

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 INTERNATIONAL UNION, UNITED )  
 AUTOMOBILE, AEROSPACE, AND )  
 AGRICULTURAL IMPLEMENT )  
 WORKERS OF AMERICA, )  
 )  
 Defendant. )

Case No. 20-13293  
Honorable David M. Lawson

**MONITOR'S SIXTH STATUS REPORT**

Pursuant to Paragraph 58 of the Consent Decree (Dkt. No. 10), the Court-appointed Monitor, Neil M. Barofsky, respectfully submits to the Court this sixth status report (“Sixth Report”) concerning the monitorship of the International Union, United Automobile, Aerospace, and Agricultural Implement Workers of America (the “Union” or the “UAW”).

\* \* \*

The Monitor is filing this Sixth Report with the Court to provide an update on the results of the 2023 UAW International Officer Run-Off Election (“Run-Off Election” or “2023 Run-Off Election”), held pursuant to the unofficial results of the 2022 UAW International Officer Election (“Election” or “2022 Election”). The Official Rules for the Run-Off Election (the “Run-Off Rules”) require that the Monitor announce the “unofficial” results of the Run-Off Election upon completion of the vote count. As previously reported to the Court, that count took place outside of Dayton, Ohio from Wednesday, March 1, 2023, to Saturday, March 4, 2023, continued on Thursday, March 16, 2023, in Detroit, Michigan, and results were announced in the Monitor’s Fifth Status Report for all but one race, the race for International President. The count for the race for President was completed on Saturday, March 25, 2023, in Taylor, Michigan. The unofficial results of that race are summarized below and attached hereto as Exhibits A, B, C, and D.<sup>1</sup>

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<sup>1</sup> As previously reported, at a later date, and following the process set forth in the Official Rules for the 2022 Election (the “Election Rules”) and the Run-Off Rules, the Monitor will certify and report to the Court the official results of both the 2022 Election and 2023 Run-Off Election, after any election-related protests or appeals have been resolved. That report will provide additional detail on both elections, including the Monitor’s oversight of the nomination process, remediation of Election Rules and Run-Off Rules violations, and the mailing, collection, and tabulation of ballots, among other topics. *See* Monitor’s Fifth Status Report, *USA v. Int’l Union, United Auto., Aerospace & Agric. Implement Workers of Am.* (March 17, 2023), Civil No. 20-cv-13293, ECF No. 101 at 1.

### **Background Concerning the Vote Count**

As described in the Monitor's Fourth Status Report ("Fourth Report")<sup>2</sup> and Fifth Status Report ("Fifth Report"),<sup>3</sup> a run-off was required for three races because no candidate had secured a majority of the votes, as required under Article 10, Section 5 of the UAW Constitution. The unofficial results of the Run-Off Election for the Vice President and Region 9 Director Run-Off races were reported to the Court on March 17, 2023, in the Monitor's Fifth Report.<sup>4</sup> As described in the Fifth Report, the Run-Off Election for the President race remained pending at the time those results were announced,<sup>5</sup> because, as of that date, the margin between the two candidates for President remained smaller than the total number of outstanding ballots. Specifically, following the March 16, 2023, continued vote count, the vote differential between the two candidates for International President was 505 votes, but the number of uncounted ballots was 621.<sup>6</sup>

Since filing the Fifth Report, the Monitor has continued to work with the Union and the Election Vendor to resolve the eligibility status of the individuals who voted the outstanding challenged ballots, and to count all ballots deemed eligible. The counting of additional eligible ballots took place on March 25, 2023, at UAW Region 1A Headquarters in Taylor, Michigan. At the March 25, 2023, continued vote count, 168 additional ballots were tabulated and two were deemed void. In addition, the Monitor announced that 19 ballots had been deemed ineligible. As a result, the margin between the candidates for International President was then 483,<sup>7</sup> with 432

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<sup>2</sup> Monitor's Fourth Status Report, *USA v. Int'l Union, United Auto., Aerospace & Agric. Implement Workers of Am.* (December 5, 2022), Civil No. 20-cv-13293, ECF No. 97.

