UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

PROFESSIONAL MEDICAL TRANSPORT, INC. Cases 28–CA–08930028–CA–099144

INDEPENDENT CERTIFIED EMERGENCY

PROFESSIONALS, LOCAL NO. 1

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for the General Counsel.

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CHARGING PARTY EXCEPTIONS

CASE NO.S 28-CA-08930028 and 28-ca-099144

Exception 1

The Administrative Law Judge erred in his interpretation of the "Contract Ratification Bonus"

Barkley did not realize that the Company had added the ratification bonus to its 5 proposal until June 11, when he received a mid-afternoon email from PMT CEO John Wilson

giving him a "heads up" that the Company was going to send a letter directly to the employees

describing the June 7 offer. (p.3 para1)

Here the Judge bases his decision on assumption and not fact. As the Union clearly showed during questioning of the company's authorized bargaining agent, Tom Seger (Baker and Hostettler) that there was no "Handwritten" additions to the table of contents on multiple other defense articles from the same contract. First, the Judge discredits the testimony of both the CEO and the Legal representative for Rural Metro:

I discredit the testimony of Segar and PMT CEO John Wilson to the extent it indicates otherwise. Segar testified that the Union specifically asked about the ratification bonus, and that he explained the rationale for it (Tr. 749–750). However, Wilson testified that he could not recall the Union asking any questions about the bonus. He also gave inconsistent testimony about whether Segar mentioned the bonus. He initially testified that Segar made only a "brief," general comment about the overall proposal when he tendered it, and that everyone then left. (Tr. 662–663, 707–708.), Then he fails to find for the charging party on this matter based on two other union bargaining agents that were not called as witnesses. This is problematic for a multitude of reasons. The Judge was to draw an adverse impact of the company's previous cases and the testimony of this case. He seems to allude to those facts but fails to attach a decision that matches his own dissent.

The company was held liable for direct dealing in 2009, cases 28-CA 22175, 22289. 22338,2 2350 and 22519 and a cease and desist order was installed against them by Judge William Kocol. Exceptions to this case were withdrawn and it then became a board order. PMT failed to abide by the agreement and it was sent to the 9th Circuit court for enforcement. It was returned with a favorable judgment and the cease and desist order for direct dealing was upheld.

Here, the Judge seems to give them a "pass" on direct dealing because an email was sent to the President stating that the letter would go out with less than a 24 hour notice. Financial benefits are a subject of mandatory bargaining and the Judge agreed that none had taken place. The cease and desist orders were in effect and all were discarded by this judge. The union requests that the Board find this as an Unfair Labor Practice, a violation of a 9th Circuit Court Order and weigh its effects on the rest of the manipulated bargaining that PMT/Rural Metro has imposed on a volunteer employee based union.

Exception 2

The Judge erred on his withholding of "Transverse Marine" financial reimbursements for Unit employees.

A) In his decision, he writes: *I deny the General Counsel's request that the Company be required to pay 2-weeks minimum backpay to the employees in the*

manner prescribed in Transmarine Navigation Corp., 170 NLRB 389 (1968). Contrary to the General Counsel's suggestion, such a remedy is not automatic or appropriate in every effects-bargaining case regardless of loss. See AG Communication Systems, 350 NLRB 168, 173 (2007), affd. in relevant part sub nom. Electrical

15 Workers Local 21 v. NLRB, 563 F.3d 418 (9th Cir. 2009). Further, the cases cited by the General Counsel in support of such a remedy are clearly distinguishable. For example, in Live Oak Care & Manor, 300 NLRB 1040 (1990), the primary case relied on by the General Counsel, the Board found that a Transmarine remedy was appropriate because the ***employees had, in fact, suffered financial losses,*** *and that, on learning of the sale/transfer of the facility, the union had immediately requested bargaining over such issues as accrued leave, severance pay, pending grievances, and payment of all wages and benefits due*.

ICEP members, have likewise, endured direct financial losses due to the shutdown of unit 603:

- Members were deprived overtime for any vacation days or sick days automatically inserted with this units manpower needs.

-It directly removed a paramedic position from the unit, which is the ongoing trend with this ongoing case. Three units in Chandler, One unit in Scottsdale and firefighting subcontracting in General Transport have all reduced the size of the paramedic unit at the ICEP, imposing, not only financial losses, but loss of employment by default.

-By the very definition of this case and the cases that preceded it, the unit has lost massive opportunity, wages, overtime and general fair treatment on wages and benefits through subcontracting, fraud, retaliation, and ongoing unfair labor practices, all litigated through Region 28 and some sent to the Board with yet another sent to the 9th circuit. The Judges and the Board seem to miss the ongoing business plan of this serial retaliator that requires the ICEP to bargain away its entire unit.

