

No. 15-317

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

PAUL J. MURPHY, Acting Regional Director for the Third Region of the
National Labor Relations Board, for and on behalf of the NATIONAL LABOR
RELATIONS BOARD,

Petitioner-Appellee

v.

HOGAN TRANSPORTS, INC.

Respondent-Appellant

ON APPEAL FROM AN ORDER OF THE UNITED STATES DISTRICT
COURT FOR THE NORTHERN DISTRICT OF NEW YORK

JOINT APPENDIX
VOLUME 1 OF 2
(Pages 001 to 217)

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JOINT APPENDIX
TABLE OF CONTENTS

Volume 1

District Court Docket Sheet	1
Petition for Injunction Under Section 10(j), with attachments	10
Memorandum in Support of Petition for Injunctive Relief.....	37
Declaration of Gregory Lehmann, Esq. in Support of Petition.....	39
Excerpts of transcript and one exhibit from administrative hearing:	
Testimony of John Bulgaro (Union President)	42
Testimony of Robert Sansone (Hogan Transports employee).....	51
Testimony of James T. Young (Hogan Transports employee).....	53
Testimony of Strephen Ianno (Hogan Transports employee).....	57
Testimony of Shane McDonald (Hogan Transports employee).....	58
Testimony of Mansfield Teetsel (Hogan Transports employee).....	61
Testimony of Timothy Mabee (Hogan Transports employee).....	67
Audio Recording of Company’s July 10, 2013 meetings.....	69

Testimony of Antonio Rogers (Hogan Transports employee).....	86
Testimony of Brian Pennick (Hogan Transports employee).....	89
Testimony of June Glennon (Hogan Transports employee).....	93
Audio Recording of Company’s June 19, 2013 meetings (General Counsel Exhibit 10)	97

Volume 2

Other exhibits from administrative hearing:

General Counsel Exhibit 4 (signed authorization cards)	218
General Counsel Exhibit 7 (letter cancelling election).....	227
General Counsel Exhibit 17 (employee request for return of union authorization card).....	228
Affidavit of employee James T. Young	229
Order to Show Cause to Quash Subpoena	231
Declaration of Gregory Lehmann, Esq. in Support of Motion to Quash Subpoena	233
Certification of Jedd Mendelson, Esq., with exhibit (November 5, 2013 letter unconditionally offering reinstatement to Mansfield Teetsel)	238
Order of District Court, dated November 7, 2013, quashing subpoena and scheduling hearing	244
Transcript of November 15, 2013 Hearing	246
Summary Order of District Court, dated November 22, 2013	273

Decision and Recommended Order of Administrative Law Judge Raymond Green, dated February 26, 2014, with attached December 6, 2013 Order of ALJ Fish relating to privilege log	284
Petitioner’s Motion to Modify Section 10(j) Injunction	310
Letter of Hogan Transports counsel, dated March 20, 2014, opposing Motion to Modify Injunction.....	315
Letter of Hogan Transports counsel, dated April 10, 2014, opposing Motion to Modify Injunction.....	317
Order of District Court, dated May 29, 2014, denying motion to modify	319
Summary Order of Second Circuit Court of Appeals, dated October 14, 2014, vacating and remanding November 22, 2013 Summary Order of District Court	322
Letter of Hogan Transports counsel, dated October 15, 2014, notifying District Court of remand and requesting hearing.....	326
Letter of Petitioner counsel, dated October 21, 2014, opposing hearing and requesting issuance of interim bargaining order	327
Letter of Hogan Transports counsel, dated October 29, 2014, setting forth Company’s position and requesting hearing, with exhibit (June 16, 2014 letter informing Petitioner of Company’s intention to institute compensation increase within election unit).....	329
Text Order of District Court, dated November 10, 2014, scheduling hearing	335
Letter of Hogan Transports, dated November 10, 2014, requesting confirmation that District Court will not receive live testimony at hearing.....	337
Text Order of District Court, dated November 14, 2014, clarifying that no evidence will be received at hearing and only argument will be heard.....	338

Transcript of November 18, 2014 Conference.....339

Letter of Hogan Transports counsel, dated December 3, 2014 requesting
leave to file short letter-brief, certification, copy of motion
submitted to NLRB in administrative case, and copy of full
administrative record.....361

Letter of Petitioner, dated December 5, 2014, opposing Hogan Transports
request for leave to file additional submissions and to supplement
record.....363

Summary Order of District Court, dated January 20, 2015365

Notice of Appeal, dated February 4, 2015377

APPEAL,CLOSED

**U.S. District Court
Northern District of New York - Main Office (Syracuse) [LIVE - Version 6.1]
(Albany)
CIVIL DOCKET FOR CASE #: 1:13-mc-00064-GLS-RFT**

Murphy v. Hogan Transports, Inc.
Assigned to: Chief Judge Gary L. Sharpe
Referred to: Magistrate Judge Randolph F. Treece
Case in other court: 2nd Circuit, 14-00086

Date Filed: 10/25/2013
Date Terminated: 01/20/2015

Petitioner

Paul J. Murphy
*Acting Regional Director of the Third
Region of the National Labor Relations
Board, for and on behalf of National
Labor Relations Board*

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V.

Respondent

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Date Filed	#	Docket Text
10/25/2013	<u>1</u>	MOTION for Preliminary Injunction by Paul J. Murphy. (Attachments: # <u>1</u> Declaration in Support of Petition, # <u>2</u> Memorandum of Law in Support of Petition, # <u>3</u> Westlaw Case - Kreisberg vs. HealthBridge Management, LLC, # <u>4</u> Westlaw Case - N.I.R.B. vs. RELCO Locomotives, Inc., # <u>5</u> Westlaw Case - Silverman vs. Whittall & Shon, Inc., # <u>6</u> Declaration of Gregory Lehmann in Support of Petition, # <u>7</u> Transcript of Hearing Held on 9/24/2013, # <u>8</u> Transcript of Hearing Held on 9/26/2013, # <u>9</u> Transcript of Hearing Held on 9/27/2013, # <u>10</u> Exhibit(s) A, # <u>11</u> Exhibit(s) B, # <u>12</u> Proposed Order/Judgment, # <u>13</u> Certificate of Service, # <u>14</u> Civil Cover Sheet) (see) (Entered: 10/25/2013)
10/25/2013	<u>2</u>	Letter Motion from Paul J. Murphy, requesting acceptance of the 39 page Memorandum of Law. Submitted to Chief Judge Sharpe. (see) (Entered: 10/25/2013)
10/28/2013	<u>3</u>	ORDER granting <u>2</u> Letter Motion from Paul J. Murphy, requesting acceptance of the 39 page Memorandum of Law. Signed by Chief Judge Gary L. Sharpe on 10/28/2013. (jel,) (Entered: 10/28/2013)
10/29/2013	<u>4</u>	Letter dated October 28, 2013 from Jedd Mendelson concerning the filing of this action and scheduling requests. (jel,) (Entered: 10/29/2013)
10/29/2013	<u>5</u>	Letter Motion from Paul J. Murphy for Paul J. Murphy requesting Respondent's request to postpone the return date be denied submitted to Judge Chief Judge Sharpe. (Attachments: # <u>1</u> Certificate of Service)(Lehmann, Gregory) (Entered: 10/29/2013)
10/30/2013	<u>6</u>	Reply Letter dated October 30, 2013 from Jedd Mendelson. (jel,) (Entered: 10/30/2013)
10/31/2013	<u>7</u>	ORDER - That Murphy serve a copy of this Order, together with a copy of the petition and the accompanying papers, upon Hogan Transports, Inc. by 12:00 P.M. EST on Friday, November 1, 2013, and that proof of service be filed with the court by 5:00 P.M. on Friday, November 1, 2013. That Hogan Transports, Inc.'s letter motions seeking postponement of a return date (Dkt. Nos. 4, 6) are DENIED. That Hogan Transports, Inc. file an answer/response to the allegations of the petition with the court by email at jelaw@nynd.uscourts.gov, and serve it upon Murphy at his office located at National Labor Relations Board, Third Region, Niagara Center Building, Suite 630, 130 South Elmwood Avenue, Buffalo, New York 14202, no later than Wednesday, November 6, 2013 at 10:00 A.M. EST. That all counsel and/or parties shall personally appear for an oral return on Murphy's application before the court on Friday, November 8, 2013 at 2:00 p.m. EST at the U.S. Courthouse, 445 Broadway, Albany, New York 12207 in Courtroom No. 1. Signed by Chief Judge Gary L. Sharpe on 10/31/2013. (jel,) (Entered: 10/31/2013)

002

10/31/2013		Emailed copy of the <u>7</u> Order to defense counsel. (jel,) (Entered: 10/31/2013)
11/01/2013	<u>8</u>	CERTIFICATE OF SERVICE by Paul J. Murphy (Lehmann, Gregory) (Entered: 11/01/2013)
11/05/2013	<u>9</u>	MOTION for Preliminary Injunction <i>Motion to Quash and for Protective Order</i> by Paul J. Murphy. (Attachments: # <u>1</u> Exhibit(s), # <u>2</u> Declaration, # <u>3</u> Proposed Order/Judgment, # <u>4</u> Certificate of Service)(Lehmann, Gregory) (Entered: 11/05/2013)
11/05/2013	<u>10</u>	ORDER - ORDERED that Murphy serve the motion on Hogan Transports by overnight mail no later than Tuesday, November 5, 2013 at 3:00 P.M. EST, and file proof of service with the court as soon as is practicable thereafter; and it is further ORDERED that Hogan Transports file a response to the motion not to exceed five (5) pages-with the court by email at jelaw@nynd.uscourts.gov, and serve it upon Murphy at his office located at National Labor Relations Board, Third Region, Niagara Center Building, Suite 630, 130 South Elmwood Avenue, Buffalo, New York, 14202, no later than Wednesday, November 6, 2013 at 3:00 P.M. EST; and it is further ORDERED that no reply is permitted; and it is further ORDERED that counsel for Hogan Transports shall file a notice of appearance immediately, or, if counsel is not admitted to practice in this court, seek admission to the bar in full compliance with Local Rule 83.1 no later than Thursday, November 7, 2013 at 12:00 P.M. EST. Signed by Chief Judge Gary L. Sharpe on 11/5/2013. (jel,) (Entered: 11/05/2013)
11/05/2013		Emailed copy of the <u>10</u> Order to the respondent's counsel. (jel,) (Entered: 11/05/2013)
11/05/2013	<u>11</u>	CERTIFICATE OF SERVICE by Paul J. Murphy (Lehmann, Gregory) (Entered: 11/05/2013)
11/06/2013	<u>12</u>	MEMORANDUM OF LAW in opposition to the Motion for Preliminary Injunction filed by I. Michael Kessel and Jedd Mendelson, Esqs., for Hogan Transports, Inc. (Attachments: # <u>1</u> Supplement Certification)(jel,) Modified on 11/6/2013 (jel,). (Entered: 11/06/2013)
11/06/2013	<u>13</u>	Memorandum of Law in Opposition re <u>9</u> MOTION for Preliminary Injunction <i>Motion to Quash and for Protective Order</i> filed by Hogan Transports, Inc. (jel,) (Entered: 11/06/2013)
11/06/2013	<u>14</u>	NOTICE by Hogan Transports, Inc. <i>Petition for Admission of Jedd Mendelson, Esq.</i> (Novich, Ivan) (Entered: 11/06/2013)
11/06/2013	<u>15</u>	NOTICE of Appearance by Michael Kessel on behalf of Hogan Transports, Inc. (Kessel, Michael) (Entered: 11/06/2013)
11/07/2013	<u>16</u>	ORDER - ORDERED that live testimony will not be permitted at the return on the petition seeking a preliminary injunction on Friday, November 8, 2013; and it is further ORDERED that Murphys motion to quash and for a protective order (Dkt. No. 9) is GRANTED. Signed by Chief Judge Gary L. Sharpe on 11/7/2013. (jel,) (Entered: 11/07/2013)
11/08/2013		Text Only Minute Entry for proceedings held before Chief Judge Gary L. Sharpe: Show Cause Hearing held on 11/8/2013 <u>1</u> Motion for Preliminary

003

		Injunction filed by Paul J. Murphy. Appearances Made: Gregory Lehmann, Esq., for the petitioner and Jedd Mendelson, Esq., for the respondent. Court inquires of the reinstatement issue. Court discusses supplementing the record. Atty. Lehman presents petitioner's argument to the court. Atty. Mendelson presents respondent's argument to the court. Court gives the parties until November 19th to supplement the record. Court reserves. Atty. Mendelson discusses potential appointment of Mediator. Court takes under advisement. (Court Reporter Theresa Casal) Time: 2:00-2:40 p.m. (jel,) Modified on 11/13/2013 (jel,). (Entered: 11/08/2013)
11/13/2013	<u>17</u>	TRANSCRIPT REQUEST w/ <i>Certificate of Service attached</i> , by Hogan Transports, Inc. for proceedings held on Nov. 8, 2013 before Judge Gary L. Sharpe, Chief Judge,.. (Attachments: # <u>1</u> Transcript Order Form AO 435) (Kessel, Michael) (Entered: 11/13/2013)
11/15/2013	<u>18</u>	TRANSCRIPT of Proceedings: Show Cause Hearing held on November 8, 2013 before Chief Judge Gary L. Sharpe, Court Reporter: Theresa J. Casal, Telephone number: 518.257.1897. IMPORTANT NOTICE - REDACTION OF TRANSCRIPTS: In order to remove personal identifier data from the transcript, a party must electronically file a Notice of Intent to Request Redaction with the Clerk's Office within 5 business days of this date. The policy governing the redaction of personal information is located on the court website at www.nynd.uscourts.gov . <u>Read this policy carefully</u> . If no Notice of Intent to Redact is filed within 5 business days of this date, the court will assume redaction of personal identifiers is not necessary and the transcript will be made available on the web 90 days from today's date. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 12/6/2013. Redacted Transcript Deadline set for 12/16/2013. Release of Transcript Restriction set for 2/13/2014. Notice of Intent to Redact due by 11/20/2013 (tjc,) (Entered: 11/15/2013)
11/19/2013	<u>19</u>	MEMORANDUM OF LAW <i>in Support of Interim Bargaining Order</i> filed by Paul J. Murphy. (Attachments: # <u>1</u> Declaration, # <u>2</u> Affidavit, # <u>3</u> Certificate of Service)(Lehmann, Gregory) (Entered: 11/19/2013)
11/19/2013	<u>20</u>	Supplemental MEMORANDUM OF LAW filed by Hogan Transports, Inc.. (Attachments: # <u>1</u> Supplemental Certification of Jedd Mendelson, Esq.)(Kessel, Michael) (Entered: 11/19/2013)
11/21/2013	<u>21</u>	Letter Motion from I. Michael Kessel, Esq., Attorney for Respondent Hogan Transports, Inc. for Hogan Transports, Inc. requesting Leave to file a brief not to exceed 5 pages submitted to Judge Gary L. Sharpe, Chief U.S.D.J. . (Kessel, Michael) (Entered: 11/21/2013)
11/21/2013	<u>22</u>	ORDER granting <u>21</u> Letter Motion from I. Michael Kessel, Esq., Attorney for Respondent Hogan Transports, Inc. for Hogan Transports, Inc. requesting Leave to file a brief not to exceed 5 pages. Brief is to be filed by noon on November 22, 2013 and not to exceed five (5) pages in length. No further briefing will be permitted absent extraordinary circumstances and permission of the court.

004

		Signed by Chief Judge Gary L. Sharpe on 11/21/2013. (jel,) (Entered: 11/21/2013)
11/22/2013	<u>23</u>	MEMORANDUM OF LAW re <u>9</u> Motion for Preliminary Injunction, <u>22</u> Order on Letter Request, <i>Sur-Reply Memorandum of Law</i> filed by Hogan Transports, Inc.. (Attachments: # <u>1</u> Exhibit(s) Attachment A, # <u>2</u> Supplement Certification of Service)(Kessel, Michael) (Entered: 11/22/2013)
11/22/2013	<u>24</u>	Letter Motion from Paul J. Murphy for Paul J. Murphy requesting leave to file a response submitted to Judge Gary L. Sharpe . (Attachments: # <u>1</u> Certificate of Service)(Lehmann, Gregory) (Entered: 11/22/2013)
11/22/2013	<u>25</u>	SUMMARY ORDER - ORDERED that Murphy's letter motion requesting leave to file a response (Dkt. No. 24) is DENIED; and it is further ORDERED that Murphy's petition (Dkt. No. 1) is GRANTED and temporary injunctive relief under NLRA § 10(j) is imposed under the following terms: 1.Hogan Transports, their officers, representatives, agents, servants, employees, attorneys, successors and assigns, and all persons acting in concert or participation with them, are ENJOINED AND RESTRAINED, pending final disposition of the matters involved herein pending before the Board, from: (a) discharging employees because they engaged in union activities or because they support the union; (b) coercively interrogating employees; (c) promising and granting employees wage increases in response to union organizational activity; (d) threatening employees with job loss if they continue to support the Union or select the Union as their bargaining representative; (e) assisting employees in revoking their signed union authorization cards; (f) blaming the Union for seeking to take away a wage increase; and (g) in any like or related manner interfering with, restraining or coercing employees in the exercise of their NLRA § 7 rights; 2.Hogan Transports, their officers, representatives, agents, servants, employees, attorneys, successors and assigns, and all persons acting in concert or participation with them, are DIRECTED, pending final disposition of the matters involved herein pending before the Board, to: (a) within five (5) days of the courts order, offer in writing full and immediate interim reinstatement to Teetsel to his former position with the same terms and conditions of employment as existed at the time of his discharge, without prejudice to his seniority or any other rights and privileges previously enjoyed, and displacing, if necessary, any worker hired or transferred to replace him, or if his former job no longer exists, to a substantially equivalent position without prejudice to his seniority or any other rights or privileges previously enjoyed and expunge any documentation related to Teetsel's discriminatory discharge from his file; further, subject to the Region documenting for Hogan Transports the amount of lost income that Teetsel suffered between the date he separated from Hogan Transports and the date of Teetsels reinstatement, should he accept it: (i) Hogan Transports shall escrow such sum as is necessary to remit back pay to Teetsel; and (ii) in the event ALJ Green concludes that Hogan Transports' failure to continue employing Teetsel was unlawful, Hogan Transports shall remit to the Region the sum of back pay upon which the Region and Hogan Transports agree for distribution to Teetsel or, in the event of a disagreement about the back pay sum, ALJ Green is to retain jurisdiction for the limited purpose of deciding any question that may exist as to the back pay sum and Hogan Transports is to remit

005

		that sum to Teetsel no later than ten (10) days following ALJ Greens issuance of a supplemental decision and order determining the back pay sum due; (b) within five (5) days of the issuance of the court's order, post copies of the court's order in this proceeding at Hogan Transports' West Coxsackie, New York facility at all locations where company notices to employees are customarily posted; maintain such postings during the Board's administrative proceeding, free from all obstructions and defacements; all employees shall have free and unrestricted access to said postings; and agents of the Board shall be granted reasonable access to Hogan Transports West Coxsackie, New York facility to monitor compliance with this posting requirement; (c) within five (5) days of the issuance of the court's order, hold a meeting during a time when most employees can be present, and have a responsible official for Hogan Transports, or at Hogan Transports' option, a Board agent, in the presence of Hogan Transports' official, read the courts order and notice to employees; and (d) within twenty-one (21) days of the issuance of the cour's order, file with the court and submit a copy to Murphy, a sworn affidavit from a responsible official of Hogan Transports, stating with specificity how it has complied with the terms of the court's order, including how the documents have been posted and read to employees as required under this Summary Order. Signed by Chief Judge Gary L. Sharpe on 11/22/2013. (jel,) (Entered: 11/22/2013)
12/04/2013	<u>26</u>	NOTICE of Appearance by Jedd E. Mendelson on behalf of Hogan Transports, Inc. (Mendelson, Jedd) (Entered: 12/04/2013)
12/13/2013	<u>27</u>	AFFIDAVIT of Jedd Mendelson, Esq. in accordance with the <u>25</u> Summary Order by Hogan Transports, Inc.. (Attachments: # <u>1</u> Affidavit)(Mendelson, Jedd) (Entered: 12/13/2013)
01/09/2014	<u>28</u>	NOTICE by Paul J. Murphy <i>Notice of Appeal</i> (Attachments: # <u>1</u> Certificate of Service)(Lehmann, Gregory) (Entered: 01/09/2014)
01/09/2014	<u>29</u>	**NOTE: This is a duplicate entry of document <u>28</u> . The document filed at document #28 was entered as a Notice instead of a Notice of Appeal. This entry is being made so that the appeal shows as pending.** NOTICE OF APPEAL as to <u>25</u> Order on Letter Request, Order on Motion for Preliminary Injunction by Paul J. Murphy. (Attachments: # <u>1</u> Certificate of Service)(see) (Entered: 01/10/2014)
01/10/2014	<u>30</u>	ELECTRONIC NOTICE AND CERTIFICATION sent to US Court of Appeals re <u>29</u> Notice of Appeal. (see) (Entered: 01/10/2014)
02/12/2014		USCA Case Number is 14-86 for <u>28</u> Appeal filed by Paul J. Murphy. (cbm) (Entered: 02/12/2014)
03/14/2014	<u>31</u>	MOTION to Modify Section 10(j) Injunction filed by Paul J. Murphy. (Attachments: # <u>1</u> Exhibit(s), # <u>2</u> Certificate of Service) (Lehmann, Gregory) (Entered: 03/14/2014)
03/20/2014	<u>32</u>	RESPONSE to <u>31</u> MOTION to Modify Section 10(j) Injunction filed by Hogan Transports, Inc. (Mendelson, Jedd) (Entered: 03/20/2014)
04/10/2014	<u>33</u>	

006

		RESPONSE in further Opposition to <u>31</u> Motion to Modify Section 10(j) Injunction filed by Hogan Transports, Inc. (Mendelson, Jedd) (Entered: 04/10/2014)
05/29/2014	<u>34</u>	ORDER that Murphy's <u>31</u> Motion to Modify the 10(j) injunction is DENIED; and that the Clerk provide a copy of this Order to the parties. Signed by Chief Judge Gary L. Sharpe on 5/29/2014. (see) (Entered: 05/29/2014)
06/24/2014	<u>35</u>	Letter dated June 16, 2014 by Jedd Mendelson, Esq., for Hogan Transports, Inc. to Greg Lehmann, Esq. (jel,) (Entered: 06/24/2014)
10/15/2014	<u>36</u>	Letter Motion from Jedd Mendelson for Hogan Transports, Inc. requesting Hearing submitted to Judge Gary L. Sharpe . (Mendelson, Jedd) (Entered: 10/15/2014)
10/21/2014	<u>37</u>	Letter Motion from Paul J. Murphy for Paul J. Murphy requesting Respondents request that the Court schedule a hearing be denied submitted to Judge Chief Judge Sharpe . (Lehmann, Gregory) (Entered: 10/21/2014)
10/29/2014	<u>38</u>	REPLY to Response to Motion re <u>37</u> Letter Motion from Paul J. Murphy for Paul J. Murphy requesting Respondents request that the Court schedule a hearing be denied submitted to Judge Chief Judge Sharpe filed by Hogan Transports, Inc.. (Mendelson, Jedd) (Entered: 10/29/2014)
11/04/2014	<u>39</u>	MANDATE of USCA (issued on 11/4/2014) Vacating in Part and Remanding to District Court, as to <u>29</u> Notice of Appeal filed by Paul J. Murphy. (see) (Entered: 11/04/2014)
11/10/2014	40	TEXT ONLY ORDER Pending are the parties' competing submissions regarding the appropriateness of a hearing in light of the Second Circuit's Mandate. (Dkt. Nos. 36, 37.) Respondent Hogan Transports, Inc. requests "a hearing at which the Company can set forth... reasons [to reject the imposition of an interim bargaining order] in detail." (Dkt. No. 36 at 1.) Petitioner Paul J. Murphy, Acting Regional Director of the Third Region of the National Labor Relations Board, for and on behalf on the National Labor Relations Board, argues that a hearing will merely further delay the case and "increase the irreparable harm to the affected employees, the Union and the public interest." (Dkt. No. 37 at 1.) Murphy also intimates that, because the Second Circuit's Mandate does not contemplate additional hearings or briefing, the record is complete and expansion of the record would somehow be improper. (Id.) In reply, Hogan Transports reiterates its position requesting a hearing and also seeks permission to adduce additional evidence on new developments that it feels are relevant to the question of whether an interim bargaining order is an appropriate remedy. (Dkt. No. 38 at 1-2.) Should the court be disinclined to set a hearing date, Hogan alternatively seeks a conference to discuss the instant issues with the court. (Id. at 3.) In light of the foregoing, the court grants Hogan's request and schedules a hearing in this matter for Tuesday, November 18, 2014 at 11:00 A.M. The court will resolve the issue of whether it will permit additional evidence or briefing at the hearing. IT IS SO ORDERED. Issued by Chief Judge Gary L. Sharpe on 11/10/2014. (jel,) (Entered: 11/10/2014)
11/10/2014	<u>41</u>	

007

		Letter Motion from Jedd Mendelson for Hogan Transports, Inc. requesting confirmation re: scope of 11/18/14 hearing submitted to Judge Gary L. Sharpe . (Mendelson, Jedd) (Entered: 11/10/2014)
11/14/2014	<u>42</u>	TEXT ONLY ORDER - In light of the most recent submission of respondent Hogan Transports, Inc., (Dkt. No. 41), the court clarifies its text only order of November 10, 2014. At the hearing scheduled for November 18, 2014, the parties will be permitted to articulate their positions with respect to the Second Circuit Mandate. No testimony will be given nor will any other evidence be offered. IT IS SO ORDERED. Issued by Chief Judge Gary L. Sharpe on 11/14/2014. (jel,) (Entered: 11/14/2014)
11/18/2014		Text Only Minute Entry for proceedings held before Chief Judge Gary L. Sharpe: CRD: John Law. Status Conference held on 11/18/2014. Appearances Made: Gregory C. Lehman, Esq., for the plaintiff and Jedd Mendelson, Esq., for the defendant. Atty. Mendelson argues defendant's position on the mandate. Atty. Lehmann argues plaintiff's position on the mandate. Atty. Mendelson responds to the court. Atty. Lehmann responds to the court. Court affords the defendant to file affidavit by Tuesday, November 25, 2014. Court gives plaintiff seven (7) days to respond. Court directs plaintiff to reassess and indicate to the court to place in the proposed order. (Court Reporter Theresa Casal) Time: 11:00-11:30 a.m. (jel,) (Entered: 11/18/2014)
11/25/2014	<u>43</u>	AFFIDAVIT of <i>David Hogan</i> by Hogan Transports, Inc.. (Attachments: # <u>1</u> Letter to Judge Sharpe)(Mendelson, Jedd) (Entered: 11/25/2014)
12/02/2014	<u>44</u>	RESPONSE TO LETTER BRIEF filed by Paul J. Murphy as to <u>43</u> Affidavit filed by Hogan Transports, Inc. <i>Petitioners Response in Support of Interim Bargaining Order</i> . (Attachments: # <u>1</u> Certificate of Service)(Lehmann, Gregory) (Entered: 12/02/2014)
12/03/2014	<u>45</u>	Letter Motion from Jedd Mendelson for Hogan Transports, Inc. requesting Leave to Submit a Reply to Petitioner's 12/2/14 letter submitted to Judge Gary L. Sharpe . (Mendelson, Jedd) (Entered: 12/03/2014)
12/03/2014	<u>46</u>	<i>Corrected</i> Letter Motion from Jedd Mendelson for Hogan Transports, Inc. requesting Leave to Submit a Reply to Petitioner's 12/2/14 Letter submitted to Judge Gary L. Sharpe (<i>Prior filing omitted attachment</i>). (Attachments: # <u>1</u> Exhibit(s) (Letter dated 10/29/14))(Mendelson, Jedd) (Entered: 12/03/2014)
12/05/2014	<u>47</u>	RESPONSE TO LETTER BRIEF filed by Paul J. Murphy as to <u>46</u> Letter Request/Motion, filed by Hogan Transports, Inc. . (Lehmann, Gregory) (Entered: 12/05/2014)
01/20/2015	<u>48</u>	SUMMARY ORDER that Hogan's <u>46</u> Letter Request for leave to file a reply is DENIED; that Murphy's <u>1</u> Petition is GRANTED and temporary injunctive relief under NLRA 10(j) is imposed under the terms as listed in paragraphs 1-2 of this Order. Signed by Chief Judge Gary L. Sharpe on 1/20/2015. (see) (Entered: 01/20/2015)
01/26/2015	<u>49</u>	Letter Motion from Jedd Mendelson for Hogan Transports, Inc. requesting Interpretation of 1/20/15 Summary Order submitted to Judge Gary L. Sharpe . (Mendelson, Jedd) (Entered: 01/26/2015)

008

01/27/2015	<u>50</u>	TEXT ONLY ORDER - Pending is respondent Hogan Transports, Inc.'s letter motion seeking clarification of the court's January 20, 2015 Summary Order. (Dkt. No. 49.) The parties' interpretation of the Summary Order - that the last line on page eight through paragraph 2(d) on page twelve be read to Hogan employees - is consistent with the court's intentions. IT IS SO ORDERED. Issued by Chief Judge Gary L. Sharpe on 1/27/2015. (jel,) (Entered: 01/27/2015)
01/28/2015	<u>51</u>	TRANSCRIPT REQUEST w/ <i>Certificate of Service attached</i> by Hogan Transports, Inc. for proceedings held on November 18, 2014 before Judge Hon. Gary L. Sharpe, Chief Judge.. (Attachments: # <u>1</u> Transcript Order Form AO 435)(Mendelson, Jedd) (Entered: 01/28/2015)
02/04/2015	<u>52</u>	NOTICE OF APPEAL as to <u>48</u> Order on Letter Request, by Hogan Transports, Inc.. Filing fee \$ 505, receipt number 0206-3186724. (Attachments: # <u>1</u> Certificate of Service)(Mendelson, Jedd) (Entered: 02/04/2015)
02/04/2015	<u>53</u>	ELECTRONIC NOTICE AND CERTIFICATION sent to US Court of Appeals, re: <u>52</u> Notice of Appeal. (see) (Entered: 02/04/2015)

PACER Service Center			
Transaction Receipt			
03/03/2015 15:04:05			
PACER Login:	lm000071:2588698:0	Client Code:	
Description:	Docket Report	Search Criteria:	1:13-mc-00064-GLS-RFT
Billable Pages:	7	Cost:	0.70

009

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK**

**PAUL J. MURPHY, Acting Regional Director of the
Third Region of the National Labor Relations Board,
for and on behalf of the
NATIONAL LABOR RELATIONS BOARD**

Petitioner

vs.

HOGAN TRANSPORTS, INC.

Respondent

1:13-MC-64 [GLS/RFT]

CIVIL NO. 13-CV-_____

J. _____

ECF CASE

**PETITION FOR INJUNCTION UNDER SECTION 10(j)
OF THE NATIONAL LABOR RELATIONS ACT, AS AMENDED**

To the Honorable Judges of the United States District Court for the Northern District of
New York:

Comes now Paul J. Murphy, Acting Regional Director of the Third Region of the National Labor Relations Board, (Board), and petitions this Court, for and on behalf of the Board, pursuant to Section 10(j) of the National Labor Relations Act, as amended [61 Stat. 149; 73 Stat. 544; 29 U.S.C. Sec. 160(j)], (the Act), for appropriate injunctive relief pending the final disposition of the matters involved herein pending before the Board, based upon the Second Amended Consolidated Complaint of the Acting General Counsel of the Board, alleging that Hogan Transports, Inc., (Respondent), has engaged in, and is engaging in, acts and conduct in violation of Section 8(a)(1), (3) and (5) of the Act. In support thereof, Petitioner respectfully shows as follows:

1. Petitioner is the Acting Regional Director of Region Three of the Board, an agency of the United States, and files this petition for and on behalf of the Board.

2. Jurisdiction of this Court is invoked pursuant to Section 10(j) of the Act.

3. On June 3, 2013, the Union filed a representation petition with the Board in Case 03-RC-106334. (A copy of the representation petition in Case 03-RC-106334 is attached as Exhibit A).

4. On June 14, 2013, Teamsters Local 294, affiliated with International Brotherhood of Teamsters, (the Union), pursuant to the provisions of the Act, filed with the Board an unfair labor practice charge in Case 03-CA-107189 alleging that Respondent has engaged in, and is engaging in, unfair labor practices within the meaning of Section 8(a)(1), (3) and (5) of the Act. (A copy of the original charge is attached as Exhibit B.)

