UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

PROFESSIONAL MEDICAL TRANSPORT, INC.

and **Cases 28-CA-89300**
28-CA-99144

INDEPENDENT CERTIFIED EMERGENCY PROFESSIONALS OF ARIZONA, LOCAL #1

GENERAL COUNSEL'S BRIEF IN SUPPORT OF EXCEPTIONS

Sandra L. Lyons
Counsel for the General Counsel
National Labor Relations Board, Region 28
2600 North Central Avenue, Suite 1800
Phoenix, AZ 85004-3099
Telephone: (602) 640-2133
Facsimile: (602) 640-2178
Email: Sandra.lyons@nlrb.gov

Table of Contents

Table of Authorities

Cases

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

PROFESSIONAL MEDICAL TRANSPORT, INC.

and **Cases 28-CA-89300**
28-CA-99144

INDEPENDENT CERTIFIED EMERGENCY PROFESSIONALS OF ARIZONA, LOCAL #1

GENERAL COUNSEL'S BRIEF IN SUPPORT OF EXCEPTIONS

Respondent has shown over the course of four years, an utter and total disdain for the National Labor Relations Act, the collective-bargaining representative of its employees, and the agreements it voluntarily entered into in order to destroy a Union started and run by full-time employees who have show incredible resiliency despite Respondent's attacks. As will be shown here, the Union, since 2006, has attempted, despite overwhelming odds, to represent bargaining unit employees by requesting relevant information, trying to obtain a collective-bargaining agreement, objecting to unilateral changes, and by attempting to have a negotiating committee members treated fairly. Respondent has been found to have committed serious and numerous unfair labor practices since 2008, by three Administrative Law Judges, including violations in this case.

The ALJ in this case, found that Respondent committed serious unfair labor practices. These violations include the unlawful suspension of a Union officer in violation of Section 8(a)(3) of the Act; the unilateral shut down of an ambulance unit (Unit 603), and the unilateral transfer and change of duties of Unit 284 in violation of Section 8(a)(1) and (5) of the Act. The ALJ failed to find, however, that Respondent dealt directly with employees,

unilaterally transferred employees without bargaining over the transfer and the effects of the transfer, was under no obligation to provide relevant and necessary information to the Union, and that a shutdown of a unit that directly affected the Union President and Vice President was not done in violation of Section 8(a)(3) of the Act.

Counsel for the General Counsel (CGC), pursuant to Section 102.46(e) of the Board's Rules and Regulations, files the following Brief in Support of Exceptions to the Decision of Administrative Law Judge Jeffrey D. Wedekind [JD(SF) 1-14] (ALJD), issued on January 9, 2014, in the above captioned cases.[1] It is respectfully submitted that in all respects, other than what is excepted to herein, the findings of the Administrative Law Judge (ALJ) are appropriate, proper, and fully supported by the credible record evidence.

In addition to the unfair labor practices found by the ALJ in this case, CGC respectfully requests that the Board find and conclude that Respondent's conduct which is the subject of General Counsel's exceptions are violations of the Act as alleged.

I. BACKGROUND

A. Respondent's Operations

Respondent is a private emergency medical transportation company that provides both emergency and general ambulance transportation through various contracts with municipalities and private business throughout the Phoenix metropolitan area. (ALJD at 1; Tr. 633) On February 4, 2012, Respondent was purchased by Rural-Metro Corporation. (ALJD at 2; Tr. 638) Chief Operating Officer for Respondent is John Wilson (Wilson).

[1] Professional Medical Transport, Inc. is referred to as Respondent. The Independent Certified Emergency Professionals of Arizona, Local No. 1 is referred to as Union. References to the ALJD show the applicable page number. "Tr. ___" refers to pages of the transcript from the hearing held August 5-8, 2013. "GCX ___" refers to exhibits introduced by General Counsel at the hearing. "RX___" refers to exhibits introduced by Respondent at the hearing. "UX___" refers to exhibits introduced by the Union at the hearing.

(ALJD at 3, fn. 6; Tr. 55) Wilson was also appointed the West Region Vice President for Rural-Metro Corporation, the entity that purchased Respondent in February 2012. (Tr. 57)

B. History of the Parties' Bargaining Relationship

The Union was founded by employees of Respondent and is not affiliated with any other union, being led by its President, Joshua Barkley (Barkley), a full-time employee of Respondent. (ALJD at 1; Tr. 444-445) Anthony Lopez (Lopez) has been the Secretary-Treasurer for the Union since its inception. (ALJD at 9; Tr. 384)

On July 7, 2006, Respondent recognized the Union as the exclusive collective-bargaining representative of the unit (the Unit), described in the recognition agreement as follows. (Tr. 444; GCX 1(g) pg. 3):

> All full-time paramedics, EMT's, IEMT's, and registered nurses, but excluding administrative staff individuals, support services, personnel not directly operating in the field as an EMS provider, guards, office clerical and supervisors as defined under the Act.

C. Prior Unfair Labor Practice Decisions

Prior to the case before this Board, Respondent engaged in numerous and serious unfair labor practices, starting in 2008 and continuing through this case. Three Complaints and Notices of Hearing issued against Respondent; two culminating in Administrative Law Judge decisions with one settling during the hearing. A Compliance Stipulation Settlement was also entered into, attempting to resolve all of the outstanding unfair labor practices committed by Respondent. Below is a brief history of those proceedings.

1. Decision of ALJ Kocol

On November 9, 2009, Administrative Law Judge William G. Kocol issued his decision in *Professional Medical Transport, Inc.*, JD(SF)-38-09, which was enforced by the United States Court of Appeals for the Ninth Circuit. (ALJD at 1; GCX 64-67) See *NLRB v.*

Professional Medical Transport, Inc., No. 11-71785 (9th Cir. 2011) In that decision, Respondent was taken to task for abrogating its bargaining obligation by refusing to provide information to the Union, making unilateral changes to Unit employee working conditions, and illegally withdrawing recognition from the Union. (GCX 64, at pages 9, 13, and 15). As part of the remedy, Respondent was ordered to recognize and bargain with the Union in good faith. (GCX 64 at p. 15)

2. December 1, 2010 Board Settlement Agreement

Based on another set of unfair labor practice charges alleging Respondent's continued violations of the Act, on December 1, 2010, ALJ Kocol approved a Board Settlement Agreement after the hearing opened. (RX 15) In that agreement, Respondent agreed to certain terms, including notifying and bargaining with the Union regarding the assignment of bargaining unit work to non-bargaining unit individuals. Respondent also agreed to not make unilateral changes in wages, hours and terms and conditions of Employment. (RX 15, Notice to Employees, page 3)

3. Decision of ALJ Lana Parke

About a year later, on December 20, 2011, Administrative Law Judge Lana Parke issued her decision in *Professional Medical Transport, Inc.*, JD(SF)-49-11. (ALJD at 1; GCX 68) In that decision, ALJ Parke found that the discipline issued to Union President Barkley and Union Vice President Travis Yates was in violation of Section 8(a)(3) and (4) of the Act. In fact, the discipline issued by Respondent identified President Barkley's filing of unfair labor practices as one of the reasons for the suspension issued to him. (GCX 68 at page 16) ALJ Parke found animus to exist, especially in the written discipline that was given to Barkley. (GCX 68 at page 16) Beam was involved in issuing the discipline against Barkley.

