

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 13

RIDE RIGHT, LLC

and

TEAMSTERS LOCAL UNION NO. 727

CASE 13-CA-171393

**COUNSEL FOR THE GENERAL COUNSEL'S**  
**BRIEF TO THE NATIONAL LABOR RELATIONS BOARD**

Respectfully submitted:

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## I. INTRODUCTION

This case is about an employer that has abjectly failed to recognize and bargain with a union in a historical bargaining unit. Respondent Ride Right, LLC (herein Respondent) has admittedly withdrawn recognition from Teamsters Local Union No. 727 (herein Union), leaving the longstanding bargaining unit of drivers, mechanics, and dispatchers performing work out of what was the predecessor's Batavia, Illinois, facility without any representation. The Union has represented the employees in this bargaining unit since at least 2013 and has been the certified representative of these employees since that time. As a successor employer under the National Labor Relations Act, Respondent's failure to recognize and bargain with the Union and its withdrawal of recognition violates Section 8(a)(5).

As adduced below, the stipulated facts clearly demonstrate Respondent's successor status under the Act and the illegal nature of its admitted refusal to recognize and bargain with the Union and its subsequent withdrawal of recognition of the Union. Based on the Supreme Court's successor employer standards enunciated in *Burns* and *Fall River Dyeing*,<sup>1</sup> Respondent is undoubtedly a legal successor to MV Transportation (herein Predecessor or MVT). Respondent admits that, as of June 2015, it hired as the majority of its workforce at its Batavia facility the bargaining unit employees who had been employed by the Predecessor. In addition, Respondent does not dispute that there is a substantial continuity between MVT and it vis-à-vis these employees. Respondent stipulates that the employees at issue perform the same functions, use the same equipment, work the same hours, and have the same job responsibilities that they had as when they were employed by the Predecessor. Respondent also stipulates that the employees

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<sup>1</sup> *NLRB v. Burns Security Services*, 406 U.S. 272 (1972); *Fall River Dyeing Corp. v. NLRB*, 482 U.S. 27 (1987).

report to the same people they reported to when they worked for the predecessor, drive the same routes, and service the same customer.

Moreover, the stipulated facts show that Respondent did in fact recognize the Union and that the parties engaged in bargaining over issues related to the terms and conditions of employment for the employees from the time Respondent took over the Predecessor's service contract in mid-2015, and continuing through early February 2016. For over seven months following Respondent's takeover of operations from the Predecessor, Respondent recognized the Union as the Section 9(a) exclusive bargaining representative of the unit employees. It was not until February 2016 that Respondent dropped the bombshell (without explanation) that it was withdrawing recognition from the Union and refusing to bargain. The evidence will show that nothing happened in February 2016 that would permit Respondent to legally withdraw recognition from the Union or stop bargaining with the Union.

Per the Board's standard in *Levitz Furniture*,<sup>2</sup> Respondent fails to carry its burden to prove by a preponderance of the evidence that the Union had, in fact, lost majority support at the time it withdrew recognition. Therefore, the Board should find that Respondent has violated Section 8(a)(5) of the Act by unlawfully withdrawing recognition and refusing to recognize and bargain with the Union as a successor employer since February 2016 as alleged in in this case.

## **II. RESPONDENT IS A SUCCESSOR EMPLOYER TO MVT UNDER THE NLRA<sup>3</sup>**

### **A. Successor Employers Have A Legal Obligation To Recognize and Bargain With The Union**

In *N.L.R.B. v. Burns*, *supra*, the Board determined that a successor employer is obligated to bargain with the union if: 1) there is a continuity of the work force, which means a majority of

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<sup>2</sup> *Levitz Furniture Co. of the Pacific*, 333 NLRB 717, 725 (2001).

<sup>3</sup> Throughout this brief, "NLRA" will refer to the National Labor Relations Act; "Board" will refer to the National Labor Relations Board; JSF \_\_\_\_ will refer to the specific paragraphs referred to within the parties' Joint Stipulation of Facts submitted to the Board in this matter on February 28, 2017; and JX \_\_\_\_ will refer to the Joint Exhibits referred to in the parties Joint Stipulation of Facts.

the successor employees are employees of the predecessor and the unit is still appropriate; 2) there is a substantial continuity in the business enterprise, which means that the employer is performing essentially the same work with the same equipment; and 3) the obligation to bargain attaches after the successor has hired its employees, the majority of whom are the predecessor's employees.