5. On June 24, 2013, the Union, pursuant to the provisions of the Act, filed with the Board an amended unfair labor practice charge in Case 03-CA-107189 alleging that Respondent has engaged in, and is engaging in, unfair labor practices within the meaning of Section 8(a)(1), (3) and (5) of the Act. (A copy of the amended charge is attached as Exhibit C).

6. On July 12, 2013, Mansfield Teetsel, an Individual, (Teetsel), pursuant to the provisions of the Act, filed with the Board an unfair labor practice charge in Case 03-CA-108968 alleging that Respondent has engaged in, and is engaging in, unfair labor practices within the meaning of Section 8(a)(1) and (3) of the Act. (A copy of the original charge is attached as Exhibit D.)

7. On August 14, 2013, the Union, pursuant to the provisions of the Act, filed with the Board an unfair labor practice charge in Case 03-CA-111193 alleging that Respondent has engaged in, and is engaging in, unfair labor practices within the meaning of Section 8(a)(1) of the Act. (A copy of the original charge is attached as Exhibit E).

8. On August 14, 2013, the Acting General Counsel of the Board, by the Regional Director of Region Three of the Board, on behalf of the Board, issued an Order Consolidating Cases, Consolidated Complaint and Notice of Hearing against Respondent in Cases 03-CA-107189 and 03-CA-108968.

9. On August 30, 2013, based upon the aforesaid charges and amended charges, the Acting General Counsel of the Board, by the Regional Director of Region Three of the Board, on behalf of the Board, pursuant to Sections 102.15 and 102.33 of the Board's Rules and Regulations, and pursuant to Section 10(b) of the Act, issued an Order Further Consolidating Cases, Second Amended Consolidated Complaint and Notice of Hearing, (the Second Amended Consolidated Complaint), against Respondent. (A copy of the Second Consolidated Complaint is attached as Exhibit F).

10. There is reasonable cause to believe that the allegations set forth in the Second Amended Consolidated Complaint are true and that Respondent has engaged in, and is engaging in, unfair labor practices within the meaning of Section 8(a)(1), (3) and (5) of the Act, affecting commerce within the meaning of Section 2(6) and (7) of the Act. In support of the Petition, based on information and belief, the Petitioner states that:

(a) At all material times, Respondent, a corporation with a place of business located at 1 Van Bergen Street, West Coxsackie, New York, has been engaged in the operation of a trucking terminal.

(b) During the past twelve months, Respondent, in conducting its business operations as described above in paragraph 10, purchased and received at its West Coxsackie, New York facility goods, valued in excess of \$50,000, directly from points located outside the State of New York.

(c) At all material times, Respondent has been engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

(d) At all material times, the Union has been a labor organization within the meaning of Section 2(5) of the Act.

(e) At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors within the meaning of Section 2(11) of the Act and/or agents within the meaning of Section 2(13) of the Act:

David Hogan	—	President
Charles Johnson	—	Director of Operations
Jim Lauda	—	Operations Manager
Tom Lansing	—	Vice President of Safety and Driver Services

(f) The following employees of Respondent (the Unit) constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act.

All full-time and regular part-time drivers employed by Respondent at its West Coxsackie, New York location; excluding all guards, and all professional employees and supervisors as defined in the Act.

(g) About June 3, 2013, the Union, by letter, requested that Respondent recognize it as the exclusive collective-bargaining representative and bargain collectively with the Union as the exclusive bargaining representative of the Unit.

(h) About June 13, 2013, a majority of the Unit designated the Union as their exclusive collective-bargaining representative.

(i) At all times since June 13, 2013, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Unit.

(j) About June 11, 2013, Respondent, by Charles Johnson, at Respondent's West Cocksackie, New York facility, interrogated employees about their union activities.

(k) Respondent, by the individuals named below, at Respondent's West Cocksackie, New York facility, on the dates opposite their names, threatened employees with job loss if they selected the union as their bargaining representative.

(1) David Hogan About June 19 and early July 2013

(2) Charles Johnson About June 11 and 13, 2013

(3) Tom Lansing About June 11, 2013

(l) Respondent, by the individuals named below, at Respondent's West Cocksackie, New York facility, on the dates opposite their names, promised employees a wage increase to discourage the employees' union activities.

(1) Charles Johnson About June 18, 2013

(2) David Hogan About June 19, 2013

(m) About July 8, 2013, Respondent issued a memo to employees in which it blamed the Union for seeking to take away a wage increase.

(n) About June 17, 2013, Respondent moved the employees' work location to discourage the employees' union activities.

(o) About August 12 and 14, 2013, Respondent, by Charles Johnson, Jim Lauda and Tom Lansing, at Respondent's West Cocksackie, New York facility, in an attempt to discourage employees' union activities, assisted employees in revoking their signed union authorization cards.

(p) About July 6, 2013, Respondent, by Jim Lauda, terminated its employee Mansfield Teetsel.

(q) Respondent engaged in the conduct described above in paragraph 10(p) because Teetsel formed, joined, or assisted the Union and engaged in concerted activities, and to discourage employees from engaging in these activities.

(r) About July 1, 2013, Respondent increased the wages of its employees.

(s) Respondent engaged in the conduct described above in paragraph 10(r) because the employees of Respondent formed, joined, or assisted the Union and engaged in concerted activities, and to discourage employees from engaging in these activities.

(t) The subject set forth above in paragraph 10(r) relates to wages, hours, and other terms and conditions of employment of the Unit and is a mandatory subject for the purposes of collective bargaining.

(u) Respondent engaged in the conduct described above in paragraph 10(r) without prior notice to the Union and without affording the Union an opportunity to bargain with Respondent with respect to this conduct and the effects of this conduct.

(v) The serious and substantial unfair labor practice conduct described above in paragraphs 10(j) through (u) is such that there is only a slight possibility of traditional remedies erasing their effects and conducting a fair election. Therefore, on balance, the employees' sentiments regarding representation, having been expressed through authorization cards, would be protected better by issuance of a bargaining order.

(w) The allegations described above in paragraph 10(v) requesting the issuance of a bargaining order are supported by, among other things:

(1) David Hogan, Charles Johnson, Jim Lauda and Tom Lansing are high-ranking supervisors responsible for the discriminatory conduct described above in paragraphs 10(j) through (u);

(2) the conduct described above in paragraphs 10(j) through (u) has not been retracted;

(3) there are approximately 29 employees in the Unit described above in paragraph 10(f);

(4) the conduct described above in paragraphs 10(j) through (u) was immediately directed at approximately 29 employees;

(5) employees learned or were likely to learn of the conduct described above in paragraphs 10(j) through (u);

(6) the conduct described above in paragraphs 10(j) through (u) followed immediately on the heels of the Respondent's knowledge of the Union's campaign;

(7) the employee described above in paragraphs 10(p) and (q) was a leading organizer for the union; and

(8) a continuing request for recognition was made on June 3, 2013, before the Union achieved majority status and before the employer embarked on its unlawful conduct.

(x) Since June 13, 2013, Respondent has failed and refused to recognize and bargain with the Union as the exclusive collective-bargaining representative of the Unit.

(y) By the conduct described above in paragraphs 10(j) through (o), Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act, in violation of Section 8(a)(1) of the Act.

(z) By the conduct described above in paragraphs 10(p) through (s), Respondent has been discriminating in regard to the hire or tenure or terms or conditions of employment of its employees, thereby discouraging membership in a labor organization, in violation of Section 8(a)(1) and (3) of the Act.

(aa) By the conduct described above in paragraphs 10(r) and (u) and (x), Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees in violation of Section 8(a)(1) and (5) of the Act.

(bb) The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

11. Upon information and belief, it may be fairly anticipated that, unless enjoined, Respondent will continue to engage in the said acts and conduct, in violation of Section 8(a)(1), (3) and (5) of the Act.

12. Upon information and belief, unless the continuation of the aforementioned unfair labor practices is immediately restrained, a serious flouting of the Act and of public policies involved in the Act will continue, with the result that enforcement of important provisions of the Act and of the public policy will be impaired before Respondent can be placed under legal restraint through the regular procedures of a Board Order and enforcement decree. Unless injunctive relief is immediately obtained, it is anticipated that Respondent will continue its unlawful conduct during the proceedings before the Board and during subsequent proceedings before a Court of Appeals for an enforcement decree, with the result that employees will continue to be deprived of their fundamental right to organize for purposes of collective bargaining as provided for in the Act.

13. Upon information and belief, to avoid the serious consequences set forth above, it is essential, appropriate, just and proper, for the purposes of effectuating the policies of the Act and avoiding substantial, irreparable, and immediate injury to such policies, to the public interest, and to employees of Respondent, and in accordance with the purposes of Section 10(j)

of the Act, that, pending the final disposition of the matters involved herein pending before the Board, Respondent be enjoined and restrained from the commission of the acts and conduct alleged above, similar or related acts or conduct or repetitions thereof.

14. No previous application has been made for the relief requested herein.

WHEREFORE, Petitioner seeks the following relief:

1. That the Court issue an order directing Respondent to appear before this Court, at a time and place fixed by the Court, and show cause, if any there be, why an injunction should not issue enjoining and restraining Respondent, their officers, representatives, agents, servants, employees, attorneys, successors and assigns, and all persons acting in concert or participation with them, pending final disposition of the matters involved herein pending before the Board, from:

(a) discharging employees because they engaged in union activities or because they support the union.

(b) coercively interrogating employees.

(c) promising and granting employees wage increases in response to union organizational activity.

(d) threatening employees with job loss if they continue to support the Union or select the Union as their bargaining representative.

(e) relocating work operations in response to employees' protected activities.

(f) assisting employees in revoking their signed union authorization cards.

(g) blaming the Union for seeking to take away a wage increase.

(h) refusing to recognize and bargain with the Union as the exclusive collective-bargaining representative of the employees in the Unit set forth below:

All full-time and regular part-time drivers employed by Respondent at its West Cossackie, New York location; excluding all guards and all professional employees and supervisors as defined in the Act.

(i) in any like or related manner interfering with, restraining or coercing employees in the exercise of their Section 7 rights.

2. That the Court issue an affirmative order directing Respondent, their officers, representatives, agents, servants, employees, attorneys, successors and assigns, and all persons acting in concert or participation with them, pending final disposition of the matters involved herein pending before the Board, to:

(a) within 5 days of the issuance of the District Court's order, recognize and, upon request, bargain in good faith with the Union as the exclusive bargaining representative of the Respondent's employees in the unit petitioned for by the Union.

(b) within 5 days of the issuance of the District Court's order and upon the Union's request, rescind the wage increase implemented on July 1, 2013.

(c) within 5 days of the District Court's opinion and order, offer in writing full and immediate interim reinstatement to Mansfield Teetsel to his former position with the same terms and conditions of employment as existed at the time of his discharge, without prejudice to his seniority or any other rights and privileges previously enjoyed, and displacing, if necessary, any worker hired or transferred to replace him, or if his former job no longer exists, to a substantially equivalent position without prejudice to his seniority or any other rights or privileges previously enjoyed and expunge any documentation related to Teetsel's discriminatory discharge from his file.

(d) within 5 days of the issuance of the District Court's order, post copies of the District Court's opinion and order in this proceeding at Respondent's West Coxsackie, New York facility at all locations where company notices to employees are customarily posted; maintain such postings during the Board's administrative proceeding, free from all obstructions and defacements; all employees shall have free and unrestricted access to said postings; and agents of the Board shall be granted reasonable access to Respondent's West Coxsackie, New York facility to monitor compliance with this posting requirement.

(e) within 5 days of the issuance of the District Court's order, hold a meeting during a time when most employees can be present, and have a responsible official for the Respondent, or at the Respondent's option, a Board agent, in the presence of the Respondent's official, read the District Court's order and notice to employees; and

(f) within twenty-one (21) days of the issuance of an Order, file with the District Court and submit a copy to the Petitioner, a sworn affidavit from a responsible official of Respondent, stating with specificity how it has complied with the terms of the Order, including how the documents have been posted and read to employees as required under this Order.

3. That the Court grant such further and other relief as may be deemed just and proper.

DATED at Buffalo, New York, this 25th day of October, 2013.

/s/Paul J. Murphy

PAUL J. MURPHY, Acting Regional Director
National Labor Relations Board – Region 3
Niagara Center Building
130 S. Elmwood Avenue, Suite 630
Buffalo, New York 14202

MICHAEL J. ISRAEL, Regional Attorney
GREGORY C. LEHMANN, Counsel for the Petitioner

FORM EXEMPT UNDER 44 U.S.C.

INTERNET
FORM NLRB-502
(2-08)

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
PETITION

DO NOT WRITE IN THIS SPACE	
Case No. 03-RC-106334	Date Filed 6/3/2013

INSTRUCTIONS: Submit an original of this Petition to the NLRB Regional Office in the Region in which the employer concerned is located.

The Petitioner alleges that the following circumstances exist and requests that the NLRB proceed under its proper authority pursuant to Section 9 of the NLRA.

1. PURPOSE OF THIS PETITION (If box RC, RM, or RD is checked and a charge under Section 8(b)(7) of the Act has been filed involving the Employer named herein, the statement following the description of the type of petition shall not be deemed made.) (Check One)

RC-CERTIFICATION OF REPRESENTATIVE - A substantial number of employees wish to be represented for purposes of collective bargaining by Petitioner and Petitioner desires to be certified as representative of the employees.

RM-REPRESENTATION (EMPLOYER PETITION) - One or more individuals or labor organizations have presented a claim to Petitioner to be recognized as the representative of employees of Petitioner.

RD-DECERTIFICATION (REMOVAL OF REPRESENTATIVE) - A substantial number of employees assert that the certified or currently recognized bargaining representative is no longer their representative.

UD-WITHDRAWAL OF UNION SHOP AUTHORITY (REMOVAL OF OBLIGATION TO PAY DUES) - Thirty percent (30%) or more of employees in a bargaining unit covered by an agreement between their employer and a labor organization desire that such authority be rescinded.

UC-UNIT CLARIFICATION- A labor organization is currently recognized by Employer, but Petitioner seeks clarification of placement of certain employees: (Check one) In unit not previously certified. In unit previously certified in Case No. _____

AC-AMENDMENT OF CERTIFICATION- Petitioner seeks amendment of certification issued in Case No. _____
Attach statement describing the specific amendment sought.

2. Name of Employer: Hogan Transport
Employer Representative to contact: Jim Landa
Tel. No.: (518) 731-2066

3. Address(es) of Establishment(s) involved (Street and number, city, State, ZIP code): 1 Ban Bergan Rd. Cossackie NY 12051
Fax No.: (518) 731-2067

4a. Type of Establishment (Factory, mine, wholesaler, etc.): Transportation
4b. Identify principal product or service: Transport
Cell No.:
e-Mail:

5. Unit Involved (In UC petition, describe present bargaining unit and attach description of proposed clarification.)
Included: All Drivers
Excluded: All others
6a. Number of Employees in Unit:
Present: 14
Proposed (By UC/AC):
6b. Is this petition supported by 30% or more of the employees in the unit? Yes No
*Not applicable in RM, UC, and AC

7a. Request for recognition as Bargaining Representative was made on (Date) June 3, 2013 and Employer declined recognition on or about (Date) NO REPLY (If no reply received, so state).
7b. Petitioner is currently recognized as Bargaining Representative and desires certification under the Act.

8. Name of Recognized or Certified Bargaining Agent (If none, so state): Ninc.
Affiliation:
Address:
Tel. No.:
Cell No.:
Date of Recognition or Certification:
Fax No.:
e-Mail:

9. Expiration Date of Current Contract. If any (Month, Day, Year)
10. If you have checked box UD in 1 above, show here the date of execution of agreement granting union shop (Month, Day and Year)

11a. Is there now a strike or picketing at the Employer's establishment(s) involved? Yes No
11b. If so, approximately how many employees are participating?

11c. The Employer has been picketed by or on behalf of (Insert Name) _____, a labor organization, of (Insert Address) _____ Since (Month, Day, Year) _____

12. Organizations or individuals other than Petitioner (and other than those named in items 8 and 11c), which have claimed recognition as representatives and other organizations and individuals known to have a representative interest in any employees in unit described in item 5 above. (If none, so state)

Name	Address	Tel. No.	Fax No.
		Cell No.	e-Mail

13. Full name of party filing petition (If labor organization, give full name, including local name and number): Teamsters, Local 294

14a. Address (street and number, city, state, and ZIP code): 890 Third St, Albany, NY 12206
14b. Tel. No. EXT: 518/489-5436
14c. Fax No.:
14d. Cell No.:
14e. e-Mail:

15. Full name of national or international labor organization of which Petitioner is an affiliate or constituent (to be filled in when petition is filed by a labor organization)

I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief.

Name (Print): John Bulgaro
Signature: John Bulgaro
Title (if any): President
Address (street and number, city, state, and ZIP code): 890 Third St. Albany NY 12206
Tel. No.: (518) 489-5436
Fax No.: (518) 453-9251
Cell No.:
e-Mail:

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

EXHIBIT A

022

INTERNET
FORM NLRB-501
(2-09)

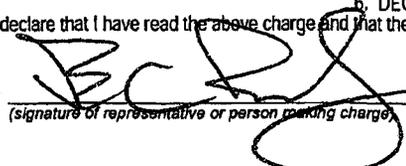
UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

FORM EXEMPT UNDER 44 U.S.C. 3512

DO NOT WRITE IN THIS SPACE	
Case 03-CA-107189	Date Filed 6/14/2013

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT	
a. Name of Employer Hogan Transports, Inc.	b. Tel. No. (518) 731-2066
	c. Cell No.
	f. Fax No. (518) 731-2067
d. Address (Street, city, state, and ZIP code) 1 Van Bergan Road West Coxsackie, New York 12051	e. Employer Representative Jim Landa
	g. e-Mail
	h. Number of workers employed 28 ±
i. Type of Establishment (factory, mine, wholesaler, etc.) Trucking	j. Identify principal product or service Trucking
k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) (3) and (5) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.	
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices) Since on or about June 11, 2013, the date by which Teamsters Local 294, International Brotherhood of Teamsters had achieved majority status in a unit appropriate for collective bargaining, the above named Employer has embarked on a course of pervasive and unlawful conduct thereby warranting issuance of a bargaining order effective said date.	
3. Full name of party filing charge (if labor organization, give full name, including local name and number) Teamsters Local 294, Affiliated with International Brotherhood of Teamsters	
4a. Address (Street and number, city, state, and ZIP code) 890 Third Street, Second Floor Albany, New York 12206	4b. Tel. No. (518) 489-5436
	4c. Cell No.
	4d. Fax No. (518) 453-9251
	4e. e-Mail
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) International Brotherhood of Teamsters	
6. DECLARATION I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief. Pozefsky, Bramley & Murphy By:  By: Bruce C. Bramley, Attorney (signature of representative or person making charge) (Print/type name and title or office, if any)	
Tel. No. (518) 434-2622	
Office, if any, Cell No.	
Fax No. (518) 434-0048	
e-Mail	
Address: 90 State Street, Suite 1405, Albany, New York 12207	6/13/13 (date)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

EXHIBIT B

INTERNET
FORM NLRB-501
(2-08)

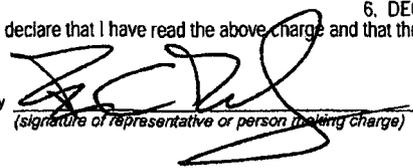
UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
AMENDED CHARGE AGAINST EMPLOYER

FORM EXEMPT UNDER 44 U.S.C 3512

DO NOT WRITE IN THIS SPACE	
Case 03-CA-107189	Date Filed 6/24/2013

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT	
a. Name of Employer Hogan Transports, Inc.	b. Tel. No. (518) 731-2066
	c. Cell No.
	f. Fax No. (518) 731-2067
d. Address (Street, city, state, and ZIP code) 1 Van Bergen Road West Coxsackie, New York 12051	e. Employer Representative Jim Landa
	g. e-Mail
	h. Number of workers employed 28 ±
i. Type of Establishment (factory, mine, wholesaler, etc.) Trucking	j. Identify principal product or service Trucking
k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) (3) and (5) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.	
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices) Since on or about June 11, 2013, the date by which Teamsters Local 294, International Brotherhood of Teamsters had achieved majority status in a unit appropriate for collective bargaining, the above named Employer has embarked on a course of pervasive and unlawful conduct thereby warranting issuance of a bargaining order effective said date, and among other unlawful activities, on or about June 23, 2013, the above named Employer suspended bargaining unit employee Steven Ianno.	
3. Full name of party filing charge (if labor organization, give full name, including local name and number) Teamsters Local 294, Affiliated with International Brotherhood of Teamsters	
4a. Address (Street and number, city, state, and ZIP code) 890 Third Street, Second Floor Albany, New York 12206	4b. Tel. No. (518) 489-5436
	4c. Cell No.
	4d. Fax No. (518) 453-9251
	4e. e-Mail
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) International Brotherhood of Teamsters	
6. DECLARATION I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief. By  (signature of representative or person making charge) By: Bruce C. Bramley, Attorney (Print/type name and title or office, if any)	
	Tel. No. (518) 434-2622
	Office, if any, Cell No.
	Fax No. (518) 434-0048
	e-Mail
Address 90 State Street, Suite 1405, Albany, New York 12207	6/24/13 (date)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes. EXHIBIT C

024

INTERNET
FORM NLRB-501
(2-08)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE	
Case 03-CA-108968	Date Filed 7/12/2013

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT	
a. Name of Employer Hogan Transports, Inc.	
b. Tel. No. 518-731-2066	
c. Cell No.	
f. Fax No.	
g. e-Mail	
h. Number of workers employed 28	
d. Address (Street, city, state, and ZIP code) 1 Van Bergan Road West Coxsackie NY 12051	e. Employer Representative Jim Landa
i. Type of Establishment (factory, mine, wholesaler, etc.) transportation	j. Identify principal product or service trucking
k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) (3) _____ of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.	
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices) Since on or about July 6, 2013, it, by its officers, agents and representatives has discriminated against Mansfield Teetsel, by, but not limited to, terminating him because of his Union and/or protected concerted activities, and at all times since said date has refused and does now refuse to rescind such discrimination against the above named employee.	
3. Full name of party filing charge (if labor organization, give full name, including local name and number) Mansfield Teetsel	
4a. Address (Street and number, city, state, and ZIP code) 112 Lape Road Richmondville NY 12149	
4b. Tel. No. 518-294-7324	
4c. Cell No.	
4d. Fax No.	
4e. e-Mail	
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)	
6. DECLARATION	
I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.	
By <u>Mansfield Teetsel</u> Mansfield Teetsel (signature of representative or person making charge) (Print/type name and title or office, if any)	
112 Lape Road Richmondville NY 12149 7/12/13 Address (date)	
Tel. No. 518-294-7324	
Office, if any, Cell No.	
Fax No.	
e-Mail	

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes. EXHIBIT D

025

FORM EXEMPT UNDER 44 U.S.C. 3512

INTERNET
FORM NLRB-601
(2-08)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE	
Case 03-CA-111193	Date Filed 8/14/2013

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer Hogan Transports, Inc.	b. Tel. No. (518) 731-2088
d. Address (Street, city, state, and ZIP code) 1 Van Bergen Road West Coxsackie, New York 12051	c. Cell No.
e. Employer Representative Jim Landa	f. Fax No. (518) 731-2087
i. Type of Establishment (factory, mine, wholesaler, etc.) Trucking	g. e-Mail
j. Identify principal product or service Trucking	h. Number of workers employed 28
k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.	

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

Since on or about June 11, 2013, the date by which Teamsters Local 294, International Brotherhood of Teamsters had achieved majority status in a unit appropriate for collective bargaining, the above named Employer has embarked on a course of pervasive and unlawful conduct thereby warranting issuance of a bargaining order effective said date, and among other unlawful activities since on or about August 12, 2013, the above named Employer instigated, facilitated and assisted employees in the revocation of their signed cards.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

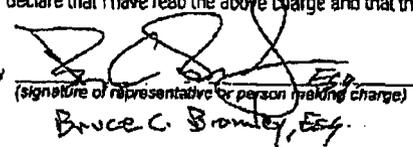
Teamsters Local 294, Affiliated with International Brotherhood of Teamsters

4a. Address (Street and number, city, state, and ZIP code) 890 Third Street, Second Floor Albany, New York 12206	4b. Tel. No. (518) 489-5436
	4c. Cell No.
	4d. Fax No. (518) 453-9251
	4e. e-Mail

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)
International Brotherhood of Teamsters

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By  (signature of representative or person making charge) Bruce C. Bramley, Esq.	Pozefsky Bramley & Murphy (Print/type name and title or office, if any)
Address 90 State Street, Suite 1405, Albany, New York 12207	
Date 8/14/13	

Tel. No. (518) 434-2622
Office, if any, Cell No.
Fax No. (518) 434-0048
e-Mail

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. 5 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes. EXHIBIT E

026

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
THIRD REGION**

HOGAN TRANSPORTS, INC.

and

**Cases 03-CA-107189
03-CA-111193**

**TEAMSTERS LOCAL 294,
AFFILIATED WITH INTERNATIONAL
BROTHERHOOD OF TEAMSTERS**

and

MANSFIELD TEETSEL, an Individual

Case 03-CA-108968

**ORDER FURTHER CONSOLIDATING CASES, SECOND AMENDED
CONSOLIDATED COMPLAINT AND NOTICE OF HEARING**

Pursuant to Section 102.33 of the Rules and Regulations of the National Labor Relations Board (Board), and to avoid unnecessary costs or delay, IT IS ORDERED THAT Case 03-CA-111193 filed by Teamsters Local 294, affiliated with International Brotherhood of Teamsters (Union) against Hogan Transports, Inc. (Respondent) is consolidated with previously consolidated Cases 03-CA-107189 filed by the Union and Case 03-CA-108968, filed by Mansfield Teetsel, an Individual (Teetsel) against Respondent which were subjects of a Consolidated Complaint and Notice of Hearing issued on August 14, 2013.

This Order Further Consolidating Cases, Second Amended Consolidated Complaint and Notice of Hearing, is issued pursuant to Section 10(b) of the National Labor Relations Act, 29 U.S.C. § 151 et seq. (the Act) and Section 102.15 of the Board's Rules and Regulations, and alleges that Respondent has violated the Act as described below:

I

(a) The charge in Case 03-CA-107189 was filed by the Union on June 14, 2013, and a copy was served by regular mail on Respondent on the same date.

(b) The amended charge in Case 03-CA-107189 was filed by the Union on June 24, 2013, and a copy was served by regular mail on Respondent on the same date.

(c) The charge in Case 03-CA-108968 was filed by Teetsel on July 12, 2013, and a copy was served by regular mail on Respondent on the same date.

(d) The charge in Case 03-CA-111193 was filed by the Union on August 14, 2013, and a copy was served by regular mail on Respondent on the same date.

II

(a) At all material times, Respondent, a corporation with a place of business located at 1 Van Bergen Street, West Coxsackie, New York, has been engaged in the operation of a trucking terminal.

(b) During the past twelve months, Respondent, in conducting its business operations as described above in paragraph II(a), purchased and received at its West Coxsackie, New York facility goods, valued in excess of \$50,000, directly from points located outside the State of New York.

III

At all material times, Respondent has been engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

IV

At all material times, the Union has been a labor organization within the meaning of Section 2(5) of the Act.

V

At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors within the meaning of Section 2(11) of the Act and/or agents within the meaning of Section 2(13) of the Act:

David Hogan	President
Charles Johnson	District Manager
Jim Landa	Fleet Manager
Tom Lansing	Safety Manager

VI

(a) The following employees of Respondent (the Unit) constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act.

All full-time and regular part-time drivers employed by Respondent at its West Coxsackie, New York location; excluding all guards, and all professional employees and supervisors as defined in the Act.

(b) About June 3, 2013, the Union, by letter, requested that Respondent recognize it as the exclusive collective-bargaining representative and bargain collectively with the Union as the exclusive bargaining representative of the Unit.

(c) About June 13, 2013, a majority of the Unit designated the Union as their exclusive collective-bargaining representative.

(d) At all times since June 13, 2013, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Unit.

VII

About June 11, 2013, Respondent, by Charles Johnson, at Respondent's West Coxsackie, New York facility, interrogated employees about their union activities.

VIII

Respondent, by the individuals named below, at Respondent's West Coxsackie, New York facility, on the dates opposite their names, threatened employees with job loss if they selected the union as their bargaining representative.

- (a) David Hogan About June 19 and early July 2013
- (b) Charles Johnson About June 11 and 13, 2013
- (c) Tom Lansing About June 11, 2013

IX

Respondent, by the individuals named below, at Respondent's West Coxsackie, New York facility, on the dates opposite their names, promised employees a wage increase to discourage the employees' union activities.

- (a) Charles Johnson About June 18, 2013
- (b) David Hogan About June 19, 2013

X

About June 19, 2013, Respondent, by David Hogan, at Respondent's West Coxsackie, New York facility, in an attempt to discourage employees' union activities, told employees that he would try to give the employees wage increases in each of the following two years.

XI

About June 17, 2013, Respondent moved the employees' work location to discourage the employees' union activities.

XII

About August 12 and 14, 2013, Respondent, by Charles Johnson, Jim Landa and Tom Lansing, at Respondent's West Coxsackie, New York facility, in an attempt to discourage

employees' union activities, assisted employees in revoking their signed union authorization cards.

XIII

(a) About July 6, 2013, Respondent, by Jim Landa, terminated its employee Mansfield Teetsel.

(b) Respondent engaged in the conduct described above in paragraph XIII (a) because Teetsel formed, joined, or assisted the Union and engaged in concerted activities, and to discourage employees from engaging in these activities.

XIV

(a) About July 1, 2013, Respondent increased the wages of its employees.

(b) Respondent engaged in the conduct described above in paragraph XIV (a) because the employees of Respondent formed, joined, or assisted the Union and engaged in concerted activities, and to discourage employees from engaging in these activities.

(c) The subject set forth above in paragraph XIV (a) relates to wages, hours, and other terms and conditions of employment of the Unit and is a mandatory subject for the purposes of collective bargaining.

(d) Respondent engaged in the conduct described above in paragraph XIV(a) without prior notice to the Union and without affording the Union an opportunity to bargain with Respondent with respect to this conduct and the effects of this conduct.

XV

The serious and substantial unfair labor practice conduct described above in paragraphs VII through XIV is such that there is only a slight possibility of traditional remedies erasing their effects and conducting a fair election. Therefore, on balance, the employees' sentiments

regarding representation, having been expressed through authorization cards, would be protected better by issuance of a bargaining order.

XVI

The allegations described above in paragraph XV requesting the issuance of a bargaining order are supported by, among other things:

(a) David Hogan, Charles Johnson, Jim Landa and Tom Lansing are high-ranking supervisors responsible for the discriminatory conduct described above in paragraphs VII through XIV;

(b) the conduct described above in paragraphs VII through XIV has not been retracted;

(c) there are approximately 29 employees in the Unit described above in paragraph VI(a);

(d) the conduct described above in paragraphs VII through XIV was immediately directed at approximately 29 employees;

(e) employees learned or were likely to learn of the conduct described above in paragraphs VII through XIV;

(f) the conduct described above in paragraphs VII through XIV followed immediately on the heels of the Respondent's knowledge of the Union's campaign;

(g) the employee described above in paragraph XIII was a leading organizer for the union; and

(h) a continuing request for recognition was made on June 3, 2013, before the Union achieved majority status and before the employer embarked on its unlawful conduct.

XVII

Since June 13, 2013, Respondent has failed and refused to recognize and bargain with the Union as the exclusive collective-bargaining representative of the Unit.

XVIII

By the conduct described above in paragraphs VII through XII, Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act, in violation of Section 8(a)(1) of the Act.

XIX

By the conduct described above in paragraphs XIII and XIV (a) and (b), Respondent has been discriminating in regard to the hire or tenure or terms or conditions of employment of its employees, thereby discouraging membership in a labor organization, in violation of Section 8(a)(1) and (3) of the Act.

XX

By the conduct described above in paragraphs XIV (a) and (d) and XVII, Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees in violation of Section 8(a)(1) and (5) of the Act.

XXI

The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

WHEREFORE, as part of the remedy for the unfair labor practices alleged above in paragraph XIII, the Acting General Counsel seeks an Order requiring Respondent, inter alia, to:

Preserve and, within 14 days of a request, provide at the office designated by the Board or its agents, a copy of all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay or other monetary amounts due under the terms of such Order. If requested, the originals of such records shall be provided to the Board or its agents in the same manner.