B) *36 See, e.g., Solutia, Inc., 357 NLRB No. 15 (2011), enfd. 699 F.3d 50 (1st Cir. 2012). If there is any new or previously unavailable evidence showing that restoration of unit 603 has become unduly burdensome since the hearing, the Company may present that evidence in the compliance proceeding. Id. at fn. 19.*

The Union is unsure whether this is boiler plate language or not, but it is insulting and we feel it as unlawful. The Reinstatement of Unit 603 is the result of a grand bargain that included this unit. A 9th circuit court decision, 6 years of retaliation, 5 terminated executive boards, no dues collections, and an ongoing constitutional mandate that the ICEP volunteer it's time to be allowed to freely associate. Now the Judge wants to override that on this issue with a "one liner" at the bottom indicating his concern for a company that just went bankrupt in a state that mandates a profit for ambulance companies, a state that has made Rural Metro a monopoly by law, a company that has just finished yet another Medicare fraud case for $2.8 million dollars. Now this Judge is concerned for any undue burden on this documented criminal company?

We protest to the language, we protest to the option and we protest the Judges bend towards the best interest of a fraudulent taxpayer funded company that has shown, over and over, it is not worth the public's trust.

It is worth, however, noting that the Union objected to this Judge when the company offered its third rendition of "authentication" on this issue. First it was "one call per hour" for all Scottsdale units and we sent the chart to you in an email", Then the HR director testifies she was in two different places at the same time when she "handed" the documents to the President (same subject, different numbers, different document), then "Tom Segar" proposed yet a third rendition. The judge retorted to the Union (after my objection for subverting the meaning of the word "authentication" and the purpose of this courtroom) that if my objection is valid, then the testimony is detrimental to the company's case and they were allowed to continue.

It is equally worth noting that the unlawful changes on unit 284, were used to "replace" unit 603, secondary to Chandler Unlawful Subcontracting. In their own case, the company shows that unit 603 was needed by the random job description changes of unit 284 and the placing of a City of Chandler Unit (284) into Scottsdale. Thus, the entire case presented by the company, the Judge's decision and the fractured evidence provided make no sense on any elementary level.

The Union request that in the interest of Public Safety and the interest of equal distribution of law that the Board mandate the permanent reinstatement of unit

603, reimburse the unit with 2 weeks' pay, and uphold the cease and disorder through quick, decisive action to be taken against PMT Ambulance.

Exception 3

The Judge erred in his opinion of how retaliation affects collective bargaining.

As for shutting down unit 603 and suspending Lopez, the General Counsel offers no explanation how or why these violations contributed to the parties' failure to reach agreement regarding the effects of the Chandler contract. Nor is the causal relationship so obvious as to be self-explanatory. While the Company raised unit 603 at the August 1 meeting, it proposed a separate agreement on the issue, and there was little or no discussion about it. Further, the issue was not thereafter discussed or tied together with the Chandler issue in any way, and was not even mentioned in Barkley's September 17 letter. As for Lopez' September 17 suspension, it was 15 only for 1 day and retroactive to August 26, and there is no evidence that he was unable to participate in the Chandler negotiations because of the retroactive suspension or that it impacted the negotiations in any way. Accordingly, I reject the General Counsel's theory. See Aramark Educational Services, supra.

1) Tony Lopez is a 20+ year employee of PMT ambulance with a flawless record. The company clearly manipulated the suspension of Tony Lopez in a timely manner to coincide with collective bargaining. The Judge failed to insert that Mr.

Lopez would be terminated for any further performance infractions. Do performance infractions include not agreeing with the company during collective bargaining sessions? Is it the Judges position and dangerous assertion that employers may now retaliate without fear of legal ramifications? The union clearly misses the Judges interpretation of this case and this is one of the more alarming. The judge was to pull and adverse reference from the previous cases and all had included fraud and retaliation against union officers. This is an ongoing concerted effort to demolish the upstart union and impose corporate law on all employees, regardless of its comparison to Arizona Revised Statutes, Federal Labor Law or United States Criminal code for retaliation against a Federal Witness. Not only does the judge asserts this retaliation as trivial, but actually dismisses its effects on collective bargaining at the benefit of PMT Ambulance.

In addition, there is a standing cease and desist order from the 9th circuit against retaliation against union participants and officers. This is just another example of how little this corrupt company fears the NLRB or acknowledges any duty of the Union. Therefore the Union request that this opinion on the effects on collective bargaining be reversed and a cease and desist order maintained through all levels of enforcement and that is available to the federal government.

