



UNITED STATES GOVERNMENT

NATIONAL LABOR RELATIONS BOARD

OFFICE OF THE GENERAL COUNSEL

Washington, D.C. 20570

September 29, 2015

Molly Dwyer, Clerk of Court
U.S. Court of Appeals for the Ninth Circuit
P.O. Box 193939
San Francisco, CA 94119-3939

Re: *NLRB v. Bauer's Intelligent
Transportation, Inc.*, Board Nos. 20-CA-148119
and 20-CA-151225

Dear Ms. Dwyer:

I am enclosing an application of the National Labor Relations Board for enforcement of its order in this case, and a proposed judgment. Respondent expressly consented to the entry of this judgment in a stipulation contained in the record. I am also transmitting the certified record, including the order and the underlying stipulation.

Please serve a copy of the application on Respondent, whose addresses appear on the service list. I have served a copy of the Board's application and proposed judgment on each party admitted to participate in the Board proceedings, and their names and addresses also appear on the service list.

I am counsel of record for the Board, and all correspondence should be addressed to me. I would appreciate your furnishing the Board's Regional Director, whose name and address also appear on the service list, with a copy of all correspondence the Court sends to counsel in this case, and a copy of the judgment issued.

Very truly yours,

/s/ Linda Dreeben

Linda Dreeben
Deputy Associate General Counsel
NATIONAL LABOR RELATIONS BOARD
1015 Half St. S.E.
Washington, D.C. 20570
(202) 273-2960

cc & documents to: Service List

SERVICE LIST

RESPONDENT:

Gary Bauer, Owner
Bauer's Intelligent Transportation, Inc.
Pier 50
San Francisco, CA 94158-2193

Phone: (800) 546-6688
Fax: (415) 522-1600
Email: gbauer@bauersit.com

CHARGING PARTY:

Teamsters Local 665, International
Brotherhood of Teamsters
1371 Neotomas Avenue
Santa Rosa, CA 95405-7565

Phone: (707)542-1292
Fax: (707)542-1501

REGIONAL DIRECTOR:

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National Labor Relations Board
901 Market Street – Suite 400
San Francisco, CA 94103-1735

RESPONDENT'S COUNSEL:

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CHARGING PARTY COUNSEL:

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UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

NATIONAL LABOR RELATIONS BOARD	:	
	:	
Petitioner	:	No.
v.	:	
	:	Board Case Nos.:
BAUER’S INTELLIGENT TRANSPORTATION, INC.	:	20-CA-148119
	:	20-CA-151225
Respondent	:	

APPLICATION FOR ENFORCEMENT OF AN ORDER
OF THE NATIONAL LABOR RELATIONS BOARD
UPON STIPULATION OF THE PARTIES FOR CONSENT JUDGMENT

To the Honorable, the Judges of the United States
Court of Appeals for the Ninth Circuit:

The National Labor Relations Board (the “Board”), pursuant to Section 10(e) of the National Labor Relations Act, as amended (29 U.S.C. §§ 151, 160(e)), applies to this Court for enforcement of its order against Bauer’s Intelligent Transportation, Inc. (“Respondent”), issued in Board Case Nos. 20-CA-148119 and 20-CA-151225, on September 24, 2015. The Board is entitled to enforcement because Respondent has expressly consented to entry of this judgment in a stipulation that Respondent entered into during the proceedings before the Board.

In support, the Board shows:

A. Jurisdiction of this Court

This Court has jurisdiction over this application under Section 10(e) of the Act (29 U.S.C. § 160(e)). Venue is proper in this Circuit because the activities

giving rise to this proceeding occurred in California. The Board's final order issued on September 24, 2015.

**B. The Respondent Entered into a Stipulation
Providing for Entry of an Order by the
Board and a Consent Judgment by the Court**

1. The Board entered an order against Respondent pursuant to a stipulation authorizing the Board to enter an order embodying its terms. The Board's order does not vary from those terms.

2. Paragraph VI of the stipulation authorized the Board to apply to an appropriate U.S. Court of Appeals for a judgment enforcing the Board's order, and provided that Respondent "waives all defenses to the entry of the judgment"

3. In support of this application, the Board is certifying and filing with this Court the record of proceedings before the Board, including the pleadings, stipulation, findings of fact, and order of the Board.

WHEREFORE, the Board respectfully requests that the Court, after serving a copy of this application upon Respondent, enter a consent judgment enforcing the Board's order in full. A copy of the proposed consent judgment is attached.