(GCX 68 at page 15) ALJ Parke also found that Respondent committed an unlawful unilateral change when it shut down Unit 603 without notice and an opportunity to bargain with the Union. (GCX 68 at page 18)

4. June 15, 2012 Compliance Settlement Stipulation

After a Compliance Stipulation issued against Respondent for failure to comply with the various provisions of ALJ Kocol and ALJ Parke's decisions, the parties reached a settlement of the Compliance Stipulation on June 15, 2012. (ALJD at 2; GCX 4) Contained within that settlement were provisions that required Respondent to restore Unit 603 to the way it existed on November 2010, and it placed restrictions on the amount of hours Respondent could allocate to non-bargaining unit employees. (GCX 4 at page 5, Notice to Employees, Appendix 2, page 2) It further required Respondent to notify and bargain with the Union over any subcontracting of bargaining unit hours over and above the allocated hours. (GCX 4, Notice to Employees, Appendix 1, page 2) After signing the agreement on June 15, 2012, Respondent, within days, continued in its abhorrent behavior by making unilateral changes, suspending the Union Secretary-Treasurer Tony Lopez, directly dealing with employees, and failing and refusing to provide relevant information to the Union—behavior that Respondent has failed to cease and desist over the course of five years.

II. ANALYSIS

A. The ALJ Erred by Failing to Find that the Respondent's Shut Down of Unit 603 was a Violation of Section 8(a)(3) of the Act

1. Allegations

The Complaint alleges that Respondent not only unilaterally shut down Unit 603 in violation of Section 8(a)(5) of the Act, but also that the resulting transfer of employees due to the was motivated by union animus in violation of Section 8(a)(3). The

ALJ found that the shutdown of Unit 603 was violation of Section 8(a)(5) of the Act, but failed find that it was also a Section 8(a) (3) violation. (ALJD at 9) It is respectfully submitted that the ALJ's failure to find the Section 8(a)(3) violation was in error and should be reversed.

2. The Record Evidence Concerning the Shut Down of Unit 603

The record evidence supports a finding the shutdown of Unit 603 is both a Section 8(a)(5) violation by not bargaining with the Union over the transfer, and was motivated by union animus in violation of Section 8(a)(3) of the Act.

Unit 603 is a two employee unit that posts out of Station 604 in the City of Scottsdale. (ALJD at 4; Tr. 481) Unit 603 provides assistance to those bargaining unit employees on Unit 604, as well as throughout Scottsdale by answering overflow 911 calls as well as moving up so that all geographical areas in Scottsdale have appropriate coverage. (ALJD at 4; Tr. 62; 481) Unit 603 provides assistance to units throughout the City of Scottsdale but the Unit that benefits the most from the assistance of Unit 603 is Union President Barkley and Union Vice President Travis Yates (Yates) Unit—Unit 604. (Tr. 63; 65; 481; 488) Yates is the Union Vice-President. (ALJD at 1) By shutting down Unit 603, Barkley and Yates workload increases and they are directly affected because South Scottsdale is so busy and has a high call volume. (Tr. 66-67)

Unit 603 has been a unit that Respondent had used repeatedly to affect Barkley and Yates. Respondent has been found liable for shutting down Unit 603 without notice and an opportunity to bargain with the Union in ALJ Parke's decision. (ALJD at 4-5; GCX 68, page 18) Further, Respondent agreed in the Notice to Employees in the Compliance Stipulation to restore Unit 603 to the status quo ante prior to its unlawful change in

November 2010. (GCX 69, Notice to Employees, Appendix 2, page 2) This agreement was signed on June 15, 2012. Despite this agreement, Respondent never restored Unit 603 and, in fact, immediately attempted to totally shut Unit 603 down within days of agreeing to restore it on June 21, 2012. (ALJD at 5; Tr. 68; GCX 5) After being notified of Respondent's plans, Barkley informed Respondent that it had agreed to restore Unit 603 and if it did not and shut it down totally, it would do so at its own peril because it was in contravention of the Compliance Stipulation. (ALJD at 6; GCX 9) Respondent ignored the Union, continued to insist that the Union agree to its shut down, and after directly dealing with employees and failing to comply with the Compliance Stipulation, on August 16, 2012, shut down Unit 603, directly affecting Yates' on Unit 604.[2] (Tr. 83; 487; GCX 9)[3]

Moreover, there is ample evidence of union animus by Respondent, both in previous hearings (relied upon by the ALJ) and in its continuing treatment of union officers. (ALJD at 8, fn. 16) The suspension of Union Secretary-Treasurer Tony Lopez was found to be in violation of Section 8(a)(3) of the Act. This treatment of Lopez occurred immediately after the shutdown of Unit 603, constituting ongoing anti-union conduct of Respondent. (ALJD at 10-12, fn. 21) The ALJ found that the union animus found by ALJ Parke in her decision can be relied upon for finding union animus in this proceeding. (ALJD at 12, fn. 21)

3. Legal Analysis

CGC presented a strong *prima facie* showing that Respondent violated Section 8(a)(1) and (3) of the Act under *Wright Line*, 251 NLRB 1083, 1089 (1980) enfd. 662 F.2d 899

[2] At this point, Barkley was still working at Unit 607 where he had been illegally transferred to in August 2011 by Respondent. (GCX 68, page 18)

[3] As the failure to restore Unit 603 was part of a very large Compliance Stipulation that was substantially complied with by Respondent, the Region decided to not revoke the stipulation but proceed to a hearing on this allegation.

(1st Cir. 1981), cert denied 455 U.S. 989 (1982), approved in *NLRB v. Transportation Management Corp*., 462 U.S. 393 (1983), with regard to the shutdown of Unit 603, and the ALJ erred in failing to find the 8(a)(3) violation.