Exception 4

Without copying and pasting specific language in this decision, one thing has been

discarded and clearly so. The company issued an MOU to the union prior to the vote being announced. The same vote that the Company unilaterally offered a bonus for accepting. Why would the company need an MOU for matters allegedly bargained over during bargaining sessions on a contract? Again, this procedure, negotiating practices and decision make no sense. Tom Segar testified that he imposes a "bargaining rule" of using TA's to the union and the union allegedly agreed. Then the company mandates a move to MOU's while the contract is still being voted on? Segar testifies that the Union and the Company agreed to "Bargaining over a comprehensive all inclusive "contract. He then relegates the process to TA's ? Then when he feels he violated the duties of Collective Bargaining, he moves to MOU's. That is not bargaining, that is manipulation, deceit and arrogant imposition of his "experience" on an unfunded, employee based labor union.

The company, John Wilson and Tom Segar also failed to ever declare "Impasse" on any single issue, yet the judge treats his decision as though there was impasse. The Judge acknowledges there was no impasse during the hearing and the multitude of bargaining techniques was testified to by Tom Segar as "well, it wasn't meant to be a hard, fast rule".

For this atrocious form of collective bargaining and the disregard for lawful negotiations, the Union asks that this entire case be found in favor or the union and all assertions against the company upheld. We further ask that all financial damages be instituted to the maximum affect and any other actions that can be taken against this serial violator be taken to their full capacity.

Exception 5

The Judge erred in his opinion on the unilateral relocation of employees at Station 2.

A) *Here, there is no dispute that the relocation had nothing to do with labor costs. The purpose of the relocation was simply to provide the crews with better working conditions, as station 3 is a newer facility with working air conditioning and toilets, a large kitchen and break rooms, and a secure parking lot and there is no evidence that any unit employee suffered a reduction in pay or benefits.*

B) *36 See, e.g., Solutia, Inc., 357 NLRB No. 15 (2011), enfd. 699 F.3d 50 (1st Cir. 2012). If there is any new or previously unavailable evidence showing that restoration of unit 603 has become unduly burdensome since the hearing, the Company may present that evidence in the compliance proceeding. Id. at fn. 19.*

Rebuttal

A) The assertion that it was to provide a better working environment and to allow for as station 3 is a newer facility with working air conditioning and toilets, a large kitchen and break rooms, is an assumption by the Judge, a disregard for the

very business the company is engaged in and a slanted, biased opinion of what happened here. If it cost the employees more money to get to work, then it is unequivocally a subject of mandatory bargaining. If it increases response times to the emergency party, then this move was a threat to public safety. If it had poor facilities, then the company is saying that it violated osha requirements for the years prior to this move. In short, and without further commentary on the thoughts of this decision, this was an Unfair Labor Practice at its core and did not include a simple courtesy email to the union. The Judge has no base to make this decision on behalf of the company, none.

Therefore, the Union is requesting the order be reversed to redeployment of the same units and crews from station 2. Full reimbursement of incurred travel expenses by the members in the 5th largest metropolitan area in the country and 2 weeks' pay for all affected employees in the General Transport division.

B) The judge added this language on behalf of the company, yet fails to include the union in this "after the fact" benefit. So the Union demands equal consideration. Since the imposition of the unfair labor practice in question, the company has declared bankruptcy, been sold and has been found guilty of Medicare fraud. Furthermore, the company has imposed a competitor union into station 3 and advertises relentlessly the great relationship they have with that union, further denigrating the ICEP. Now you have one parent company, with 2 sub company's, forced into the same station with competitor unions at hand. The competitor union in this case is the IAFF, (International Association of Firefighters), a described "scab" union upon the ICEP in the 2009 decision of

Judge Kocol. So to the Judges own position, the Union demands the reversal of this decision based on the unduly burdensome effect it has had on the ICEP and its members.

-Reestablish Station 2 for the benefit of Public safety, overriding a corporate, state approved monopoly that denigrates response times and reversing the unilateral change.
-Make all unit members in the ICEP General Transport Unit whole for this transgression of labor law.
-Place a cease and desist order on Rural Metro /PMT Ambulance to stop any future bad behavior against this Union , the National Labor Relations Act or the Constitution of the USA and the State of Arizona.