<sup>3</sup> Monitor's Fifth Status Report, *USA v. Int'l Union, United Auto., Aerospace & Agric. Implement Workers of Am.* (March 17, 2023), Civil No. 20-cv-13293, ECF No. 101.

<sup>4</sup> See Fifth Report at 4-5.

<sup>5</sup> See Fifth Report at 3.

<sup>6</sup> Comprising this number were 586 unresolved challenged ballots and 35 ballots previously deemed eligible that had not yet been counted.

<sup>7</sup> The Monitor is also in the process of reevaluating the eligibility of 43 counted challenged ballots, the result of which will not change the outcome, given the margin between the candidates.

unresolved challenged ballots—meaning the winner of the International President Run-Off race could be determined.

### **Announcement of the Unofficial Results**

The Run-Off Rules provide for the announcement of the “unofficial” results of the Run-Off Election.<sup>8</sup> As reflected in Exhibits A, B, C, and D, the Monitor can announce that Shawn Fain has been elected as International President in the Run-Off Election.

<b><u>Office</u></b>	<b><u>Winner</u></b>
International President	Shawn Fain

Pending certification of the 2022 UAW International Officer Election cycle, and through the next installment of International Officers pursuant to the results of the 2026 UAW International Officer Election, the full slate of directly elected International Officers will be:

<b><u>Office</u></b>	<b><u>International Officer</u></b>
International President	Shawn Fain
Secretary-Treasurer	Margaret Mock
International Vice President	Mike Booth
International Vice President	Rich Boyer
International Vice President	Chuck Browning
Region 1 Director	LaShawn English
Region 1A Director	Laura Dickerson
Region 1D Director	Steve Dawes
Region 2B Director	David Green
Region 4 Director	Brandon Campbell
Region 6 Director	Mike Miller
Region 8 Director	Tim Smith

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<sup>8</sup> Run-Off Rules § 2-14.

Region 9 Director	Daniel Vicente
Region 9A Director	Brandon Mancilla

### **Election Protests and Certification of Election Results**

As previously reported to the Court, this announcement of the unofficial election results does not constitute certification of the outcome.<sup>9</sup> Instead, the Monitor will issue final certification of the results after any Run-Off Election-related protests and appeals have been resolved.<sup>10</sup> In the event that the Monitor later determines that the results of one or more races should not be certified, based on a protest or otherwise, the Monitor may take remedial action, including “ordering the rerun of any nomination or election, or any portion thereof[.]”<sup>11</sup>

The Consent Decree does not require the Office of Labor-Management Standards (“OLMS”) or the Court to approve the results of the Run-Off Election.<sup>12</sup> Instead, if the Monitor determines that any protested behavior constituted a violation of the Labor Management Reporting and Disclosure Act (“LMRDA”) that impacted the outcome of the Run-Off Election, the Monitor may decline to certify one or more races and direct a re-run.<sup>13</sup> If, however, the Monitor determines any post-election protest to be without merit, then the complainant, having exhausted their internal remedies through their protest to the Monitor, may file a complaint with the Department of Labor

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<sup>9</sup> Run-Off Rules § 2-14.

<sup>10</sup> Run-Off Rules § 2-15.

<sup>11</sup> Run-Off Rules § 9-4(v); *see also* Run-Off Rules § 9-7.

<sup>12</sup> By contrast, for the Court-ordered Referendum, the Consent Decree required that the Monitor provide OLMS with a report summarizing the results, and, if OLMS was satisfied that the Referendum was properly conducted and that no violation of the rules affected the outcome, provide the report to the Court for final approval. Consent Decree ¶ 11. Consistent with that procedure, this Court approved the results of the Referendum on January 31, 2022. Order Granting Joint Motion to Approve Referendum Results, *USA v. Int’l Union, United Auto., Aerospace & Agric. Implement Workers of Am.* (January 31, 2022), Civil No. 20-cv-13293, ECF No. 53.