/s/ Linda Dreeben

Linda Dreeben
Deputy Associate General Counsel
National Labor Relations Board
1015 Half St. S.E.
Washington, D.C. 20570

Dated in Washington, D.C.
this 29th day of September, 2015

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

NATIONAL LABOR RELATIONS BOARD	:	
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JUDGMENT

THIS CAUSE was submitted upon the application of the National Labor Relations Board for the enforcement of a certain order on consent issued by it against Respondent, Bauer's Intelligent Transportation, Inc., their officers, agents, successors, and assigns, on September 24, 2015, in Board Case Nos. 20-CA-148119 and 20-CA-151225; and upon the record in that proceeding, certified and filed in this Court enforcing the order.

ON CONSIDERATION WHEREOF, it is ordered and adjudged by the United States Court of Appeals for the Ninth Circuit that the order of the National Labor Relations Board be, and the same is hereby enforced; and that the Respondent, Bauer's Intelligent Transportation, Inc., their officers, agents, successors, and assigns, shall abide by and perform the directions of the Board set forth in its order. (See Attached Order and Notice)

Endorsed, Judgment Filed and Entered

/s/ Molly Dwyer
Molly Dwyer
Clerk

NATIONAL LABOR RELATIONS BOARD

v.

BAUER'S INTELLIGENT TRANSPORTATION, INC.

ORDER

Bauer's Intelligent Transportation, Inc., San Francisco, Santa Clara, and Los Angeles, California, its officers, agents, successors, and assigns, shall

A. Cease and desist from

- (1) Dominating or providing unlawful assistance or support to PCDU or any other labor organization.
- (2) Recognizing PCDU as the representative of any of its employees for the purpose of dealing with the Respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other terms and conditions of employment.
- (3) Giving effect to or enforcing the collective-bargaining agreement that it entered into with PCDU about March 23, 2015, provided, however, that nothing in this Order shall require the Respondent to vary or abandon any existing wages or benefits established for employees by its current agreement with the PCDU.
- (4) Surveillance of employee union activities.
- (5) Interfering with the distribution of Union literature to employees.
- (6) Interfering with, restraining, or coercing employees in the exercise of their Section 7 rights in any like or related manner.

B. Take the following affirmative action necessary to effectuate the policies of the Act.

- (1) Immediately withdraw all recognition from PCDU as representative of any of its employees for the purpose of dealing with the Respondent concerning grievances, labor disputes, wages, rates of pay, hours of

employment or other terms and conditions of employment, and completely disestablish the PCDU as such representative.

- (2) Within 14 days of service by the Region, post in prominent places at the Respondent's various San Francisco and South Bay facilities copies of the attached notice marked "Appendix A." Copies of the Notice, on forms provided by Region 20, after being signed by the Respondent's authorized representative, shall be posted for a period of 60 days, in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or internet site, and/or by other electronic means, if the Respondent customarily communicates with its employees by such means. Responsible steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.
- (3) Mail a copy of the Notice to all Commuter Drivers employed since March 6, 2015.
- (4) Within 21 days of the issuance of the Board's Order, file with the Regional Director of Region 20 of the Board, a sworn affidavit from a responsible official describing with specificity the manner in which the Respondent has complied with the terms of the Board's Order, including the locations of the posted documents.
- (5) In connection with the representation petition the Union filed in Case 20-RC-150089:
 - (a) Effective upon the signing of this agreement by all parties to this agreement and continuing until the time of the election in Case 20-RC-150089, allow the Union reasonable access to the Respondent's bulletin boards located at its San Francisco and Santa Clara Counties facilities' Dispatch;
 - (b) Effective upon the signing of this agreement by all parties to this agreement and continuing until the time of the election in Case 20-RC-150089, at receiving 72 hours advance notice by the Union, the Respondent will grant one Union representative access to its breakroom for one continuous hour, at either the San

Francisco or Santa Clara County facility, once every seven days, to meet with employees. The Respondent agrees not to schedule mandatory drivers' meetings upon receiving said notice from the Union, on the dates and at the time of meetings noticed by the Union.

APPENDIX A

NOTICE TO EMPLOYEES

**Posted by Order of the
National Labor Relations Board
An Agency of the United States Government**

Cases: 20-CA-148119 and 20-CA-151225

**PURSUANT TO A STIPULATION PROVIDING FOR A BOARD ORDER
AND A CONSENT JUDGMENT OF ANY APPROPRIATE
UNITED STATES COURT OF APPEALS**

FEDERAL LAW GIVES YOU THE RIGHT TO:

Form, join, or assist a union;
Choose representatives to bargain with us on your behalf;
Act together with other employees for your benefit and protection;
Choose not to engage in any of these protected activities.