Specifically, the record shows that Unit 603 has been used repeatedly to effect two union officers, Barkley and Yates. (ALJD at 9) By shutting it down, it increases their work load. The ALJ held that because Unit 603 also benefited Units 601 and 602, not just Barkley and Yates, he is unable to find that it was shut down in violation of Section 8(a)(3). (ALJD at 9) By this holding, the ALJ is ignoring record facts that it affected Barkley and Yates' unit the most due to the location of Unit 604—housed in the same location as Unit 603. (Tr. 487) Additionally, the mere fact that the shutdown of Unit 603 may also have had a detrimental effect on Unit 601 and 602 by not being able to provide those units assistance as well but that would not be dispositive of whether Respondent targeted Barkley and Yates in the shutdown of a unit that provided them the majority of assistance. The ALJ's reasoning is not supported by the evidence.

Based on the foregoing, it is respectfully submitted that the Board find that Respondent discriminatorily shut down Unit 603 in violation of Section 8(a)(1) and (3) of the Act.

B. The ALJ Erred in Failing to Find a Respondent Dealt Directly with Employees when it offered a Ratification Bonus in Violation of Section 8(a)(5) of the Act

1. Allegations

The Complaint alleges that Respondent, in violation of Section 8(a)(1) and (5) of the Act, dealt directly with employees when it offered them a ratification bonus if they ratified Respondent's last, best and final offer by a date certain. The ALJ found that because

the union was given notice the night before employees were notified, this constituted advance notice of the offer to employees and, therefore, was not direct dealing. (ALJD at 4) The ALJ also found that because the ratification bonus was accompanied by statements that Respondent acknowledged the Union as the collective-bargaining representative and did not criticize the Union, the ratification bonus offer was appropriate and not a violation of the Act. (ALJD at 4)

The ALJ erred in not finding a Section 8(a)(5) violation when Respondent offered a ratification bonus to employees. The facts in this case differ widely from the cases cited by the ALJ, and it is respectfully submitted that such facts warrant a finding of a violation.

2. The Record Evidence Concerning the Ratification Bonus

Without any discussion or negotiations, on June 11, 2012, at 3:05 p.m., Respondent sent Barkley a letter it planned to issue to all employees the next day, discussing the state of the negotiations. (ALJD at 3; Tr. 143-144; 477; GCX 38) However, within that letter was an offer to all Unit employees of a ratification bonus. (Tr. 145; GCX 38) On June 12, 2012, by letter, Respondent offered a $400 or $200 bonus to be paid at the upcoming holidays to every Unit employee if the employees ratified Respondent's last, best and final offer. (ALJD at 3; GCX 38)

Barkley testified that the first time he was aware of the ratification bonus was when he received the email from Wilson on June 10, 2012, right before Wilson sent the letter to the employees. (ALJD at 3; Tr. 476-477) Respondent states that it wrote out the ratification bonus on its agenda and informed the Union that it intended to offer the ratification bonus the night of June 7, 2012. (RX 24, page 00290) The ALJ found that both Wilson and Tom Seger, who testified about this June 7 meeting, were not credible (ALJD at 3, fn. 6) Therefore, the

facts as found by the ALJ were that Respondent gave the Union notice of the ratification bonus on June 11, 2012. This gave the Union absolutely no meaningful and reasonable amount of time to consider and bargain with Respondent over the ratification bonus before it was presented to unit employees.

This also tied the Union's hands. Now the Union had to present the last, best and final offer to the bargaining unit employees for their vote. (Tr. 477) This included the tentative agreement on subcontracting. (Tr. 479) Understandably, the employees voted down Respondent's last best, and final offer, including the tentative agreement on subcontracting. (Tr. 480) The Union could not now go back and agree to the same terms given the employee's overwhelming "no" vote. As testified to by Barkley, a cash offer was given to 240 bargaining unit employees in the ratification bonus and he had no ability to pull that off the table and undo it. (Tr. 493) Respondent forced a vote with this offer, prior to negotiations being completed. (Tr. 492)

3. Legal Analysis

In considering whether an employer has engaged in unlawful direct dealing, the Board examines whether the employer was communicating directly with union-represented employees; the discussion was for the purpose of establishing or changing wages, hours, and terms and conditions of employment or undercutting the union's role in bargaining; and that such communication must be to the exclusion of the union. *Permanente Medical Group,* 332 NLRB 1143 (2000); *Southern California Gas Co.*, 316 NLRB 979, 982 (1995); *Obie Pacific,* 196 NLRB 458, 459 (1972).[4]

[4] Employers must bargain exclusively with the designated union representatives of its employees. An employer who deals directly with its unionized employees regarding terms and conditions of employment violates Section 8(a)(1) and (5) of the Act. *Harris-Teeter Super Markets, Inc.*, 310 NLRB 216, 217 (1993) (direct dealing violation found when employer presented a proposed work-schedule change to employees and asked if

Direct dealing, by its very nature, improperly affects the bargaining relationship. The Union must be given sufficient time to consider the proposals and bargain about them. *American Pine Lodge Nursing & Rehab. Ctr.*, 325 NLRB 98 (1997), enf. denied in relevant part, 164 F. 3d 867 (4th Cir. 1999); *Detroit Edison*, 310 NLRB 564 (1993).

Ratification bonuses offered without an opportunity for a Union to bargain over, have been found to be unlawful direct dealing. The Board found that by withholding a proofing sharing payment until a collective-bargaining agreement is ratified; and by conditioning payment of the profit sharing benefit and the Christmas bonus on the contract ratification, the Employer violated Section 8(a)(5) and (1) of the Act. *Freedom WLNE-TV*, 278 NLRB 1293, 1300 (1986).

The ALJ states that this case more closely resembles *United Technologies*, 274 NLRB 609 (1985), enfd. sub nom. *NLRB v. Pratt Whitney Air Craft Division*, 789 F. 2d 121 (2d Cir. 1986). (ALJD at 6) The ALJ's reliance on this case is misplaced. As specifically recognized by the ALJ, the parties in *United Technologies* had a "long and fruitful bargaining history". (ALJD at 4) That is clearly not the case here, given the long and contentious history of unfair labor practices to include numerous unilateral changes, discriminatory discipline of union officers as well as an unlawful withdrawal of recognition. Further, the ALJ states that the company in *United Technologies* did not send a letter to the employees until several days after it presented the last, best and final offer to the Union at the bargaining table. (ALJD at 4) Those are the same facts in this case. The last, best and final offer was submitted to the Union

---

they liked it or had any comments about the change); *Allied-Signal, Inc.*, 307 NLRB 752, 753-754 (1992) ("[g]oing behind the back of the exclusive bargaining representative to seek the input of employees on a proposed change in working conditions…plainly erodes the position of the designated representative."); *Obie Pacific, Inc.*, 196 NLRB 458, 459 (1972) ("while, under appropriate circumstances, an employer may communicate to employees the reasons for his actions and even for his bargaining objectives, he may not seek to determine for himself the degree of support, or lack thereof, which exists for the stated position of the employees' bargaining agent").

on June 7, and the ratification bonus was submitted to the employees on June 12, 2012, having sent the proposed letter to the Union only the night before, June 11.

