

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

TRANSDEV SERVICES, INC.,

Employer,

and

Case No. 05-RC-137335

**AMALGAMATED TRANSIT UNION
LOCAL 689, associated with
AMALGAMATED TRANSIT UNION,
AFL-CIO**

Petitioner.

**MOTION FOR LEAVE TO FILE A SUPPLEMENTAL STATEMENT
IN SUPPORT OF TRANSDEV SERVICES, INC'S
REQUEST FOR REVIEW OF THE REGIONAL DIRECTOR'S SUPPLEMENTAL
DECISION AND CERTIFICATE OF REPRESENTATIVE**

COMES NOW Transdev Services, Inc. [hereinafter "Transdev," the "Company," or the "Employer"], by its attorneys, pursuant to the National Labor Relations Board Rules and Regulations, as amended, Section 102.67, and hereby submits its Motion for Leave to file its Supplemental Statement in Support of its Request for Review of the Regional Director's Supplemental Decision and Certificate of Representative [hereinafter "Supplemental Decision"] dated July 19, 2016, states as follows:

1. On August 2, 2016, Transdev filed its Request for Review of the Regional Director's Supplemental Decision and Certification of Representative.
2. Transdev requests leave to file a Supplemental Statement in Support of its Request for Review as a result of the Region's failure and/or refusal to appropriately serve the Company with the Regional Director's Supplemental Decision and Certificate of Representative

on July 19, 2016. *See* Transdev's Supplemental Statement attached as **Exhibit A**. In fact, as of August 13, 2016, Transdev and its counsel still have not received a hard copy of the Region's Supplemental Decision through U.S. mail.

3. Transdev's counsel has attempted to contact the Union's counsel and left a voicemail requesting the Union's consent regarding Transdev's Motion for Leave to file a Supplemental Statement in Support of its Request for Review.

4. This Motion is not made in bad faith or as an attempt to delay these proceedings.

WHEREFORE, for the reasons stated above, Transdev respectfully requests the Board grant its Motion for Leave to file its Supplemental Statement in Support of its Request for Review the Regional Director's Supplemental Decision and Certificate of Representative.

Respectfully submitted,

McMAHON BERGER, P.C.

/s/ James N. Foster, Jr.
James N. Foster, Jr.
Dean Kpere-Daibo
2730 North Ballas Rd, Suite 200
St. Louis, Missouri 63131-3039
Telephone: (314) 567-7350
Facsimile: (314) 567-5968
Attorneys for Transdev Services, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 13th day of August, 2016, a true and correct copy of Transdev Services, Inc.'s Supplemental Statement in Support of its Request for Review of the Regional Director's Supplemental Decision and Certificate of Representative foregoing was served upon the following by e-mail, addressed as follows:

Charles L. Posner
Regional Director
National Labor Relations Board
Region 5
Bank of America Center, Tower II
100 S. Charles Street
6th Floor
Baltimore, MD 20201
charles.posner@nlrb.gov

LOCAL 689, Amalgamated Transit Union
2701 Whitney Place
Forestville, Maryland 20747
mwilliams@atu.org

Brian Connolly
Gromefine, Taylor & Tyler, P.C.
1727 King St., Suite 210
Alexandria, VA 22314-2700
bconnolly@lbgt.com

Douglas Taylor
Gromefine, Taylor & Tyler, P.C.
1420 King St., Suite 500
Alexandria, VA 22314
dtaylor@lbgt.com

/s/ James N. Foster, Jr.

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

TRANSDEV SERVICES, INC.,

Employer,

and

Case No. 05-RC-137335

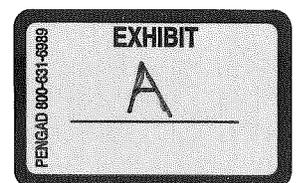
**AMALGAMATED TRANSIT UNION
LOCAL 689, associated with
AMALGAMATED TRANSIT UNION,
AFL-CIO**

Petitioner.