Reimburse the amounts equal to the difference in taxes owed upon receipt of a lump-sum payment and taxes that would have been owed had there been no discrimination or unfair labor practices.

Immediately expunge from its files and records any reference that Mansfield Teetsel was terminated for cause and prohibiting Respondent from using the termination against him in any way and to notify Mansfield Teetsel, in writing, that it has done so.

The Acting General Counsel further seeks, as part of the remedy for the allegations in paragraph XIII, that Respondent be required to submit the appropriate documentation to the Social Security Administration so that when backpay is paid, it will be allocated to the appropriate periods.

As further remedy for the unfair labor practices alleged above in paragraphs VII through XIV, the Acting General Counsel seeks an Order requiring that the Notice be read to employees during working time by Respondent.

The Acting General Counsel seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the Second Amended Consolidated Complaint. **The answer must be received by this office on or before September 13 , 2013, or postmarked on or before September 12, 2013.** Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. To file electronically, go to www.nlr.gov, click on **File Case Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website

informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a Second Amended Consolidated Complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the Second Amended Consolidated Complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on September 18, 2013, at 10:00 a.m., at the Albany Resident Office, Leo W. O'Brien Federal Building, Room 342, Albany, New York 12207, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this Second Amended Consolidated Complaint. The procedures to be followed at

the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

DATED at Buffalo, New York, this 30th day of August, 2013.

/S/RHONDA P. LEY
RHONDA P. LEY, Regional Director
National Labor Relations Board – Region 3
Niagara Center Building
130 S. Elmwood Avenue, Suite 630
Buffalo, New York 14202

Attachments

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK**

**PAUL J. MURPHY, Acting Regional Director of the
Third Region of the National Labor Relations Board,
for and on behalf of the
NATIONAL LABOR RELATIONS BOARD**

Petitioner

vs.

HOGAN TRANSPORTS, INC.

Respondent

1:13-MC-64 [GLS/RFT]

CIVIL NO. 13-CV-_____

J. _____

ECF CASE

**MEMORANDUM OF POINTS AND AUTHORITIES
IN SUPPORT OF PETITION FOR INJUNCTIVE RELIEF UNDER
SECTION 10(j) OF THE NATIONAL LABOR RELATIONS ACT,
AS AMENDED, 29 U.S.C. SECTION 160(j)**

Gregory C. Lehmann, Counsel for Petitioner
National Labor Relations Board
Third Region – Resident Office
Leo W. O’Brien Federal Building
11A Clinton Avenue, Room 342
Albany, New York 12207-2350
Telephone: (518) 431-4164
Facsimile: (518) 431-4157
Email: gregory.lehmann@nrlrb.gov
Bar Role No. 514069

Accordingly, while the discriminatee is absent from the workplace, the employees will understand that supporting the Union will likely result in their discharge, and that neither the Board nor the Union can effectively or timely protect them. *See NLRB v. Electro-Voice, Inc.*, 83 F.3d 1559, 1573 (7th Cir. 1996) (“[m]eanwhile, the employees remaining ... know what happened to the terminated employees, and fear that it will happen to them”); *Silverman v. Whittall & Shon, Inc.*, 1986 WL 15735 (unpublished) (S.D.N.Y. 1986) (“no other worker in his right mind would participate in a union campaign ... after having observed that other workers who had previously attempted to exercise rights protected by the Act had been discharged and must wait for three years to have their rights vindicated.”); *NLRB v. Jamaica Towing, Inc.*, 632 F.2d 208, 213 (2d Cir. 1980) (discharges of union adherents “remain in [employees'] memories for a long period”). Thus, interim reinstatement is necessary to prevent the Respondent’s unlawful conduct from irreparably undermining employee support for the Union.

Interim reinstatement is also necessary because the discharged employee is willing to return to work now despite having found another job. By the time the Board issues its final order, he will be less likely to accept reinstatement to continue the organizing campaign as time moves on. Thus, Respondent will have succeeded in removing a key Union activist from the unit and depriving employees of his leadership. *See, e.g., Pye v. Excel Case Ready*, 238 F.3d 69, 74-75 (1st Cir. 2001) (“improperly discharged employees are likely to accept other jobs and find it difficult, if not impossible to accept reinstatement” after issuance of a final Board order)(quoting *Eisenberg v. Wellington Hall Nursing Home, Inc.*, 651 F.2d 902, 906-07 (3d Cir. 1981)); *NLRB v. Electro-Voice, Inc.*, 83 F.3d 1559, 1573 (7th Cir. 1996), *cert. denied*, 519 U.S. 1055 (1997) (same).

Furthermore, interim reinstatement will allow the discriminatee to participate in the bargaining process, which is necessary to preserve the effectiveness of the proposed interim *Gissel* bargaining order. “If union supporters are excluded from the bargaining process pending resolution

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK**

**PAUL J. MURPHY, Acting Regional Director of the
Third Region of the National Labor Relations Board,
for and on behalf of the
NATIONAL LABOR RELATIONS BOARD**

Petitioner

vs.

HOGAN TRANSPORTS, INC.

Respondent

1:13-MC-64 [GLS/RFT]

CIVIL NO. 13-CV-_____

J. _____

ECF CASE

**DECLARATION OF GREGORY C. LEHMANN ATTACHING
ADMINISTRATIVE LAW JUDGE HEARING TRANSCRIPT AND EXHIBITS IN
SUPPORT OF SECTION 10(j) PETITION**

I, Gregory C. Lehmann, pursuant to 28 U.S.C. Section 1746, declare the following:

1. I am employed as an attorney with the National Labor Relations Board, Region 3, Albany, New York. In that capacity, I am counsel for the Petitioner in the above matter.
2. The Petition for Injunction Under Section 10(j) of the National Labor Relations Act, as amended, is being filed concurrently with this Declaration. Petitioner is requesting that the Court direct Hogan Transports, Inc., (Respondent), to take certain actions pending final disposition of the underlying unfair labor practice proceeding before the National Labor Relations Board.
3. The administrative unfair labor practice hearing commenced before an Administrative Law Judge of the National Labor Relations Board on September 24 and adjourned on September 27, 2013. A written transcript and exhibits of this portion of the proceeding has issued and is attached as follows: Exhibit A—Volume 1, dated September

24, 2013 (pages 1-176); Exhibit B—Volume 2, dated September 26, 2013 (pages 177-373); Exhibit C—Volume 3, dated September 27, 2013 (pages 374-427); Exhibit D—Acting General Counsel’s Exhibits 1-10 and 12-17 (excluding Exhibit 11 which is the actual audio recording of Exhibit 10); and Exhibit E—Respondent’s Exhibits 1-7. The hearing will reconvene shortly to continue on consecutive days until conclusion.

Petitioner will seek to file the remaining portions of the administrative record once it concludes.

4. The administrative record contains proof bearing on the alleged unfair labor practices under the National Labor Relations Act. The record is developed at an hearing before an administrative law judge where witnesses are examined and cross-examined under oath and the Federal Rules of Evidence are followed “so far as practicable.” Thus, the administrative record will provide a basis for this Court to determine whether there is “reasonable cause” to believe that the alleged unfair labor practices occurred. In addition, the record sets forth facts bearing on whether Section 10(j) injunctive relief is “just and proper,” i.e., whether there will be irreparable harm to employee statutory rights because of Respondent’s alleged unfair labor practices, as discussed in Petitioner’s Memorandum of Points and Authorities in Support of Petition.

5. With the Court’s permission, to assist in its “reasonable cause” and “just and proper” analysis, Petitioner will submit a memorandum with references to the administrative record in support of the allegations in the Petition for Injunction.

6. I declare under penalty of perjury that the foregoing is true and correct.

Executed this 25th day of October 2013.

/s/ Gregory C. Lehmann

Gregory C. Lehmann, Counsel for Petitioner
National Labor Relations Board
Third Region – Resident Office
Leo W. O'Brien Federal Building
11A Clinton Avenue, Room 342
Albany, New York 12207-2350
Telephone: (518) 431-4164
Facsimile: (518) 431-4157
Email: gregory.lehmann@nrlb.gov
Bar Role No. 514069

1 A I got a call from one of the employees that wanted to
2 organize. Said there were a lot of people that were ready to
3 join a union. That employee -- I made an appointment with him.
4 He came up to my office, and listened to what he had to say. I
5 gave him the cards. He said everybody was willing to sign a
6 card. I gave him some cards. Within a very short time he had
7 them signed and back to me.

8 Q Okay. And who was this employee?

9 A Bob Sansone.

10 JUDGE GREEN: I'm sorry, Bob?

11 THE WITNESS: Sansone.

12 JUDGE GREEN: Okay. Could you approximate when this
13 occurred?

14 THE WITNESS: It had to be in May. Sometime in May.

15 JUDGE GREEN: Okay.

16 BY MR. LEHMANN:

17 Q Okay, and how did the meeting end?

18 A He was going to get the cards signed and get back to me.
19 And he called me back, I don't remember when, a couple days, a
20 very short time, said he had X-amount of cards, whoever they
21 were, and -- and told him to stop up the office if he could,
22 which he did, and gave me the cards.

23 Q Okay. And when you received the cards what, if anything,
24 did you do when you received the cards?

25 A Well, the next step was I -- I tell them I wanted to have

1 a meeting with the employees. And we set up a -- you know, and
2 I told him to invite anyone that they wished, and we set up a
3 meeting.

4 Q And when was the meeting scheduled?

5 A It was June, beginning of June, 2nd I think or -- I think
6 it was June 2nd. It was a Sunday.

7 Q Okay. Where was the meeting?

8 A It was at the truck stop in Cocksackie.

9 Q Okay. And approximately how many employees were there?

10 A About 12 or so.

11 Q Okay. Now, turning your attention to June 3rd, did the --
12 did Local 294 file a representation petition?

13 A Yes. In fact, that's why I wanted to meet with the
14 employees, to make sure that they were adamant on what they
15 wanted to do. And they seemed to be, so I told them the next
16 day -- next day or two we would be filing a petition.

17 Q Okay.

18 A Took down the necessary information I needed and went from
19 there.

20 Q Okay. And did the Union also send Hogan a letter on the
21 same day requesting recognition?

22 A I believe we delivered one. One of my agents delivered --
23 delivered a letter. I believe one was sent, as well.

24 Q Okay. And how was it delivered?

25 A Hand-delivered.

1 just identified.

2 JUDGE GREEN: Okay, fine.

3 MR. LEHMANN: Okay, and for identification purposes I've
4 identified Baum's as 4(a), Delacruz's as --

5 JUDGE GREEN: You don't have to -- just -- you could
6 just -- you don't need to do this on the record. You -- it's
7 going to take too much time. Just do it when you -- and give
8 it to the reporter.

9 Actually, the way you -- the way the exhibit is you
10 just -- it really only has to be designated as General
11 Counsel's Exhibit 4. It's not necessary. You're not offering
12 it -- the way it is is fine. GC-4 will do the trick.

13 MR. LEHMANN: Okay.

14 **DIRECT EXAMINATION (continued)**

15 BY MR. LEHMANN:

16 Q Do you recognize General Counsel Exhibit 4?

17 A Yes.

18 Q Okay. And what -- and are these the authorization cards?

19 A Yes.

20 Q Okay. Now, did there come a time when the parties
21 stipulated to an election?

22 A Yes.

23 Q And did they execute an election agreement?

24 A Yes.

25 **(General Counsel Exhibit 5 marked for identification.)**

1 Q Do you recognize General Counsel's Exhibit 5?

2 A Yes.

3 Q Okay. And is this the stipulated election agreement?

4 A Yes, it is.

5 Q Okay.

6 MR. LEHMANN: I would offer GC-5.

7 MR. MODEL: No objection.

8 JUDGE GREEN: All right, received.

9 **(General Counsel Exhibit 5 received into evidence.)**

10 BY MR. LEHMANN:

11 Q Now, did there come a time when you received an Excelsior
12 List?

13 A Yes, I did.

14 Q In response to the stipulated election agreement?

15 A Yes.

16 **(General Counsel Exhibit 6 marked for identification.)**

17 Q Showing you what's been marked as General Counsel Exhibit
18 6.

19 A Yes, that's the Excelsior List that we received, yes.

20 Q Okay.

21 MR. LEHMANN: I would offer GC-6.

22 JUDGE GREEN: All right, any objection?

23 MR. MODEL: No, no objection.

24 JUDGE GREEN: All right, received.

25 **(General Counsel Exhibit 6 received into evidence.)**

1 Q Now, turning your attention to June 23rd, did the Union
2 hold another meeting with employees?

3 A Yes.

4 Q Okay. And where was that?

5 A Truck stop in Cossackie, same place.

6 Q And approximately how many employees were at this meeting?

7 A Six, seven.

8 Q And can you -- can you discuss or can you explain what was
9 discussed at this meeting?

10 A Well, the employees that were there were concerned that
11 people were becoming afraid; they were getting intimidated,
12 threats of closing and not having a job and constant --
13 constant barragement (sic) of anti-Union rhetoric and they
14 thought that they were losing a lot of support with people
15 get -- being afraid.

16 Q Okay. Did they identify anyone in particular from --

17 MR. MODEL: Objection. Your Honor, all this is hearsay.

18 JUDGE GREEN: I know it's all hearsay. So why are you
19 offering this? Do you want me to be the Magistrate for the
20 10(j) purposes?

21 MR. LEHMANN: It's offered for --

22 JUDGE GREEN: For what?

23 MR. LEHMANN: For the 10(j) purposes.

24 JUDGE GREEN: Yeah, but you haven't even gotten
25 authorization for a 10(j) yet, so it puts me in a strange

1 position. I'm -- you're asking me to be -- to listen to
2 hearsay, which I otherwise would not do, for a potential
3 proceeding in a Federal District Court which hasn't yet been
4 authorized. So I'm going to sustain the objection.

5 When you file your petition for 10(j) in the appropriate
6 Federal District Court, you can submit affidavits to that court
7 as to why it's just and proper or to issue an injunction. But
8 I'm not doing that in this circumstance.

9 BY MR. LEHMANN:

10 Q Now, do you an employee named June Glennon?

11 A Yes.

12 Q All right. And was she at the first meeting?

13 A Yes.

14 Q First Union meeting?

15 A Yes, she was.

16 Q Was she at the second Union meeting?

17 A No.

18 Q And do you know why not?

19 A She was afraid. She was afraid of losing her job. In
20 fact, she called me wanting her card back at one point in time.

21 Q Okay.

22 A Which she was encouraged to do by the Company. I don't
23 know what representative, some representative at the Company,
24 and by that time I told her the petition was already filed and,
25 you know --

1 Q Now, the election was scheduled for July 12th; did that
2 happen?

3 A No.

4 Q Why not?

5 A We blocked election based on our feelings talking to the
6 people that were involved in -- in wanting to go forward with
7 the election and are working there that we couldn't get a fair
8 election. There were too many people afraid of -- intimidated
9 and afraid.

10 Q Okay. Did you talk to any employees about the decision
11 whether or not to block?

12 A Yes. That's where I got my information, from some of the
13 employees.

14 Q Okay. Which employees?

15 A Jim Young, Steve Ianno; two that come to mind.

16 Q Okay.

17 MR. LEHMANN: GC-7 and 8.

18 JUDGE GREEN: Thank you.

19 **(General Counsel Exhibits 7 and 8 marked for identification.)**

20 MR. LEHMANN: Your Honor, I don't know if there needs to
21 be any testimony on -- on 7 or 8.

22 JUDGE GREEN: Yeah.

23 MR. LEHMANN: I would offer --

24 JUDGE GREEN: Okay, fine. You want me to take official
25 notice of these?

1 MR. LEHMANN: Yeah.

2 JUDGE GREEN: All right, any problems?

3 MR. MODEL: Your Honor, I've never GC-7 so --

4 JUDGE GREEN: All right. All it says is we're filing a
5 charge and we would like to block the election. I mean, are
6 you -- do you have a -- he already testified about that.

7 MR. MODEL: I'm just telling you I haven't seen it.

8 JUDGE GREEN: Okay. I know, I'm just being a pain in the
9 neck.

10 All right, I'm going to receive the documents. I really
11 don't think they're all that relevant, one way or the other.

12 **(General Counsel Exhibits 7 and 8 received into evidence.)**

13 MR. LEHMANN: Thank you.

14 BY MR. LEHMANN:

15 Q Now, you had already testified that Ms. Glennon had called
16 her and requested their -- her authorization card.

17 A Yes.

18 Q Did you speak to her on the phone?

19 A Yes.

20 Q And what was said during the conversation?

21 MR. MODEL: Objection, hearsay.

22 JUDGE GREEN: Sustained.

23 MR. LEHMANN: Well, subject to --

24 JUDGE GREEN: Not subject to, it's sustained. You put on
25 Ms. Glennon. She can testify as to what the circumstances were

1 that led her to withdraw her card, and I'll listen to her
2 testimony.

3 MR. LEHMANN: Okay.

4 BY MR. LEHMANN:

5 Q Any other employees call you to request their
6 authorization cards back?

7 A One other, I don't believe I spoke to him, though.

8 Q Okay. And who was that?

9 A Miles, something.

10 JUDGE GREEN: You actually have this list if it helps you.

11 THE WITNESS: Have a list where? With the cards? G-4?

12 JUDGE GREEN: Yeah.

13 MR. LEHMANN: G-6.

14 JUDGE GREEN: Maybe that will help you refresh your
15 recollection.

16 THE WITNESS: I think it was Quintin Miles.

17 JUDGE GREEN: Okay.

18 BY MR. LEHMANN:

19 Q Quintin Miles?

20 A I think, yeah.

21 Q Okay. Now, did there come a time when you received a
22 recording of a meeting? Of a meeting held by Hogan?

23 A Yes.

24 Q Okay. And who -- what -- who was the recording from?

25 A Jim Young, one of the employees recorded the meeting.

1 THE WITNESS: Okay. This is --
2 MR. LEHMANN: I can't see it. I can't see anything.
3 JUDGE GREEN: I don't know --
4 THE WITNESS: This is the affidavit I gave over the phone.
5 JUDGE GREEN: Oh, okay. All right. All right.
6 THE WITNESS: Do you -- do I --
7 JUDGE GREEN: Just hold on to it.
8 THE WITNESS: Okay.
9 MR. LEHMANN: Put that back in your pocket.
10 THE WITNESS: Okay.
11 JUDGE GREEN: All right, in any event sometime in May you
12 talked to --
13 THE WITNESS: Yeah, sometime in May. I don't remember the
14 exact date.
15 BY MR. LEHMANN:
16 Q Okay, so explain what -- what was said during this meeting
17 with Mr. Bulgaro?
18 A We discussed the members being interested in joining the
19 Union. We talked about what was going on at Hogan as far as
20 wages, about not being paid for delays, about health benefits,
21 and what drivers were paying for, what they were getting. And
22 John gave me signup cards to bring back to the membership and
23 it was -- if there was a percentage, I'm -- I don't remember
24 the exact percent but if a certain percentage of the cards were
25 signed then he would call a meeting.

1 Q Okay. And where did this take place?

2 A That was in the car parking lot at the warehouse. In
3 other words, there's two different parking lots; there's one
4 truck parking lot where the trucks are kept and employees park
5 their cars in a back lot. Not a back lot, but a lot adjacent
6 to it. And -- and that's where we were.

7 Q Okay. Was this at the --

8 A At the Save-A-Lot facility.

9 Q -- Save-A-Lot warehouse?

10 A Yes.

11 Q Now, turning your attention to June 2nd, did you attend --
12 of this year, did you attend a Union meeting?

13 A I attended a Union meeting that John had at the truck stop
14 in Coxsackie, New York. And it was to -- yes, I did.

15 Q Okay. And was anyone present for the Union?

16 A John. John was present and he brought one of his business
17 agents with him. I don't know the name of the business agent.

18 Q Okay. And approximately how many employees were there?

19 A Approximately 11, 13, some -- in that -- in that range.

20 Q Now, do you know who Charlie Johnson -- Charles Johnson
21 is?

22 A I do know Charlie.

23 Q Okay. And who's Mr. Johnson?

24 A Mr. Johnson, I'm not sure of his title, but I would call
25 him a director of operations and who was domiciled out of their

- 1 Q Before this June 11th --
- 2 A Three plus years ago.
- 3 Q Now, before the Union campaign started where did employees
- 4 park their trucks?
- 5 A Over in Save-A-Lot -- the parking lot.
- 6 Q At the Save-A-Lot warehouse?
- 7 A Yes.
- 8 Q And is there also an office there?
- 9 A Yes.
- 10 Q And where is that office located?
- 11 A Up the stairs, take a -- go in the front doors, go up the
- 12 stairs, take a left, and there are Hogan dedicated offices on
- 13 the right.
- 14 Q And did there come a time when employees were told to park
- 15 and report across the street?
- 16 A Yes, there was.
- 17 Q And how were employees told this?
- 18 A By a posting on the door.
- 19 MR. LEHMANN: GC-9.
- 20 **(General Counsel Exhibit 9 marked for identification.)**
- 21 BY MR. LEHMANN:
- 22 Q Showing you what's been marked as General Counsel Exhibit
- 23 9; do you recognize this document?
- 24 A Yes, I do.
- 25 Q And what is it?

- 1 Q Now, turning your attention to June 19th of this year, did
2 you attend a meeting held by David Hogan?
- 3 A Yes, I did.
- 4 Q And who is Mr. Hogan?
- 5 A The president of the Company.
- 6 Q All right. Had you met him before?
- 7 A No.
- 8 Q Where did the meeting take place?
- 9 A In the wash bay of the shop.
- 10 Q Okay. Was this a mandatory meeting?
- 11 A Yes, it was.
- 12 Q Now, on June 19th were there -- was there one meeting held
13 on that day or more than one?
- 14 A There was three.
- 15 Q Okay. What were the times?
- 16 A 10:00 a.m., 1:00 p.m., 4:00 p.m.
- 17 Q Okay. And which one did you attend?
- 18 A 10:00 a.m.
- 19 Q And who was present at your meeting? For the Employer.
- 20 A David Hogan, Charlie Johnson and Jim Lauda.
- 21 Q Okay. And for the employees, do you know approximately
22 how many employees were there?
- 23 A I can name them.
- 24 Q Okay. Name them.
- 25 A June Glennon, Michael Halbritter, Shane McDonald, Manny

1 get it on the record.

2 MR. LEHMANN: Okay.

3 DIRECT EXAMINATION (continued)

4 BY MR. LEHMANN:

5 Q Now, turning your attention to June 23rd of this year, did
6 you attend another meeting held by the Union?

7 A Yes, I did.

8 Q And where was that?

9 A Fox Run Truck Stop.

10 Q Okay. Was that the same place as the first one?

11 A Yes.

12 Q All right. And who was there for the Union?

13 A John Bulgaro.

14 Q Okay. And who was there -- were employees there?

15 A Yes, there was.

16 Q Okay. Who?

17 A Tim Mabee, Alan Field, Shane McDonald, Manny Teetsel,
18 Steve Ianno.

19 Q Okay. And what was discussed?

20 A About -- things about whether we're still strong. That
21 Hogan's been scaring a lot of people and things of that sort.
22 And we talked about insurances and things like that.

23 Q What about scaring people?

24 A Scare tactics as in, you know, moving us across the
25 street, threaten us, they're saying we're going to lose the

- 1 contract or we're going to be out of jobs, those things.
- 2 Q Now, on July 1st did you get a pay raise?
- 3 A Yes, I did.
- 4 Q Okay. And how much was that?
- 5 A Two cents.
- 6 JUDGE GREEN: Two cents per what?
- 7 THE WITNESS: Per mile.
- 8 BY MR. LEHMANN:
- 9 Q Two cents per mile?
- 10 A Yes.
- 11 Q Okay. And how are employees -- or how are drivers paid?
- 12 A By mileage and stop pay.
- 13 Q Okay. What's "stop pay"?
- 14 A 12.50 an hour.
- 15 Q Okay. What does "stop pay" mean? What is that?
- 16 A You go in, get unloaded, and depending on how many stops
- 17 you have per day, it's \$12 per stop.
- 18 Q \$12.00 or 12.50?
- 19 A 12.50 per stop. If you stop -- store, you bump the dock
- 20 it's 12.50. If you go to a back haul it's 12.50. And if it
- 21 goes over an hour, detention pay is 12.50 an hour, also.
- 22 Q Okay. And how many miles do you generally drive a week?
- 23 A Between 2300 and 2700.
- 24 Q When was the last time you got a pay raise?
- 25 A Three plus years ago.

- 1 A No, no.
- 2 Q And you testified that Mr. Sansone, Bob Sansone solicited
- 3 you to sign a card?
- 4 A Yes.
- 5 Q And do you recall that date?
- 6 A No, I don't.
- 7 Q And where was that?
- 8 A It was -- I'll tell you it was right after I came back
- 9 from vacation. So that had to be around the end of May.
- 10 Q Okay. And you were by yourself then?
- 11 A Yes, I was.
- 12 Q With regard to your job duties, before the office location
- 13 was moved from the Save-A-Lot DC to the Hogan shop, there has
- 14 been a change in your job duties, right?
- 15 A No, it's about the same.
- 16 Q So the only difference is when -- in order to get your
- 17 truck you park at the Hogan shop, park your car there, get right
- 18 in the truck and then you drive across the street to the Save-A-
- 19 Lot?
- 20 A Right, yes.
- 21 Q Okay. Other than that though, it's you have the same
- 22 paperwork, you have the same routes, you have the same pay?
- 23 A Yes.
- 24 Q The same schedule?
- 25 A Yes, sir.

1 chance we're going to lose that contract if we go through with
2 this union. He was more focused on that at this meeting,
3 emphasizing the possibility of losing the contract.

4 MR. LEHMANN: Okay. Now, turning your attention to --

5 THE WITNESS: I don't remember the conversation really
6 branching off into anything else at that point. That seemed to
7 be the main focus.

8 BY MR. LEHMANN:

9 Q You don't -- okay. Now, turning your attention to August
10 of this year, last month. Okay. Did you have a conversation
11 with Mr. Johnson?

12 A When?

13 Q In August, last month, with Mr. Johnson and Mister -- do
14 you know who Mr. Lansing is?

15 A I know him. I saw him in the office a couple of times
16 working on a laptop.

17 Q Okay.

18 A But I don't really know him that well, no.

19 Q Okay. Mr. Lansing?

20 A I don't know him that well.

21 Q Okay.

22 A I just saw him there a couple times.

23 Q Alright. Did you have a conversation with Mr. Johnson and
24 where Mr. Lansing was present?

25 A I don't know if it was Mr. Lansing.

1 Q Okay. Who do you think it was?

2 A Somebody who -- somebody was with Charlie and he had
3 similar colored hair, but I can't say that was him.

4 Q Okay. And where --

5 A I was up in the truck and I was getting ready to leave to
6 go out to work. And they approached me the parking lot, Charlie
7 with the other gentleman. It may have been Tom. I'm not going
8 to say for sure. I can't, sorry.

9 Q Okay. And what was said?

10 A Charlie didn't talk this time but the other gentleman said
11 listen, we wanted to give you an update, tell you what's going
12 on. I know you haven't heard in a while, but The National Labor
13 Relations Board have cancelled the vote and there's a lawsuit
14 now. And the only thing we can do now to stop this union thing
15 is if the drivers call your union rep or David somebody-or-
16 other. They gave me this sheet of paper I have here with the
17 names on it. Do you want to see it or not?

18 JUDGE GREEN: Sure.

19 MR. LEHMANN: Sure.

20 JUDGE GREEN: Why not?

21 THE WITNESS: They said here is the names and numbers of
22 these guys. One is the Teamster boss and another one is The
23 National Labor Relations Board. Call these guys up. Tell them
24 you don't want the Union here. That's the only thing we can do
25 now at this point to stop the Union.

- 1 A I don't know.
- 2 Q Well, what were you just saying about a temp agency?
- 3 A That's where they found her.
- 4 Q Okay.
- 5 A How do I know where -- who she works for?
- 6 Q Okay. With regard to -- so you spent -- your first week
- 7 of work, you reported to the Save-A-Lot distribution center to
- 8 get your truck on your first week of work. And then the
- 9 following week was after the company had moved its office to the
- 10 shop across the street?
- 11 A I don't remember when they moved. Oh, the 17th. Yeah,
- 12 that was 10 days later, yeah.
- 13 Q Well, so do you recall at least in your first week of work
- 14 you would report to the Save-A-Lot distribution center and get
- 15 the truck there?
- 16 A Sure.
- 17 Q Right? Alright. And the only change in your job duties -
- 18 - actually, was there any change in your job duties for when --
- 19 after the company moved its office to across the street?
- 20 A Change in job duties? No, only where you picked up the
- 21 truck and picked up your paperwork.
- 22 Q And have you used -- have you ever -- you've gone into Jim
- 23 Lauda's office at the Hogan shop?
- 24 A Yeah, I've been in there a couple times.
- 25 Q Alright. And you're aware that there's bathrooms in that

1 MR. LEHMANN: -- said.

2 JUDGE GREEN: I'm not going to worry too much about it. I
3 mean this is sort of a natural experiment in the ability of
4 human beings to recall.

5 BY MR. LEHMANN:

6 Q Okay. Now, on your pay, your -- how are drivers paid?

7 A They were paid at Hogan by mileage and by stop.

8 Q Okay. And when you left the first time from Hogan, what
9 were you earning per mile?

10 A 41 cents per mile and 12.50 a stop.

11 Q Okay. And when you came back to Hogan what was your hire
12 rate at that point?

13 A 36 cents a mile and 12.50 a stop. That's what I was
14 earning.

15 Q Okay. And when you were terminated, what were you earning
16 then?

17 A 38 cents a mile and 12.50 a stop.

18 Q Now, turning your attention to June 23 of this year. Did
19 you attend a union meeting?

20 A Yes.

21 Q And where was that?

22 A It was at the truck stop parking lot down the road at 9W.

23 Q Okay. And approximately how many employees were there?

24 A Four.

25 Q Approximately four employees?

1 A Five. I'm sorry, five.

2 Q On July 1st -- I don't know if I already asked you this
3 question before. On July 1st did you get a pay raise?

4 A Yes.

5 Q Okay. And was that the two cent --

6 A Yes.

7 Q -- pay raise? When was the last time do you recall
8 getting a pay raise?

9 A Five --

10 JUDGE GREEN: Of any kind.

11 THE WITNESS: Huh?

12 JUDGE GREEN: Yeah.

13 THE WITNESS: Oh, oh.

14 JUDGE GREEN: I mean the reason I said of any kind is
15 because this is not a typical way people get paid.

16 THE WITNESS: Oh, okay. Sure.

17 JUDGE GREEN: It may be typical in terms of truck drivers.

18 THE WITNESS: Alright. The last time I can recall was
19 when -- the first time may three years ago, prior to that day.
20 Three or four years ago. I can't recall an exact date. When
21 they first were going to put a union in there or trying to go
22 for that, they gave them a penny raise and 50 cents more a stop.
23 That's the earliest raise I can recall.

24 BY MR. LEHMANN:

25 Q Now, bringing your attention to late June, at some point

1 Q NLRB. You remember the charge that was filed with regard
2 to your -- well, the charge that was filed alleging that you
3 were terminated?

4 A Yes.

5 Q You filed that on your own behalf, right?

6 A Yes.

7 Q The Union refused to file it for you, right?

8 A I didn't ask the Union to file it for me.

9 Q Alright. You admit that you quit working at Hogan in
10 2011, right?

11 A Yes.

12 Q And you quit because you found a better job at Price
13 Chopper to pull doubles, right?

14 A Yes.

15 Q And you then --

16 JUDGE GREEN: Doubles means what? Double --

17 THE WITNESS: Two 48 foot trailers hooked to one tractor,
18 like a train coming down the road.

19 MR. MODEL: Then you decided approximately five months
20 later that you -- for whatever reason you wanted to leave Price
21 Chopper, and you called up Hogan to see if they had a job and
22 you reapplied and got a job?