Further, there was no communication to the employees that they should act through union channels or at the ratification meeting, as was found in *United Technologies*. Instead, Respondent gave a date specific when the employees had to ratify the last, best and final offer to receive the ratification bonus, a date that was never discussed or negotiated with the Union. Further, the amount of the bonus and when the bonus would be given was also never negotiated with the Union. Respondent took it upon themselves to determine that paramedics would receive a higher bonus than emergency medical technicians and that the bonus would be given during the holidays, six months later. These are specific terms and conditions of Unit employees' benefits and should have been discussed and negotiated prior to Respondent merely presenting it to the Union as a *fait accompli* the night before it presented the bonus to Unit employees.

CGC respectfully requests that the ALJ's dismissal of the direct dealing allegation be overruled and Respondent be found to have committed a Section 8(a)(5) violation when it directly dealt with Unit employees by offering them a ratification bonus on June 12, 2012.

C. The ALJ Erred in Failing to Find that the Unilateral Actions of Respondent in Transferring and Moving Employees in the City of Chandler was not a Section 8(a)(5) Violation

1. Allegations

The ALJ erred when he failed to find that Respondent's unilateral action in moving employees and transferring employees in the City of Chandler was a violation of Section 8(a)(5) of the Act. (ALJD at 22) The ALJ found that the parties had reached a lawful impasse, allowing Respondent to implement its proposals regarding the City of Chandler.

(ALJD at 21-22) The parties were not at a lawful impasse and the ALJ erred when he so found.

2. The Record Evidence Concerning the Transfer and Movement of Unit Employees in the City of Chandler

A large portion of Respondent's business comes from contracts it holds with municipalities to provide emergency transport services. (ALJD at 15; Tr. 633) One of those contracts is with the city of Chandler, Arizona. (ALJD at 15; Tr. 633-635) Respondent held a contract to provide emergency services for a portion of Chandler up until January 3, 2013. Prior to that date, the City of Chandler issued a request for proposal (RFP), for an emergency transportation company to cover the entire city of Chandler. Respondent responded to this RFP and its bid was accepted. (Tr. 90) However, the bid required Respondent to remove all paramedics from the City of Chandler, replaced by City of Chandler firefighters/paramedics. (GCX 20) It further required Respondent to provide all of the emergency medical technicians (EMT), increasing the number of EMT employees in Chandler. (GCX 20)

The removal of the paramedics in the City of Chandler was a contentious issue between the Union and Respondent. When negotiations began between the parties in February 2012, this issue was negotiated. (Tr. 92-94) Although a final agreement had not been reached, the Union and Respondent signed a tentative agreement regarding this on June 7, 2012. (Tr. 100; 476; GCX 16) However, immediately after the signing of this tentative agreement, Respondent submitted its last, best and final offer to the Union and directly dealt with the bargaining unit employees by sending them the offer of a ratification bonus, as discussed above. The Union held a ratification vote, and the employees not only overwhelmingly voted down the last, best and final offer but also the tentative agreement concerning the City of Chandler. (Tr. 108-109; 490; GCX 22)

After the bargaining unit employees voted down the last, best and final proposal (discussed earlier regarding the ratification bonus), Respondent failed to give any credence to the Union's concerns regarding the City of Chandler. First, Respondent presented the Union with a Memorandum of Understanding regarding the City or Chandler and subcontracting on August 1, 2012. (ALJD at 16; Tr. 108 – 109; 490; GCX 22) Given the vote of the bargaining unit employees regarding subcontracting, the Union counter-proposed stating that Respondent could use the 52, 903 hours in any way possible and placing no restrictions on how Respondent would use those hours. (ALJD at 17-18; Tr. 108; GCX 21) Responded rejected the Union's proposal outright and continued to insist on the provisions of its proposed MOU. (ALJD at 18; GCX 23) Respondent asked the Union if they are at loggerheads. (ALJD at 18; GCX 23) The Union responded and outlined that it had agreed to a tentative agreement in June and Respondent's response was to staple un-negotiated articles to the tentative agreements, give it to the Union as a last, best and final offer and then directly deal with bargaining unit employees by offering a ratification bonus. (ALJD at 18; GCX 24) Nevertheless, the Union requested some time to prepare a counter-proposal, asking Respondent to be aware that Barkley works for 72 of the next 96 hours and will need more than a short turnaround. (ALJD at 18; GCX 24)

Instead of allowing the Union some time, Respondent sent another email asking for the Union's proposal. (ALJD at 18; GCX 25) The Union responded, outlining in an email on August 14, 2012, how Respondent has treated the Union for the past several years and explained how the subcontracting was affecting not only the hours of bargaining unit employees but because of the monies Respondent has agreed to pay Chandler, was not allowing them to negotiate increases in wages and benefits. (ALJD at 19; GCX 26) Despite

the concerns raised by the Union, the Union agreed to have something to Respondent even though Respondent had rejected the Union's proposals. (ALJD at 19; GCX 26)

Wilson responded, disagreeing with Barkley's facts and outlined his own facts. (ALJD at 19; GCX 27) Wilson asked Barkley to submit a proposal to bring the two sides to resolution and a collective bargaining agreement. (ALJD at 19; GCX 27) On September 17, 2012, the Union submitted a counter proposal to Respondent, outlining three different proposals on subcontracting. (Tr. 114; 491; GCX 30) At that point, Respondent declared impasse and informed the Union that it will be implementing the MOU. (ALJD at 19-20; Tr. 114-115; GCX 31)

Respondent declared impasse on September 19, 2012, and implemented the effects of the Chandler contract on January 3, 2013. (ALJD at 20; Tr. 116) As part of this implementation, all paramedics were removed from serving on 911 ambulances in Chandler and transferred to other locations. (ALJD at 20; Tr. 116-117) Station 282 was shut down and all personnel were transferred. (ALJD at 20; Tr. 118; GCX 33) Special bids were put out to all bargaining unit personnel to work at newly created positions in Chandler with no prior notification to the Union. (Tr. 130; GCX 35) In fact, the Union saw the special bids when the bargaining employees saw it. (Tr. 494-495)