The Supreme Court revisited the successorship issue in *Fall River Dyeing*, supra, and created the "substantial and representative complement" rule, which fixes the time at which the composition of the successor's workforce is to be determined in order to evaluate whether a majority of predecessor's employees have been hired. Majority status is determined when a bargaining demand has been made and a substantial and representative complement of the new employer's workforce has been employed, even if additional employees may be hired later. The evaluation of whether a majority of the successor's employees were hired involves reviewing whether the job classifications designated for the operation were substantially filled and whether the operation was in normal or substantially normal production. *Id.*

To decide whether a substantial and representative complement exists in a particular employer transition, the Supreme Court and the Board consider whether the job classifications designated for the operation were filled or substantially filled, whether the operation was in normal or substantially normal production, and the size of the complement on that date and the time expected to elapse before a substantially larger complement would be at work as well as the relative certainty of the employer's expected expansion. *Id.* at 48-49; see also *Empire Janitorial Sales & Serv., LLC & United Labor Unions, Local 100*, 364 NLRB No. 138 (2016); *Galion Pointe, LLC*, 359 NLRB 699, 716-717 (2013).

As will be shown below, Respondent is a *Burns* successor, and under the Supreme Court dictates of *Burns* and *Fall River Dyeing*, had and continues to have an obligation to recognize

and bargain with the Union for what was the Predecessor's bargaining unit as of the time of its takeover and concurrent start of operations on June 29, 2015.

**B. History of the Bargaining Unit and of The Union's Relationship With the Predecessor**

It is undisputed that the Union was recognized as the exclusive representative of all full-time and regular part-time drivers, mechanics, and dispatchers employed by MVT at its Batavia, Illinois, facility (herein the Unit) from at least 2013 under Section 9(a) of the Act. JSF 7, 8. The Union and MVT memorialized their bargaining relationship in a collective-bargaining agreement covering the Unit, effective from 2013-2018. JSF 8; JX 8. The Unit employees dispatched drivers, drove disabled individuals in paratransit vehicles, and fixed those vehicles. *Id.* Once the Union was recognized as the exclusive representative of the Unit, the Unit performed work exclusively under the PACE<sup>4</sup> service contract (in effect through June 30, 2015). JX 11.

On April 13, 2015, then-MVT Senior Regional Vice President of Operations Brian Balogh<sup>5</sup> sent a memo to the Unit explaining that the PACE contract would not be renewed as of its end on June 30, 2015. JSF 11; JX 9. Balogh further stated in this memo to the Unit that if they wanted to be considered for employment by Respondent (which would be taking over the PACE contract in Batavia, Illinois), they would need to continue working for MVT through the end of the MVT-PACE contract on June 30, 2015. JX 9.

“ If you decide to continue your service in Kane County with the new provider, we will support your effort to do so. Representatives from the new provider will be in touch in early May with information on how to apply. Be advised that employees will only be allowed to work for the new provider if they COMPLETE the term of this contract with MVT. Failure to do so will result in disqualification by PACE. Please be aware of that.” *Id.* (emphasis in original).

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<sup>4</sup> PACE is the Suburban Bus Division of the Regional Transportation Authority, an organization under the laws of the State of Illinois. PACE provides paratransit bus/van services throughout Illinois, and often contracts out its work to private companies, such as MVT and Respondent. JX 11, 12.

<sup>5</sup> Balogh was subsequently hired as a manager of the Unit by Respondent. JSF 20.

**C. Respondent's Takeover Of MVT's Operations Shows It Is A Successor Employer**

**1. Union's Demand For Recognition and Bargaining with Respondent**

On April 14, 2015, Respondent signed an 8-year contract with PACE for Kane County paratransit services in place of MVT. JX 12. On April 28, 2015, Respondent notified the Union in writing that it would be taking over MVT's operations and that it would be holding meetings for Unit employees that upcoming weekend. JSF 21. Therefore, later that same day, (on April 28) Union President John Coli made a written demand to Respondent for recognition and bargaining with the Union for the Unit. JSF 22. On May 4, 2015, MVT confirmed to the Union in writing that its contract with PACE at the Batavia facility was ending. JSF 23; JX 10.

**2. Respondent's Operations Continue MVT's Operations In Unchanged Form and With Substantial Continuity**

Respondent assumed the work under the PACE contract as of June 29, 2015.<sup>6</sup> JSF 10; JX 12. Since that date, Respondent admits that it has continued to operate the paratransit business that was performed by the Unit for MVT under the terms of the PACE contract in basically unchanged form and with substantial continuity. JSF 9. PACE, MVT, and Respondent ensured continuous Unit services during the transition by making it a condition of employment with Respondent that the Unit continue to work for MVT right up until the last day of the MVT contract. See JX 9.

It is undisputed that from the beginning of Respondent's takeover from MVT in late June 2015, the Unit has performed the same job functions and provided the same services to the same customer (PACE), used the same equipment and vehicles, drove the same routes, operated under the same working conditions, and reported to the same supervisors as they did when they were employed by MVT. JSF 43.

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<sup>6</sup> The Respondent-PACE contract lists the first date of service as July 1, but Respondent stipulated that the first day of service was 2 days earlier, June 29. JX. 12; JSF 9.

