

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

ARROWHEAD TRANSIT (OPERATED BY
THE ARROWHEAD ECONOMIC OPPORTUNITY
AGENCY)

and

Cases 18-CA-173815
18-CA-178901

LEANN STOLL, ORGANIZER AFSCME
COUNCIL 65

ORDER

The Respondent's Motion to Dismiss the Consolidated Complaint or, in the Alternative, for Partial Summary Judgment is denied. The Respondent has failed to establish that there are no genuine issues of material fact and that it is entitled to judgment as a matter of law.¹

Dated, Washington, D.C., November 9, 2016.

MARK GASTON PEARCE,	CHAIRMAN
PHILIP A. MISCIMARRA,	MEMBER
LAUREN McFERRAN,	MEMBER

¹ Member Miscimarra agrees with the denial of the Respondent's motion as stated in the Board's Order. As Member Miscimarra stated in *L'Hoist North America of Tennessee, Inc.*, 362 NLRB No. 110, slip op. at 3 (2015) (concurring), "in response to a motion for summary judgment, I believe that the General Counsel at least must explain in reasonably concrete terms why a hearing is required. Under the standard that governs summary judgment determinations, this will normally require the General Counsel to identify material facts that are genuinely in dispute." See also *Trinity Technology Group, Inc.*, 364 NLRB No. 133, slip op. at 1-2 (2016) (Member Miscimarra, concurring); *Leukemia & Lymphoma Society*, 363 NLRB No. 124, slip op. at 2 (2016) (Member Miscimarra, dissenting). In the instant case, the General Counsel has described, in reasonably concrete terms, why, based on material facts that are genuinely in dispute, a hearing is required.