Exception 6

Notwithstanding the Union's objections, the Company did, in fact, bid on the Chandler RFP. As CEO Wilson informed Barkley at the time, if the Company failed to bid on the RFP, the Company would lose its current business with the city and potentially have to layoff 18 bargaining *unit employees (GC Exh. 14). Further, as Human Resources Director Carpenter subsequently reminded Barkley on January 6, 2012 (GC Exh. 42), a provision in the parties' December 2010 settlement agreement in the third unfair labor practice case specifically allowed the Company to unilaterally submit bids that transferred bargaining unit work to nonunit employees if required by the RFP. See fn. 1, above, and R. Exh. 15, p. 00006.28*

Begging the Boards pardon, while the Unions disgust with this decision increases tenfold on every dissertation made by this Judge. In this decision, the Judge totally dismisses Labor Law, Criminal law and the 9th Circuit decision;

1) Labor Law requires bargaining over all mandatory subjects:

Ref Human Resources Portal (a Corporate source of information dealing with labor matters)

Mandatory bargaining subjects are those that directly relate to the NLRA stipulation. A refusal to bargain regarding a mandatory bargaining subject is a violation of the NLRA. Negotiations may continue to the point of impasse (mediation or strike). Mandatory bargaining subjects include wages, hours, merit increases, bonuses, pensions, profit-sharing, health and welfare plans, discharges, grievance procedures, disciplinary procedures, drug testing, seniority, promotions, transfers, health and safety, work assignments and plant closings.

Work assignments lost, Overtime opportunities lost, Advanced Life Support job opportunities taken over by an extortive government mandate. Wages increased for the subcontractor and bankruptcy was imposed on the incumbent union who has had no improvement on any mandatory bargaining item in 8 years.

2) The Chandler Contract is a violation of Antitrust laws and Arizona Revised Statutes, therefore the contract is invalid upon its delivery.

23-202. Exaction of fee or gratuity as condition of employment prohibited; classification

It is unlawful for a person charged or entrusted by another with the employment or continuance in employment of any workmen or laborers to demand or receive, either directly or indirectly, from a workman or laborer employed or continued in employment through his agency or under his direction or control, a fee, commission or gratuity of any kind as the price or condition of the employment of the workman or laborer, or as the price or condition of his continuance in such employment. Any person charged or entrusted with employment of laborers or workmen for his principal, or under whose direction or control the workmen and laborers are engaged in work and labor for the principal, who violates a provision of this section is guilty of a class 2 misdemeanor.

Here, the City of Chandler has mandated a fee of $1.2 Million dollars a year be imposed on the contractor for a "pay to play" system. The results, if taken literally by this unlawful and incredible company CEO and his company, are a contract denial. This would violate all laws previously asserted in this section.

The Judge refers to the company's "Agreement on 2010 to unilaterally bid on subcontracting while at the same time, ignoring the decision of the 9th

Circuit, enforced in 2012, to bargain over the effects of subcontracting and a cease and desist order to refrain from this activity. In short, this decision could be considered nothing less than entirely biased on behalf of Rural Metro, because previous case law is the same cases being litigated now. You would have to look no further than ICEP versus PMT Ambulance to prove it so, yet we are forced to spend more time appealing the same ole stuff, without any enforcement of the previous orders. Instead, these ongoing misnomers have allowed the company to retaliate, without imposition or redress. All illegal and all ignored.

Furthermore, additional information and conditions have been imposed on the situation by Rural Metros, post hearing. The incredible testimony by the incredible Tom Segar of Baker and Hostetler, and alluded to as "additional evidence after the fact", that the Board now allow into this case. Rural Metro has assimilated PMT Ambulance since the RFP for Chandler and now would win the contract, regardless of Union opinion. As summarized under sworn testimony, "If Rural Metro wasn't awarded this contract, then Rural Metro would be awarded the contract. This case has become so ridiculous and embedded with fraud and manipulation of law that the Union has become the poster child for EFCA, but no relief comes.

To the above, the union demands full retraction of the Chandler contract, reinstatement of ICEP members into the City of Chandler with previously described working conditions. We demand full compensation for all loss of overtime, working opportunities, retaliation in the name of the City of

Chandler and ongoing unfair labor practices against ICEP members and officers. We demand the Transverse Marine penalty be imposed and all 911 providers of PMT ambulance be awarded 2 weeks' pay for this violation of labor law.

We further demand, due to the 6 year court history, the unfulfilled promises from all involved and the clearly described violations in this dissertation, that the NLRB send this case to enforcement for "contempt of court". We further ask that this be forwarded to the US District Attorney's office for enforcement of RICO laws, Retaliation against federal witnesses, violation of Anti-Trust laws, and general violations of law, described in multiple Medicare fraud cases and Unchecked retaliation against all that oppose them.

/s/ Joshua S. Barkley, ICEP President and Charging Party.