23 THE WITNESS: Yes.

24 BY MR. MODEL:

25 Q Okay. So you were not employed by Hogan for five months,

- 1 A Sometimes it was quick, other times you'd have to wait an
2 hour in your car until another truck came back if -- and a lot
3 of --
- 4 Q Okay. Depending if the truck is ready for you?
- 5 A Yes.
- 6 Q Okay.
- 7 A Depending if they got back, the other drivers, because
8 they were constantly --
- 9 Q Got it. You acknowledge there were no changes in your job
10 duties, when the office -- between the time the office was the
11 Save-A-Lot distribution center versus when it got moved to the
12 Hogan shop?
- 13 A That's correct.
- 14 Q Okay. You had the same routes, the same pay, the same
15 hours, everything, right?
- 16 A Yes.
- 17 Q Only difference being where you truck was parked?
- 18 A Correct.
- 19 Q And do you also -- do you acknowledge that even before the
20 move to the Hogan shop that you would also park your -- there
21 had been times where you'd park your truck at that shop?
- 22 A Correct, wintertime to plug them in for the block heaters
23 in them.
- 24 Q Okay. And aside from the winter time, you'd also go to
25 the shop to have work done on your truck and things like that,

1 is that right?

2 A Yes.

3 Q How frequently did you do that before the office moved
4 over?

5 A I'd only go there if I had a problem with a refrigerator
6 unit, to the shop, or if I was having a problem with the truck
7 running. Not that often.

8 Q Okay. And before -- you testified that you were offered a
9 job with Martin Transport, right?

10 A Correct.

11 Q And that was going to be at a local facility, even though
12 it's a -- it's, I think, a Wisconsin-based company?

13 A Yes, correct

14 Q Okay. And you were looking for that -- for a job for how
15 many months before it was offered to you by Martin?

16 A Probably a month.

17 Q And it's true that you told Martin you -- that you were
18 going to accept the job, right, until you found out about the
19 HAZMAT requirement?

20 A Correct.

21 Q Okay. And so you intended to work for Martin, is that
22 right?

23 A Yes, but I still wanted to work for Hogan too.

24 Q Well, we'll get to that.

25 A Okay.

- 1 Q Yes.
- 2 A 55 tops.
- 3 Q Okay. And so you were basically looking to -- when you
- 4 were given the job at Martin it was going to replace your job
- 5 that you had at Hogan, right? Because you were looking to go
- 6 from full time at Hogan to full time at Martin, is that right?
- 7 A I was looking for better wages, not to totally -- well,
- 8 totally replace most of Hogan.
- 9 Q Right.
- 10 A Right.
- 11 Q So you were a full time driver at Hogan, right?
- 12 A Right.
- 13 Q And the job that you were offered was a full time job at
- 14 Martin?
- 15 A Yes, correct.
- 16 Q Okay. And you admit that you told employees, other
- 17 drivers, that you were going to go work for Martin --
- 18 A Yes.
- 19 Q -- is that right?
- 20 A That's correct.
- 21 Q And you also admit that when you talked to Jim Lauda, he
- 22 said he heard that you were leaving, right?
- 23 A Yes.
- 24 Q And you told Jim that you were going to go to Martin,
- 25 right?

- 1 A Yes.
- 2 Q Okay. And can you just go -- it's the second page.
- 3 A Okay.
- 4 Q Mr. Field's, you recognize that --
- 5 A Yes.
- 6 Q -- card? Okay. Alright. And how did it come about that
- 7 Mr. Field signed his card?
- 8 A Out in the yard of Save-A-Lot.
- 9 Q Okay. Did you say anything to him?
- 10 A Didn't have to. He already knew all about it. And they
- 11 were -- people were just waiting for some cards, and I gave them
- 12 to them, they signed them and gave them back to me.
- 13 Q Now, turning your attention to June 2nd, did you attend a
- 14 meeting held by the Union?
- 15 A Yes.
- 16 Q Okay. And where was that?
- 17 A A truck stop down in Coxsackie down the street. Can't
- 18 remember the name of the place.
- 19 Q Okay. Approximately how many employees were there?
- 20 A Nine, 10, somewhere in there. I wasn't really counting.
- 21 There was a few. But I know some people couldn't attend,
- 22 because they were, you know, quick meetings and weren't planned
- 23 out for a very long time. So --
- 24 Q Okay. Now, did you attend another meeting held by the
- 25 Union on June 23rd?

- 1 A Yes.
- 2 Q Okay. And approximately how many employees were present
3 at this meeting?
- 4 A Probably six, seven maybe. Six, I think.
- 5 Q Okay. And what was discussed at this meeting?
- 6 A They -- kind of basically what was going on and how people
7 are not going forward anymore, because they felt that they were
8 threatened -- their jobs threatened and people were just
9 dropping off from it. And trying to hold us together and
10 telling us to be strong. That was about it.
- 11 Q Okay. Now, did there come a time when drivers were told
12 to park and report across the street?
- 13 A Yes.
- 14 Q And can you describe the parking situation at the new
15 location?
- 16 A It was full of potholes, dirt. You got to move trucks to
17 get your car in and swap things around. A mud hole when it
18 rains.
- 19 Q Okay. And before you moved across the street, where were
20 you parking trucks?
- 21 A They were parked across in the Save-A-Lot parking lot.
- 22 Q Okay. And how is the parking over there?
- 23 A Adequate, it was paved, there's lines on the ground, a
24 bathroom you could get into.
- 25 Q Okay. Is there a bathroom across the street?

1 up here.

2 But again, this is -- in our opinion, it's a very series
3 situation. We want to make sure we take the time to talk to you
4 -- finish up talking to you today. And make sure everybody
5 understands what takes place on Friday. I guess, what, after
6 10:00 O'clock tomorrow morning weren't not supposed to be
7 campaigning any more. So we want to do that today.

8 And if you guys have any questions I think tomorrow you
9 could ask the questions but we're not going to be campaigning,
10 so to speak, telling you what our opinion is and what we think
11 is the right thing to do after tomorrow morning, because I guess
12 that's the rules, the day before the election. So that's why I
13 wanted to take the time today to go over that stuff and I
14 appreciate you guys all attending today.

15 A couple things from the last meeting and a couple
16 developments. You -- I think you guys all got the notices that
17 were posted. There were two notices posted over in the office,
18 as well as I think Jim handed it out to you. One was regarding
19 the driver pay. That went into effect July 1st.

20 I think there was a reference on the notice about the
21 Union filed a charge trying to prevent us from putting that into
22 play, as far as raising the rate. We raised them July 1st. I
23 don't know where that's going to go or to be discussed, but in
24 my opinion that's an example of what -- when you bring a third
25 party in here, it's hard to do things that we want to do between

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070

1 the employer and employee. But with all that said, we still
2 went forward with the increase on July 1st.

3 As well as that notice, I think we shared with you all
4 information about the Local. That's public information. Told
5 you who is working there, what they make in salary, and
6 benefits, and expenses and things like that. And I think you
7 guys saw that's posted up over in the office and I think we gave
8 you all a copy of it.

9 The reason is because a lot of people ask questions like
10 well, where do my union dues go or what are they for? And
11 obviously, they're going to pay for the salaries or part of the
12 salaries of the Local's employees. Ours and yours position is
13 to ask well, why should I pay dues? I don't need to pay dues to
14 somebody else when I can go to talk the employer or whatever.
15 And I may not want to support the business agents, things like
16 that.

17 So that's something that the Labor Board makes available
18 to everybody so they could see it so there's no question on what
19 your dues go for and what the -- or what -- actually what the
20 agents are making at the Local. So that's why we shared that
21 information.

22 A couple of things I guess from the last meeting I had.
23 Some drivers approached me and asked me my opinion as far as if
24 the Union is voted in at this location what do I think would
25 happen with the business. And I told them the same thing I told

1 you guys in the last meeting. We've been doing business Save-A-
2 Lot, not at this location, but at least some of the other
3 locations for 25 years.

4 They operate all the distribution centers non-union. They
5 don't have any company stores union. None of them are union.
6 They don't have any store delivery provided for a union. It's
7 my strong opinion if the drivers are organized up here that they
8 will find an alternative solution to get their deliveries made
9 to their stores, because that's the way they operate. That's
10 their choice. We can't control what they do.

11 And I'm not here to threaten jobs. I'm not here to scare
12 you guys, but I feel like it's my responsibility to share with
13 you what I feel, because if a union was to get voted in and
14 something happened to the jobs, candidly I don't want somebody
15 approaching me and saying why didn't you explain that to us, and
16 tell us that could have been the consequences? So we're sharing
17 that up front with you, letting you know that's what we strongly
18 believe will happen if the Union is voted in here.

19 And again, that's just because of their track record with
20 Save-A-Lot. They've got a business to run. People line up
21 every day to haul their freight. We all know that. That's the
22 (indiscernible), so.

23 So that's the way I answered some of the individuals that
24 came up to me. It's the same thing I think I told when I was up
25 here three weeks ago. Nothing has changed there.

1 You guys know what takes place in the DC. I think they --
2 Save-A-Lot plays a very active role in keeping their
3 distribution centers non-union. I don't think that's a secret.
4 I'm sure some of the employees will test it out over there.

5 You know, as far as -- I think a couple of other things
6 that came up, one of you guys in the room I think you brought up
7 the health insurance. I think it was James, you brought up the
8 health insurance thing. You know, we checked. I say we
9 checked. I think we've asked you to call our benefits lady in
10 St. Louis and I would strongly encourage you to do that, to try
11 to get to the bottom of what's going on there, because I think
12 she could, if there is an issue, resolve it. And I know we gave
13 you that information a couple weeks ago and I would encourage
14 you to follow through.

15 We did check with the insurance company. They don't have
16 a record of the claims that you mentioned in the last meeting
17 being filed. So don't know if there's a mix up there or the
18 claims haven't been filed, but I just -- when I come up and
19 stand in front of you guys I hear issues that come up like that,
20 that sound like big problems.

21 It's my responsibility, all of ours, to address them. Go
22 back to St. Louis, we figure them out. So we've done all we can
23 at this point, as far as contacting the insurance company. You
24 know, obviously with the HIPAA laws they can only share so much
25 information, but they said there was no file -- oh, not files.

1 *Claims that you had filed.*

2 *And I'm not saying they're right. I'm just telling you*
3 *what they told us pertaining to an accident or whatever. So*
4 *that's why, Jim, I would encourage you to call Sally and maybe*
5 *there's more digging that we have to do. But, you know, it's*
6 *our responsibility to follow through with some of these things*
7 *that you guys bring up and say are problems.*

8 *And that's how I -- it's not a problem -- I think it was a*
9 *problem, but, you know, we did double check on the benefits.*
10 *And, you know, if you're in the network, which I think most of*
11 *the time you would get in the network, the maximum amount out of*
12 *pocket is \$5,000. It's not that \$35,000 or whatever you*
13 *mentioned. So if you're paying it out of your pocket I would*
14 *follow through on it or do what you need to do. But I'm not*
15 *sure there's anything else we could do from our standpoint.*

16 *MR. LANSING: You know, Dave, we'll get -- I'll get going*
17 *with some questions from time to time, not as severe as yours,*
18 *but a claim didn't get paid or something is happening and -- you*
19 *know, and 99% of the time it's just somebody's either*
20 *interpreting the explanation of benefits wrong or something got*
21 *submitted wrong. And I was telling David I had some blood work*
22 *done about three months ago, and I got that letter saying the*
23 *insurance company is declining it, and come to find out I called*
24 *the people who did the blood work and they submitted it to the*
25 *wrong insurance company. So naturally it was going to get*

1 declined, because I wasn't with the other insurance company.

2 So a lot of times it's just some type of system problem
3 that just needs to be straightened out. All we got to do is
4 follow up on it. So if you need some help in that area if Sally
5 can't get you what you need, let me know. I'll personally
6 follow through.

7 MR. HOGAN: You know, and I think you guys all know this.
8 We pay a lot of money for health insurance. The company pays a
9 lot of money for health insurance. Let's make sure we at least
10 get our money's worth on situations like these.

11 So Jim, if I'm in your position I'm gonna -- if I'm on the
12 phone with these guys I'm going to get to the bottom of it. So
13 -- but we can't do any more because of the HIPAA law, but that's
14 what they told us. So that's where it's at. That's a big deal.

15 MR. LANSING: Yes, absolutely.

16 MR. HOGAN: We've we talked about something like that.
17 But like Don we again as he said you run along some competition
18 and you we have to get it straighten out. I have a record of
19 the claim in the file is what they shared with us.

20 MR. LAUDA: Correct.

21 MR. HOGAN: So I think something came up last time.
22 Somebody said and we've had some discussions back and forth last
23 time. And somebody said well, you know, if I signed a card and,
24 you know, I change my mind and vote no in the election, you
25 know, you guys aren't going to like that. Retaliate against me

1 or fire me.

2 Well, first of all it's against Labor Law to do that.
3 Second of all we don't operate that way so we would not do that.
4 So if somebody says well, I was pushing the Union, or I was for
5 it, or I signed a card and then I switched, we're not going to
6 retaliate against that.

7 Just like Jim brought it up at the last meeting. There
8 was probably a handful of individuals that expressed their,
9 maybe, desire to talk to the Union two or three years ago. I
10 think they're still here. Your folks will know more -- but I
11 think that's proof in the pudding that we're not firing people
12 for that.

13 You guys have the right to talk to a union. I mean that's
14 your legal right to talk to them, it's your legal right to
15 organize. So I just want to make sure you all understand that's
16 not the way we operate. We're not going to retaliate. We can't
17 do that.

18 So I just wanted to clear the air and make sure that
19 wasn't a concern. What I'd like to do, and Tom unless you or
20 Charlie, if you guys have anything else, we want to give a
21 handout. And what it is it's just again kind of reiterating our
22 position as the company and what's going to take place Friday
23 and a sample ballot on Friday. What it looks like. So -- and
24 that's for you guys to keep.

25 MR. LANSING: And I think while Charlie is handing it out

1 I think the main impotence here is guys, it doesn't matter up to
2 this point whether you signed a card, didn't sign a card, what
3 your feelings were then. What matters is what you do Friday.
4 So it's important that everybody gets out and votes.

5 Don't sit back and think well, I don't really care what
6 happens or it's going to be this way and it doesn't matter. It
7 matters. It matters that everybody votes. Don't let somebody
8 else make a decision for you. Get out there and cast your vote.

9 MR. HOGAN: Yeah, I talked to one driver (indiscernible)
10 when I was up here last time who said well, I don't think I'm
11 going to vote and I said that's the worst thing you could do.
12 Like Tom just said, you need to vote. Yes or no, you need to
13 vote, because that's your right. So I am strongly encouraging
14 everybody in this room go vote.

15 Now, at the same time you can read the letter. Take it
16 with you. I'm asking you to vote no, because I feel very
17 strongly that voting a union in here is not the right decision.
18 Somebody asked at the end of the last meeting well, what can the
19 Union do for us and what would change if the Union got in here?

20 And I said well, you know, first of all any wages or
21 benefits, we have to agree to any changes in the wages and
22 benefits. The Union can't just arbitrarily change them, get
23 them all that stuff. But to me that's all a moot point, because
24 I think again, if the Union comes in here I feel like there's
25 probably not much to talk about because there won't be jobs.

1 We've got one customer here and that customer in my opinion is
2 going to go down the road and find an alternative solution.

3 So I'm asking you today to vote no. A no vote is we do
4 not want the Union representing. You have the right to vote
5 either way. Attached to that cover letter there's a sample
6 ballot. Yes or no, you put an X through it. It says in that
7 sheet too don't print your name, sign your name, because this is
8 all confidential. So you just -- you make your vote and don't
9 put your name down.

10 MR. LANSING: By the way, it's at the Holiday Inn Express,
11 which is on that notice, on that ballot. It's also in the
12 notice that's posted. Just make sure everybody know that. A
13 couple people in the other meeting had a concern that people
14 will go somewhere else, because they don't know where it's at.
15 So it's at the Holiday Inn Express.

16 MR. HOGAN: Yeah, actually if you look at the top of the
17 sample ballot it says date and place. And it's from 10:00 to
18 5:00 on Friday, this Friday. And again, it's a real simple
19 process as far as the vote goes. There's going to be somebody
20 there from the Labor Board. I'm assuming there's going to be
21 somebody there from the Union. And then there will be somebody
22 from the company there.

23 And somebody asked us when will we find out the results of
24 the vote? And we will find out the results of the vote right
25 after 5:00 O'clock. Generally, that doesn't mean, you know, the

1 Union doesn't challenge the vote if it's a favorable vote for
2 the company or vice versa, if it's an unfavorable vote for the
3 company we don't challenge it. I can't answer that. I do know
4 they could the ballots right afterwards and you find out.

5 So -- but that's how that process works. And again, maybe
6 you guys have been through this I understand -- some of you
7 understand it, other haven't been exposed to a -- you know, an
8 organizing campaign, and the vote and all, but it is important
9 for you guys to vote, because I think one way or other it's
10 going to affect the future.

11 And even if you're not that concerned about what it's
12 going (indiscernible) you may be personally. Think about your
13 fellow driver. Maybe they're more concerned, or maybe they've
14 got 10 years more to work and maybe you've got one year or
15 whatever the situation is. Just think about the group as a
16 whole, because it is important.

17 MR. LANSING: And just Dave -- I just want to -- the
18 process for the people who haven't been through it before, it's
19 very simple. You go in, they'll check your name off the list
20 that'll be there with all the drivers on it. There will be one
21 booth. And you'll go up, and take your ballot, and mark it and
22 you'll drop it in the voting booth and that's it. And then at
23 5:00 O'clock we'll count those votes.

24 MR. HOGAN: You know, I think again, as we shared with
25 you, we really -- we're not supposed to campaign after 10:00

1 O'clock tomorrow morning and I think the Union has to follow
2 those same rules. They may continue to talk to you or campaign.
3 I would just like to reiterate that they may tell you things and
4 they may be saying this all along that they can promise you
5 certain wages and benefits. And that Save-A-Lot, the customer,
6 will not go away.

7 That's so far from the truth, because they can't promise
8 or guarantee anything on working conditions, wages or benefits
9 and they have no control over the customer and the marketplace
10 out there. So regardless of what they say, I'm telling you how
11 it works. I mean Save-A-Lot may go to another carrier if they
12 want to.

13 And as far as bringing the union in
14 (coughing/indiscernible) wage and benefits or any other changes.
15 So I'm just -- feel strongly that we don't need a union in here.
16 Somebody asked me well, where have you guys been the last two or
17 three years and I'm going to say we should have been up here
18 more often. We probably should have communicated better.

19 Again, somebody said well, communication is everything.
20 And I said well, I agree with that. We can't resolve all the
21 issues, but at least we can resolve some of them and try to work
22 with you guys.

23 So -- again, somebody asked me what about wages for next
24 year? As I said three weeks ago I can't promise anything on
25 wages. I promise you we'll be up here and we'll talk to you on

1 a more regular basis.

2 And candidly, maybe that's why some of the folks wanted to
3 check out a union, because they didn't feel like they were
4 getting a voice. And I understand. And I can't fault anybody
5 for saying hey, maybe we'd get a better voice if we had a union?
6 But that's not the solution.

7 The solution, I think, to talk to us and I always
8 encourage people, you know, if you don't feel like you're
9 getting attention or maybe Jim doesn't have the authority or
10 whatever. And I'm not putting any onus on Jim, but if you need
11 to talk to somebody in St. Louis, you know, call me, or Tom or
12 Charlie. That's why we're here.

13 Somebody actually told me this morning well, you're going
14 get an email. I said well, good, in encourage emails, because I
15 respond to them all. So -- but again, this -- I will also say
16 it, but it's -- this is a serious decision on Friday for you
17 guys. So I would strongly ask that you vote no. I think in the
18 long term that's the right direction for everyone in this room.

19 MR. LANSING: And Dave, the only other thing I could add
20 is we've had a few drivers come up and say, you know, I signed a
21 card. I wasn't really sure about signing it and all, but I
22 signed it, you know, I was interested in finding out and, you
23 know, now I don't know if I feel that way anymore and they're
24 feeling some pressure from some other people. Again, it doesn't
25 matter what you've done up to this point. Okay?

1 All that matters is what you do on Friday. That's why I
2 encourage everybody to get there and vote, because it doesn't
3 matter until Friday. Friday is what's important. So --

4 MR. HOGAN: Good point.

5 MR. LANSING: Yeah.

6 MR. HOGAN: Because even if you signed the authorization
7 card that doesn't mean -- you know, you can vote either way on
8 Friday.

9 MR. LANSING: Yeah.

10 MR. HOGAN: Again, we're asking you to vote no. So --
11 it's awful quiet. Any questions? Is everybody comfortable they
12 think what the -- how the thing works on Friday? And if there's
13 some reason that there's a conflict in your work schedule, you
14 need to talk to Jim, because he'll make sure he takes care of
15 that conflict, that you're available to vote. Is that fair to
16 say?

17 MR. LAUDA: So far everybody --

18 MR. HOGAN: So --

19 UNIDENTIFIED SPEAKER: You mentioned that Friday at 5:00
20 when the vote closes, you guys will find out the result, but
21 when will we find out? Saturday morning or --

22 MR. HOGAN: You know, that's a good question. I mean the
23 Labor Board is going to be there counting the votes. And I'm
24 assuming unless there's some big issue, that we will probably
25 share that right away. Now, if something comes up we might

1 share with you with a copy out of something that the Labor Board
2 has done, but I don't see any reason we wouldn't get that
3 information right out to you. So --

4 MR. LANSING: I mean I know there's going to be some
5 interested parties there, you know, what the count is right
6 away. So I'm sure that the word is going to get out right away,
7 whether we make an announcement or not. So it'll be out Friday
8 night. And I don't know, David, if the Board actually sends a
9 notice out after that to tell what the result is or not. I mean
10 I don't know that answer.

11 MR. HOGAN: Yeah, I don't know if they send like a
12 confirmation --

13 MR. LANSING: Yeah.

14 MR. HOGAN: -- or a certification or something that says
15 okay it was a yes, no or a no vote or whatever.

16 MR. LANSING: I don't know.

17 MR. HOGAN: But I know we'll find out.

18 MR. LANSING: Yes.

19 MR. HOGAN: So we'll share that with you as soon as we
20 find out. But, you know, as I've shared with you my feeling as
21 far as being the Union or a third party in here, I'm strongly
22 against it. I would just ask for an opportunity for us to
23 continue working as an employer-employee so we can have a
24 dialogue we've had over the last three or four weeks and not
25 have somebody interfere with that.

1 And then probably most importantly, I've said it probably
2 five times this meeting, and somebody said well, I don't think
3 that's true, but I'm telling you my opinion is won't have the
4 business anymore. We've only got one customer. It's like we
5 have 10 and two customers say oh, we're going to move down the
6 road.

7 We've got one customer and if you know that customer well
8 like we do, I just don't want to be put in that position. So if
9 you guys are going to be -- I'll be around the rest of the
10 afternoon if you have any -- want to talk to me one on one, or
11 Tom, or Charlie or Jim briefly. So -- but if you guys have any
12 questions let us know. Alright. Anything else Tom? It's all
13 yours.

14 MR. LANSING: Thank you guys for coming in and --

15 MR. HOGAN: Yeah, thank you.

16 MR. LANSING: -- for your time. And I know somebody
17 wanted to get out of here. So --

18 UNIDENTIFIED SPEAKER: I want to get out of here and go
19 home.

20 MR. LANSING: Thanks again, guys. I appreciate you guys
21 coming out here. If you guys have got any questions we're here.

22 (Audio being played ended)

23 JUDGE GREEN: Off the record.

24 (Whereupon, at 4:50 p.m. the hearing in the above-entitled
25 matter adjourned, to reconvene on Friday, September 27, 2013, at

1 9:00 a.m.)

2

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1 would contact them if I felt it necessary." And then I got a
2 call from the Labor Department so --

3 Q So you got a call from the Labor Department?

4 A Yeah, he -- the gentleman called me.

5 Q Okay. You didn't call him?

6 A No, he called me pursuant to the union cards he said.

7 Q Okay. And --

8 A It was like three days later.

9 Q -- what did you --

10 A Well, he asked me -- I explained to him that I was going
11 to be contacting him, the David Turner, and to ask questions,
12 and, you know, I wanted to know if we could get our cards back,
13 if so what steps we had to take, stuff like that. And then he
14 asked me if wanted to make a statement of how I got the form
15 because he had heard that the forms were handed out and that
16 other -- he would be contacting other drivers. And that's how
17 I made my statement and everything.

18 Q Okay. Did you tell -- now, in your -- would August 12,
19 2013, or on or about August 12th, is that --

20 A That sounds about right, it was about 1:00, 2:00 in the
21 afternoon.

22 Q And just so that I'm clear, or the record is clear, you
23 contacted Mr. Turner or Mr. Turner contacted you?

24 A Mr. Turner called me.

25 Q Okay. And that was right after this time period?

1 A It was like that Friday, because I was -- I'm off on
2 Fridays, so I remember this was like on a Wednesday or so, it
3 was in the same week, it was a couple of days later, but he
4 called me.

5 Q Okay. And -- okay. And did you tell -- did you respond
6 when Mr. Lansing provided you with the paper? Had you
7 requested that paper or did he just provide it to you?

8 A No, he said they were available if we wanted them, they
9 were in the stock and they were on the table. Just -- we have
10 a whole bunch of papers, like maps and-- and he says, "If
11 you're interested and if you want it express your concerns or
12 have any questions, other than Hogan, this is the information,
13 and if you want one take one. If you don't it's fine."

14 Q Okay. And did you tell him anything?

15 A No, not that I recall.

16 Q Did you tell him that I would talk to the Labor
17 Department?

18 A I said I would be contacting them more than likely, yes.

19 Q Okay.

20 MR. LEHMAN: Nothing further.

21 MR. MODEL: I'd like a copy of any statements this Witness
22 provided.

23 JUDGE GREEN: So, wait, did you actually send in some kind
24 of document revoking you card?

25 THE WITNESS: I sent a written photocopy, I just

1 freehanded a letter. When I faxed in my affidavit I faxed that
2 in also with it.

3 JUDGE GREEN: When was that?

4 MR. MODEL: Hopefully that's being provided now.

5 THE WITNESS: I don't know the date, a couple of days
6 afterwards, around the 15th probably.

7 JUDGE GREEN: Of August?

8 THE WITNESS: Yes, Sir. I sent a copy of this and I had a
9 statement in that free formed letter, it's a quick scribble.

10 JUDGE GREEN: Okay.

11 MR. LEHMAN: Can we mark this as --

12 COURT REPORTER: 17.

13 MR. LEHMAN: 17, please?

14 **(General Counsel Exhibit 17 marked for identification.)**

15 MR. MODEL: Greg, do you have his statement?

16 JUDGE GREEN: Yeah, yeah.

17 MR. LEHMAN: This is pursuant to --

18 JUDGE GREEN: He hasn't finished.

19 BY MR. LEHMAN:

20 Q I'm showing you what's been marked as General Counsel
21 Exhibit 17, is that -- do you recognize that document?

22 A Yes, I wrote this.

23 Q Okay. And when did you write that?

24 A August 14th.

25 Q Okay.

1 JUDGE GREEN: See about what?

2 THE WITNESS: Getting my union card back that I signed.

3 JUDGE GREEN: Yeah. I need to get more, I need a bigger
4 context. Could you tell me what happened at this meeting, from
5 beginning to end?

6 THE WITNESS: Well, it wasn't actually a meeting, I had
7 came in from my run --

8 JUDGE GREEN: Yeah.

9 THE WITNESS: -- and I went into the office, I asked him,
10 "What would be the process if I wanted to get my union card
11 back that I signed".

12 JUDGE GREEN: All right. But let me back up a second.

13 THE WITNESS: Okay.

14 JUDGE GREEN: You finish your run --

15 THE WITNESS: Yes.

16 JUDGE GREEN: -- you went into the office, and when you
17 get into the office who was actually -- who was there at the
18 time?

19 THE WITNESS: It was me, it was Jim, it's the gentleman --

20 JUDGE GREEN: Yeah, Mr. Lansing.

21 THE WITNESS: Mr. Lansing, Tony Rogers that was just --

22 JUDGE GREEN: The previous person?

23 THE WITNESS: Yeah, and --

24 JUDGE GREEN: He's another driver?

25 THE WITNESS: Yes.

1 JUDGE GREEN: Okay. And were they talking among
2 themselves before you got there? Did it look like they were
3 talking to each other?

4 THE WITNESS: Well, they were just in there sitting when I
5 actually walked in, nobody was really talking.

6 JUDGE GREEN: Okay. So what is the first thing you recall
7 happening when you walked it?

8 THE WITNESS: I spoke to everybody, and then --

9 JUDGE GREEN: "I" --

10 THE WITNESS: Yeah.

11 JUDGE GREEN: Okay.

12 THE WITNESS: Okay. And then I just asked about what
13 would be the process if I want to get my card back.

14 JUDGE GREEN: Okay. And then what happened?

15 THE WITNESS: Then he said I would have to call this guy
16 at the union and ask him for the card back.

17 JUDGE GREEN: Okay. And what -- could you -- I mean as
18 best you can. I know this happened a while ago.

19 THE WITNESS: A while ago.

20 JUDGE GREEN: If you can fill the -- you know, fill me in
21 on the total -- you know, the total transaction as best you
22 can. From what I get so far you walked in, everybody was
23 talking, "Hello, how are you", and then you said, "I'd like to
24 know how to get my card back" --

25 THE WITNESS: Yeah.

1 JUDGE GREEN: -- and somebody said, "Well, here's a piece
2 of paper, you can call these -- one of these people, or two of
3 these", I don't know.

4 THE WITNESS: Yeah, I would call this John Bulgaro.

5 JUDGE GREEN: Well, is that the person?

6 THE WITNESS: Yeah, on the --

7 JUDGE GREEN: That's John Bulgaro?

8 THE WITNESS: Yes.

9 JUDGE GREEN: Okay. And then how did you get the piece of
10 paper?

11 THE WITNESS: From the gentleman right there.

12 JUDGE GREEN: Oh, Mr. Lansing?

13 THE WITNESS: Yeah.

14 JUDGE GREEN: He gave you the --

15 THE WITNESS: Yes.

16 JUDGE GREEN: All right. Was anything else said during
17 this period of time?

18 THE WITNESS: No, not really. I just asked him, "Had
19 there ever been a time when someone wanted the card back and
20 they couldn't get it back", and he said, "No, not really. If
21 you wanted it back all you have to is just call."

22 JUDGE GREEN: Okay. During this conversation, or any
23 previous conversations for that matter, did anybody from the
24 company suggest to you, or ask you to get your card back from
25 the union?

1 THE WITNESS: No.

2 JUDGE GREEN: All right. I don't -- you know, it's none
3 of my business as to what you think about the union one way of
4 the other. That's your private affair. I don't really -- I'm
5 not really authorized, nor should I be inquiring as to how you
6 feel about that, that's none of my business, okay?

7 THE WITNESS: Okay.

8 JUDGE GREEN: But I'm going -- but my question was, and
9 I'll ask it again just to make sure, it's whether or not any
10 agent of the company, whether you -- you know, you think it was
11 an agent of the company, ever approached you, either in a group
12 or in person and said, "Look, I'd like you to go back to the
13 union and" --

14 THE WITNESS: No.

15 JUDGE GREEN: -- "get your card back" --

16 THE WITNESS: No one has.

17 JUDGE GREEN: -- or withdrawing your card?

18 THE WITNESS: No, one ever pressured me to --

19 JUDGE GREEN: Not even pressure, just simply ask.

20 THE WITNESS: No, no. That was something I -- because
21 when I signed the card at the time it seemed like a good idea,
22 but as it got farther down the line and we got more into it
23 then that was the decision I made on my own about getting the
24 card back.

25 JUDGE GREEN: All right.

1 Q Now, did there come a time when you contacted David Turner
2 from my office?

3 A Yeah.

4 Q Okay. And how did you get Mr. Turner's number?

5 A It was on a sheet of paper like this.

6 Q Okay. Is that -- and you're holding up General Counsel
7 Exhibit 15?

8 A Yes.

9 Q Okay. Now, did you receive General Counsel Exhibit 15?

10 A I --

11 Q Have you received it?

12 A Yeah.

13 Q Okay. And where -- tell me the circumstances surrounding
14 when you received --

15 A Well, I just went into the office and I wanted to know
16 what was going on and I wanted my card back because when I
17 signed the card through the union I was going just for, you
18 know, information basically, and I started thinking about it
19 and I changed my mind, and I wanted to get my card back so I
20 wouldn't be in that situation. And Jim gave me this, he said,
21 "This is the information", and that was it.

22 Q Okay. Now, this is on or about August 14th?

23 A Right. I don't know, I guess.

24 Q Okay. Were you provided a -- does the date sound --

25 A I guess, yeah.

1 it", he says, "It's nothing but a pain." So I thought about it
2 and I said, "No, I don't want it." I changed my mind.