<sup>13</sup> *See* Run-Off Rules §§ 9-4(v), 9-7.

under Title IV of the LMRDA, which can consider whether remedial action is appropriate.<sup>14</sup> This protest evaluation process remains ongoing with regard to the two previously announced Run-Off races; it will now commence for the final race. All post-election protests for the 2022 Election have been denied by the Monitor, though some remain pending before OLMS.

### **Installation of the Winning Candidate**

As previously reported to the Court, installation of the newly elected officers does not wait for certification of the election.<sup>15</sup> Instead, the Run-Off Rules and UAW Constitution require that individuals elected pursuant to the unofficial Run-Off Election results will be promptly installed into office.<sup>16</sup> That requirement reflects Section 402(a) of the LMRDA, which provides that “[t]he challenged election shall be presumed valid pending a final decision [as provided in Section 402] and in the interim the affairs of the organization shall be conducted by the officers elected or in such other manner as its constitution and bylaws may provide.”<sup>17</sup>

Although the applicable legal and constitutional provisions require installation of Mr. Fain, as noted in the Monitor’s Fifth Report, counsel for the Curry Solidarity Team lodged a protest in the evening of March 15, 2023 alleging that, *inter alia*, flaws in the administration of aspects of the 2023 Run-Off Election required the Monitor to defer the announcement of unofficial results of the Run-Off Election and instead schedule another Run-Off Election.<sup>18</sup>

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<sup>14</sup> 29 U.S.C. § 482; *see also* Run-Off Rules § 9-5 (“An aggrieved member can always seek redress with the Secretary of Labor and OLMS if they believe a violation of the LMRDA occurred, as long as they have exhausted the ‘internal’ remedies of filing a complaint/protest with the Monitor.”).

<sup>15</sup> *See* Fourth Report at 3; Fifth Report at 6.

<sup>16</sup> UAW Const., art. 10, § 16 (“Incoming elective officers of the International Union shall be obligated and installed within seven (7) days of the announcement of the election results by the Court-appointed Monitor.”); Run-Off Rules § 2-16 (“[N]ewly elected UAW International Officers shall be installed on or about a date to be determined in or about March 2023 within 7 days of the unofficial announcement of the results, irrespective of the final certification of the Run-Off Election.”).

<sup>17</sup> 29 U.S.C. § 482(a).

<sup>18</sup> *See* Fifth Report at 3, n.5.

The Monitor denied this request.<sup>19</sup> The proposal by the Curry Solidarity Team that the Union's President should remain in office pending a challenge to the Run-Off Election would violate the Run-Off Rules, the UAW Constitution, and federal law:

Under the LMRDA, “[t]he challenged election shall be presumed valid pending a final decision [as provided in Section 402] and in the interim the affairs of the organization shall be conducted by the officers elected or in such other manner as its constitution and bylaws may provide.”<sup>20</sup>

Under the UAW Constitution, “[i]ncoming elective officers of the International Union shall be obligated and installed within seven (7) days of the announcement of the election results by the Court-appointed Monitor.”<sup>21</sup>

Under the Run-Off Rules, “newly elected UAW International Officers shall be installed on or about a date to be determined in or about March 2023 within 7 days of the unofficial announcement of the results, irrespective of the final certification of the Run-Off Election.”<sup>22</sup>

Indeed, courts have rejected the proposition that an incumbent candidate should remain in office pending a challenge to the validity of an election in violation of the union's own constitution. *See, e.g., Kane v. New York State Nurses Ass'n*, 2011 WL 4862924, at \*5 (S.D.N.Y. Oct. 13, 2011) (holding that a union was required to promptly declare and seat the winners of an election notwithstanding a protest by the incumbents who sought to delay announcement of the results until protests had been investigated and resolved).

In sum, the unofficial election results are presumed valid unless and until the contrary is established through the aforementioned protest procedures.<sup>23</sup> Mr. Fain is scheduled to be sworn in as International President on March 26, 2023.

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<sup>19</sup> *See id.*

<sup>20</sup> 29 U.S.C. § 482(a).