**SUPPLEMENTAL STATEMENT IN SUPPORT OF TRANSDEV SERVICES, INC'S
REQUEST FOR REVIEW OF THE REGIONAL DIRECTOR'S SUPPLEMENTAL
DECISION AND CERTIFICATE OF REPRESENTATIVE**

COMES NOW Transdev Services, Inc. [hereinafter "Transdev," the "Company," or the "Employer"], by its attorneys, pursuant to the National Labor Relations Board Rules and Regulations, as amended, Section 102.67, and hereby submits its Supplemental Statement in Support of its Request for Review of the Regional Director's Supplemental Decision and Certificate of Representative [hereinafter "Supplemental Decision"] dated July 19, 2016, states as follows:

As previously stated in the Employer's Request for Review, the Region failed to properly and appropriately serve the Employer with the Regional Director's Supplemental Decision on July 19, 2016. In support of the Employer's position regarding the Region's failure to serve the Employer appropriately, a review of the National Labor Relations Board's ("NLRB") website, which lists the Regional Election Decisions, demonstrates that no such decision was published and/or issued on July 19, 2016, as the Region claims. *See* Exhibit A, Regional Elections Decision



Page of NLRB Website. The NLRB's website shows there were two decisions issued by the Regional Director of Region 29 on July 18, 2016, and another decision issued by the Regional Director of Region 29 on July 20, 2016. However, there was no Supplemental Decision published on the NLRB's website from Region 5's Regional Director in this proceeding. *See Exhibit A.* The absence of publishing the Regional Director's Supplemental Decision clearly indicates the Region not only failed to serve the Employer with its decision, but also failed and/or refused to properly publish its decision on July 19, 2016. The Region's failure to publish the Regional Director's Supplemental Decision on the NLRB website calls into doubt whether the decision was in fact issued on July 19, 2016, as the Region claims since the Employer did not receive the Region's decision (by email) until August 2, 2016, and it was never published on the NLRB's website.

1. Again, despite repeated inquiries by Transdev's counsel regarding the issuance of the Supplemental Decision, the Region did not provide Transdev's counsel with a copy of the Supplemental Decision until August 2, 2016, via e-mail. The Region informed counsel for Transdev on August 2, 2016 that it served the Supplemental Decision on July 19, 2016 via facsimile and U.S. mail, but counsel for Transdev never received either a facsimile transmittal or paper copy of the Supplemental Decision, and has no record of receiving such a facsimile transmittal. As of August 13, 2016, Transdev and its counsel still have not received a hard copy of the Region's Supplemental Decision through U.S. mail. The Region has failed to provide Transdev's counsel with a copy of any facsimile document indicating that the Region successfully served the Supplemental Decision via facsimile on July 19, 2016, despite Transdev's counsel's request for such a document. In fact, the Region admitted to Transdev's counsel that it has no method of determining whether the facsimiles it sends, including the one it

purportedly sent on July 19, 2016, successfully reach their destinations. The Region's failure to properly and appropriately serve the Employer as well as publish the Region's decision on the NLRB's website demonstrates the Region violated the Employer's due process rights.

CONCLUSION

WHEREFORE, for the reasons stated above, the Supplemental Decision issued by the Regional Director is clearly erroneous inasmuch as the application of the accurate facts to the controlling law mandates that the Regional Director should have granted Transdev's Objections To Election, and there are compelling reasons for reconsideration of the Board's policy on employer objections to elections based on the timeliness of the Union's showing of interest. In addition, the Region's failure to properly and appropriately serve the Employer as well as publish the Region's decision on the NLRB's website is a violation of the Employer's due process rights. Therefore, the Regional Director's July 19, 2016, Supplemental Decision and Certification of Representative must be reversed in accordance with the arguments raised herein.

Respectfully submitted,

McMAHON BERGER, P.C.

/s/ James N. Foster, Jr. _____
James N. Foster, Jr.
Dean Kpere-Daibo
2730 North Ballas Rd, Suite 200
St. Louis, Missouri 63131-3039
Telephone: (314) 567-7350
Facsimile: (314) 567-5968
Attorneys for Transdev Services, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 13th day of August, 2016, a true and correct copy of Transdev Services, Inc.'s Supplemental Statement in Support of its Request for Review of the Regional Director's Supplemental Decision and Certificate of Representative foregoing was served upon the following by e-mail, addressed as follows:

Charles L. Posner
Regional Director
National Labor Relations Board
Region 5
Bank of America Center, Tower II
100 S. Charles Street
6th Floor
Baltimore, MD 20201
charles.posner@nlrb.gov

LOCAL 689, Amalgamated Transit Union
2701 Whitney Place
Forestville, Maryland 20747
mwilliams@atu.org

Brian Connolly
Gromefine, Taylor & Tyler, P.C.
1727 King St., Suite 210
Alexandria, VA 22314-2700
bconnolly@lbgt.com

Douglas Taylor
Gromefine, Taylor & Tyler, P.C.
1420 King St., Suite 500
Alexandria, VA 22314
dtaylor@lbgt.com

/s/ James N. Foster, Jr.