3 Q And you attended the two employer meetings?

4 A Yeah.

5 Q That the employer held?

6 A Yeah.

7 Q Okay.

8 A Yeah.

9 Q And I want to bring your attention back to the meeting
10 when you received that document. You sure you asked Mr. Lauda
11 how to get my card back, or did he hand you that piece of paper
12 first?

13 A No, I asked. That was up to me. He had nothing to do
14 with it.

15 MR. LEHMAN: 18?

16 COURT REPORTER: Yes.

17 **(General Counsel Exhibit 18 marked for identification.)**

18 MR. LEHMAN: I'm showing you General Counsel Exhibit 18.

19 BY MR. LEHMAN:

20 Q Okay, do you recognize this statement?

21 A Yes.

22 Q Okay. And this is your affidavit that you provided to Mr.
23 Turner at the NLRB?

24 A Yeah, I'm reading it right now, sir.

25 **(Witness reviews document.)**

1 THE WITNESS: That's about right, yeah.

2 MR. LEHMAN: Okay.

3 BY MR. LEHMAN:

4 Q So you had gone into Mr. Lauda's office?

5 A Uh-huh.

6 Q Okay. And then the next thing -- it says, "I had gone
7 into the supervisor, Jim Lauda's office, to say 'hello' and
8 fill out a vehicle inspection report" --

9 A Right.

10 Q -- "Lauda gave me this piece of paper with the name David
11 Turner, the agent of the NLRB, with his phone number."

12 A Right.

13 Q Okay. "There is also the name and number of the union on
14 the paper."

15 A Right.

16 Q Is that how it happened?

17 A Well, I basically --

18 Q You went into --

19 A -- asked about -- like I said, I asked first how I go
20 about getting my card.

21 Q Okay. And so -- but that's not in your affidavit --

22 A No, but I did --

23 Q -- what you're testifying --

24 A I think I did mention it, I'm not sure.

25 Q Okay. Well, let's continue. My name is not on the paper?

1 A No.

2 Q "Lauda told me that this is what is going on, and if I
3 wanted to call I could, and if I didn't want to I should not."

4 A Right, it's my own decision what to do.

5 Q "I accepted the paper from him, we told -- we did not
6 discuss what we -- what I was going to do about asking for my
7 card back. I had told Lauda weeks earlier that I had signed a
8 card and then I regretted it."

9 A Right.

10 Q And so before you had told him that you had signed a card?

11 A Yeah.

12 Q Okay.

13 A And to this day I still do not have my card.

14 Q Okay. Now, was anyone else present in this office?

15 A I don't think so.

16 Q Okay.

17 MR. LEHMAN: I would offer General Counsel Exhibit 18.

18 MR. MODEL: Your Honor, I objection to this on the same --

19 JUDGE GREEN: It's sustained. For the same reason I
20 sustained his objection to your offer. Okay?* 18?

21 MR. LEHMAN: Nothing further.

22 MR. MODEL: Ms. Glennon, hi.

23 THE WITNESS: Hi.

24 MR. MODEL: Good morning.

25 **CROSS-EXAMINATION**

AUDIO RECORDING

Transcribed for the
National Labor Relations Board Region 3

Transcript 2 of 2

By: Mary E. Dring

Burke Court Reporting, LLC

1 coffee, thanks (inaudible).

2 EMPLOYEE: Maybe he's out -- maybe he's out
3 there on the highway going (makes sound).

4 EMPLOYEE: Just listen to the radio, that's all
5 I do. I spend time in my car thinking what the hell.
6 (Inaudible).

7 EMPLOYEE: Oh, boy oh boy, I ain't sitting in
8 that fucking (inaudible).

9 EMPLOYEE: Smile, buddy.

10 EMPLOYEE: I never smile.

11 EMPLOYEE: Oh.

12 EMPLOYEE: This is all of us and (inaudible).

13 UNIDENTIFIED FEMALE SPEAKER: Okay.

14 EMPLOYEE: Oh, you suck ass.

15 EMPLOYEE: What's this?

16 EMPLOYEE: Oh, I already told you -- I already
17 to you about -- sent somebody over -- the car broke down
18 so he didn't make it.

19 EMPLOYEE: Yeah, I know, tell me about it. This
20 is everybody?

21 EMPLOYEE: Oh, yeah. Well, they're going to
22 have more than one meeting. They got one --

23 EMPLOYEE: Well, how long is this meeting?

24 EMPLOYEE: I don't know.

1 EMPLOYEE: I got to go to the bathroom.
2 EMPLOYEE: You have to what?
3 EMPLOYEE: I got to go to the bathroom.
4 EMPLOYEE: Right over there. It's open.
5 EMPLOYEE: (Inaudible)?
6 EMPLOYEE: You guys (inaudible).
7 MR. HOGAN: (Inaudible) -- I've met everybody
8 here, didn't I?
9 EMPLOYEE: (Inaudible).
10 EMPLOYEE: He's taking the foot rest.
11 EMPLOYEE: I'm sorry.
12 EMPLOYEE: Just giving you more leg room to
13 stretch out.
14 MR. HOGAN: I asked these guys if we could go
15 down to the hotel and get a nice room for this meeting, so
16 if you don't like room, blame it on these guys. I guess
17 it is convenient, so --
18 Listen, I just wanted to come up, I'm David
19 Hogan. I don't think I've -- I just met all you folks
20 this morning. I want to take a little time and just talk
21 to you about --
22 Obviously you guys know what's going on with the
23 Union campaign. Want to go over some stuff with you. If
24 you got some questions along the way speak up. Ask.

1 That's why we're here today, just to talk about some of
2 that stuff.

3 We're -- you guys understand what our
4 company's view point is, what my viewpoint is. Actually
5 would like to hear what you guys thoughts are. But I just
6 want to go over some things. I've made some notes here.
7 And there's been -- there's stuff you guys may know about;
8 I want to make sure we're all on the same page and that
9 everybody understands what's going on.

10 As you know, there's been a petition filed by
11 the Union and there's going to be a vote on July 12th,
12 which I believe is on a Friday. I think it's three weeks
13 from this Friday. So you know, everybody will have to get
14 a vote if they want to have the Union at the shop here or
15 they don't want a Union here. I would ask everybody to
16 vote. It's your right to vote.

17 So, we've talked about it. The worst thing you
18 could do for yourself would be to not vote. So vote
19 however you feel you need to vote. But I would not -- you
20 know, don't -- don't just not show up to vote; that's not
21 fair to you all as, you know, drivers. You have the right
22 to not the join the Union or you have the right to join
23 the Union. And we understand the rules and how they work
24 and we respect your right to organize.

1 We don't necessarily agree with it, but we
2 respect and we understand why some people have elected to
3 look at that. So again, that's July 12th.

4 Before I forget, there have been some questions.
5 I think some people have asked is it a secret ballot or do
6 you hold your hand up and vote "YES" or "NO". It's a
7 secret ballot so I think you go in a room and you fill out
8 a thing and drop it in a box and then somebody from the
9 Labor Board counts the votes. So that's the way it works.
10 So you vote how you want . I believe it's a secret ballot
11 that the Labor Board oversees and make sure the votes are
12 counted correctly and everybody gets to vote the way they
13 want to vote.

14 A couple things, they've been making some notes
15 here. Please, if you guys have any questions along the
16 way let me know.

17 You know, again, some of you all might have come
18 from the Union background, I don't know, maybe some of you
19 have not, but you know, if -- if we are organized here at
20 this shop what happens is the relationship kind of changes
21 between the employer and employee. And if there are
22 issues that come up, questions -- if it's on wages and
23 benefits or if it's, you know, just I guess everyday kind
24 of work rules or assignments of loads, things like that, a

1 lot of that stuff we'll have to work through a union rep.
2 And likewise, you all will, too. And some of that stuff
3 we can't talk to you directly.

4 If you guys have issues, some of that stuff
5 you just can't go to James and say, hey, I got a question
6 here, I don't like this, or can I do that? We're going to
7 have to work through a third party. Or you guys might
8 recognize that, and ladies, too; that's how it works when
9 you get into that type of atmosphere.

10 You guys might think that's fine . We don't
11 think that's necessary. We would like to just work
12 directly --

13 TONY Rogers: I think he's on something.

14 MR. HOGAN: -- with the drivers and vice-versa.
15 It's just, you know -- and that goes with any relationship
16 you have with anybody. You know, it's like be married to
17 my wife; I don't like talking to a third party to talk to
18 her. I want to go straight to her and vice-versa.

19 James Young: Well, you guys change the health
20 insurance whenever you want and people have doctors that
21 this insurance here don't cover, and it's not right that
22 you go changing insurances like that just to save a couple
23 dollars for yourself. That's -- that's not fair.

24 MR. HOGAN: Well, so you understand -- you say

1 as far as the doctors are not covered --

2 James Young: Exactly. I mean, I have a --
3 surgery and it cost me \$35,000 out of my own pocket and
4 I'm still paying it.

5 MR. HOGAN: For just you?

6 James Young: Just me.

7 MR. HOGAN: Okay because our deductible's a lot
8 lower than that. I mean, unless it was a very expensive
9 procedure. I would be happy to check into that. But I do
10 know in the last two or three years we've been staying
11 with the same insurance company because we've heard from a
12 lot of folks. I do have -- employees saying listen, at
13 least keep the insurance consistent so we know what
14 doctors are in the program year after year, and what's
15 covered, so we've tried to stay with Anthem for the last
16 two or three years.

17 When we make changes, so you know, we're not
18 saving money. I mean, we changed to the new policy (this
19 year on April first it cost the company over a million
20 dollars. The company. We passed additional amount on to
21 the -- to employees to cover some of that. But our
22 insurance unfortunately goes up about 9 or 10 percent
23 every year. So we're not saving money, it costs us. I
24 mean, and we still pick up the lion share of the

1 insurance costs. The company does. I understand
2 employees pick up a big portion of it, but it's a smaller
3 portion than what the company does.

4 I don't -- a good solution to it. I understand
5 it's very difficult for the employees. I've talked to a
6 lot of people throughout the years that say the health
7 insurance cost is killing me. And that's why we try to
8 absorb as much as we can from the company's standpoint.

9 But I do know talking with folks over the last
10 couple of years, they tell us don't change (inaudible) and
11 don't change the insurance company at least till we know
12 what we're getting. Because there for a couple years we
13 were switching companies and somebody said well, I'm not
14 getting this anymore, you got to deal with the insurance
15 carrier. So we're trying to do that. So we're trying to
16 work with Anthem just because everybody says they think
17 that's the best one and its consistent year after year.

18 James Young: Well --

19 MR. HOGAN: And I know it's tough. The health
20 insurance -- I don't have an answer (inaudible). We try
21 to make it -- I'm not trying to make excuses but we talk
22 to other companies and try to come up with solutions but
23 it just every year it kills the company.

24 James Young: Well, maybe Anthem's good for

1 Missouri but it's not good for the Northeast.

2 EMPLOYEE: Yeah.

3 James Young: Because we had -- I had it for my
4 son. He had a surgery on his leg and it's still, I'm
5 paying \$150 a week out of my check.

6 MR. HOGAN: Now, you -- do you know if it's in
7 network or out of network?

8 James Young : It was in network.

9 EMPLOYEE: (Inaudible).

10 MR. HOGAN: Not -- I don't -- I don't want to
11 bash Anthem, but it might just be the way the benefits are
12 set up, but we can check into that.

13 James Young: Yeah. And -- and when we had
14 United Healthcare, my daughter goes to a therapist, now
15 BlueCross/BlueShield won't cover that, and I'm paying \$110
16 a visit out of my pocket.

17 MR. HOGAN: You think United is better? You
18 like that better --

19 James Young: Yeah. Yeah. They covered more.

20 MR. HOGAN: All right.

21 James Young: And when you go switching
22 insurances, you know, I'm taking money out of my own
23 pocket.

24 MR. HOGAN: Right. We can look at United and

1 see if there's something they want to do up in this area.
2 We have entertained that in certain parts of the country
3 and said maybe one insurance company's a little better. I
4 know Anthem nationwide it has the most coverage, but maybe
5 it's not up here.

6 James Young: It's not.

7 Mansfield Teetsel : I drove for the Gulab
8 Corporation and it was only 50 bucks a week, and they
9 lowered/covered) everything. It covered 100 percent. And
10 but they're a smaller company than Hogan is, and but
11 that's what they got, a New York policy.

12 And then I can't afford the insurance here, so
13 I -- I went -- I did get the dental here, but the dental,
14 they cover some stuff, and stuff that was covered, they're
15 making my wife wait three months before they do any
16 procedures; they're batting it back and forth between the
17 dentist and them, and it's stuff that's covered. That's
18 Humana .

19 Mansfield Teetsel: They do suck.

20 Mansfield TeetselEMPLOYEE: They do.

21 (Inaudible) --

22 (Multiple speakers).

23 James Young Guardian. They had Guardian.

24 Mansfield Teetsel: Guardian was better to begin

1 with, and then they switched from that to --

2 EMPLOYEE: It's up to \$1,000 a person
3 (inaudible).

4 EMPLOYEE: (Inaudible).

5 EMPLOYEE: Yeah, the one now (inaudible).

6 MR. HOGAN: I agree. Guardian was better but
7 they came back and asked for a 30 percent increase.

8 EMPLOYEE: Yeah.

9 MR. HOGAN: They just for whatever reason, they
10 came back at -- they sent us and said we want 30 percent.
11 I said 30 percent, are you nuts?

12 EMPLOYEE: Mm-hmm.

13 MR. HOGAN: So, I mean --

14 James Young: But then we're taking the 30
15 percent and putting it towards the insurance that we have.
16 So we're -- we're paying for it, not you.

17 MR. HOGAN: Well, the -- the Humana ought to be
18 similar to Guardian as far as the coverage. We didn't
19 change that. But we'll check into that and see . You're
20 saying the coverage is not as good?

21 James Young: No. I came out of surgery and I
22 had wisdom tooth removed and they wouldn't cover it. I
23 paid \$1,000 out of my pocket to pay it.

24 James Young (Inaudible) out of your pocket.

1 MR. HOGAN: Well, the dental coverage never
2 covered that (inaudible) some of that stuff.

3 James Young: Oral surgery they are supposed to.
4 They say it's 50 percent for oral surgery.

5 EMPLOYEE: (Inaudible).

6 MR. HOGAN: (Inaudible) 50 percent.

7 James Young: Yeah, and they never --

8 MR. HOGAN: And they covered none?

9 James Young: And they never claim -- and I put
10 a claim in and never got paid for it.

11 MR. HOGAN: Right.

12 Tony Rogers: If you reach your \$1,000 max
13 you're screwed, it's on you.

14 James Young: Yeah. So I mean --

15 MR. HOGAN: (Inaudible). You're exactly right.
16 I'm not arguing --

17 Tony Rogers: Because I had work done. Then my
18 wife needs work done, so I got a family and they're like,
19 oh, no the \$1,000 for a family and I've got four -- I
20 mean, that's \$200 just to -- 250 a person in the family.
21 (Inaudible).

22 Charlie Johnson: It's -- it goes to surgery
23 procedure wouldn't that be under your medical instead of -

24 -

1 James Young: BlueCross and BlueShield won't
2 cover it.

3 MR. HOGAN: They won't cover it?

4 James Young: They -- I got an explanation of
5 benefits and they couldn't cover it.

6 EMPLOYEE: Well really they (inaudible).

7 TONY: So a lot of this stuff --

8 MR. HOGAN: (Inaudible) the dental and just for
9 the philosophy of the company for years of the dental,
10 it's not designed to be the full content of the plan to
11 cover --

12 James Young: No.

13 MR. HOGAN: Because you know -- I mean, if we've
14 got a plan that covers all that at 100 percent it would be
15 very expensive. So what we try to do is come up with a
16 plan that covers some of it that (inaudible) but it's not
17 too expensive.

18 James Young: Or no, like Anthem, it's -- now, I
19 was in the hospital for a month and they're -- they made
20 me pay 10 percent of the hospital stay, which if you had
21 United Healthcare it was fully covered. So I ended up
22 paying \$35,000 out of my own pocket, which they deduct, so
23 I'm paying \$150 for the insurance here and \$150 out of my
24 check every week. That's \$1200 a month in insurance that

1 I'm paying. I mean, that's a mortgage payment.

2 EMPLOYEE: Good mortgage.

3 EMPLOYEE: Nice house.

4 James Young : I mean, some of them are saying,
5 oh, the organizing ain't about the Union or the rate, it's
6 about insurance. Health and welfare, you know.

7 MR. HOGAN: No, I understand that. But I'd like
8 to check out your situation as far as \$35,000 out of
9 pocket.

10 James Young: I'll give you the bill.

11 MR. HOGAN: No, I am being serious. I just
12 would like to see what your situation is because the --
13 the benefits from Anthem, we have not changed the benefit
14 structure of the program for about five years. We have
15 changed insurance companies but the benefits are supposed
16 to be identical, so there must be a situation in this
17 area, because again we have not changed the benefits from
18 the -- that's why I asked you if you were out of network
19 or in network or did you change --

20 TONY: All (inaudible) --

21 MR. HOGAN: -- because as far as your deductible
22 and the copays or you pay 90/10, all those things, again -
23 (inaudible), you hear back from people and they say don't
24 change the benefits. Don't -- we know what they are, we

1 use them, so that's what we've got.

2 James Young : Yeah. Well, maybe it is for
3 other places, but around here it ain't.

4 MR. HOGAN: All right.

5 Sean Murphy : One more thing on healthcare
6 started this year on the W-2 forms, the first time that
7 they listed the employer contribution. Previous to that
8 nobody actually believed what the company was paying. But
9 it's an eye opener when you look at the W-2 form to know
10 what that -- what that in amount is. So --

11 MR. HOGAN: are you talking about the health
12 insurance or the 401(k)?

13 Sean Murphy: On the health insurance.

14 MR. HOGAN: On the health insurance.

15 Sean Murphy : It lists what the employer's
16 contribution is starting this year. But nobody actually
17 knew what the employer's pay. It's interesting when you
18 look at the amount the employers pay even for the
19 contributions (ph).

20 MR. HOGAN: Well, what --

21 Sean Murphy: For me, 7,000, 6,000, something
22 like that. (im paying 1/3, you are paying 2/3

23 MR. HOGAN: Oh, there's no question, it's one of
24 our biggest costs.

1 Sean Murphy: So for me as an individual it's
2 like \$9,000 a year total.

3 EMPLOYEE: Total a year.

4 EMPLOYEE: I mean --

5 MR. HOGAN: I mean, Anthem charges for family
6 coverage they charge the company and then you all pay part
7 of the payment for a family they charge us almost 1500
8 bucks a month.

9 EMPLOYEE: We used to have -- we used to have a
10 \$500 deductible and now it's way up. But if we still had
11 the \$500 deductible, the way I understand it, that would
12 be a premium insurance policy and then we would be subject
13 to a 40 percent tax.

14 June Glennon: Is that Obamacare?

15 EMPLOYEE: Yeah, it's --

16 MR. HOGAN: Well (inaudible).

17 EMPLOYEE: They call all basic -- so I'm saying
18 is, is if you get better insurance then that's great, but
19 then we get whacked with a 40 percent tax on a better
20 insurance. I mean, we're all in a catch 22 here . We are
21 -- we are all in a hole..

22 MR. HOGAN: There's no question. And I -- I'm
23 not going to stand up here and tell you I have the
24 solution.

1 EMPLOYEE: But -- but what I'm saying is on the
2 W-2 form now everyone realizes the people there
3 (inaudible) but most people don't.

4 MR. HOGAN: Well --

5 EMPLOYEE: (Inaudible).

6 MR. HOGAN: And there is one advantage, I guess,
7 when you go through the company, if you all went out and
8 tried to purchase it --

9 EMPLOYEE: Oh, it's brutal.

10 MR. HOGAN: -- it's way more.

11 EMPLOYEE: I went and looked.

12 MR. HOGAN: So we try to -- exactly. So we try
13 to negotiate the best deal we can with all of our
14 employees to try to drive the cost down. And then as you
15 said we pick up the majority of it and we pass on the
16 smaller portion to the employees.

17 The issue is it just keeps going up every year.
18 I mean, I -- I met personally with the president at
19 Anthem. I said our loss runs) were not that bad last
20 year, why are you raising our rate this much? And their
21 comment is it doesn't matter if your loss runs were just
22 average, they're costs are the medical care, so your
23 procedure that you had this year, next year is going to
24 cost 10 percent more so we have to raise it automatically

1 just to keep up with inflation.

2 I said, well how come you guys in the health
3 insurance are the only ones that get to raise the rates
4 every year because the rest of the world's not raising
5 their rates. Because that's true. I mean, most companies
6 are keeping their rates the same because -- in the
7 trucking business or whatever. So -- but you know, they
8 just -- they just keep pushing it on you every year.

9 We've looked at self-insuring, which for you all
10 doesn't mean anything because it would still be with
11 Anthem, but we would pay to keep the insurance out of
12 pocket so to speak, and then we would pay an
13 administrative cost to Anthem, and the cost is actually a
14 little bit more than what we're currently doing. So we've
15 looked at self-insuring. I mean, we will always look at
16 (that to see if we could reduce the cost.

17 But if there's some pockets where we don't have
18 good coverage because Anthem doesn't offer it, we need to
19 address that, because we've had -- some of these -- what
20 we have sometimes and have done, someone that's like in
21 your situation, is Anthem got everybody in the network, or
22 the employee has to go out of the network they're going to
23 get penalized. And that's not --

24 TONY: Mm-hmm.

1 MR. HOGAN: -- that's not the way it's designed.
2 You know, Anthem's problem was, what they do is we give
3 them a list of all the employees and all the addresses and
4 then they show us a map and they say, here's how many are
5 covered. It's usually like 98 percent. In the United
6 Health Plan it would be like 90 percent. So then we're
7 saying, okay, well that's -- that's better. Anthem's got
8 better coverage. But sometimes there's some people out of
9 the network and they -- you know, they get short changed.
10 So those are the issues we deal with.

11 And again, I mean, we paying e over \$13 million
12 in premiums this year in insurance. If we would have had
13 the same coverage we did 10 years ago, with the low
14 deductibles, low copays and all that, we would be paying
15 about 22 or 3 million dollars in insurance. It's just --
16 it's a joke in my mind. It's the most frustrating thing I
17 deal with year after year. It drives me nuts, but --
18 because I know it's costing everybody a lot of money.

19 And you know, Obamacare, I think the
20 Government's tried to come up with a solution,
21 unfortunately --

22 EMPLOYEE: It's going to make things worse.

23 MR. HOGAN: It -- I don't want to get into that.
24 I mean, I give him credit for trying to come up with a

1 solution because everybody knows it's messed up, but it's
2 not going to help. I mean, unfortunately a person, you
3 know, a person whose 25 years old, if they -- if they pay
4 very little, next year they're going to pay a lot. So it
5 may help people that are 75 and it's going to hurt people
6 that are 25, 35 or whatever. But --

7 Sean Murphy: I just wanted to say straight
8 across the board every industry, every business that I
9 (inaudible) every (inaudible).

10 MR. HOGAN: Oh, there's (inaudible).

11 Sean Murphy: Yeah. I mean, it's not -- it's
12 not just your company, it's all companies.

13 MR. HOGAN: Yeah. You know, and I don't know
14 how much you all are up on Obamacare but there's been the
15 discussion out there that some companies are going to just
16 quit offering health insurance, and then you can pick it
17 up under Obamacare.

18 Sean Murphy: On the state exchange (ph).

19 MR. HOGAN: We're not going to do that because
20 we know what we're offering is better than Obamacare. So
21 we're going to continue to do it.

22 Now, I will have to see what the options are.
23 Maybe you guys have a choice and next January; we're still
24 digging into that. If you have a choice that's fine, but

1 we're still going to offer because we think it's a better
2 solution than what the Government's come up with. So --

3 But anyway, I think it's -- it's a tough
4 situation and I appreciate the feedback, because if I
5 don't get any feedback then I don't know what's going on.
6 But I would like to check your situation out.

7 James Young: Well, Albany Medical Center is the
8 -- one of the -- is the biggest hospital around and
9 they're in network and like I said -- and right on our
10 cards it says we're liable for 10 percent of inpatient
11 stay.

12 MR. HOGAN: Right.

13 James Young: So when you're in there for a
14 month that, you know, however much a day, it adds up.

15 MR. HOGAN: Right. I thought there was a cap on
16 that.

17 James Young Nope.

18 MR. HOGAN: you might want to make a note of
19 that Charlie will just check that out.

20 James Young: And I'm still fight -- and I'm
21 still fighting them to cover the helicopter, which was
22 \$3,000.

23 Mr. Hogan: What was that?

24 James Young: I got heli -- I got airlifted out

1 and

2 I -- and they still won't cover the helicopter.

3 MR. HOGAN: Well, you guys made -- somebody made
4 a comment that, you know, this isn't about the Union, it's
5 about pay or benefits or whatever, and I guess my response
6 to that is I -- I understand what you're saying but if you
7 all organize nothing changes as far as the wages and
8 benefits.

9 I mean, we still all have to agree with the
10 Union and negotiate wages and benefits. And as far as if
11 it raises our costs for things like that, we have to
12 remain competitive in the marketplace.

13 And you take Save-A-Lot, for example, I mean,
14 when we compete on a new piece of business with Sav-A-Lot,
15 then they usually put it out to 12-14 providers and
16 there's no secret who they are and you see their trucks
17 going out back and forth. We would compete with Warner.
18 We compete with U.S. Express. We compete with Schneider.
19 The list goes on and on. They're all non-union providers.
20 They have cost structures similar to us. That's the
21 marketplace that we compete in.

22 So we have had to keep our cost structure in
23 that same area. So you know, if -- if we're put in a
24 position where our costs go up then we're not competitive

1 anymore and it makes us vulnerable to business. And I'm
2 just telling you the facts of the world we deal with every
3 day. I mean, that's the free market, the way it works.

4 So as far as that goes, I mean, I think we got
5 to continue to try to work together. You guys have the
6 right to bring the Union in but if they say it's going to
7 change the wage and benefits, I -- I challenge you to ask
8 them to put it in writing if they -- if they could do
9 that, because nothing really changes except we have to
10 deal with a third party.

11 Mansfield Teetsel: Don't forget, if you go over
12 to there, you see their benefits inside Sav-A-Lot,
13 they're making more than us drivers and they have less
14 responsibilities than Sav-A-Lot. I mean, we're out there
15 on the highway, if we make a mistake we've got an 18-
16 wheeler, it's big time money and lives are at stake. And
17 they're in there making a fortune. Some of those pickers
18 are making 50 grand a year. It just -- just to me it's
19 balance is way off. I just think sometimes Hogan can go
20 up on their rates.

21 MR. HOGAN: Well, that's in the industry as a
22 whole.

23 Mansfield Teetsel: Yeah. I don't know.

24 MR. HOGAN: Oh, I do.

1 Mansfield Teetsel: I mean, there's -- I had a
2 phone call, couple phone calls --

3 MR. HOGAN: I mean, you guys are aware what
4 other drivers make around here.

5 Mansfield Teetsel: Yeah, some of them a lot
6 more.

7 MR. HOGAN: Right?

8 Mansfield Teetsel: Yeah.

9 MR. HOGAN: So (inaudible).

10 Mansfield Teetsel: And then -- no, I'm not --

11 MR. HOGAN: No, but when you (inaudible) all the
12 time, drivers make and what do you think about that, and
13 they say well, the industry in general is underpaid.

14 Mansfield Teetsel: And it's --

15 MR. HOGAN: Has been for years.

16 Mansfield Teetsel: And it's -- and it's
17 shorthanded in help now, I'm noticing, too.

18 MR. HOGAN: Absolutely.

19 Mansfield Teetsel: No drivers out there now,
20 they don't want to go into it, so much regulations.

21 MR. HOGAN: But I can tell you as far as the pay
22 goes, you guys know we have various Save-A-Lot locations;
23 you guys are the highest paid in the area. Well --

24 Mansfield Teetsel: I know. I mean, it's not

1 you. I mean, you -- you've got a big company, I know.

2 MR. HOGAN: Well, I want to share with you --

3 Mansfield Teetsel: I'm just trying to say --

4 MR. HOGAN: I don't know if you guys know that
5 but you are the highest paid.

6 Mansfield Teetsel: Don't feel like it.

7 MR. HOGAN: No.

8 EMPLOYEE: (Laughter).

9 MR. HOGAN: (Inaudible).

10 EMPLOYEE: And I'm not (inaudible).

11 MR. HOGAN: You don't feel any better about
12 that --

13 Mansfield Teetsel: No. But (inaudible) I'm
14 going back and forth. I'm not --

15 MR. HOGAN: (Inaudible).

16 (Multiple speakers).

17 MR. HOGAN: -- the cost of living in New York is
18 higher than (inaudible).

19 Mansfield Teetsel: Yeah.

20 MR. HOGAN: So you just adjust accordingly .

21 TONY Rogers: I don't --

22 June Glennon: (Inaudible) cost of living in
23 this area is the highest in the country.

24 MR. HOGAN: Right.

1 June Glennon So --

2 MR. HOGAN: I agree with that.

3 June Glennon: -- you know, the pay scale could
4 -- the wages (inaudible) cost of living. I mean, it's
5 (very high pay in Missouri but (inaudible) in New York,
6 no, you know.

7 EMPLOYEE: St. Louis is pretty expensive.

8 June Glennon: St. Louis is?

9 EMPLOYEE: (Inaudible).

10 MR. HOGAN: Well, they've got more (inaudible).

11 EMPLOYEE: They balanced out all the cities,
12 they're all pretty much the same when you look at a city
13 like this.

14 EMPLOYEE: You've been there, huh, (inaudible)
15 when you were over the road

16 EMPLOYEE: (Inaudible).

17 EMPLOYEE: Yeah.

18 MR. HOGAN: But you know, I mean to talk about
19 the pay and stuff, and I'm jumping around with some of my
20 notes, but I encourage the feedback in these kinds of
21 events that maybe James shared some with --

22 We haven't had a rate increase from Sav-A-Lot
23 for about five and a half or six years. We have in the
24 last three years reduced our rates twice to Sav-A-Lot.

1 So if you look over that span and you say well,
2 why do we have a wage freeze in place and why aren't we
3 making more money? Because we've reduced our rates twice
4 and I haven't had a rate increase since I think 2008 or
5 '7.

6 Shane McDonald: Can't you do what the insurance
7 companies do and raise your rates every year?

8 EMPLOYEE: Yeah.

9 MR. HOGAN: They are --

10 EMPLOYEE: That will last for about (inaudible).

11 EMPLOYEE: (Inaudible).

12 MR. HOGAN: No, no, no, no, we (inaudible).

13 EMPLOYEE: We know about that, yeah.

14 MR. HOGAN: I mean, it's great to do that. They
15 have a right to get out the contract when we do that .
16 (Multiple speakers).

17 Tony Rogers: But at the same time at a certain
18 level you've got to see it from our point of view. That's
19 your cost; that's the cost of doing business. If --

20 MR. HOGAN: You have to keep in mind (we have a
21 responsibility to try to keep the business --

22 Tony Rogers: No --

23 MR. HOGAN: -- operations and continue
24 employment for everybody.

1 Tony Rogers: But -- but nothing against this
2 company --

3 MR. HOGAN: No, I'm not going to bash Sav-A-Lot.

4 Tony Rogers: No, no, no, no. No.

5 MR. HOGAN: Obviously they've been in the
6 business --

7 Tony Rogers: But here's --

8 MR. HOGAN: -- for a long time so they're
9 (inaudible) --

10 Mansfield Teetsel: Here's the thing --

11 MR. HOGAN: -- the customer but they beat us up.

12 Mansfield Teetsel: Forget about me. Hogan's
13 got a lot of great drivers. And I know you, you know,
14 you've got your end of the responsibilities. But they had
15 some other company come in like swift, they have truckers
16 jackknifed around telephone poles and everything. This
17 company right in this area has some of the tightest stores
18 they're going to. You take an over-the-road guy like
19 Swift guy, he'll destroy the equipment in two seconds.

20 MR. HOGAN: I --

21 EMPLOYEE: End of story.

22 Mansfield Teetsel: Some of the times just going
23 to Syracuse, I've seen flipped trucks, right over, right
24 down a straightaway, rolled over with all their

1 (inaudible); freightliners, (inaudible). I could -- I
2 should take pictures. I've got pictures of how many of
3 them got messed up. They would never -- not me, but most
4 of these guys here, 99 percent of them can really drive.
5 You've got really good, good guys here.