<sup>21</sup> UAW Const., art. 10, § 16.

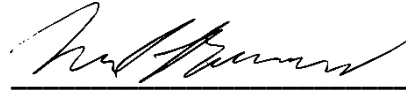
<sup>22</sup> Run-Off Rules § 2-16.

<sup>23</sup> 29 U.S.C. § 482(a); *see also* S. Rep. No. 187 (1959), *reprinted in* 1959 U.S.C.C.A.N. 2318, 2338 (“Since union business must not be brought to a standstill whenever an election is challenged, it is necessary to make some provision for the conduct of business while the proceeding is in progress. It would be intolerable

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Pursuant to Paragraph 58 of the Consent Decree, the foregoing Report constitutes the Sixth Report of the Monitor, Neil M. Barofsky.

**Date: March 25, 2023**



Neil M. Barofsky, Monitor

*Respectfully filed with the Court on behalf  
of the Monitor by counsel to the Monitor,*

/s/ Michael W. Ross

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for the Government to appoint outsiders to act as receivers. The choice lay between keeping the old officers in office or allowing the new officers to enter upon their duties even though their right may be challenged. The latter course seems preferable. A union election should be presumed valid until the contrary can be reasonably established.”).



**CERTIFICATE OF SERVICE**

I hereby certify that on March 25, 2023, the foregoing Report was served electronically on all counsel of record via the CM/ECF system. In addition, pursuant to Paragraph 58 of the Consent Decree, the foregoing Report was served on consent by electronic mail upon the United States, the UAW's International President, the International Executive Board, and designated counsel for UAW.

/s/ Michael W. Ross

Michael W. Ross

**Index of Exhibits**

Exhibit A	Results of March 1-4, 2023 Vote Count
Exhibit B	Results of March 16, 2023 Vote Count
Exhibit C	Results of March 25, 2023 Vote Count
Exhibit D	Cumulative Results of Run-Off Election Vote Counts

# **Exhibit A**

Custom Table Report  
 2023 UAW Officers Run Off  
 March 1, 2023

	STATIST ICS
Regions Total*	138,628
Region 1	19,351
Region 1A	18,942
Region 1D	16,367
Region 2B	27,542
Region 4	20,069
Region 6	3,259
Region 8	19,712
Region 9	8,452
Region 9A	4,902
AL	32

\*The total number of ballots returned (141,548), in contrast, reflects all the items returned by mail to the Election Vendor, including void and challenged ballots which were not part of this vote count.

Custom Table Report  
 2023 UAW Officers Run Off  
 March 1, 2023

	INTERNATIONAL PRESIDENT		INTERNATIONAL VICE PRESIDENT		REGIONAL DIRECTOR REGION 9	
	VOTE FOR 1		VOTE FOR 1		VOTE FOR 1	
Regions Totals	69,118	69,118	46,218	81,154	4,030	4,349
Region 1	9,405	9,809	6,944	10,747	0	0
Region 1A	12,471	6,312	4,254	13,835	0	0
Region 1D	7,292	8,968	6,451	8,709	0	0
Region 2B	11,961	15,384	9,416	15,990	0	0
Region 4	8,567	11,357	6,904	11,785	0	0
Region 6	1,048	2,179	1,079	1,239	0	0
Region 8	11,887	7,687	6,239	12,296	0	0
Region 9	3,764	4,603	3,491	4,301	4,030	4,349
Region 9A	2,072	2,794	1,423	2,239	0	0
AL	6	25	17	13	0	0