Search Search Tools

- Home Rights We Protect What We Do Who We Are Cases & Decisions News & Outreach

Home » Cases & Decisions Reports & Guidance

System Maintenance

As part of the NLRB's continuing efforts to improve the performance and functionality of its systems, a portion of the public website will undergo required maintenance from Friday August 5th, 2016 at 10:00 PM ET to Saturday, August 6th at 4:00 AM ET. All document related features WILL NOT BE AVAILABLE for use during this maintenance period. This includes all Search features and all Board and Administrative Law Judge Decisions. E-Filing Documents and Charge / Petitions will still function during the maintenance period.

Regional Election Decisions

Four types of Regional election Decisions are available here:

- Decisions and Directions of Elections (D&DEs) - the Regional Director concludes that the prerequisites to an election have been satisfied and directs that an election be conducted.
Decisions and Orders (D&Os) - the Regional Director determines that an election should not be conducted and the petition is dismissed.
Administrative Report on Objections and Challenges - a report resolving post-election objections and/or challenges based on an administrative investigation, which was conducted after the election was held.
Regional Director Supplemental Decision - a post-election decision regarding objections and/or challenges, including, in some cases, passing on recommendations made by Hearing Officer after a post-election hearing.

A party to the representation case may request review of the decision of the Regional Director by the five-Member Board in Washington, DC.

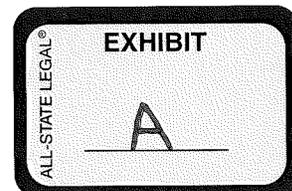
Use this box to search the full text of all Regional Decisions, not just those on this page.

Search

Issuance date 2016

Apply

Table with 3 columns: Case Number, Case Name, Issuance Date. Rows include cases like 29-RC-172410, 12-RD-180039, 04-RC-179402, 29-RC-167620, 19-RC-177701, 01-RC-179597, 19-RC-178412.



<u>Case Number</u>	<u>Case Name</u>	<u>Issuance Date</u> ^{SP}
29-RC-177400	Innerforce Tots Day Care	07/20/2016
29-RC-172427	World Class Demolition Corporation and New World Interior Cleanout Services Inc. as Joint and/or Sin	07/18/2016
29-RC-172410	New York Methodist Hospital/MSO of Kings County, LLC	07/18/2016
03-RC-178457	Auburn Senior Services, Inc. d/b/a The Commons on St. Anthony Street, a Loretto Skilled Nursing Comm	07/15/2016
21-RC-178527	Sonic-Buena Park H, Inc. d/b/a Buena Park Honda	07/15/2016
06-RC-178310	Holdings Acquisition Co, LP d/b/a Rivers Casino	07/13/2016
06-RC-178320	Holdings Acquisition Co. LP d/b/a Rivers Casino	07/13/2016
19-RC-174866	The Boeing Company	07/08/2016
29-RC-172398	New York Methodist Hospital/MSO of Kings County, LLC	07/08/2016
07-RC-159255	AlcoTec Wire Corporation	06/30/2016
05-RC-177566	Certified Building Services, Inc.	06/27/2016
03-RC-172375	Paragon Systems, Inc.	06/27/2016
03-RD-177325	Draper Trucking, LLC	06/27/2016

1 2 3 4 5 6 7 next › last »

[Sign up for NLRB Updates](#)

Resources

[Download the Mobile App](#)

[The NLRB Process](#)

[E-File Documents](#)

[E-File Charge / Petition](#)

[Fact Sheets](#)

[Graphs & Data](#)

[FAQs](#)

[Site Feedback](#)

[Forms](#)

[National Labor Relations Act \(NLRA\)](#)

[Related Agencies](#)

 [SHARE](#)