UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

ALLIED MEDICAL TRANSPORT, INC.

and

TRANSPORT WORKERS UNION OF AMERICA, AFL-CIO

Cases 12-CA-072141
12-CA-072148
12-CA-074078

ACTING GENERAL COUNSEL'S CROSS-EXCEPTIONS TO THE ADMINISTRATIVE LAW JUDGE'S DECISION

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Counsel for the Acting General Counsel hereby files the following cross-exceptions to the Administrative Law Judge's (ALJ) decision in the matter of Allied Medical Transport, Inc., Cases 12-CA-072141, 12-CA-072148, and 12-CA-074078, reported at JD(ATL)-02-13, and issued on January 16, 2013.

1. The ALJ erred by finding that Respondent established that it would have suspended and discharged Fertil and Nicolas even in the absence of their union activities. (ALJD 16:35 to 17:26).

2. The ALJ erred by concluding that Respondent did not violate Section 8(a)(3) and (1) of the Act, and by failing to find and conclude that Respondent did violate Section 8(a)(3) and (1) of the Act, when it suspended and terminated Yvel Nicolas and Renan Fertil and that Respondent would have taken the same personnel actions for permissible reasons. (ALJD 15:32-34; ALJD 16:55 to 17:26).

3. The ALJ erred by failing to find that Respondent's fare audit summaries for Yvel Nicolas, Renan Fertil, and other unit employees were not completed until on or about December 7, 2011, after Respondent's drivers, mechanics, and dispatchers voted for representation by Transport Workers Union of America, AFL-CIO, herein called the Union, on December 2, 2011. (ALJD 7:28 to 8:8; GCX 4, GCX 8).

4. The ALJ erred by finding that Respondent's records, consisting only of driver fare shortage audit summaries, demonstrated Yvel Nicolas and Renan Fertil were guilty of not turning in their fares, and by failing to find that Respondent failed to introduce driver manifests, receipts, or any other evidence to substantiate the information in the driver fare shortage audit summaries. (ALJD 17:19-20).

5. The ALJ erred by finding that Respondent historically treated all of its drivers who were delinquent in submitting fare moneys consistently, and by finding that drivers who admitted liability and repaid their delinquency remained employed, while drivers who denied liability were fired. (ALJD 16:35 to 17:26).

6. The ALJ erred by failing to find and conclude that, in addition to the rationale he relied on to find that Respondent violated Section 8(a)(1) and (5) of the Act, in December 2011, after the Union was certified, Respondent changed its disciplinary procedure by taking the unprecedented action of suspending employees pending investigation and then discharging them. (ALJD 17:7-26).

7. The ALJ erred by failing to specifically find and conclude that Respondent violated Section 8(a)(1) and (5) of the Act by unilaterally suspending employees Renan Fertil and Yvel Nicolas pending investigation and then discharging them as a result of its unilateral changes in disciplinary policies and procedures with respect to driver fare shortages, as alleged in paragraph 13 of the complaint in this case. [ALJD 20:12-13; ALJD 22:9-10; GCX 1(ee), paragraph 13].

8. The ALJ erred by failing to find and conclude that Respondent directed employees that they must vote, and that they must vote against the Union, in violation of Section 8(a)(1) of the Act. [ALJD 5:31-42; GCX 1(ee), paragraph 9(f)].

9. The ALJ erred by failing to require Respondent to post and read the Notice to Employees in Haitian Creole, as well as English. (ALJD 23:28 to 24:5).

DATED at Miami, Florida, this 12th day of April 2013.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that the Counsel for the General Counsel's Cross-Exceptions in the matter of Allied Medical Transport, Inc., Cases 12-CA-072141, 12-CA-072148, and 12-CA-074078, was electronically filed and served by electronic mail on April 12, 2013, as set forth below:

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