The result on the bargaining unit complement after the implementation of the Chandler MOU was that 3 paramedics were transferred and moved to different stations and three paramedic positions in the 911 system in Chandler were lost; an additional 10.5 emergency medical technician bargaining unit positions were added to Chandler; and Station 282 was shut down. (ALJD at 20; Tr. 131-132; GCX 36) A list of bargaining employees affected by the unilateral changes in Chandler is at GCX 46. All bargaining unit

employees in Chandler were also assigned to Chandler Fire Stations as opposed to Respondent stations with the exception of Station 284. (Tr. 134) Additionally, the Field Training Officer position, previously stationed at Station 282, was moved to Station 284.[5] (Tr. 133; 332)

3. Legal Analysis

CGC argued Respondent could not declare impasse on the Chandler proposed changes and implement when there was serious unremedied unfair labor practice in existence that seriously and adversely affected negotiations. CGC additionally argues that the history of bad faith conduct by Respondent over the past five years makes a lawful impasse near to impossible to find. The ALJ did not find direct dealing in the offering of the ratification bonus, a finding CGC has excepted to in this brief. Therefore, when determining that the unremedied unfair labor practices were not of a nature to seriously and adversely affect negotiations, the direct dealing allegation was not considered. (ALJD at 3-4; 22-23) The ALJ not only erred in not finding the offer of the ratification bonus to be an unfair labor practice but he also erred in finding a lawful impasse in the face of unremedied unfair labor practices.

As discussed earlier, Respondent had an obligation to give notice and an opportunity to bargain with the Union over the effects of the Chandler contract. After directly dealing with employees on June 12, 2012, unilaterally shutting down Unit 603, and unlawfully suspending one of the main union negotiators, Tony Lopez, in the midst of discussion over the City of Chandler, Respondent cannot then declare a lawful impasse and implement these proposals. The Board has held that a respondent's unfair labor practice can preclude a lawful impasse and, therefore, respondent's unilateral implementation of changes will violate Section

[5] Unilateral changes made to Unit 284 were found by the ALJ to violate Section 8(a)(5) of the Act. (ALJD at 25)

8(a)(5) of the Act. *Majestic Towers, Inc*., 353 NLRB 304 (2008). Not all unfair labor practices will preclude a lawful impasse but serious unremedied unfair labor practices that affect negotiations will taint an asserted impasse. *Dynatron/Bondo Corp.*, 333 NLRB 750, 752 (2001). In *Majestic Towers*, the Board relied on only two of the unfair labor practices committed by Respondent that adversely affected the negotiations—failure to contribute to a health and welfare fund and refusal to provide information needed for negotiations. Id. The test is whether the unremedied unfair labor practices adversely affect negotiations.

The record shows that Respondent's direct dealing with Unit employees tainted the negotiations. As Barkley testified, he could not pull off the table a cash award publically announced to 240 bargaining unit employees that forced a ratification vote. Because the last, best and final offer as well as the subcontracting tentative agreement was voted down, Barkley had to return to the bargaining table with new proposals. Barkley did just that, including a September 17, 29012, proposal with three options for subcontracting addressing Chandler.

Even if the direct dealing allegation is not found to be a violation, the unilateral shut down of Unit 603 and the suspension of one of the main union negotiators, Tony Lopez, did have a serious adverse impact on negotiations. Unit 603, as discussed earlier, has been used as a club for several years, to beat the Union over the head by removing a unit, unilaterally, the directly affected the President and Vice President of the Union. By continuing to shutdown Unit 603 with no bargaining, even in light of a compliance stipulation, the Union and bargaining unit employees, have no confidence in the negotiations that are going on. The Union's positions are not even considered by Respondent. Second, by taking discipline action against the Union Secretary-Treasurer and one of the main negotiators, Respondent has also

tied the hands of the Union, showing that they can take whatever action they want against a union officer and negotiator, in the middle of negotiations, and then declare impasse with no consequence.

The ALJ applied the analysis in *Taft Broadcasting Co*., 163 NLRB 475 (1967) In *Taft*, the Board set forth factors to look at in determining whether a lawful impasse exists. It stated that whether a bargaining impasse exists is a matter of judgment. The bargaining history, the good faith conduct of the parties, the length of the negotiations, the importance of the issue or issues over which there is disagreement, the contemporaneous understanding as to the state of the negotiations are all relevant factors the Board looks to. Another factor the Board looks at is the parties' willingness to compromise in an effort to reach an agreement. See *Wycoff Steel*, 303 NLRB 517, 523 (1991). After considering the relevant factors, the Board will find that an impasse existed at a give time only if there is no "realistic possibility that continuation of discussion at that time would have been fruitful." *AFTRA v NLRB*, 394 F., 2d 622, 628 (D.C. Cir., 1968)

Applying those factors to this case, the ALJ did not give the appropriate weight to the continuing and serious bad faith bargaining conduct committed by Respondent for the past five years as well as the unfair labor practices committed during this case. There is little doubt that there has been bad faith conduct by Respondent. Respondent has committed several unfair labor practices during the negotiations, several having been found by the ALJ. The bargaining history between the parties had been fraught with unlawful conduct by Respondent. Although the City of Chandler is an important issue for both parties, the Union had actually signed a tentative agreement on June 7 regarding Chandler. After the Union showed good faith and attempted to reach a compromise, Respondent turned around and

directly dealt with employees as well as committed more unfair labor practices. Any bad faith in this case has been on the part of Respondent and Respondent should not be rewarded for its unlawful behavior in allowing them to declare impasse and implement changes to the City of Chandler.

D. The ALJ Erred in Failing to Find that Respondent's Unilateral Transfer of Employees from Station Two to Station Three was a Violation of Section 8(a)(5) of the Act.

1. Allegation

The ALJ failed to find that Respondent's transfer of unit employees from their duty station of Station Two to Station Three without notification or an opportunity to bargain with the Union over either the transfer or the effects of the transfer was a violation of Section 8(a)(5) of the Act. (ALJD at 23) The ALJ found that the transfer was not a mandatory subject of bargaining and further found that because the employees working conditions were better at Station Three, Respondent had no obligation to give notice or bargain with the Union over the effects of the transfer. (ALJD at 23) CGC respectfully submits that the ALJ is incorrect because the transfer and the effects of the transfer are mandatory subjects of bargaining, CGC met its burden under *Dubuque Packing Co (II),* 303 NLRB 385 (1991), Respondent failed to rebut the burden with credible evidence, and CGC is not required to show that the impact on bargaining unit employees working conditions was adverse.