Ray Curry  
 Shawn Fain  
 Tim Bressler  
 Lauren Farrell  
 Daniel Vicente

# **Exhibit B**

Custom Table Report  
 2023 UAW Officers Run Off  
 March 16, 2023

UNOFFICIAL RESULTS  
 Region Totals  
 United Auto Workers

STATIST	ICS		INTERNATIONAL PRESIDENT VOTE FOR 1	INTERNATIONAL VICE PRESIDENT VOTE FOR 1	INTERNATIONAL DIRECTOR REGION 9 VOTE FOR 1
	Ballots Cast - Total				
<b>Regions Totals</b>	676		<b>408</b>	<b>439</b>	<b>19</b>
Region 1	78		44	34	20
Region 1A	55		38	17	7
Region 1D	60		34	26	19
Region 2B	137		80	57	35
Region 4	62		36	26	17
Region 6 / AL	82		51	31	22
Region 8	72		56	16	13
Region 9	28		18	10	6
Region 9A	102		51	51	36
<b>Regions Totals</b>			<b>408</b>	<b>439</b>	<b>19</b>
Region 1			44	34	20
Region 1A			38	17	7
Region 1D			34	26	19
Region 2B			80	57	35
Region 4			36	26	17
Region 6 / AL			51	31	22
Region 8			56	16	13
Region 9			18	10	6
Region 9A			51	51	36

INTERNATIONAL PRESIDENT VOTE FOR 1	INTERNATIONAL VICE PRESIDENT VOTE FOR 1	INTERNATIONAL DIRECTOR REGION 9 VOTE FOR 1
Ray Curry Shawn Fain	Tim Bressler	Chuck Browning
		Lauren Farrell
		Daniel Vicente

# **Exhibit C**



Custom Table Report  
 2023 UAW Officers Run Off  
 March 25, 2023

UNOFFICIAL RESULTS  
 Region Totals  
 United Auto Workers

	STATIST		INTERNATIONAL PRESIDENT		INTERNATIONAL VICE PRESIDENT		REGIONAL DIRECTOR	
	ICS	Ballots Cast - Total	VOTE FOR 1	Ray Curry Shawn Fain	VOTE FOR 1	Tim Bressler	Chuck Browning	VOTE FOR 1
<b>Regions Totals</b>		168	<b>95</b>	<b>73</b>	<b>44</b>	<b>113</b>	<b>4</b>	<b>1</b>
Region 1		13	5	8	4	6		
Region 1A		13	7	6	3	10		
Region 1D		13	9	4	4	9		
Region 2B		22	8	14	5	16		
Region 4		14	5	9	7	6		
Region 6 / AL		55	0	3	1	1		
Region 8		24	37	15	12	37		
Region 9		5	17	7	6	18		
Region 9A		9	4	1	1	4	4	1
			3	6	1	6		

# **Exhibit D**

Custom Table Report  
 2023 UAW Officers Run Off  
 March 25, 2023

UNOFFICIAL RESULTS  
 Region Totals  
 United Auto Workers

	STATISTI		INTERNATIONAL		INTERNATIONAL		REGIONAL DIRECTOR	
	CS	Ballots Cast - Total	INTERNATIONAL PRESIDENT	INTERNATIONAL VICE PRESIDENT	INTERNATIONAL VICE PRESIDENT	REGIONAL DIRECTOR	REGIONAL DIRECTOR	REGIONAL DIRECTOR
			VOTE FOR 1	VOTE FOR 1	VOTE FOR 1	VOTE FOR 1	VOTE FOR 1	VOTE FOR 1
			Ray Curry Shawn Fain	Tim Bressler	Chuck Browning	Lauren Farrell	Daniel Vicente	
<b>Regions Totals</b>		139,472	<b>69,459</b>	<b>46,180</b>	<b>81,706</b>	<b>4,053</b>	<b>4,358</b>	<b>4,358</b>
Region 1		19,442	9,851	6,968	10,805	-	-	-
Region 1A		19,010	6,335	4,264	13,890	-	-	-
Region 1D		16,440	7,335	8,998	6,474	8,753	-	-
Region 2B		27,701	12,049	15,455	9,456	16,101	-	-
Region 4		20,145	8,608	11,392	6,928	11,831	-	-
Region 6 / AL		3,428	1,142	2,253	874	1,337	-	-
Region 8		19,808	11,960	7,710	6,258	12,371	-	-
Region 9		8,485	3,786	4,614	3,498	4,326	4,053	4,358
Region 9A		5,013	2,126	2,851	1,460	2,292	-	-