6 MR. HOGAN: (Inaudible). I mean just
7 (inaudible).

8 EMPLOYEE: (Inaudible).

9 EMPLOYEE: -- because don't those companies,
10 they hire anybody and everybody --

11 EMPLOYEE: Yeah.

12 EMPLOYEE: -- and they go through equipment
13 and --

14 EMPLOYEE: They -- they would be right back
15 begging Hogan to come back because they have so much
16 destruction.

17 MR. HOGAN: Let me just share with you --

18 EMPLOYEE: Okay.

19 MR. HOGAN: -- kind of the thought process that
20 I see with Sav-A-Lot. I mean, first of all you guys know
21 they're owned by Supervalu, okay. Supervalu hasn't made
22 money in three years. And in December they were about
23 this far away from filing bankruptcy. And then in
24 January, you know, they had one equity -- or whatever the

1 hell they call the, I don't understand all that stuff, but
2 an investor, let's you call it.

3 EMPLOYEE: Investor funds.

4 MR. HOGAN: They came in and bought out
5 Supervalu, which was a good thing because candidly, they
6 were the only ones interested. I think they could have
7 filed bankruptcy, at least everything you read and that
8 was the thought process.

9 I'm just saying all that stuff because that's
10 the pressure that puts from Supervalu in Minneapolis all
11 the way down to Sav-A-Lot based in St. Louis, out to all
12 their vendors, including us.

13 I think it's called -- you guys got to figure
14 how to drive cost out of this operation. The people up
15 in Supervalu Minneapolis, I don't want to say they don't
16 care, but they don't understand --

17 You know, if Swift comes in here 10 percent
18 cheaper, let's try Swift. That's the mentality. Maybe
19 they try it for a year, if it doesn't work then they have
20 to bring somebody else back in here.

21 But I hear what you're saying. I agree 100
22 percent with what you're saying, but we have to sell it
23 upstream. We have a pretty good ear at Sav-A-Lot here in)
24 in St. Louis at their office, but then they got sell it up

1 to Supervalu, and then -- I mean, I have never seen the
2 last three or four years as much downward pressure on
3 cost.

4 I mean, we reduced the pricing twice in the last
5 three years, and then they want to know what else we're
6 going to do for them. I said how about providing you good
7 service? Well, everybody provides good service, that's
8 their response. I said, well, I don't know about that, I
9 don't agree with that. I think we provide superior
10 service. And they said, well, there's a lot of companies
11 that provide that.

12 You got to find a way to drive costs down. And
13 then they start looking at backhauls and putting the runs
14 together and all this stuff you got to do. So I'm just
15 sharing with you, kind of, the world we live in and what
16 we find as far as the rates and stuff.

17 Can we raise rates every year with Sav-A-Lot?
18 The last five years, no way. We wouldn't have been in
19 business the last -- I'm just -- because sometimes we're
20 just a commodity to Supervalu Minneapolis. (Inaudible)
21 you provide service but we're a commodity.

22 TONY: Bobby's stealing seats (ph).

23 MR. HOGAN: (Inaudible) your job, my job, or any
24 of it, but you know, that's the corporate world. And

1 again, I don't want bash Sav-A-Lot because candidly, we've
2 been doing business for a long time. I think that's good.
3 But you know, they do -- they do push a lot back, as such
4 we cannot raise rates every year.

5 Now, if the economy picks up and -- and the
6 dynamics change -- I'm not going to say a year from now
7 inflation starts picking up. People always ask me about
8 inflation. I -- I wish there was some inflation because
9 number one, you know what that does? We could raise
10 rates. We could raise (average wages). It just --
11 everything goes up. I'm a fan of inflation. Problem is
12 we haven't had any inflation for five years. Nothing's
13 moving, including wages. So --

14 Tony Rogers: on that note, I was hired three
15 years ago and in the last meetings here, whatever, and
16 you guys promised me a cent after six months, a cent at a
17 year, and a cent every year after that, so I should be at
18 40 cents. They didn't say nothing about a pay freeze.
19 But I've been hearing that for three years.

20 MR. HOGAN: Well, we did have a wage freeze
21 throughout --

22 Tony Rogers: But then you - and you should have
23 said that when I got hired, that's my point.

24 MR. HOGAN: We didn't say that drivers shall --

1 EMPLOYEE: Well, (inaudible).

2 EMPLOYEE: I was just hired this year and I was
3 told that I was going to get --

4 Tony Rogers That's my point.

5 Jerome Baum: -- at six months and then a year I
6 was going to get another -- I was told this by the
7 recruiter and that's when I came -- came here. I started
8 in June and couple months later I find out (that you guys
9 are under the St. Louis --

10 TONY Rogers: But you're saying that a wage
11 freeze --

12 MR. HOGAN: Well --

13 TONY Rogers: He ain't going to freeze his
14 office, though.
15 (Multiple speakers).

16 Tony Rogers: And then now -- now you're
17 offering a sign-on bonus. And meanwhile we're still
18 waiting for our's that you owe us That's the way I see
19 it, anyway. You owe me and you're offering the guy who's
20 going to walk in the door a \$4,000 sign on bonus.

21 Mansfield Teetsel: What about like something to
22 (veteran employee A lot of the guys around here that do
23 good, some sort of thing to keep them here? Instead of
24 like --

1 I went in the Syracuse store and the guy goes,
2 hey, I hear your new hires are getting a \$4,000 sign on
3 bonus and they're guaranteed \$1300 a week? I go no? How
4 they hell are they going to do that? They're going to
5 have to run like crazy to make 1300 bucks.

6 EMPLOYEE: You guys can (inaudible). I don't
7 read the Syracuse News, but I believe you.

8 James Young: You were here (inaudible)?

9 MR. HOGAN: That (inaudible) including St. Louis
10 (inaudible).

11 EMPLOYEE: You did. You show me --

12 MR. HOGAN: We have -- we got to --

13 EMPLOYEE: He showed me the paper.

14 MR. HOGAN: -- we haven't adjusted the pay
15 (inaudible), you guys know that.

16 Tony Rogers: That's why I mentioned it because
17 I've been hearing it from new drivers that are coming in
18 and we're sitting there and talking and telling them the
19 same story you told me three years ago. not knowing there
20 is a pay freeze, that's wrong.

21 MR. HOGAN: Absolutely.

22 Jerome Baum: Yeah, and they're also guarantee
23 you \$1100 a week. (Inaudible).

24 EMPLOYEE: That's what I was told (inaudible).

1 Jerome Baum: I said, oh, okay. I'm making 12
2 now, you know. (Inaudible) over I'll be home at night
3 and --

4 EMPLOYEE: Surprise.
5 (Laughter).

6 EMPLOYEE: You're funny.

7 EMPLOYEE: That's the thing about this.

8 MR. HOGAN: Are you making what you expect or
9 not?

10 EMPLOYEE: No.

11 EMPLOYEE: I take home exactly what I was
12 promised.

13 EMPLOYEE: See, that's the thing. It's guys
14 like --

15 EMPLOYEE: I think, you know, if I wasn't
16 (inaudible).

17 Michael Halbritter: Guys like Murphy, Jones,
18 James myself, we're at the max because we were at -- we
19 were here long enough to get to the maximum pay of the
20 site before -- if you can afford to pay the long-timers
21 the -- the max of the site, then you -- you should be able
22 to afford giving new guys their raise as was promised.
23 Get everybody at the -- at the max. That's what we signed
24 on for.

1 EMPLOYEE: I came in saying, you know what, I
2 got no problem five years to get max pay because I have
3 to pay my dues at this company.

4 MR. HOGAN: Sure.

5 Tony Rogers: I got 20 years, it means nothing ;
6 that gets me in the door. Now I have to do my loyalties
7 to this company and drive and do the job everybody else
8 has been doing wrong. But meanwhile im still at day one.
9 And then, you know, a guy will come in tomorrow and he'll,
10 oh, I got a \$4,000 sign on bonus and I'm where you are,
11 and I've been here three years.

12 Michael Halbritter: Yeah, that's the thing,
13 it's been -- the people that are hurt by this are new
14 hires; Jerome, Tony, Shane, even Mansfield Teetsel because
15 he came back.

16 EMPLOYEE: Mansfield Teetsel came back and went
17 from top to bottom.

18 EMPLOYEE: Yeah.

19 EMPLOYEE: I was probably (inaudible).

20 (Multiple speakers).

21 EMPLOYEE: Everybody winds up (inaudible).

22 EMPLOYEE: True.

23 (Multiple speakers).

24 EMPLOYEE: The military does it. The government

1 does it. Everybody does it.

2 MR. HOGAN: Yeah, but --

3 EMPLOYEE: That's a give and take.

4 MR. HOGAN: (Inaudible).

5 Michael Halbritter: No, I'm just saying
6 everybody does it. The whole point is, is the site is
7 designed to pay everybody that max rate. You know, this
8 is what the contract pays. Why aren't they making that?
9 I mean, these are the guys that are really hurting for it.
10 These -- these are the guys that deserve --

11 I mean, like Tony, he's been here three years,
12 he deserves to be at the max.

13 EMPLOYEE: No --

14 EMPLOYEE: He's done his thing.

15 TONY: I -- I want what I have coming to me.

16 EMPLOYEE: Exactly.

17 Tony Rogers: I don't -- I'm just talking about
18 having to my five, but I put my three in so I deserve my
19 four cents.

20 Michael Halbritter: Yeah. You should have 40
21 cents,
22 this -- oh, that's the -- that's the whole thing. I mean,
23 this is what the contract pays; correct? Why do they have
24 to suffer for it? They're the ones that you really have

1 to worry about because there are more people who have been
2 here four or less years then there have been five plus.
3 I've been here seven; I'm at the max. I knew what I was
4 getting into. Sean knew what he was getting, June knew.
5 James knew.

6 MR. HOGAN: Hey, listen, we've been in business
7 almost a hundred years. When we did a wage freeze, that's
8 first time we ever did a wage freeze. We did what we
9 thought was the responsible thing to do to keep the
10 company viable. We didn't like it any better than anybody
11 else.

12 But you're talking -- we just came through,
13 what, the worst four or five years that any of us can
14 remember from an economic standpoint? We have a
15 responsibility to do what we feel will keep the company
16 viable.

17 TONY Rogers: Absolutely.

18 MR. HOGAN: I mean, so --

19 Tony Rogers: But you should -- you have to make
20 sure we're adjusting with the people who are walking
21 through the door today, tomorrow, understand what they're
22 getting into.

23 MR. HOGAN: No --

24 EMPLOYEE: If not (inaudible) --

1 MR. HOGAN: We're not doing that. You're --
2 you're saying that we're telling them what's going on when
3 we recruit drivers.

4 Tony Rogers: You know, and -- and the thing is,
5 is when you tell them you give them the raise after six
6 months, the raise after a year, the year after that
7 another raise, and another raise up to this amount --

8 MR. HOGAN: Yeah, but we -- that's just -- I
9 mean, that's our -- we made a mistake. I apologize for
10 that if we're selling it because we had a wage freeze
11 here. We should not be telling drivers coming through the
12 door you're going to see an increase in six months because
13 there wasn't any.

14 James Young: Now is the wage freeze just for
15 drivers or for everybody because --

16 MR. HOGAN: The whole organization.

17 James Young: That's a lie because Gail was
18 getting raises when we're on a wage freeze.

19 MR. HOGAN: We have a wage freeze for everybody
20 in the entire company.

21 James Young: Well --

22 EMPLOYEE: She told me she was getting a
23 raise --

24 TONY: She was getting raises.

1 EMPLOYEE: she already told me that.

2 MR. HOGAN: How much did they get?

3 James Young: She's gone now.

4 EMPLOYEE: Right now there's just --

5 MR. HOGAN: What was she, a year or two --

6 James Young: She was here for --

7 MR. HOGAN: (Inaudible).

8 EMPLOYEE: Yeah, she's been gone less than a
9 year.

10 EMPLOYEE: Yeah.

11 James young: Yeah. And she -- because she was
12 getting raises.

13 MR. HOGAN: 2008 (Inaudible)?

14 EMPLOYEE: Yeah.

15 EMPLOYEE: I think Brenda was, too.

16 EMPLOYEE: I don't think she was here in 2009.

17 EMPLOYEE: No, she was, she was here right
18 before me, like maybe six months before me.

19 EMPLOYEE: She's been here about three years
20 (inaudible).

21 EMPLOYEE: She got raises.

22 June Glennon: She said she got raises.

23 James Young: No, I saw it. I saw. I saw. She
24 showed it to us.

1 MR. HOGAN: But do you all know any (inaudible)
2 I'm sure you guys know we're adjusting pay here after July
3 1st, I think -- I think we drivers --

4 EMPLOYEE: Well, but you're adjusting pay to get
5 butts in the seats and that's fine. You're (inaudible) --

6 MR. HOGAN: No, because Dave stock my vice
7 president of operations) came to me about two or three
8 months ago and said there's three Sav-A-Lot locations that
9 we have to address, w. And we addressed one of them last
10 month. And the other two, including Cocksacki we addressed
11 this week. They said we've got three locations that are
12 due pay increases, we need to do something, so that's what
13 we elected to do.

14 Shane McDonald: So if we go and quit we can get
15 \$4000 and come back?

16 EMPLOYEE: Not that I (inaudible) -- you and the
17 company, you -- you got so many (inaudible) --

18 Mansfield Teetsel: But I just want to say
19 something. I worked here before I left for six months. I
20 like the job. The people are nice and I like the hours.
21 But there's other things I don't like. But I -- I left to
22 go to another company. I came back and I got dropped
23 right down to the bottom, and I -- I had been with the
24 company over eight years. Didn't put a scratch or a dent

1 in any of your trucks. No speeding tickets, nothing. I
2 come back and I get dropped down. I'm still down. Then -
3 - and then you want people to be loyal, which I'm still,
4 you know, I do a good job out there, but, that makes me
5 bitter.

6 I mean, I can see you keeping me down to the
7 bottom for a year; it's going on two years now. So it
8 makes you real bitter.

9 EMPLOYEE: (Inaudible).

10 EMPLOYEE: Huh?

11 EMPLOYEE: Another year maybe.

12 EMPLOYEE: I doubt that. But then when somebody
13 comes and I -- I just had a --

14 EMPLOYEE: (Inaudible).

15 EMPLOYEE: Go ahead.

16 Mr. Hogan: I mean but you left --

17 Mansfield Teetsel: Yeah, I know I left.

18 (Inaudible) so you know, and then give somebody coming in
19 off the street four grand and right up to the top
20 starting? Almost at the top.

21 And I just had a phone call, the only reason why
22 I didn't take the job is it's midnight again. At 65 grand
23 a year, right around here, Albany, at home at night, only
24 one overnight and no weekends. You know, the only reason

1 why I didn't grab it is I'm older and it's working
2 (inaudible).

3 EMPLOYEE: Who was that?

4 EMPLOYEE: Rinehart (ph).

5 EMPLOYEE: Maybe I'll remember that.

6 EMPLOYEE: Careful you --

7 (Multiple speakers).

8 EMPLOYEE: Because just in case things go the
9 way I think -- the way I don't expect them to, or I don't
10 want them to, that's --

11 EMPLOYEE: They called me twice. They filled
12 the position. They wanted me there but I said
13 (inaudible).

14 EMPLOYEE: You said you want -- one solid pay
15 for everyone?

16 MR. HOGAN: Yes, \$.02 across the board.

17 EMPLOYEE: So the -- in order words there's
18 going to be a gap between the top and the bottom; correct?

19 MR. HOGAN: Yes.

20 EMPLOYEE: Be a big gap.

21 EMPLOYEE: Going to be a huge gap.

22 EMPLOYEE: So in other words, anybody that's
23 still here at the bottom (inaudible) the bottom?

24 EMPLOYEE: (Inaudible).

1 EMPLOYEE: So I'm (inaudible) but I'm still at
2 the bottom of a guy who walks in the door today?

3 EMPLOYEE: You're still making the same thing as
4 the guy that got hired today.

5 EMPLOYEE: Exactly. So I'm still at the bottom.
6 So the three years I've put in, it's not -- so I'm
7 starting all over again because --

8 MR. HOGAN: (Inaudible) you guys (inaudible)?

9 EMPLOYEE: No. If -- if he's here a year and
10 I'm here three years why should I get the same pay
11 (inaudible)? That's what I think.

12 EMPLOYEE: Nothing personal, Jerome.
13 (Laughter).

14 EMPLOYEE: No, it's -- I work for my pay
15 (inaudible). You may not sign my check but I work for my
16 money.

17 EMPLOYEE: No, I hear you.

18 EMPLOYEE: You know, what -- what's our
19 (inaudible)? What's our current (inaudible)?

20 EMPLOYEE: It's like 41.

21 (Multiple speakers).

22 EMPLOYEE: See the answer I got?

23 EMPLOYEE: We got that one -- that penny
24 increase the last time which would have been 42.

1 EMPLOYEE: Oh, so (inaudible).

2 EMPLOYEE: That put (inaudible). So now you're
3 going to be at 43.

4 EMPLOYEE: Well, it's (inaudible). It's -- if
5 the site pays that, if there's -- this is what you guys
6 are making on that contract, you respect it, you want --
7 your long-timers, you want everybody making that amount.

8 EMPLOYEE: (Inaudible).

9 Michael Halbritter: That's what -- eventually
10 that's what the contract would call for. That's -- that
11 should be already incorporated into all your costs and
12 everything, that's why you put the cap at that amount.
13 These guys should still be getting their raises,
14 regardless of any wage freezes because they haven't made
15 it to the top yet, so they should still be making it.

16 That's -- that -- in all truth, other than the
17 benefits which you already addressed, my whole issue is,
18 is these guys here, because there's a lot more of them
19 there than are of me, lot more of them than there are of
20 us long-timers who are already at the cap, they're the
21 ones who are getting screwed the most out of this. And
22 if -- you know, I don't --

23 UNIDENTIFIED FEMALE SPEAKER: (Inaudible).

24 EMPLOYEE: -- I don't want to be -- rude or

1 anything but --

2 MR. HOGAN: What you're saying is you're saying
3 it is a graduated scale every year.

4 EMPLOYEE: Well, it's not --

5 MR. HOGAN: (Inaudible).

6 EMPLOYEE: -- that (inaudible).

7 EMPLOYEE: Yeah, but I mean --

8 MR. HOGAN: And that's the way we used to do it,
9 right?

10 EMPLOYEE: Yeah. Well, the thing is --

11 MR. HOGAN: But that's the world -- that was the
12 world five or six years ago.

13 EMPLOYEE: But that --

14 MR. HOGAN: What you're saying is the wages are
15 going to go up every year (inaudible) here, we're --

16 I'm sorry, go ahead?

17 EMPLOYEE: That's what you're saying now, but
18 that's why I'm asking. You're saying now if

19 (inaudible) -- right now, today, 36-41 --

20 MR. HOGAN: Right.

21 EMPLOYEE: -- 5 cents in-between (ph). Now
22 we're going to go 38-43.

23 MR. HOGAN: Right.

24 EMPLOYEE: And every year, whatever, we're going

1 to get our bump until we reach the top because we're at
2 the bottom.

3 EMPLOYEE: Before the wage increase that's the
4 way it was (Inaudible).

5 Mr. Hogan: That's the way it was .

6 EMPLOYEE: That's what I'm asking.

7 EMPLOYEE: You ain't getting bumped.

8 EMPLOYEE: I make sure we're very clear. So in
9 other words --

10 EMPLOYEE: No, there's no --

11 EMPLOYEE: -- (inaudible) to go to 38 cents and
12 that where --

13 EMPLOYEE: And that's where you're staying.

14 EMPLOYEE: -- and that's where I'm staying?

15 EMPLOYEE: Because of the wage freeze.

16 MR. HOGAN: So you already know that we are
17 going to come back and talk to you next year about it.

18 EMPLOYEE: No (inaudible).

19 EMPLOYEE: But they told me that three years
20 ago.

21 MR. HOGAN: Yeah. Well, I'm making that
22 (inaudible)pledge to come back --

23 EMPLOYEE: Okay, but you got to look at it from
24 my point of view. Right. This Friday is my anniversary

1 date. I was told that when I got hired I should be at 40
2 cents. So the way I look at it, you still owe me 2 cents.
3 I put my time in.

4 EMPLOYEE: Right.

5 EMPLOYEE: Jean's (ph) been here a year. We've
6 been here about a year. So for them it's great, hey, they
7 think -- we're getting two cents. I've been here three
8 years and I'm getting two cents.

9 UNIDENTIFIED FEMALE SPEAKER: So you're still
10 short --

11 EMPLOYEE: Yeah, I'm still short two cents.

12 UNIDENTIFIED FEMALE SPEAKER: But (inaudible).

13 EMPLOYEE: Contract, Pays 41 cents --

14 (Multiple speakers).

15 EMPLOYEE: Four cents. This Friday I was
16 supposed to be at 40 cents under the original contract.

17 Michael Halbritter: Like I said, the people
18 that are going (inaudible) a wage increase -- excuse me,
19 the wage freeze are the people who showed up less than
20 three years before the wage freeze.

21 EMPLOYEE: Right before the wage freeze. If
22 would have got it --

23 EMPLOYEE: No three) years or less are required
24 to wait for the wage freeze. They're the guys, they're

1 the people who get screwed.

2 EMPLOYEE: There's nobody here that's
3 (inaudible) you.

4 EMPLOYEE: No, I already knew --

5 EMPLOYEE: Not (inaudible) you're saying? I
6 came -- I came in right.

7 EMPLOYEE: After the wage freeze, left and then
8 came back already knowing about the wage freeze.

9 EMPLOYEE: Right.

10 EMPLOYEE: The second time.

11 EMPLOYEE: Right.

12 EMPLOYEE: Did you know about the wage freeze
13 the first time you were here?

14 EMPLOYEE: Yes.

15 EMPLOYEE: Okay. (Inaudible).

16 MR. HOGAN: What do you do if you're in our
17 position, okay, and five years ago Sav-A-Lot hasn't given
18 us an increase and so we've reduced the rates

19 EMPLOYEE: I understand.

20 MR. HOGAN: So we reduce the rates twice to
21 them, we put a wage freeze in with the drivers. So now
22 we've set the benchmark of where our costs are; right?

23 EMPLOYEE: Mm-hmm.

24 MR. HOGAN: Now you guys say, well, we need to

1 start making more money every year for the new guys.

2 EMPLOYEE: That's --

3 MR. HOGAN: We're not getting any more money
4 through Sav-A-Lot. In fact, we've reduced our rate twice,
5 so now our whole cost structure has changed.

6 EMPLOYEE: I understand that.

7 MR. HOGAN: The whole -- the whole relationship
8 has changed with Sav-A-Lot, as well as a number of our
9 other customers, so we're trying to work in -- confined to
10 that operation. So we hear you guys and we say, well,
11 here -- this location as well as some other Sav-A-Lot
12 locations, we've got to give the guys something. I mean
13 we haven't gotten anything from Sav-A-Lot, but they're
14 doing --

15 So instead of doing the graduated scale, which
16 is -- puts us in the hole, we just say let's give
17 everybody something.

18 EMPLOYEE: You see, that's another --

19 MR. HOGAN: And that's -- you can call it a
20 compromise or something different, whatever you want. I
21 hear what you're saying but that's not the world we live
22 in. I mean --

23 EMPLOYEE: But you say next year you are going
24 to come back) --

1 MR. HOGAN: -- our drivers all across the board
2 in that situation where we had graduated scales, and we
3 didn't go right back up to that scale --

4 EMPLOYEE: Maybe we should do away with the
5 graduated scale and just make it cap 40 right there and be
6 done with everybody --

7 EMPLOYEE: (Inaudible).

8 MR. HOGAN: I would love to do that but it's

9 EMPLOYEE: Can you afford it --

10 MR. HOGAN: (Inaudible).

11 EMPLOYEE: This is like a short-term solution to
12 a long-term problem is what you're saying (inaudible).

13 MR. HOGAN: it is a short term solution I agree
14 (Inaudible).

15 EMPLOYEE: Absolutely it is.

16 MR. HOGAN: I agree with you. And I hope over
17 the next year the world changes a little for the better as
18 far as the economy. Sav-A-Lot's business is better,
19 they'll pay us more. again I don't want to bash (Sav-A-
20 Lot, but every customer was like that.

21 EMPLOYEE: It's all about me. I mean, not --

22 MR. HOGAN: (Inaudible).

23 EMPLOYEE: -- (inaudible).

24 MR. HOGAN: It's frustrating for me, but I've

1 been in business 37 years and you know, we used to deal
2 with a lot of small and midsized companies. When you
3 dealt with the owners of these companies. All our
4 customers are you know the targets and Supervalu and
5 dollar generals of the world these big conglomerates) and
6 we are just a vendor. So you know, we -- we don't have
7 that relationship building like we used to.

8 James Young: Do you have a union in Hogan
9 already?

10 Mansfield Teetsel: Yeah, (Inaudible). You've
11 got mechanics down there that are --

12 Young: In St. Louis.

13 Mansfield Teetsel: -- St. Louis.

14 MR. HOGAN: We have a handful of mechanics

15 James Young: And you said and Sav-A-Lot's got a
16 union in it, too?

17 Mansfield Teetsel Mansfield Teetsel: Mm-hmm.

18 James Young: On the store level.

19 Mansfield Teetsel: Yeah, they do.

20 James Young: Newark store --

21 Mansfield Teetsel: Yeah.

22 James Young: -- is union.

23 Mansfield Teetsel: Is it?

24 EMPLOYEE: Yeah.

1 EMPLOYEE: (Inaudible).

2 James Young: So they already deal with the
3 union.

4 MR. HOGAN: I think that's a franchise.

5 Charlie Johnson: That's a licensee a store
6 (inaudible).

7 MR. HOGAN: Do you know Save-a-lot (Inaudible) --

8 James Young: Well, I mean it still represents
9 the Sav-A-Lot name.

10 Charlie Johnson: But they don't get paid by
11 Sav-A-Lot.

12 James Young: Well --

13 Charlie Johnson: They're a licensee store;
14 they're a franchise.

15 EMPLOYEE: But --

16 Charlie Johnson: It's not a Sav-A-Lot corporate
17 store.

18 James Young: But they still use the Sav-A-Lot
19 name.

20 Charlie: Certainly they do.

21 James Young: So -- but you can't say there's
22 not a union in Sav-A-Lot because there is. Technically.

23 Charlie Johnson: Sav-A-Lot corporate -Mr. Hogan
24 not Sav-A-Lot corporation.

1 James Young: Not corporate but maybe like a
2 licensee-- but it's still Sav-A-Lot.

3 EMPLOYEE: Sav-A-Lot (inaudible).

4 MR. HOGAN: They operate about 15 DC's?

5 Charlie Johnson: Yes.

6 MR. HOGAN: Around the country.

7 James Young: And Supervalu got a union.

8 MR. HOGAN: And they are?

9 Young: All right, go ahead.

10 MR. HOGAN: Supervalu almost went bankrupt. I
11 mean, their cost structure -- I'm not blaming it on the
12 union, but Sav-A-Lot --

13 EMPLOYEE: And we -- you know what, honestly
14 sitting -- my point of view that's neither here nor there
15 Sav-A-Lot's our customer, the point is to service our
16 customer. It would be different if we were goya to have
17 900 freaking (inaudible) customers so we could afford to
18 lose one or two.

19 James Young: No point is -- is they say there's
20 no union in their company and they lied.

21 EMPLOYEE: I think --

22 EMPLOYEE: And there is.

23 EMPLOYEE: No, no, no, no.

24 MR. HOGAN: Go -- go ask that store owner

1 (inaudible)down there and ask them what the name of their
2 company is. It's probably whatever --

3 James Young: No, I'm talking about -- I'm
4 talking about Hogan. I'm talking about Hogan. I'm
5 talking about Hogan. Hogan has a union in it and it's
6 mechanics unit (.

7 MR. HOGAN: We have -- we have over 1500
8 drivers.

9 Young: Not -- not drivers.

10 MR. HOGAN: Not one of them's union.

11 EMPLOYEE: Not drivers.

12 MR. HOGAN: that's what I said.

13 EMPLOYEE: Hogan (inaudible) Hogan Transports --

14 MR. HOGAN: (Inaudible). I say drivers. We
15 don't have any union drivers.

16 Mansfield Teetsel: Hmm, not now. Not yet.

17 Shane McDonald: Talking of the economic
18 downturns, since 2008 (poverty has been on the increase
19 and we serve poverty neighborhoods so Supervalu, Sav-A-Lot
20 (inaudible) can't make money --

21 EMPLOYEE: They're doing better.

22 EMPLOYEE: They need to change their --

23 EMPLOYEE: No, they're doing better because I go
24 to a lot of them and they -- they're doing better, just

1 like Dollar General's are because the problem, people are
2 buying like crazy.

3 EMPLOYEE: Everybody's -- poverty should be
4 doing well. We had all the dollar stores --

5 EMPLOYEE: (Inaudible) store --
6 (Multiple speakers).

7 EMPLOYEE: All the dollar stores are doing
8 great.

9 Tony Rogers: I mean, at a certain point it's
10 just like anything else. I mean, I understand what you're
11 saying; it's the cost of servicing our customers. But in
12 our point of view, there's a cost that they have to
13 (inaudible), that's the cost of doing business.

14 Shane McDonald and Tony Rogers: Sometimes
15 private equity firms are not in the business of making
16 money. We're in the business of making --

17 Mr. Hogan: No, no, no, there just in the
18 business of making money (inaudible).

19 EMPLOYEE: (Inaudible).

20 EMPLOYEE: That was the only reason they were in
21 business. So if it's at the expense of all of us --

22 EMPLOYEE: Absolutely.

23 EMPLOYEE: -- I mean that is the only reason
24 they're here.

1 Shane McDonald: No, private equity firms.

2 Mr. Hogan: Absolutely, they don't care about
3 employment; they don't care about creation of jobs.

4 Shane McDonald: But there's something they do
5 care about as much as profits, and that is a tax write-
6 off.

7 EMPLOYEE: Yeah. And why --

8 EMPLOYEE: It's the only reason they rescued
9 Supervalu. They -- tons of money this year.

10 Mansfield Teetsel: Elmira sold. They sold to
11 another, wrote that one off to Halkins (ph) Corporation,
12 that owns all the ones in Syracuse, they own some in
13 Buffalo, they own some in Rochester; they sold it to
14 somebody else, wrote that store off. They -- I was going
15 in there with a half a load sometimes, hardly anything.
16 It's just a write-off. Just like Fitchburg, Mass is a
17 write off. You go there with hardly anything.

18 EMPLOYEE: (Inaudible).

19 EMPLOYEE: Remember that one?

20 EMPLOYEE: Fitchburg, yeah.

21 Mansfield Teetsel: You back in -- it was
22 dangerous backing in there with --

23 EMPLOYEE: Oh, yeah, yeah.

24 MR. HOGAN: Okay, what I'm hearing is you guy

1 think it's fair to have stair-step) program?

2 EMPLOYEE: Well, it's going to --

3 MR. HOGAN: So if you've been here a year and
4 you have been here a month --

5 EMPLOYEE: Absolutely.

6 MR. HOGAN: -- you should make a little more?

7 Tony Rogers: Absolutely. You want loyalty,
8 well that's the way it should be then. But that -- if
9 that's the way to be (inaudible) in my point of view, if a
10 guy's been here five years he should be making more money
11 that I am. And the guy who's been three years is making
12 less than I am.

13 MR. HOGAN: Until you reach the cap?

14 EMPLOYEE: Until you reach the cap. Absolutely.
15 So by you saying --

16 MR. HOGAN: Somebody (Inaudible) spending a long
17 time making 41 and you're -- or 43 with the new pay scale,
18 and you're --

19 EMPLOYEE: Then still at the bottom

20 MR. HOGAN: So that --

21 EMPLOYEE: You still need --

22 MR. HOGAN: -- (inaudible).

23 EMPLOYEE: I'm working under the same
24 (inaudible).

1 MR. HOGAN: -- across the board.

2 EMPLOYEE: That's (inaudible).

3 EMPLOYEE: I'm -- I'm saying --

4 MR. HOGAN: That (inaudible) --

5 (Multiple speakers).

6 MR. HOGAN: -- change that. And then you turn
7 on (inaudible) --

8 (Multiple speakers).

9 EMPLOYEE: He was saying (inaudible) making --
10 the priority would be to make right on this situation
11 first before you give the across the board increase
12 (inaudible) priority of the situation.