2. The Record Evidence Regarding the Transfer of Employees from Station Two to Station Three

On January 17, 2013, Respondent transferred approximately 14 bargaining unit employees from Station Two in the City of Glendale, Arizona, to Station Three. (ALJD at 22; GCX 39 and 40) Respondent testified that Station Two had been used for a number of years prior to Station Three opening. (Tr. 145) This was done without notice to the Union or an

opportunity to bargain. (ALJD at 22; Tr. 148; 496; GCX 39) In fact, the Union learned of this on social media from other bargaining unit employees. (Tr. 496) Bargaining unit employees were directed to report to Station Three instead of Station Two effective January 17, 2013. (ALJD at 22; GCX 39) All bargaining unit employees now report at the start of their shift to Station Three. (Tr. 152) Respondent testified that the reason for the transfer was that Station Three was an upgraded station that provided a more comfortable location for employees and had nothing to do with labor costs. (ALJD at 22; Tr. 151-152) Although the working conditions may have been preferable at Station Three, Respondent is obligated to notify the Union of this transfer of bargaining unit employees.

3. Legal Analysis

Respondent has an obligation to notify the Union of the transfer of 14 employees from Station Two to Station Three and failed to notify the Union to allow bargaining over this change in working conditions. The ALJ states that since the transfers of the Unit employees were not accompanied by a fundamental change in the business, there is no requirement to bargain if the relocation has nothing to do with labor costs. (ALJD at 22)

The seminal case in this area is *Dubuque Packing Co. (II)*, 303 NLRB 385 (1991) enfd. 1 F 3d 24 (D.C. Cir. 1993), cert. denied 511 U.S. 1138 (1994). In that case, a new test was established for determining whether the employer's decision is a mandatory subject of bargaining. Initially, the burden is on the General Counsel to establish that the employer's decision involving a relocation of unit work is unaccompanied by a basic change in the nature of the employer's operation. If the General Counsel successfully carries his burden in this regard, he will have established a *prima facie* case that the employer's relocation decision is a mandatory subject of bargaining. At this juncture, the employer may produce evidence

rebutting the *prima facie* case by establishing that the work performed at the new location varies significantly from the work performed at the former plant, establishing that the work performed at the former plant is to be discontinued entirely and not moved to the new location, or establishing that the employer's decision involved a change in the scope and direction of the enterprise. Id. Additionally, an employer may rebut the *prima facie* case that an employer's decision involving a relocation of unit work unaccompanied by a basic change in the nature of the employer's operation, is a mandatory subject of bargaining by showing, by a preponderance of the evidence, that labor costs (direct and/or indirect) were not a factor in the decision. See *El Paso,* 355 NLRB 428 (2010). Additionally, "the Respondent must show that the factors it is raising in its defense were relied on at the time the relocation decision was made." *Dubuque Packing,* supra at 392 fn. 14.

Respondent presented evidence that the only reason for the transfer was because Station Three was a better location and better facility. There was no change in the direction of Respondent's operations, there was no variance in the work performed between Station Two and Three, and the move did not involve a change in the scope and direction of the enterprise. Respondent failed to present any evidence, outside of the self-serving testimony of Wilson, as to what factors were relied upon in the decision and as to whether labor costs were a factor. In fact, Respondent produced no documentary or corroborative evidence of Wilson's statements. Therefore, there is a dearth of evidence by Respondent to rebut the prima facie case presented by CGC.

The ALJ cites *First National Maintenance Corp. v. NLRB,* 452 US 666 (1981) in support of his conclusions. *First National* is distinguishable from this case because First National concerned a shutdown of a facility and discharge of employees due to an economic

dispute with the facilities owners. Id. Therefore, the Supreme Court held that the employer's decision to shut down part of its business for purely economic reasons was a decision not part of Section 8(d)'s terms and conditions of employment over which Congress has mandated bargaining. Id. The *First National* decision still held that bargaining must take place over the effects of the shut down. Id.

The ALJ states that because there was no adverse impact to employees, Respondent is not required to bargain over the effect of the shut down. (ALJD at 23) This is akin to saying that because a wage increase is a benefit to the employees, an employer would be under no obligation to bargain over the wage increase—a proposition completely unsupported by case law. The ALJ cites *The Fresno Bee*, 339 NLRB 1214 (2003) as support for this position. The Board held in *The Fresno Bee* that the effects of a change in payroll was ministerial and deminimus and a bookkeeping matter, holding that these as the reasons for not requiring bargaining, not that there was no adverse impact on employees. Id. at 1215-1216. *Rochester Gas & Electric Corp*., 355 NLRB 507 (2010), enfd. sub nom *Electrical Workers Local 36 v. NLRB*, 706 F. 3d 73 (2d cir. 2013), involved a withdrawal of a vehicle benefit, where the Board held, affirmed by the Second Circuit, that the employer was obligated to bargain over the effects of the decision. There is no holding that the effects must be "adverse", only substantial and material. What can be more substantial and material as to where an employee reports to work every day? Finally, the ALJ cites *EAD Motors*, 346 NLRB 1060, 1065 (2006). Again, the Board did not find that there was no obligation to bargain because there was no "adverse" affect to employees. Rather, the Board found that the changing of a position from full time to part time had no material effect on the single employee because the employee was doing both jobs before and there was no change in wages, hours or working

conditions of any material or substantial way. There was no analysis as to whether the change was "adverse" to the employee.

Based on the foregoing, the ALJ erred when he held that not only is Respondent not obligated to bargain with the Union over the transfer of employees from one working location to another but is not obligated to bargain with the Union over the effects of that transfer. CGC respectfully urges the Board to overrule the ALJ's decision and find Respondent to have violated Section 8(a)(1) and (5) on its failure to bargain over both the decision to transfer and the effects of that decision.