WE WILL NOT do anything to prevent you from exercising the above rights.

WE WILL NOT engage in surveillance of your union and protected concerted activities or engage in other conduct that makes it appear that we are engaging in such surveillance.

WE WILL NOT physically interfere with your ability to receive union literature.

WE WILL NOT form, administer, or render unlawful assistance or support to the Professional Commuter Drivers Union (PCDU), or any other labor organization.

WE WILL NOT recognize an organization as your exclusive collective-bargaining representative when that organization has the support of less than a majority of the employees.

WE WILL NOT direct our employees to meet with representatives of PCDU.

WE WILL NOT recognize PCDU as your collective-bargaining representative.

WE WILL NOT maintain or give effect to the collective-bargaining agreement between Bauer's Intelligent Transportation and PCDU entered into about March 23, 2015, or any renewal, extension or modification; provided, however, that nothing in this settlement requires the withdrawal or elimination of any wage increase or other benefits or terms and conditions of employment that may have been established pursuant to that agreement.

WE WILL NOT in any like or related manner interfere with your rights under Section 7 of the Act.

WE WILL immediately withdraw all recognition from and completely disestablish the PCDU and refrain from recognizing the PCDU as your representative concerning terms and conditions of employment.

In connection with the representation petition that Teamsters, Local 665 (the Union) filed with the Board in Case 20-RC-150089:

WE WILL allow the Union reasonable access to our bulletin boards at our San Francisco and Santa Clara facilities' Dispatch.

WE WILL grant the Union access to our employee breakrooms at either the San Francisco or Santa Clara facility, for one hour every seven days, between now and the time of the election in Case 20-RC-150089.

BAUER'S INTELLIGENT TRANSPORTATION

The Board's decision can be found at www.nlr.gov/case/20-CA-148119 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.



UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

NATIONAL LABOR RELATIONS BOARD :
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 : Petitioner : No.
 v. :
 : Board Case Nos.:
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 : 20-CA-151225
 :
 Respondent :

CERTIFICATE OF THE NATIONAL LABOR RELATIONS BOARD

The National Labor Relations Board, by its Executive Secretary, authorized by Section 102.115, Rules and Regulations of the National Labor Relations Board, Series 8 (29 C.F.R.), certifies that the documents annexed hereto constitute the entire record of a proceeding had before the Board and known upon its records as Case Nos. 20-CA-148119 and 20-CA-151225.

The attached documents are as follows:

<u>Date</u>	<u>Document Description</u>	<u>Pages</u>
09/24/2015	Decision and Order, <i>Bauer's Intelligent Transportation, Inc. and Teamsters Local 665, International Brotherhood of Teamsters and Professional Commuter Drivers Union</i> , Case Nos. 20-CA-148119 and 20-CA-151225	6
09/15/2015	Formal Settlement Stipulation, <i>Bauer's Intelligent Transportation, Inc. and Teamsters Local 665, International Brotherhood of Teamsters and Professional Commuter Drivers Union</i> , Case Nos. 20-CA-148119 and 20-CA-151225 w/exhibits	20

IN TESTIMONY WHEREOF, the Executive Secretary of the National Labor Relations Board, being duly authorized, has hereunto set his hand and affixed the seal of the National Labor Relations Board in the city of Washington, District of Columbia, this 29th day of September, 2015.

/s/ Gary Shinnors
Gary Shinnors
Executive Secretary
NATIONAL LABOR RELATIONS BOARD

(seal)

UNITED STATES COURT OF APPEALS
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CERTIFICATE OF SERVICE

The undersigned certifies that one copy each of the Board's application for enforcement, proposed judgment, certificate of record and mediation questionnaire, in the above case, has this day been served by first class mail upon the following parties at the address listed below:

Gary Bauer, Owner
Bauer's Intelligent Transportation, Inc.
Pier 50
San Francisco, CA 94158-2193

Aurelio J. Perez, Attorney
Littler Mendelson P.C.
650 California St Fl 20
San Francisco, CA 94108-2601

/s/ Linda Dreeben
Linda Dreeben
Deputy Associate General Counsel
National Labor Relations Board
1015 Half St. S.E.
Washington, D.C. 20570

Dated in Washington, D.C.
this 29th day of September, 2015

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

NATIONAL LABOR RELATIONS BOARD

Petitioner

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BAUER'S INTELLIGENT TRANSPORTATION, INC.

Respondent

ITEMS SHOWN ON BOARD'S CERTIFICATE
OF RECORD ARE CONTAINED HEREIN