13 EMPLOYEE: Give them -- give them what they feel
14 they're -- you know, I mean, there's -- he only wants what
15 he's owed.

16 James Young: That's it.

17 UNIDENTIFIED FEMALE SPEAKER: Yeah.

18 EMPLOYEE: That -- that is it.

19 EMPLOYEE: I don't want any more than that.

20 Tony Rogers: I understand that we may not get a
21 raise next year, I understand that. But you're going to
22 give a two cent raise to a guy who just walked through the
23 door, and I'm going to get the same rate he is? That's
24 not right.

1 June Glennon: I'd rather see -- I would give up my
2 two cents if they got (inaudible).

3 EMPLOYEE: Like I said, the contract pays 41
4 cents --

5 UNIDENTIFIED FEMALE SPEAKER: (Inaudible).

6 MR. HOGAN: So we're -- say wait a minute, I'll
7 for the 41 -- 43

8 Michael Halbritter: I would love to go to 43,
9 but if it's going to -- but if it's going to get Tony
10 where he belongs, take my two cents. I'm -- I'm already
11 content and happy with what I've got. I don't need to
12 make anymore. I mean, as he said, I got what I signed up
13 for.

14 UNIDENTIFIED FEMALE SPEAKER: (Inaudible).

15 EMPLOYEE: I knew what I signed up for. I made
16 it to where, you know, I was --

17 EMPLOYEE: (Inaudible).

18 EMPLOYEE: -- before the wage increase.

19 Mr. Hogan: You don't think e everybody always
20 gets something?

21 EMPLOYEE: (Inaudible).

22 EMPLOYEE: All (inaudible) --

23 EMPLOYEE: (Inaudible).

24 EMPLOYEE: I'm not asking for more than what

1 (inaudible).

2 MR. HOGAN: We had this discussion early --
3 several months ago when we talked about adjusting pay for
4 the different locations and we said well, we should --
5 everybody should get something. The guys even at 41 have
6 been frozen
7 for --

8 EMPLOYEE: But the thing is the contract, at the
9 time the contract paid 40 cents a mile. I hit that max.
10 I knew what I was getting into when I signed that paper
11 and I came in to apply.

12 Tony Rogers: See, that -- that's my point. I
13 would (inaudible) you know what --

14 Tony Rogers: You know what, this is what the
15 contract pays, you go home every day, it's 36 cents a
16 mile. If I would have signed up knowing it was 36 cents a
17 mile, that's what it is.

18 EMPLOYEE: Yeah.

19 EMPLOYEE: That's not what I signed up for.

20 EMPLOYEE: See, I signed up; I got my 36
21 cents --

22 EMPLOYEE: And then I (inaudible) --

23 EMPLOYEE: -- (inaudible).

24 EMPLOYEE: -- to Charlie, and every year I

1 went -- I kept going up the ladder a little more.

2 EMPLOYEE: Yeah. It's -- like I said --

3 EMPLOYEE: I (inaudible).

4 EMPLOYEE: -- I made it to 40 cents. I made it
5 to where I wanted. I told Charlie -- I told Charlie last
6 year, you know when -- not last year, the last couple
7 of --

8 EMPLOYEE: (Inaudible).

9 EMPLOYEE: -- and I told him you should be --
10 last week, thanks for your pay, I appreciate it.

11 MR. HOGAN: (Inaudible) we have a wage freeze
12 and that's (inaudible).

13 Michael Halbritter: Well, the contract pays 40
14 cents a mile and the driver's making 36, and he's supposed
15 to be at 38, there's --

16 Charlie Johnson: Well (inaudible) increased
17 scale (inaudible) Mike, you said it's the contract rate
18 for everybody. It was the contract rate for the drivers
19 that have been here for four or five years.

20 EMPLOYEE: Yeah, so that doesn't mean they got
21 the same thing.

22 MR. HOGAN: Well --

23 EMPLOYEE: But again, it's -- but if you've been
24 here --

1 Charlie Johnson: It's not (inaudible) -- across
2 the board for everybody.

3 EMPLOYEE: No. But now what you're saying is
4 we're going to get a few cent bump, so go 41 to 43,
5 (inaudible) at 38. And then next year we're revisit it
6 and everybody's going to get 1 cent or whatever the case
7 may be until you go from the bottom to the top again;
8 correct?

9 Charlie: Or revisit whatever scenario makes
10 sense.

11 EMPLOYEE: We heard that three years ago.

12 Charlie Johnson: And that's -- you know, I had
13 a conversation with Tony, that's where we failed. We
14 should have come back --
15 (Multiple speakers).

16 EMPLOYEE: -- and we -- I feel we are trying to
17 be fair about it. I feel we are trying to feel fair about
18 it most -- most guys I talk to understand the pay raise,
19 they understand Sav-A-Lot (inaudible).

20 EMPLOYEE: And -- well you know what
21 (inaudible). Most of us like our jobs. And with any job
22 there's things you like and there's things you don't like,
23 and most of do see and say, you know I may not like it but
24 you know, it is what it is. But fair's fair.

1 Charlie Johnson: You know what, we need to do a

2 --

3 EMPLOYEE: So maybe you should give raises on an
4 individual basis on what they've done? So that's what
5 we're saying.

6 Michael Halbritter: Oh, my question is -- is
7 you got the contract with Sav-A-Lot. So when you charge
8 them -- you tell them how many drivers you need and what
9 you're supposed to be paying these drivers; are they going
10 to pay the extra penny that these guys are supposed to be
11 getting a raise?

12 MR. HOGAN: Nope nope.

13 EMPLOYEE: Then the contract's set for 40 cents
14 a mile.

15 MR. HOGAN: No --

16 EMPLOYEE: Per driver.

17 Mr. Hogan: Let's go back -- let's go back to --

18 EMPLOYEE: At this point what's it matter?

19 EMPLOYEE: No, it --

20 EMPLOYEE: (Inaudible) let's look at the numbers
21 that are existing today and (inaudible) --

22 Mr. Hogan: I mean, you go back five years ago,
23 that's what the contract was at, at that snapshot. Here
24 we've gone five years, you've reduced the rates

1 twice --

2 EMPLOYEE: I understand that.

3 Hogan: Okay. We're raising the wages here
4 today or we've asked earlier (ph). But then all our other
5 costs continue to go up and we haven't gotten any money
6 from Sav-A-Lot. Like we talked earlier about health
7 insurance. You guys are paying more, the company's paying
8 more. Our Worker's Comp Insurance goes up 8 1/2, 9
9 percent every year, too. So --

10 EMPLOYEE: (Inaudible).

11 Mr. Hogan: -- when you say -- when you say "the
12 contract" I've kind of threw that out the window. I just
13)look and say, shoot, how can we -- what can we do to
14 remain viable under the current situation because it's
15 like the whole thing's changed. Well, it has.

16 EMPLOYEE: Yeah.

17 EMPLOYEE: (Inaudible).

18 MR. HOGAN: So I don't have a benchmark to look
19 at anymore because when you used to get I wouldn't say
20 regular but I would say maybe every couple years we could
21 get an increase out of Sav-A-Lot, and that's why it
22 ratcheted up every year. So if we make a penny more, our
23 costs would go up, but then we would pass it on to Sav-A-
24 Lot that all stopped So that's why we put the wage freeze

1 in.

2 EMPLOYEE: I thought the wage freeze was because
3 fuel prices like doubled?

4 MR. HOGAN: No, that's -- that was part of it.
5 Another conversation.

6 But I want to explain to you, they -- they incur
7 a surcharge, so when fuel goes up and down we're getting
8 reimbursed for most of that. That's not why I threw the
9 wage rate out, I just (wanted you guys to understand we
10 get paid from Save-a-lot the surcharge.

11 UNIDENTIFIED FEMALE SPEAKER: What is the --

12 MR. HOGAN: We (inaudible). So they can pay for
13 that. That's not why we're having this conversation
14 (inaudible). It's a million other things, like insurance
15 for the trucks; it just rises up every year. So those are
16 things -- I'm -- that's our responsibility to try to keep
17 in check.

18 Our goal and responsibility as employers as is
19 try to provide a decent job for our employees, drivers,
20 technicians, office people under the guidelines we have to
21 work with the customer. And like Charlie said sure -- we
22 need to do a better job communicating with you all.

23 I'm not going to sit here and promise you the
24 result's going to be different. At least we can hear what

1 your issues are and try to address them. I mean, I'm
2 (inaudible) hearing a graduated pay scale is more important
3 so there's a difference
4 between --

5 Tony Rogers: Not necessarily. I'm not saying
6 that because I'm speaking for myself. What I'm saying is
7 I understand that as myself next year there may not be
8 raise because the economy may be worse or at the same
9 point it is now, and you just gave us a raise.

10 What I'm saying is the guy that walks into
11 today --

12 MR. HOGAN: (Inaudible) would that make a
13 difference?

14 EMPLOYEE: You (inaudible) get somebody to do it
15 then. And if he is a good (inaudible).

16 MR. HOGAN: No, I'm just asking (inaudible) --

17 EMPLOYEE: -- because they didn't like the
18 equipment, which is going to cost us all more money and
19 job security .

20 Jim Lauda: The question right there is exactly
21 what I was going to address to Charlie. You know, he says
22 \$.02 across the board wage (inaudible) see some more --

23 Jim Lauda: He says across the board wage, I
24 thought it was for existent drivers and -- and the

1 starting pay was not changing (inaudible).

2 MR. HOGAN: (Inaudible) and tell him --

3 Michael Halbritter: That -- that right there?
4 That -- that would -- that would actually satisfy quite of
5 bit of Tony's issue right there. I mean, if the guys who
6 have been here less than a year less than a year are still
7 going to get --

8 EMPLOYEE: Well --

9 EMPLOYEE: I'm sorry. Well, there are a lot of
10 people here less than six months.

11 MR. HOGAN: Right.

12 Michael Halbritter: Here's a perfect example.
13 A guy who walked in six months ago, right, he's going to
14 get a two cent raise and then six months from now he's
15 going to get another cent, so actually he'll be making
16 more money that I am, and he's been here two years less
17 than me.

18 EMPLOYEE: Yeah.

19 Michael Halbritter: How is that --

20 EMPLOYEE: (Inaudible) been starting right where
21 it is.

22 EMPLOYEE: So (inaudible) --

23 (Multiple speakers).

24 Charlie Johnson: We need to go back and --

1 EMPLOYEE: And need to evaluate everybody
2 (inaudible) --

3 Charlie Johnson : Here's the magical question,
4 you -- you answered the question; can we hire drivers at
5 36 cents?

6 EMPLOYEE: No. Not anybody worth having.

7 Charlie Johnson: That's what we need to --
8 that's (inaudible).

9 EMPLOYEE: So that's where we need to start
10 and -- and not say that, oh, we're going to give a two
11 cent raise because that is part of the reason you're
12 giving a raise, is because you need better quality
13 drivers. In this area. Right here. I don't care about
14 Ohio; I don't work there. We care about this save-a-lot
15 (inaudible) and our -- our accounts here.

16 James Lauda: The reason for the -- I believe --
17 I thought the reason for the two cent raise, I thought
18 (inaudible) was for the existing drivers was that
19 (inaudible) wage freeze for as long as you have and you
20 were just getting a two cent bump.

21 EMPLOYEE: But (inaudible) --
22 (Multiple speakers).

23 Charlie Johnson: The -- for us with the two
24 cents was to (inaudible) today.

1 Charlie Johnson: But new drivers that's --
2 that's an afterthought. I mean, that was not part of the
3 --

4 EMPLOYEE: So in other words you're (inaudible)?

5 EMPLOYEE: No (inaudible).

6 EMPLOYEE: So like I said, I've been here three
7 years, you've been six months, seven months, and we're
8 getting the same rates. So (inaudible).

9 (Multiple speakers).

10 EMPLOYEE: (Inaudible) must be wrong.

11 EMPLOYEE: No, it is what it is, though. It's
12 not (inaudible) give anybody. But the point is --

13 EMPLOYEE: (Inaudible).

14 (Multiple speakers).

15 EMPLOYEE: No, he should get his cent raise.
16 But I was just saying I shouldn't get the same rate you
17 get.

18 MR. HOGAN: Would you like it if everybody got
19 the same raise (inaudible) --

20 EMPLOYEE: Absolutely. I think (inaudible).
21 That's a longevity bonus is what I would like to call
22 it (inaudible).

23 MR. HOGAN: So everybody -- everybody is moving
24 up. I mean, if every year we came and said we're going to

1 bump everybody --

2 EMPLOYEE: But you say you weren't going to move
3 up and next year we're going to revisit it, so there's no
4 guarantee you're going to move up next year.

5 MR. HOGAN: No, I agree. But I'm just saying
6 what happened here is everybody's getting a bump in pay (

7 EMPLOYEE: No, it's not.

8 MR. HOGAN: And I understand --

9 Tony Rogers: We should (inaudible) individual
10 is what I'm saying. That's what I'm saying. Why should
11 you give two cents to somebody that just walked in the
12 door? Maybe they -- they deserve a penny because they've
13 been here. I'm not saying they shouldn't get anything.
14 So why should the top guy get two cents and the bottom
15 guys get two cents?

16 MR. HOGAN: You're asking me? I think everybody
17 deserves a pay increase (inaudible).

18 (Multiple speakers).

19 EMPLOYEE: It's just the numbers don't
20 (inaudible).

21 EMPLOYEE: (Inaudible) based on being here
22 longer? Is it based on performance? What's it based on?

23 EMPLOYEE: That's what I'm trying to get to.

24 UNIDENTIFIED FEMALE SPEAKER: It's not based

1 on --

2 EMPLOYEE: Hear what she said? What --

3 EMPLOYEE: Is there a reason why should a new
4 guy get three cents?

5 Shane McDonald: Should the guy that's been here
6 five years only get?

7 EMPLOYEE: Not at all.

8 EMPLOYEE: No, I didn't say that.

9 EMPLOYEE: Why, because they've been here five
10 years?

11 MR. HOGAN: You got it.

12 EMPLOYEE: They should get more.

13 EMPLOYEE: Well, that's a different kind of a
14 raise; isn't it?

15 EMPLOYEE: Exactly. That's my point.

16 EMPLOYEE: (Inaudible).

17 MR. HOGAN: Well which one of you drivers
18 (inaudible)? We're trying to work with you to try to
19 offer some more pay (like we did in some of the other
20 locations.

21 EMPLOYEE: (Inaudible) we could be up there at
22 38, that's the next (inaudible).

23 EMPLOYEE: Then we would get that 38 for the
24 next five years, putting (inaudible) --

1 (Multiple speakers).

2 EMPLOYEE: There you go, man.

3 MR. HOGAN: guys if I can finish all the issues
4 and we can (Inaudible) continue to talk and I think
5 Charlie you made some notes on the payouts on (inaudible)
6 how it should work or whatever. again(Inaudible), but
7 again we are trying to do the right thing and get
8 everyone a bump. If you don't like the discrepancy and I
9 understand where its coming from but we are trying but
10 still the fact is we're trying to bring everybody up.

11 You know, a couple things, you know, talking
12 (inaudible)again about the Union, all that stuff, and I
13 think you guys talked about -- the wages and the benefits
14 and those type of things.

15 As you know the discussion we're having here
16 today you probably won't be able to have if the union is
17 brought in . And many of you guys are fine with that, but
18 it does kind of tie everybody's hands. You
19 all -- the Union and all of us together can't to try to
20 work through these issues.

21 I'm not going to tell you that we have the best
22 ()driving job, the best the pay or the best company. What
23 we try to do is make the best of a situation we're
24 operating in with our customers. And that's -- that's all

1 we can do.

2 You know, as far as I think the company has made
3 comments about the Union as far as Sav-A-Lot, they have 15
4 distribution centers, they have no union employees inside
5 their distribution centers. None of their company-owned
6 stores are union. Franchise stores, they don't really
7 worry -- franchise stores, they just sell product to
8 However, if they want to run their stores, save-a-lot says
9 that's their business and they can carry our banners but
10 that's a separate corporation under another name.

11 So you know, I can tell you save-a-lot (made
12 this clear to me, we don't have any transportation
13 providers who will deliver to our stores in the country
14 that are union So they said you need to keep that in
15 mind when you guys are working through the issue here.

16 I don't know how to be -- I don't know how to be
17 more direct, but I think our business here is in jeopardy
18 if the union comes in. It's not a threat, it's just my
19 opinion with my discussions with Save-a-lot) when they
20 remind me of how they operate. They don't want to operate
21 in Union environment, all that stuff. (Inaudible)

22 EMPLOYEE: It's like (inaudible).

23 Mr. Hogan: And some of that obviously they've
24 heard feedback from their type of stuff. They're -- you

1 actually had a driver talk to one of their stores and say
2 there was going to be a work stoppage or a possible work
3 stoppage and a strike or whatever. That did not go over
4 well with Sav-A-Lot.

5 They approached me and said listen, we're going
6 to get our product delivered with or without Hogan, it's
7 that simple. So that got back to Sav-A-Lot and they said
8 they're not going to let themselves be put in a position
9 where the product will be disturbed and suffer because)
10 they have a business to run and they appreciate your
11 service, what you guys have done for us, but if we need to
12 move in a different direction we will to ensure that we
13 get the product to the store. So when they hear that
14 stuff about work stoppage or a strike and all that they
15 run the other way .

16 Michael Halbritter: It's not a question it's a
17) basic statement to everybody here. I mentioned this
18 before, because you never truly know what someone's going
19 to do until they do it. So them breaking a contract with
20 Hogan is conjecture at the moment.

21 I firmly believe that if we go Union, we're all
22 out of a job because this shop is going to close and the
23 only way Hogan will make any money out of this is if they
24 rent Hogan's equipment and they put other driver's into

1 it. That's the only way Hogan would make any money out of
2 this area.

3 I firmly believe that if that happens we're all
4 done. That is my belief.

5 EMPLOYEE: I don't see --

6 Mr. Hogan: I agree 110% with that and I am just
7 being honest with you

8 EMPLOYEE: But --

9 Michael Halbritter: Whatever it is (inaudible)
10 just simply knowing how Sav-A-Lot is, we should all know
11 how this warehouse is, how their management is --

12 Mr. Hogan: It's their entire corporation.

13 Michael Halbritter: Well, I'm just talking
14 about just this warehouse alone and how they are. Just
15 from what we know, yet it's all conjecture, it's all just,
16 you know, voices saying this and this and this just to get
17 us to do one thing.

18 Michael Halbritter: I firmly believe that
19 should this -- should our shop go union we're all out of a
20 job. And if we're not, remember this, if you're in the
21 bottom 10, 15 people you're all screwed if we go union
22 because I tell you now, number 11 I will take somebody's
23 sleeper. I will take the next longest run. I will make
24 Tony, Jerome, and Shane , Troy, Manans , Springfield; they

1 will get the shortest runs because I will not let my
2 paycheck suffer.

3 EMPLOYEE: that happens already

4 Michael Halbritter: Well, that's the thing though,
5 you get that in addition to another run, I'm saying you're
6 going to get Troy. You're only going to get Albany.
7 You're only going to get --

8 EMPLOYEE: If you do that, though, be careful,
9 don't hit nothing with the truck.

10

11 Tony Rogers: The Union will keep me employed.
12 (Inaudible) your ass out of a job.

13 EMPLOYEE: Please, man.

14 (Multiple speakers).

15 EMPLOYEE: I mean -- you got --

16 COMPANY REP: (Inaudible) number 11 (inaudible).

17 (Multiple speakers).

18 MR. HOGAN: guys I agree it's my belief to if
19 it's organized here I think save-a-lot goes in a
20 different direction. And you know, I think we can do a
21 great job for save a lot but let's face it we are not
22 irreplaceable.

23 EMPLOYEE: Oh, no.

24 MR. HOGAN: I mean, I can tell you the. B. Hunts

1 of the world and the Werners would be on Save-A-Lot
2 stores month after month for all their business. So you
3 know, they - they would step in overnight. They would
4 love to have the business.

5 EMPLOYEE: And I've already witnessed --

6 MR. HOGAN: (Inaudible).

7 EMPLOYEE: I've already witnessed how --

8 Mr. Hogan I mean those companies, they -- you
9 know, brought in 10,000, 20,000 trucks and you know, Sav-
10 A-Lot -- I mean, they're totally aware. I mean, shit we
11 bid on half a dozen Sav-A-Lot locations over the last
12 three or four years. They're bringing in 12, 14, 15
13 carriers. So I just say that the way they operate they're
14 just -- they're not going to -- they're not going operate
15 in an environment that may come about here. .

16 EMPLOYEE: (Inaudible) anybody.

17 UNIDENTIFIED FEMALE SPEAKER: (Inaudible).

18 EMPLOYEE: That's the whole -- everybody --

19 MR. HOGAN: But my point is (inaudible) -- well,
20 I'm here today, too from -- a relationship, trying to work
21 together and we have a ways to go so we understand each
22 other because there's obviously some issues on pay and
23 benefits. I can't --

24 Jim had asked me or maybe it was Charlie a --

1 they're going to ask okay you get a bump in pay. Now (what
2 are you going to do next year? I said Jim, and I told
3 both these guys, I said I can promise them we'll come up
4 and listen and we'll do what we can but I can't promise
5 them a pay increase because that's total BS if I do.

6 But we can meet. Charlie and I had talked last
7 night at dinner. We haven't done a very good job at
8 communicating. It's not just at this locations, it's
9 seems like some of our remote locations we -- we don't do
10 as good a job as far as getting out with the people. You
11 know, after that I say that Jim's' gone on his own
12 (inaudible) sitting here and us in corporate if its
13 Charlie or Dave stock or myself folks in operations we
14 need to get out -- you guys more because you -- at least
15 we hear what's going on. It doesn't mean we're going to
16 solve all the problems, but at least we can listen and
17 solve some of them.

18 Michael Halbritter: And like I said to Charlie,
19 thanks for the penny raise I got the last time. If you
20 guys want to give a two cent raise I'm not going to say
21 no.

22 EMPLOYEE: Absolutely not.

23 Michael Halbritter: No, I'm not going to say
24 no. But I am going to say think about this, instead of,

1 you know -- like I said, I know what I signed up for. I
2 can't speak for everybody who's been here as -- longer
3 than me or as long as me, you know. He's the guy and the
4 guys like him are the ones you have to cater to ASAP.
5 They're the ones you got to make feel important.

6 You -- I mean, Charlie already knows my stance.
7 Jim knows my stance. I may have pitched a fit last time,
8 I'm not going to pitch a fit this time because I -- I
9 think that everybody should have already know. So --

10 EMPLOYEE: No I'm not.

11 EMPLOYEE: Right there, that's the --

12 EMPLOYEE: (Inaudible).

13 (Multiple speakers).

14 COMPANY REP: What's that?

15 EMPLOYEE: I -- would getting the two cents
16 (inaudible)?

17 COMPANY REP: (Inaudible).

18 MR. HOGAN: Well, no, we (inaudible).

19 EMPLOYEE: (Inaudible) doing something on
20 (inaudible).

21 (Multiple speakers).

22 Michael Halbritter: That's 1250. Take it.

23 Thanks a lot. Yeah, but, you know, like I said my concern
24 isn't for me because I'm already at the max. I'm happy.

1 I'm content. You know, if you want to give me another two
2 cents, please, you know, go ahead.

3 Mr. Hogan: (Inaudible). Everybody ought to get
4 something.

5 EMPLOYEE: Oh, yeah, I -- by all means, go
6 ahead. You know, but like I said, I knew what I was
7 signing up for. I knew there was a cap at the end.

8 EMPLOYEE: I think that's -- issue right there,
9 like you're saying.

10 EMPLOYEE: You know, I knew --

11 EMPLOYEE: Everybody who signed on (inaudible).

12 Michael Halbritter: I knew what I was getting
13 into. I knew if I put my time in I was going to get a max
14 pay. You want to give me more, two more cents, by all
15 means knock yourselves out. I'll take it. I won't say
16 no. You know, but Tony and Jerome, gentlemen that have
17 been here less than four years, you know, they're the ones
18 you really got to take care of because there's a lot more
19 of them than there are of me.

20 MR. HOGAN: I guess my wish today is I hope we
21 get the opportunity to work through some of these issues.

22 EMPLOYEE: I would -- I would make that --

23 MR. HOGAN: you know what I am saying (Inaudible)

24 --

1 Michael Halbritter: -- I would make that your
2 top priority. I would definitely make that your top
3 priority.

4 MR. HOGAN: Right.

5 Tony Rogers: You know, can I throw something
6 out? Since we're talking about pay, there's times
7 there's, you know, they still want (inaudible). Me, I'm
8 (inaudible), I'm not talking about (inaudible), but
9 there's time Mansfield Teetsel may have to come and drive
10 120 miles round trip.

11 EMPLOYEE: Hundred and ten.

12 EMPLOYEE: You know, this guys that are far away
13 and they come in a do a milk (ph) run. Jim's doing the
14 best he can. I mean, something's better than nothing
15 (inaudible), but maybe those short runs should have a flat
16 rate.

17 June Glennon: that sounds good.

18 EMPLOYEE: You know, instead of your -- you're
19 out there doing milk and (inaudible) for three hours, so
20 if you add it all up it's like making nine bucks an hour.
21 Maybe that should be a flat rate; milk (ph), Troy, Albany.
22 Those are all what, 34 to 45 mile runs.

23 James Young: Well, Austinburg gets \$125 minimum

24 --

1 EMPLOYEE: Well --
2 EMPLOYEE: -- for short runs.
3 EMPLOYEE: Nice. I didn't know that.
4 EMPLOYEE: Right.
5 Jerome Baum: Can we get a five day work week
6 (inaudible).
7 EMPLOYEE: Yeah.
8 (Laughter).
9 EMPLOYEE: Weekends.
10 EMPLOYEE: I get -- I get (inaudible).
11 (Multiple speakers).
12 EMPLOYEE: Wednesday off and Sunday off.
13 (Multiple speakers).
14 EMPLOYEE: There's a (inaudible) when you get
15 (inaudible) you do that for --
16 EMPLOYEE: (Inaudible).
17 (Multiple speakers).
18 EMPLOYEE: But the thing of it is, is --
19 EMPLOYEE: Yeah, but I want (inaudible).
20 (Multiple speakers).
21 EMPLOYEE: Or you go for a year and then you
22 start having (inaudible).
23 UNIDENTIFIED FEMALE SPEAKER: (Inaudible).
24 EMPLOYEE: And then after a couple of years they

1 can't see their kids because (inaudible). The thing of it
2 is that (inaudible).

3 MR. HOGAN: (Inaudible). (Inaudible).

4 EMPLOYEE: Except for you. (Inaudible).

5 (Inaudible) past few days (inaudible) --

6 EMPLOYEE: (Inaudible).

7 EMPLOYEE: Let me finish. Three days a month
8 (inaudible) three days off, fine. You want to go? Go
9 ahead, (inaudible). But be here (inaudible). If you want
10 the time off (inaudible).

11 MR. HOGAN: (Inaudible) --

12 EMPLOYEE: (Inaudible) --

13 MR. HOGAN: -- (inaudible).

14 Jim Lauda: (Inaudible) everybody who's sitting
15 in this room, right, it's easy to say three
16 days (inaudible) off, right. I sit over here and we're
17 (inaudible). The next week (inaudible) and wants to do an
18 overnight (inaudible). And then the next week he doesn't
19 want to do overnights anymore (inaudible), right. And
20 (inaudible) --

21 EMPLOYEE: (Inaudible) --

22 EMPLOYEE: -- (inaudible) --

23 EMPLOYEE: We still have (inaudible) --

24 (Multiple speakers).

1 UNIDENTIFIED FEMALE SPEAKER: Oh, I thought
2 Sunday and Monday?

3 EMPLOYEE: Yeah, consecutively would be better
4 for people.

5 (Multiple speakers).

6 EMPLOYEE: (Inaudible) the only people who --
7 two days and one day (inaudible) --

8 EMPLOYEE: Yeah. True.

9 EMPLOYEE: -- and then (inaudible). But it's
10 not the (inaudible).

11 EMPLOYEE: Yeah.

12 EMPLOYEE: I mean, we couldn't do (inaudible).

13 (Multiple speakers).

14 Lauda: (Inaudible) and unfortunately most of
15 their drivers couldn't meet the (Inaudible) standards to
16 put them in a truck. And we're trying to work through
17 that and (inaudible) company's center line (ph) --
18 supposed to be able to (inaudible).

19 You remember at one time I probably had eight or
20 nine different Saturday drivers, you know, so you guys
21 could take a two-day weekend or rotate, remember?

22 EMPLOYEE: We still got people (inaudible).

23 (Multiple speakers).

24 Sean Murphy: These (inaudible), they get

1 discouraged, they feel hopeless. (Inaudible) and they're
2 discouraged.

3 Tony says I'm working here and he says how much
4 am I going to be making for the next five years?

5 Jerry says I'm working (inaudible) and I'm never
6 going to have any time off for the next five years. He's
7 discouraged. Okay, then (inaudible).

8 As far as I'm concerned you can (inaudible).
9 (Inaudible). (Inaudible).

10 EMPLOYEE: How come they can't rotate?

11 EMPLOYEE: Well, you know --

12 EMPLOYEE: I would even work a Saturday and a
13 Sunday if I knew the next week I had Saturday and Sunday
14 off.

15 (Multiple speakers).

16 EMPLOYEE: I would actually (inaudible) that I
17 would do that.

18 (Multiple speakers).

19 EMPLOYEE: But the other problem that
20 (inaudible) --

21 (Multiple speakers).

22 EMPLOYEE: Most of these guys are (inaudible)
23 day off, and they put in their time and (inaudible).

24 (Multiple speakers).

1 EMPLOYEE: I'm just saying.
2 EMPLOYEE: We have a bad (inaudible).
3 (Multiple speakers).
4 EMPLOYEE: That's the drivers reason, too. The
5 drivers (inaudible).
6 EMPLOYEE: You know, you have Price Chopper, you
7 have Hannaford's, you have all these other guys that are
8 making way more money than we are.
9 EMPLOYEE: And I drove for them, I know.
10 EMPLOYEE: Now, the atmosphere working here is
11 totally different than (inaudible) --
12 You know how drivers are. You've dealt with
13 them for 37 years.
14 EMPLOYEE: Biggest bunch of crybabies in the
15 world.
16 EMPLOYEE: That's right. And (inaudible) oh
17 (inaudible) --
18 EMPLOYEE: You got to do a lot of word of mouth.
19 (Multiple speakers).
20 MR. HOGAN: Let's try and see if we can fully
21 staffed and find more -- some solutions, I mean, that's
22 the whole (inaudible).
23 EMPLOYEE: You want to get them -- I already
24 said how to get them fully staffed.

1 EMPLOYEE: I would like to (inaudible) if we
2 could get --

3 EMPLOYEE: Jerome.

4 EMPLOYEE: -- the five day work week but, you
5 know, the (inaudible). But it (inaudible). I want two
6 days consecutive.

7 EMPLOYEE: Yeah, I do better consecutive, then
8 you can do something.

9 EMPLOYEE: I don't (inaudible) Wednesday where
10 you can (inaudible) --
11 (Multiple speakers).

12 James Young: What is the purpose of the \$4,000
13 sign on bonus?

14 EMPLOYEE: To get somebody in the door

15 EMPLOYEE: Yeah, I know. But I'm just --

16 EMPLOYEE: (Inaudible).

17 EMPLOYEE: -- saying --

18 EMPLOYEE: (Inaudible) when they realize that
19 oh, my god, I'm not getting a raise. That's a lot of
20 money. That's the most I've ever seen here.

21 James Young: What are you going -- what are we
22 doing about the hours of service come July 1st? I mean,
23 what's the story? What's the -- or is it going to be five
24 days? Is it going to be six days? What's going to happen

1 with that?

2 COMPANY REP: Let me (inaudible) --

3 (Multiple speakers).

4 EMPLOYEE: New drivers?

5 Jim Lauda: New drivers. Okay (inaudible) --

6 (Loud squelch).

7 Jim Lauda: -- sign on bonus, I guess --

8 EMPLOYEE: Get (inaudible).

9 (Loud squelch).

10 Jim Lauda: I'm also working with Sav-A-Lot. I
11 met with Mike yesterday, we were working on taking all the
12 shorter stores and get them on Monday deliveries as much
13 as possible.

14 (Inaudible) your Springfield's, your Hartford's
15 and your East Hartford's and all of those, which will
16 allow you more sleep time because you won't -- you'll have
17 your assignments. You'll have a full assignment because
18 you won't have to be here until 5:00 in the morning on
19 Monday morning.