E. The ALJ Erred in Failing to Find that Respondent Failed and Refused to Provide Relevant and Necessary Information to the Union in violation of Section 8(a)(1) and (5)

1. Allegation

The Complaint alleges that Respondent violated Section 8(a) (1) and (5) of the Act by failing and refusing to provide relevant and necessary information requested by the Union on January 30, 2013. The ALJ found that Respondent provided a response on February 8, informing the Union that it would do a "true up" of the data every quarter and did not have the information at the time. (ALJD at 23-24) The ALJ found that the Union had an obligation to inform Respondent that its response was insufficient instead of filing an unfair labor practice charge. Respondent, despite stating it would be conducting quarterly data verifications, has still not provided the information to the Union, a fact not considered by the ALJ. (Tr. at 160)

2. The Record Evidence of the Failure to Provide Information

On January 30, 2013, after the Union learned that Respondent had closed down stations in Chandler and transferred bargaining unit employees, the Union requested, by email to Joy Carpenter (Carpenter), the Human Resources Manager, information regarding the pay and hours of the affected employees. (ALJD at 23; GCX 43) Specifically, the Union requested information as would show whether any compensation was given to former Chandler medics that were transferred to GT[6] and lost the ability to earn overtime; and any adjustments of paramedics pay, companywide, that had a pay adjustment for scheduling changes or reductions. (ALJD at 23; Tr. 158; GCX 43) Carpenter responded on February 8, 2013, informing Barkley that Respondent would conduct a "true up" on a quarterly basis to ensure that no money was lost by the affected paramedics. (ALJD at 23-24; Tr. 159; GCX 44) Despite informing the Union that it would do a calculation, Respondent never provided the figures. (Tr. 160)[7]

3. Legal Analysis

Respondent has a duty to provide information that is needed and requested by the Union for the proper performance of the Union's duties. *NLRB v. Acme Industrial Co.,* 385 U.S. 432, 435-436 (1967). Where the information sought relates to "core" terms and conditions of employment within the bargaining unit, no specific showing of relevance is required. *Atlas Metal Parts, Co*. v. NLRB, 660 F. 2d 304, 309-310 (7th Cir. 1981). When the requested information extends to matters outside the realm of the unit, "relevance is required to be somewhat more precise". *Ohio Power Co.,* 216 NLRB 987, 991 (1975). "[A] reasonable belief" as to the usefulness of the information sought has been held to be

[6] General Transport.
[7] By its questioning of Carpenter, Respondent seems to indicate that the Union was required to ask Respondent a second time for the information. (Tr. 172) Obviously, there is no such requirement.

sufficient. *Walter M. Yoder & Sons v. NLRB*, 754 F. 2d 531, 535 (4th Cir. 1985). The "relevance" of the request is governed by "a liberal discovery-type standard". *Acme Industrial Co.*, supra at 437, i.e. "the probability that the desired information was relevant, and that it would be of use to the union in carrying out its statutory duties and responsibilities." Id. If the circumstances surrounding the information request are reasonably calculated to put the employer on notice of a relevant purpose which the union has not specifically spelled out, the employer is obligated to divulge the requested information. *Brazos Electric Power Cooperative, Inc.*, 241 NLRB 1016, 1018 (1979), enfd. 615 F. 2d 1100 (5th Cir. 1980). The sufficiency of the request should not be determined solely from the request itself, but should be judged in light of the entire pattern of facts available to the employer. *Ohio Power Co.*, 216 NLRB 987, 990 fn. 9 (1975). The ALJ found that Respondent properly responded to the Union's request and the Union did not ask for further information after Respondent stated it would do a calculation regarding the information requested. (ALJD at 24) The ALJ found that instead of waiting for Respondent to do the quarterly "true up" of the information, it filed an unfair labor practice prior to the end of the quarter and never allowed Respondent to provide the quarterly report. (ALJD at 24) The ALJ completely relieves Respondent of any obligation to provide the information and puts the burden on the Union to make another request for the information. (ALJD at 24) This is not the law. The Union requested information that there is no dispute was relevant and necessary, i.e., information dealing with compensation for bargaining unit employees displaced by the City of Chandler contract. Respondent states they will do a "true up" quarterly of that information, yet does not tell the Union that they will provide that true up, even though it is the information requested. The ALJ, in reaching his conclusion, relies on the fact that the

Union because after not receiving this information or an agreement by Respondent to provide the "true up", the Union files an unfair labor practice charge. (ALJD at 24) Notable, Respondent has still not provided the quarterly "true up", even though it states it will be doing one and implies that this is exactly the information requested by the Union. (Tr. 160) Therefore, although the ALJ may have found that Respondent did not have to provide the information on January 30, there is no support for Respondent not providing the information at the end of the quarter in March.

F. The ALJ Erred in Failing to Order a *Transmarine* Remedy

1. Allegation

Though finding that Respondent failed to notify and bargain with the Union over the effects of the closing of Unit 603, the ALJ failed to order the requested and standard remedy for such conduct under *Transmarine Navigation Corp*., 170 NLRB 389 (1968), the payment of an amount constituting no less than two weeks of backpay to employees located at the station unilaterally closed by Respondent.[8] (ALJD at 26) Instead, the ALJ ordered that those Unit employees whose working conditions suffered as a result of the relocation of the work should be paid some monetary compensation. (ALJD at 28) The ALJ does not discuss what that compensation is, what factors should be looked into, and for what period of time the Unit employees are to be compensated.

The ALJ erred in refusing the standard remedy and ordering an unclear and equivocal remedy. CGC requests that the Board order the standard remedy for this type of violation in accordance with *Transmarine Navigation Corp.,* supra.

[8] CGC would also request that if the Board overrules the ALJ with regard to the transfer of the City of Chandler employees and the transfer of employees from Station Two to Station Three, those employees as well are entitled to a *Transmarine* remedy and would request that the Board order such remedy for those employees as well.

2. The Record Evidence Concerning the Closing of Unit 603

Unit 603 is a two employee unit that posts out of Station 604 in the City of Scottsdale. (Tr. 481) Unit 603 provides assistance to those bargaining unit employees on Unit 604, as well as throughout Scottsdale by answering overflow 911 calls as well as moving up so that all geographical areas in Scottsdale have appropriate coverage. (Tr. 62; 481)

Respondent was found liable for shutting down Unit 603 without providing notice and an opportunity to bargain with the Union in ALJ Parke's decision. (GCX 68, page 18) Further, Respondent agreed in the Notice to Employees in the Compliance Stipulation to restore Unit 603 to the status quo ante prior to its unlawful change in November 2010. (GCX 69, Notice to Employees, Appendix 2, page 2) This agreement was signed on June 15, 2012. Despite this agreement, Respondent never restored Unit 603 and, in fact, immediately attempted to totally shut Unit 603 down within days of agreeing to restore it on June 21, 2012. (Tr. 68; GCX 5) After being notified of Respondent's plans, Barkley informed Respondent that it had agreed to restore Unit 603 and if it did not and shut it down totally, it would do so at its own peril because it was in contravention of the Compliance Stipulation. (GCX 9) Respondent ignored the Union, continued to insist that the Union agree to its shut down, and after directly dealing with employees and failing to comply with the Compliance Stipulation, on August 16, 2012, shut down Unit 603, directly affecting Yates' on Unit 604.[9] (Tr. 83; 487; GCX 9)

3. Legal Analysis

The ALJ found that since there was no loss of employment concerning any employees, the automatic minimum of two weeks back pay seems disproportionate. The law is clear in

[9] At this point, Barkley was still working at Unit 607 where he had been illegally transferred to in August 2011 by Respondent. (GCX 68, page 18)

this regard -- as a result of Respondent's failure to provide notice and an opportunity to bargain over the effects and impact of its decision to close one of its stations, Respondent is obliged to provide a *Transmarine* remedy to all impacted Unit employees.

