that overrules CNN's objection to the General Counsel's leading questions, as such ruling is contrary to applicable law. (Tr. 13524, L.3-7).
168. To the ruling that cuts short CNN's cross-examination of the witness on the grounds that it was "cumulative," and that rejects CNN's argument that the General Counsel had been permitted to conduct an extensive and lengthy direct examination, as such ruling is contrary to applicable law. (Tr. 13661, L.15-Tr.13664, L.8).
169. To the ruling that admits exhibits into evidence (GC Exs. 547-548), overruling CNN's objections that the documents are inaccurate, as such ruling is contrary to applicable law. (Tr. 14479, L.14-Tr.14480, L.17; D.93, L.43-45, Note 123).
170. To the ruling that admits exhibits into evidence, overruling CNN's objection that the documents are incompetent and incomplete evidence for what they purport to prove (GC Ex.545-546), as such ruling is contrary to applicable law. (Tr. 14992, L.13-Tr.14998, L.15; Tr. 15002, L.5-Tr.15007, L.16; D.110, L.33-36, Note146; D.32, L.5; D.134, L.34; D.141, L.7).
171. To the ruling that overrules CNN's objection and admits into evidence CNN's position statements offered by the General Counsel (GC Ex. 585, 588, 594), and to the ruling that declines to consider whether the Board's Advice memo should be admitted into evidence, and to the ruling that declines to order the General Counsel to turn over the Board's Advice

memo to CNN, as such rulings are contrary to applicable law. (Tr. 15100, L.9-Tr.15108, L.15).

172. To the ruling that overrules CNN's objections and permits counsel for the General Counsel and for Local 31 to ask hypothetical questions of Mr. Frydenlund, and to the ruling that sustains the objection to an allegedly hypothetical question asked of the same witness by CNN's counsel, as such rulings are contrary to applicable law. (Tr. 15235, L.20-Tr.15236, L.15; Tr. 15264, L.14-Tr.15265, L.7; Tr. 15273, L.11-Tr.15274, L.4).

#### IV. CONCLUSION

For all the foregoing reasons, CNN America, Inc. respectfully requests that the Second Amended Consolidated Complaint, all amendments thereto, and all underlying charges be dismissed in their entirety, that the Exceptions of CNN America, Inc. be granted and that the Decision of the ALJ be reversed.

Respectfully submitted this 17th day of February, 2009,

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