20 EMPLOYEE: Yeah, but (inaudible) --

21 (Multiple speakers).

22 (Loud squelch).

23 James Young: So are you going to (inaudible)
24 for the guys who like (inaudible), are you going to rotate

1 them back into 2:00, 1:00, midnight starts during the week
2 or are you going to just continue it to be in the morning?
3 (Multiple speakers).

4 Charlie Johnson: All right, going back to your
5 question on the \$4,000 sign on bonus, just to clarify --

6 EMPLOYEE: -- question.

7 COMPANY REP: It's not paid all at one time.

8 EMPLOYEE: Well, I know, I got -- I know that.

9 MR. HOGAN: (Inaudible) over a two-month period
10 of time.

11 EMPLOYEE: So when their 12 months shows up and
12 they're not getting that -- that penny raise that whether
13 or not they were promised, you just spent \$4,000.

14 Jim Lauda: I mean everybody (inaudible), you
15 know, and you got certain people who -- different things,
16 you know, (inaudible). And you got someone like Grover
17 (ph) who runs (Inaudible). And -- in some weeks he makes
18 a fortune because he does (inaudible).

19 (Multiple speakers).

20 Lauda: Because when the business (inaudible) I
21 have offered these to some of the people who have been
22 here longer.

23 EMPLOYEE: Sure.

24 (Multiple speakers).

1 EMPLOYEE: (Inaudible).

2 EMPLOYEE: I remember my first three years here.
3 (Multiple speakers).

4 EMPLOYEE: And quite frankly, you know, at Sav-
5 A-Lot, the Dollar General's --

6 (Multiple speakers).

7 MR. HOGAN: I mean, we can just send you out on
8 Saturdays (inaudible).

9 EMPLOYEE: I don't (inaudible) three years here.
10 You know, I work Monday through Saturday. Vacations, I
11 rarely, rarely got Wednesday off. I rarely got a Saturday
12 off.

13 UNIDENTIFIED FEMALE SPEAKER: (Inaudible).

14 EMPLOYEE: (Inaudible).

15 (Multiple speakers).

16 EMPLOYEE: I sure as hell do.

17 James Lauda: And -- also take into
18 consideration that you had your kids on Friday that you
19 can take care of them of Saturday, right. So on Saturday
20 you did a short run. (Inaudible).

21 EMPLOYEE: That's the thing. Like I said, I --
22 I am happy with what I make. You know, I am content. I
23 have absolutely no issues. I'm only arguing, you know,
24 for guys like Tony. That -- that's -- and I'm not saying,

1 you know, I'm not arguing for them because, you know, I'm
2 a nice guy; I'm arguing for them because, you know, I -- I
3 see that as one of the primary issues. You know, hell,
4 I'm not a nice guy, I'm greedy as fuck.

5 You know, like I said, if you want to give me
6 that two cents, I'll take it. I'll take it. I'll take'm.

7 MR. HOGAN: You know, I think there's a couple
8 other things here. We talked about communication and
9 (inaudible) for whatever is worse to make a more regular
10 visit and I think the Union's obliged (ph) to make them
11 (inaudible) if that's what you want to call it or at least
12 open up the line of communications.

13 When I called, the drivers that I talked to at
14 other locations and some drivers take me up on it, if you
15 want to pick up the phone and call Charlie or call Dave
16 (inaudible), vice president of operations or call me,
17 you're more than welcome to. If you want to e-mail me --

18 EMPLOYEE: Oh, please, I don't even want to talk
19 you (ph).

20 MR. HOGAN: No, no, I'm saying if you -- if you
21 want to talk to somebody (inaudible) --

22 EMPLOYEE: No, that -- what I mean is the reason
23 I'm a truck driver is because I don't want to have my boss
24 sitting on my shoulder. I don't want to have that -- too

1 much communication with him. I want my -- I like
2 (inaudible) --

3 MR. HOGAN: Well, but I'm just talking
4 (inaudible) -- some guys do. (Inaudible) something that's
5 said here, I might (inaudible) send an e-mail to me with
6 questions and they (inaudible). But I just (inaudible)
7 original reason why (inaudible) because we got
8 (inaudible). And I (inaudible) think we need it. You
9 guys have talked about wages, benefits. You've talked
10 about five and six day work weeks. You've talked about
11 (time off and a number of different issues. You guys are
12 smart enough to know the Union can't control that any
13 better than we can.

14 Okay. They're not going to go (inaudible) they
15 want to only run five days a week. And they --

16 EMPLOYEE: (Inaudible)?

17 MR. HOGAN: Yes. And again, I'm not here to be
18 critical of the union (inaudible), I'm just trying to
19 explain the facts. They don't control the marketplace.
20 They can't tell us where to go to buy a new truck or what
21 fuel costs or how to save (inaudible), how many stores or
22 why we are bad or good or this or that. I mean, they
23 can't control those things, so I'm not sure what they
24 bring to the table.

1 And I just hope that they are not making the
2 wrong promises because it -- they can't change that stuff.
3 So that's -- that's the world we live in. And I just want
4 to make sure that we continue to have dialogue if you guys
5 have any questions or anything) please ask. Call me at
6 the office or whatever. I

7 Again, there's a lot of challenges with the
8 different parts of the operation and all that. We
9 recognize that. And we will try to improve on it. But I
10 got to tell you the last three or four or five years

11 It's been difficult to say the least with our
12 customers. You can pick up the phone and call
13 (inaudible), he's our head of sales. He's -- I don't know
14 whether they expect -- I've never seen customers more
15 demanding in my life. And that's true. So that's what we
16 deal with, so we try to (inaudible) -- provide the
17 service, get the loads out there. I'm not here
18 complaining about it, I'm just sharing with you guys
19 (inaudible).

20 We've been doing business with Target for 10
21 years and for the first three or four years they would
22 give us a little bump in pay. Then about 2007 or '8 comes
23 along (inaudible). Actually, the last bid went out to 32
24 carriers. Last three years people reduced their rates

1 including Target.
2 EMPLOYEE: Target?
3 MR. HOGAN: Target.
4 EMPLOYEE: What do you have?
5 EMPLOYEE: (Inaudible).
6 EMPLOYEE: Amsterdam.
7 EMPLOYEE: No they don't.
8 EMPLOYEE: The one in Amsterdam.
9 EMPLOYEE: Yeah, there's --
10 EMPLOYEE: Yeah, there's --
11 (Multiple speakers).
12 COMPANY REP: It's the Target VP -- contracts.
13 MR. HOGAN: Guys, I'm not here to tell you
14 Target's doing bag because I actually think they're doing
15 pretty good. But you know what (inaudible) -- you know
16 why they ask for (inaudible)? Because somebody out
17 there -- control their money (inaudible).
18 EMPLOYEE: They'll make more profit.
19 \: But the joke is basically the (inaudible)
20 bottom line for everybody.
21 EMPLOYEE: (Inaudible) back home it's a lot --
22 because I tell people four years ago it was more -- it
23 was -- (inaudible) would have to deal with owners of
24 companies, now you're dealing with --

1 COMPANY REP: (Inaudible).

2 (Multiple speakers).

3 EMPLOYEE: There's no small companies left.

4 COMPANY REP: Right.

5 Mr. Hogan: When you go grocery shopping now,
6 you know, you could go to Walmart. You know, where do you
7 go to -- where do you go to a hardware store? I can't
8 stand going to Home Depot. I hate the place. But --

9 EMPLOYEE: It's (inaudible).

10 EMPLOYEE: -- that's the only place that's left.

11 EMPLOYEE: Yeah.

12 EMPLOYEE: Now, is Hogan publicly owned or --

13 Hogan: No, private.

14 MR. HOGAN: I own it with myself and my two
15 brothers. Three shareholders, that's it.

16 EMPLOYEE: And if you're (inaudible).

17 EMPLOYEE: You want to kill a brother (ph)?

18 (Multiple speakers).

19 EMPLOYEE: Remember in the '80s they said we're
20 cutting prices, we're getting ready to kill a man
21 (inaudible).

22 MR. HOGAN: Oh, yeah, I still haven't heard that
23 before.

24 EMPLOYEE: (Inaudible) get rid of the middle

1 man. You got -- new companies on top putting the squeeze
2 on (inaudible).

3 (Multiple speakers).

4 MR. HOGAN: We used to do business with like
5 (inaudible)bicycle manufacture.

6 EMPLOYEE: Right.

7 MR. HOGAN: They don't manufacture bikes in this
8 country.

9 EMPLOYEE: Right.

10 MR. HOGAN: So we don't do business with them.
11 We used to haul around shoes. We used to manufacture
12 shoes. Guess what?

13 EMPLOYEE: Now you got --

14 MR. HOGAN: They don't make shoes in this
15 country anymore. They do a little bit (Inaudible). Those
16 used to be our customers. Now our customers --

17 COMPANY REP: We (inaudible) business WalMart,
18 and Target and Dollar General and Supervalu and that's --
19 that's the companies out there. You guys know you shop
20 there. So --

21 But hey) again that's -- we picked to be in
22 this business and make the best of it. Try to provide the
23 transportation and try to provide these new jobs to
24 people.

1 So I do think it's going to get better. I hope
2 we can go back to customers are giving increases and you
3 guys are on a graduated wage increase each year and
4 (inaudible) we don't talk about it ever again.

5 Back in the early 2000's that's the way it was.
6 You guys who've been around here more, you know you got a
7 bump every year. So I think -- I think things will
8 continue to get better. This is (inaudible).

9 Do you guys have any questions you about the
10 union or the company? You asked about who owns the
11 company, I mean, that's a good question. I assume you
12 guys (inaudible) but --

13 EMPLOYEE: I never cared enough to ask. The
14 only reason I asked now because the topic came up and Chip
15 said to me, well, gee I wonder is -- is it privately owned
16 or is it, you know, publicly owned?

17 MR. HOGAN: I've got two brothers and actually
18 candidly they -- they oversee the truck leasing company
19 (inaudible) which is a big part of our business.
20 (Inaudible) People ask who you compete with. The big
21 competitors is Ryder and Penske. That's who we compete
22 with with the trucking part of the operation.
23 (Multiple speakers).

24 Michael Halbritter: Now the -- the only reason

1 I got curious was because it was my (inaudible). Before
2 that moment I really didn't care who owned Hogan. You
3 know, it's -- I was making my money. I was doing my job.

4 MR. HOGAN: Certainly.

5 EMPLOYEE: Yeah. I didn't need to know beyond
6 that. I only needed to know who my boss was and who his
7 boss was.

8 MR. HOGAN: All right. I just want to
9 (inaudible) spend some time with the guys and --
10 (Multiple speakers).

11 MR. HOGAN: Basically I'll be around. We're
12 going to talk to some more guys (inaudible) ill be here the
13 rest of the day and ill be back later in the afternoon at
14 1pm. But you know, you can ask questions (inaudible).

15 Guys who have signed cards and you said, hey,
16 they've got to let the Union in here. Don't -- don't just
17 not show up because if everybody votes for them, they're
18 in, you're not going to be happy about that, so you need
19 to go vote either way.

20 Mr. Hogan Obviously, we don't think we need a
21 union in here.

22 MR. HOGAN: any questions or anything?
23 (Inaudible).

24 EMPLOYEE: I said my peace. I think. I'll let

1 you know.

2 MR. HOGAN: Well, if there's something that we
3 can do, go back and try to make some changes, but I don't
4 want to promise you, you know, (inaudible) --

5 EMPLOYEE: (Inaudible).

6 MR. HOGAN: -- everybody on a five day work week
7 and we could do this and that, and some of those things
8 (inaudible).

9 EMPLOYEE: Don't make promises because you'll
10 just be --

11 MR. HOGAN: (Inaudible).

12 EMPLOYEE: Now, this is -- this is the result
13 of, you know, promising things that weren't kept.

14 EMPLOYEE: Exactly.

15 EMPLOYEE: You know, and this way (inaudible) --
16 don't make promises, you know. You say you'll do your
17 best, you do your best. You know. But --

18 MR. HOGAN: Well, you know, again we talked
19 about that a lot. There is no difference then, you know,
20 somebody that works (inaudible) in billing in St. Louis
21 and was hired in 2008 and we said we give him you a review
22 and a bump every year and give a wage increase and five
23 months later we put him on a wage freeze and we broke the
24 promise to them. I guess you can say that right.

1 EMPLOYEE: Pretty much.

2 MR. HOGAN: All right.

3 EMPLOYEE: But if you -- if you give --

4 MR. HOGAN: We felt strongly that we had a
5 responsibility to keep the company viable (inaudible) --

6 EMPLOYEE: I know (inaudible) --

7 MR. HOGAN: It was kind of (Inaudible) company-
8 wide. We're dealing with the cards to be dealt with (ph),
9 you know, with the economy, so --

10 EMPLOYEE: And from a wage freeze-- standpoint -
11 there are some companies that are still in a wage
12 freeze(Inaudible).

13 (Multiple speakers).

14 Mr. Hogan I recognize there are companies in
15 this area. Somebody mentioned some of the grocery
16 companies, they pay more and maybe some of the conditions
17 are better.

18 EMPLOYEE: (Inaudible).

19 Mr. Hogan: But keep in mind who our competition
20 is its not those people it's the J.B hunts, Schneider and
21 the Werner's of the world that's who is knocking on save-
22 a-lots door -that's who they compete with and that's who
23 is trying to get Save-a-Lots business and all our
24 customers and that's the marketplace we are in. again I

1 understand there are other jobs that are more desirable.

2 EMPLOYEE: Schneider.

3 Hogan: That's who we compete with, and that's
4 who's trying to get Save-A-Lot's business (and all their
5 customers, so that's the marketplace we' are in.I know
6 there are other jobs. I have said a lot about Save-a lot
7 today. I'm not here to bash Sav-A-Lot because again they
8 could easily pull the business from us. at any time. Over
9 the years they have that right for whatever reason. It's
10 one of our longer-term customers. But again they have
11 always made it clear the environment they want to work
12 in(. And they said whats thisabout the Union? And when
13 they select their carrier that's always one of the
14 questions they ask. So you know, they're concerned about
15 it. When they hear about drivers talking about work
16 stoppage, that doesn't go over well.

17 Mr. Hogan: (Inaudible)again, my opinion is we
18 got to continue to work together because if you guys
19 organize there is strong possibility we lose the business
20 I do not want anyone to tell me two months down the road
21 why didn't you mention that to us.

22 EMPLOYEE: I think I mentioned that (inaudible).

23 Mr. Hogan: No, you did. I know. I am not
24 telling you it's going to happen, but I know enough about

1 the way they operate.

2 EMPLOYEE: (Inaudible) I'm not going to
3 (inaudible) they operate.

4 EMPLOYEE: As I said, you don't know until it
5 happens but I believe it.

6 EMPLOYEE: What was the point that you had to
7 come over here? When was the point that you guys come
8 over here (ph)?

9 EMPLOYEE: You're asking me?

10 EMPLOYEE: Yeah.

11 Mr. Hogan As far as moving out (ph)?

12 EMPLOYEE: Moving over here, yeah. And they're
13 going to be moving back, so what's the -- what's the
14 point?

15 EMPLOYEE: That's the thing, nothing's moving
16 back.

17 (Multiple speakers).

18 EMPLOYEE: Well, that's what Ellen (ph) said,
19 you're going back -- back over across the street.

20 Jim Lauda: I don't know why she is saying that
21 but I'll say this. All I can say is I received a call
22 from St. Louis saying because of the conditions here they
23 would like me to come across the street and how fast can
24 we do it. I said (inaudible) money.

1 (Multiple speakers).

2 Tony Rogers: I think it's more of a legality
3 issue. . We don't want them -- on our property and
4 (inaudible) and so on. By moving it across the street --

5 EMPLOYEE: That way we won't get run over by
6 (inaudible).

7 (Multiple speakers).

8 EMPLOYEE: That's what I (inaudible). That
9 (inaudible) liability when the other, you know, trucking
10 company runs over us as they (inaudible).

11 James Young: Well, I got another question. If
12 we're going to be over here and everything's locked up
13 when we come in at 1:00, 2:00 in the morning, can you get
14 a bathroom in here?

15 EMPLOYEE: Yeah.

16 Jim Lauda: Actually you can use the bathroom in
17 the receiving office. Isn't there a --

18 EMPLOYEE: We can't get in the cards don't work(
19

20 there.
21

22 EMPLOYEE: The receiving --

23 EMPLOYEE: The receiving office.

24 Jim Lauda: Receiving office.

EMPLOYEE: Receiving office?

1 Jim Lauda: The receiving --

2 EMPLOYEE: Where Trish sits.

3 Jim Lauda: (Inaudible).

4 (Multiple speakers).

5 EMPLOYEE: Didn't know. I don't walk in that
6 door. That means (inaudible) if they come in after hours
7 we have to go bring them in to Trish through the window.

8 Jim Lauda: I can't leave this door open because
9 that property is rented by First Student. They were just
10 nice enough to allow us to use that room for a while .

11 EMPLOYEE: So we can go in there and use that
12 receiving office and they're not going to --

13 Jim Lauda: They shouldn't say --

14 EMPLOYEE: -- start shit with us?

15 Jim Lauda: No.

16 EMPLOYEE: We get to wait in line, though.

17 Jim Lauda: (Inaudible) receiving office, the
18 driver's lounge outside the receiving office; right?

19 EMPLOYEE: Oh --

20 EMPLOYEE: (Inaudible).

21 Lauda: If you go in the receiving office door,
22 the window to the receiving office is actually like 12
23 feet back. It's actually Mary (ph) there. There is a
24 bathroom in there (inaudible).

1 EMPLOYEE: All right. And a little -- table
2 with about three chairs.

3 EMPLOYEE: The only day and that won't be
4 (inaudible).

5 (Multiple speakers).

6 ** UNIDENTIFIED FEMALE SPEAKER: (Inaudible).

7 (Multiple speakers).

8 MR. HOGAN: Again, I don't know what your guys
9 individual thoughts are but if there's people saying)hey I
10 recognize that the business may be in jeopardy but I'm
11 going to vote for the Union anyway, my response to that,
12 please think about your fellow -- drivers, and how it may
13 effect them.

14 EMPLOYEE: Is that --

15 MR. HOGAN: even though -- you have a stronger
16 opinion of how you think you ought to vote, maybe you say
17 fine because I think we had a little feedback where some
18 people said, oh, I know maybe the business is in
19 jeopardy but I don't care. That's there right to think
20 that way but think how it affects the other drivers that
21 maybe do care (inaudible)or need the job or whatever.

22 EMPLOYEE: Okay. And say --

23 MR. HOGAN: I'm just --

24 James Young: I'm saying that people recognize

1 that there -- what's going to be the backlash from you
2 guys? Because you guys -- I know for the people
3 organizers you're going to be looking to get rid of. And
4 you might not say it now, you might not say it six months
5 from now, but you got targets on people and I know -- and
6 that's how any company's going to be. So what's the back
7 -- what's going to be the backlash? So basically your --
8 you know, you're saying you're not going to be out of
9 business, but that other people are scared that well if
10 they don't, they're going to backlash on you anyway so
11 you'll lose your job anyways. So what's the difference?

12 EMPLOYEE: Why get rid of a good driver? Why
13 shoot yourself in the foot and have to spend another --
14 next three years training somebody to do a good job?

15 EMPLOYEE: Because I'm paranoid. That -- that's
16 just the way business is done. Yeah. I heard it from
17 your mouth the last time you were here --

18 MR. HOGAN: (Inaudible) --

19 EMPLOYEE: -- you said there was three people
20 that organized the union and guess what, they're not in
21 the company no more. And I heard it from your mouth.

22 Charlie Johnson: I did not say that.

23 EMPLOYEE: Yes --

24 Jim Lauda: I'll say this (inaudible). We went

1 through this three years ago.

2 EMPLOYEE: And nobody got a backlash. But where
3 are they --

4 Jim Lauda: And if you guys -- pretty sure who
5 organized the whole thing, right.

6 EMPLOYEE: Okay.

7 COMPANY REP: So (inaudible)?

8 EMPLOYEE: I don't know.

9 COMPANY REP: Yes I think they are (Inaudible).

10 EMPLOYEE: I don't know.

11 EMPLOYEE: The only -- only one long --
12 (Multiple speakers).

13 MR. HOGAN: And there's no backlash or
14 retaliation.

15 EMPLOYEE: I think --

16 EMPLOYEE: All I can say is --

17 MR. HOGAN: Our challenge ought to be if, and
18 I'm just using an example, if you're a supporter of the
19 Union, that's fine. Our challenge to us should be we need
20 to figure out how to make this a better work place and
21 work in trying to address some of your issues.

22 EMPLOYEE: Not that we don't have to go through
23 this again.

24 MR. HOGAN: It's not to fire you. So I mean, to

1 me that's -- that's our challenge, is --

2 EMPLOYEE: (Inaudible) --

3 MR. HOGAN: -- because as a truck operator
4 you're saying how can we make things better? You say I
5 don't need that, bring in a third party. I mean, I'm not
6 telling you --

7 EMPLOYEE: I know.

8 MR. HOGAN: -- but listen, we've been in
9 business almost 100 years and I think we do most things by
10 the book, so to speak.

11 When I say "by the book" the right way, which
12 blows my mind (inaudible) -- because a lot of people out
13 there don't know . People say why do you do that?
14 Because it's the right thing to do. So you ask them all's
15 I can tell you is how we operate and how I feel. To take
16 that stuff further, there's labor laws, outside the union
17 that protect something like that.) I mean if someone
18 wanted to do that it's not the right thing to do.

19 Michael Halbritter: Okay. All right. I
20 understand. Correct me if I am wrong (inaudible).

21 Michael Halbritter: But in the last three years
22 only one long-timer above me has left in the last three
23 years and he only quit a week or so ago. That would be
24 Bob Sansone.

1 Employee: Bob Sansone retired.

2 EMPLOYEE: He retired.

3 employee: And the other guy with the beard
4 (inaudible).

5 EMPLOYEE: He went back to (inaudible).
6 (Multiple speakers).

7 EMPLOYEE: Yeah, but what I'm saying, you know,
8 considering, you know, like I said, you know, im the 111th
9 p (inaudible) person on the list, you know, from Bob --
10 when Bob was here I was 12th. I found -- I forgot that he
11 had mentioned like three weeks ago that he was done.

12 EMPLOYEE: He told me six months ago he was
13 retiring.

14 EMPLOYEE: No, I don't -- I don't talk to him
15 that much. Or I should say I didn't talk to him that
16 much.

17 (Multiple speakers).

18 EMPLOYEE: Since three years ago, Bob's the last
19 long-timer that left. In fact, the only one. So --

20 Mansfield Teetsel: You know, if you came up
21 here maybe two, three years ago you could have put this
22 fire out--and it would have been quelled

23

24 MR. HOGAN: I agree with what you are saying

1 Charlie said to me last night

2 Mansfield Teetsel: It would have been put out

3 Mr. Hogan we know we have got to do a better job
4 communication.

5 Mansfield Teetsel: It would have never gotten
6 this far.

7 Mr. Hogan: Its hindsight now Charlie all we can
8 do is the best; we can we can't look backwards EMPLOYEE:
9 Everybody would welcome you with open arms.

10 (Multiple speakers).

11

12 EMPLOYEE: Because I -- you know --

13 MR. HOGAN: Hindsight.

14 EMPLOYEE: -- hindsight.

15 EMPLOYEE: (Inaudible).

16 (Multiple speakers).

17 EMPLOYEE: There's another question. That's
18 what everybody needs to look at; you, us as drivers who
19 want to be here. Three years from now we cannot go and
20 say, oh, you know what, we're right back where we started
21 because you had no communication, you have none of this,
22 we're going to -- because you know, 20 year relationship
23 with Sav-A-Lot, the Union crap is only going to go so far.
24 They're going to get tired of hearing that every two or

1 three years

2 COMPANY REP: That's assuming (inaudible).

3 EMPLOYEE: Yes. Yes.

4 EMPLOYEE: (Inaudible).

5 EMPLOYEE: Yeah, I'm sure that's (inaudible).

6 MR. HOGAN: Hey, listen, I shouldn't share this
7 with you but that already concerns me regardless of the
8 outcome

9 EMPLOYEE: (Inaudible).

10 MR. HOGAN: -- if there is a favorable outcome
11 here (inaudible), which I say favorable for the company
12 is not to have an organization, I still would get a
13 little concerned what do they think about going forward
14 (inaudible).

15 EMPLOYEE: Absolutely.

16 MR. HOGAN: So I'm going to have to get them
17 comfortable that we have a good relationship with our
18 drivers and things are going to work out. That we're not
19 going to be talking about this a year from now, because
20 they candidly -- you know, they're going to look for an
21 opening to say --

22 EMPLOYEE: Absolutely.

23 MR. HOGAN: -- hey, Hogan, you're nice people
24 but (

1 EMPLOYEE: It's been a pleasure. Hit the road.

2 MR. HOGAN: Oh, listen, we have a -- what's
3 that?

4 EMPLOYEE: The -- you don't want them to say,
5 hey, it's been a pleasure but hit the road.

6 MR. HOGAN: Right. But that's going to be our
7 job to work with them if we get through this.

8 Charlie: And Tony, to your point, you're
9 exactly right that would put them on high alert And it's a
10 ripple effect.

11 EMPLOYEE: Absolutely.

12 Jim Lauda: It's not only here, but now this has
13 rippled through save-a-lot corporation (inaudible).

14 And Mansfield Teetsel to your point, im saying
15 (inaudible), I said to Charlie and I said to (inaudible)
16 in some ways this is -- Hogan brought this on themselves,
17 and they're right. And the way you have to look at it is
18 , we should'a/could'a isn't going to do us any good.

19 EMPLOYEE: Yeah.

20 Jim Lauda: It comes down right now whether you
21 guys say yes or you say no -- you have the right to say
22 yes.

23 Mansfield Teetsel: I'm not blaming you, but
24 I'll tell you, and I -- and it's -- it wasn't your fault,

1 I had -- years ago guys that they hired, brand new, and
2 they said well they promised me 1200 a week and so and so.
3 I said, oh, really, you're brand new here. And they said
4 I rotate weekends. I said who told you that? I know Jim
5 Lauda wouldn't tell you that. He wouldn't lie to you like
6 that. They go no, it was a recruiter from St. Louis. I
7 said they got to stop doing that.

8 And then I kept him -- I calmed him down a
9 little bit --

10 Jim Lauda a while, but the last one (inaudible)
11 did not say --

12 EMPLOYEE: No, no, this was years ago.
13 (Multiple speakers).

14 MR. HOGAN: if a driver is on the
15 phone(something that bothers me (inaudible). (Inaudible)
16 some of them may (inaudible) that's factual, you know.
17 They aren't going to say -- we're not guaranteeing that
18 (inaudible) 900 or whatever, we got to make sure that --
19 (Inaudible) like (inaudible) manager needs a
20 script on what the recruiters are telling the people.
21 We're going to make sure they're not (inaudible).

22 (Inaudible) again, this is human nature. And to
23 answer your question, well what's my potential? Well, in
24 a perfect world you can make this. (Inaudible) that

1 message. Now they're telling people (inaudible) --
2 (Multiple speakers).

3 MR. HOGAN: The recruiter's supposed to be
4 recruiting and not (inaudible).

5 Jim Lauda: (Inaudible) and gets in my
6 (inaudible) and said (inaudible). And -- and you know, it
7 -- instead of him saying, you know, I told you you could
8 make \$1200 a week, that's where you tell him -- what I
9 will tell them, right, is if you're on the day side shift
10 of this run, right, on the morning side from 12:00 to 5:00
11 (inaudible), and you work six days a week, you guys I have
12 on that shift making six days a week are making \$1200,
13 which is very -- fairly accurate number; right?

14 They can choose to say (inaudible) five days a
15 week, then you can't come back and tell me, oh, no they
16 get \$1200. They promised me \$1200. But that's it. You
17 know, if the guy's working six days a week they're making
18 (inaudible).

19 And you can't -- I mean, that's, you know, and
20 that's the reason I prefer to, you know, do everything
21 myself because I don't want it coming back to me in three
22 months saying I need more money, because what (inaudible).
23 This is where (inaudible) and this is it. I'm not
24 changing my story; you (inaudible) the job. Your job is

1 still the same as (inaudible) before.

2 COMPANY REP: (Inaudible).

3 EMPLOYEE: What?

4 COMPANY REP: These (inaudible). That is the
5 people who (inaudible) they don't want to do it but
6 somebody's got to do it.

7 EMPLOYEE: How (inaudible)?

8 MR. HOGAN: (Inaudible); am I right?

9 (Laughter).

10 EMPLOYEE: (Inaudible), I -- I (inaudible) what
11 I got to do to that day, I might whine a bit, but the
12 thing is it's just me grumbling and I turn around, I take
13 my paperwork and go and I do it. In fact, 90 percent of
14 us are like that.

15 MR. HOGAN: Well --

16 EMPLOYEE: We might have --

17 MR. HOGAN: -- To finish off I just don't want
18 to lose sight of the fact of what we went through the last
19 five years with the economy because it -- that's not to
20 make excuses Charlie and I have talked about doing a
21 better job with the communicating .

22 It's gotten a little better the last year or
23 something. There were some really, what I would call,
24 tough times in the industry and the whole economy and we

1 -- we just haven't seen that for a number of years. I
2 mean, it was -- I just couldn't believe -- and I'm maybe
3 not as much save-a lot as may be as some of the customers
4 and the freight just dried which is really scary up.

5 So we're -- some challenges in the whole
6 industry that we had to face(and that's what we went
7 through and hopefully better time will happen . I mean,
8 that's how we got into this situation to begin with of how
9 we've) when we start talking about wage freezes and all
10 I'm saying (inaudible). But we'll see. It should get
11 better. (Inaudible). I mean its getting a little better
12 but(inaudible).

13 EMPLOYEE: If you look back through history, you
14 should know what -- about where we are.

15 MR. HOGAN: Yeah. I --

16 Michael Halbritter: In a historical standpoint
17 right now, if you look back through the history of the
18 world you'll know exactly where our country is right now.

19 MR. HOGAN: Is that bad or good?

20 EMPLOYEE: No, it -- for people like me it's
21 great. For normal people it's bad. What --

22 MR. HOGAN: (Inaudible) -- are you not a normal
23 person?

24 EMPLOYEE: Oh, I -- I am so far beyond abnormal

1 it's not even funny.

2 No, it -- if you look at history empires only
3 lasted between 2 and 300 years, and guess what, we're in
4 our third hundred years.

5 MR. HOGAN: You sound exactly like my son who
6 says we're rapidly approaching (inaudible).

7 EMPLOYEE: Remember, the fall of Rome started
8 with the corruption in the Senate. The corruption in
9 government. The Barbarians nipping at the borders.

10 MR. HOGAN: Well, what --

11 EMPLOYEE: Where are we now?

12 MR. HOGAN: (Inaudible).

13 (Laughter.)

14 EMPLOYEE: I could care one --

15 MR. HOGAN: (Inaudible).

16 (Multiple speakers).

17 MR. HOGAN: I appreciate the --

18 EMPLOYEE: Thanks for the -- thank you.

19 MR. HOGAN: (Inaudible).

20 (Multiple speakers).

21 (Meeting ends.)

22 EMPLOYEE: This (inaudible). Thank you, sir.

23 Yeah, just making sure.

24 UNIDENTIFIED FEMALE SPEAKER: You stop it.

1 EMPLOYEE: What's up, baldy?
2 EMPLOYEE: (Inaudible). I got to move my car.
3 EMPLOYEE: (Inaudible).
4 EMPLOYEE: (Inaudible) that's a lot of shit
5 (inaudible).
6 EMPLOYEE: Two hours and fifteen minutes.
7 (Remaining 54.5 seconds no audio.)
8 **(Whereupon, the above audio was concluded.)**

CERTIFICATION

I, Mary E. Dring, the assigned transcriber, do hereby certify that the foregoing transcript of proceedings on Longer Track, Track 01, is prepared in full compliance with the current Transcript Format for Judicial Proceedings and is a true and accurate non-compressed transcript of the proceedings as recorded.

NJ AOC AD/T 582

Signature/Date

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CERTIFICATE OF SERVICE

I hereby certify that on March 9, 2015, I electronically filed the foregoing Joint Appendix, Volumes I and II, with the Clerk of the Court for the United States Court of Appeals for the Second Circuit by using the CM/ECF system. All participants in the case are registered CM/ECF users and will be served by the appellate CM/ECF system.

Respectfully submitted,

s/Jedd Mendelson
Jedd Mendelson

Dated: March 9, 2015