In *Transmarine Navigation Corporation*, supra, an employer unlawfully refused to bargain with a union over the effects on employees of the shutdown of a terminal where the employees had worked. The Board found that the union was denied an opportunity to engage in meaningful bargaining at a meaningful time (i.e., before the shutdown) when the employer still may have needed the employees' services at that facility and, therefore, a measure of balance in the parties' relative bargaining power existed.[10] As a remedy for such a violation, the Board ordered the employer to engage in effects bargaining with the union and to pay the employees their normal wages from five days after the date of the Board's decision until one of the following four conditions occurred: (1) the parties reached agreement; or (2) a bona fide impasse existed; (3) the union failed to request bargaining; or (4) the union failed to bargain in good faith. Id. at 390. In any event, the employees were to receive a minimum of two weeks' of wages in back pay. Id. The Board ordered this limited back pay remedy partly to make the employees whole, but also to recreate in some practicable manner a situation in which the parties' bargaining position has economic consequences for the employer. See also *Richmond Convalescent Hospital*, 313 NLRB 1247, 1249 (1994); *Sierra International Trucks*, 319 NLRB 948, 951-52 (1995); *Live Oak Skilled Care*, 300 NLRB 1040, 1042 (1990). In other words, the *Transmarine* back pay remedy is used to provide economic incentives for an employer to cure and avoid the effects of its bargaining violations.

Respondent's closure of its station was not necessitated by an emergency, and did not occur in a framework which would allow Respondent to escape its bargaining obligation. See

[10] See also *Metropolitan Teletronics Corp.*, 279 NLRB 957, 960 (1986).

Raskin Packing Company, 246 NLRB 78, 80 (1979) (*Transmarine* back pay remedy is not ordered when an emergency event causes an employer to cease operations immediately, such as when an employer is forced to close its plant immediately upon learning that a bank had discontinued the employer's line of credit). The employer was unable to engage in effects bargaining before closing. Thus, the reason for a *Transmarine* remedy of back pay disappeared because the union was not in a position of strength when effects bargaining could have occurred.[11] Respondent has presented no facts that permit it to seek shelter under this exception. There is no evidence that Respondent's closure of the station was mandated by any dire economic necessity.

The fact that the impacted Unit employees may not have suffered any actual loss in pay or benefits as a result of Respondent's closure of its station does not negate the need for a *Transmarine* remedy in this case. In *Live Oak Skilled Care*, supra, the administrative law judge had concluded that an employer's former employees had not suffered actual losses and a *Transmarine* back pay remedy was inappropriate, because the hospital's new owner retained the employees, without any hiatus in employment. The new owner agreed to maintain the same terms and conditions of employment and to recognize the union. The Board reversed the judge, and ordered a *Transmarine* remedy as an appropriate remedy for all such effects bargaining violations, regardless of loss.

The ALJ's distinction between employees who are terminated and those that are not is misplaced. A *Transmarine* remedy has been ordered in numerous cases where employees were not terminated. In *Sea-Jet Trucking Corp.*, 327 NLRB 540 (1999), employees were informed that the plant they worked at would be relocated and each and every employee was

[11] The Board reached similar conclusions in *National Terminal Baking Corp.*, 190 NLRB 465 (1971) (employer closed when two delivery trucks stolen during the same week), and *Benchmark Industries, Inc.*, 269 NLRB 1096 (1984) (employer's building totally destroyed by a fire).

offered "continued employment" at the new location. The administrative law judge ordered a *Transmarine* remedy but also ordered compensation for other monetary costs such as moving expenses. The Board modified the remedy, removing the moving costs as something that could be bargained over but sustaining the administrative law judge's order of a *Transmarine* remedy. Id.

A *Transmarine* remedy is appropriate for the closing of Unit 603 and the relocation of the Unit employees regardless of whether they were terminated or not. CGC request that the Board modify the ALJ's order and fashion a remedy that includes the standard *Transmarine* remedy of two weeks of backpay, as a minimum, for the affected employees.

III. CONCLUSION

Based on the foregoing, CGC respectfully requests that the Board reverse the ALJ's findings and conclusions that are the subject of the above exceptions and find that Respondent committed such violations of Section 8(a)(1), (3), and (5) of the Act as identified above, and to issue an order otherwise affirming and adopting the ALJD.

Dated at Phoenix, Arizona, this 6th day of February 2014.

Respectfully submitted,

s/ Sandra L. Lyons
Sandra L. Lyons
Counsel for the General Counsel
National Labor Relations Board, Region 28
2600 North Central Avenue, Suite 1800
Phoenix, AZ 85004-3099
Telephone: (602) 640-2133
Facsimile: (602) 640-2178
Sandra.lyons@nlrb.gov

CERTIFICATE OF SERVICE

I hereby certify that a copy of GENERAL COUNSEL'S EXCEPTIONS and GENERAL COUNSEL'S BRIEF IN SUPPORT OF EXCEPTIONS in PROFESSIONAL MEDICAL TRANSPORT, INC., Cases 28-CA-89300, et. al. was served by E-Gov, E-Filing and by E-mail, on this 6th day of February 2014, on the following:

Via E-Gov, E-Filing:

Gary W. Shinners, Executive Secretary
Office of the Executive Secretary
National Labor Relations Board
1099 14th Street, N.W.
Washington, D.C. 20570

Via E-Mail:

Ellen Shadur Gross, Attorney at Law
Baker & Hostetler LLP
12100 Wilshire Blvd Fl 15
Los Angeles, CA 90025-7120
Email: egross@bakerlaw.com

Professional Medical Transport, Inc.
222 East Main Street
Mesa, AZ 85201-7410
Email: jwilson@pmtambulance.com

Independent Certified Emergency
Professionals Local No 1
11417 East Decatur Street
Mesa, AZ 85207-2339
Email: coachjbar@yahoo.com

/s/ Sandra L. Lyons

Sandra L. Lyons
Counsel for the General Counsel
National Labor Relations Board, Region 28
2600 North Central Avenue, Suite 1400
Phoenix, AZ 85004-3099
Telephone: (602) 640-2133
Facsimile: (602) 640-2178
Email: Sandra.lyons@nlrb.gov