### **3. Respondent Hires As Its Majority Of Employees The Unit Members**

As of June 29, 2015, when Respondent assumed the PACE contract (and was already fully operational), Respondent had hired a total of thirty-two (32) drivers, dispatchers, and mechanics, twenty-four (24) of whom were hired as Unit employees from MVT<sup>7</sup>. JCF 10. By the end of the first pay period of Respondent's operations under the PACE contract (July 12, 2015), Respondent had hired 24 of its 35 drivers, dispatchers, and mechanics from the MVT Unit. JSF 11. Though Counsel for the General Counsel's position is that Respondent had already hired its substantive and representative complement by the time it took over the PACE contract and began its operations in earnest on June 29, 2015, the evidence shows that, even as late as November 2015, Respondent had hired a majority (20 of its 39) of its employees in Unit positions from MVT. See JSF 11-15. Thus, though the operative date for determining successor status is June 29, 2015 or July 12, 2015 at the latest under Board law, Respondent had hired as a majority of its employees those individuals from the Predecessor's Unit as late as November 2015, well after its normal business operations were underway by the terms of its service contract with PACE. JSF 6, 8, 9; JX 12.

### **4. Respondent Functions As The Successor Employer To MVT From Its Takeover in June 2015 Through January 2016**

From June 2015 through January 2016, Respondent functioned as the de facto successor employer to MVT for the Unit and bargained with the Union over the Unit's terms and conditions of employment. In the first week of June 2015, Union Business Agent David Glass called Respondent Vice President of Paratransit of Operations Patrick McNiff to talk about the

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<sup>7</sup> Majority status is determined once a substantial and representative complement of the new employer's workforce has been employed, even if additional employees may be hired later. *Fall River Dyeing, Empire Janitorial Sales*, supra. Respondent's anticipated argument that it is not a successor because it hired a few additional unit employees in December 2015 and January 2016 is misplaced because these additional workers were clearly hired after it began its uninterrupted, normal operations. *Id.*; JSF 9-11. The Union's majority status must be determined as of June 29 or July 12 (the end of Respondent's first pay period) at the latest according to extant Board law. *Id.*

Unit, and McNiff told Glass that he wanted to hire the Unit. JSF 25. A few days later, on June 9, 2015, McNiff emailed Glass and asked him how he could recruit even more drivers. McNiff included a flyer in this email to the Union showing open driver positions with Respondent for the Batavia facility—the flyer described the position as a “Union Contract driver position.” JSF 26.

Throughout June 2015, Glass and McNiff exchanged emails about the MVT-Union collective-bargaining agreement, Unit wages, and Unit seniority. JSF 27-28. They also met at Respondent’s facility to discuss the Unit’s terms and conditions of employment. McNiff asked several questions about the Union contract, and Glass reviewed the MVT-Union contract with McNiff. Glass provided McNiff with a draft copy of the new proposed collective-bargaining agreement between Respondent and the Union. JSF 26.

On July 6, 2015, Glass emailed McNiff to follow up on their June meeting and email exchanges, asked if Glass had any more questions about the contract, and asked if they could set a date to sign the new collective-bargaining agreement. JSF 30. Throughout the remainder of July 2015, Respondent and the Union emailed back and forth about the deauthorization election which had taken place when the Unit was still employed by MVT.<sup>8</sup> In one of these emails, McNiff informed the Union that Respondent would not be collecting or forwarding dues per the deauthorization results. JSF 32. McNiff did not say anything about not recognizing or bargaining with the Union. *Id.*

In September and October 2015, the Union reminded Respondent of its obligation to recognize and bargain with the Union for the Unit. JSF 33-34. Union President Coli sent a letter to McNiff on October 6, 2015 stating specifically that Respondent was a legal successor to MVT

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<sup>8</sup> On May 28, 2015, the NLRB conducted a deauthorization election at MVT for the Unit, and the Union was deauthorized. JSF 24. It is unknown how many of these voters were subsequently hired by Respondent. *Id.* Moreover, though Respondent will certainly argue that this UD election should affect its successorship status, the Board (as fully detailed below) has made it clear that the number of dues-paying members does not determine the exclusive representative status of a union. See, e.g., *Pacific Coast Supply*, 360 NLRB 538 (2014).

and that, per NLRB law, Respondent had to maintain the status quo and bargain with the Union over the Unit. JSF 34.

Come January 2016, the Union continued to implore and demand that Respondent meet to bargain a contract for the Unit. Glass emailed McNiff to set dates for bargaining. JSF 37. On February 11, 2016, Glass and Union representative Chris Owoyemi drove to Respondent's Batavia, Illinois, facility and met with Respondent's General Manager Aaron Nickerson to make another demand to bargain with the Union for the Unit. JSF 38. Glass sent a follow-up email to Nickerson that same day, and Owoyemi sent another follow-up bargaining demand email a few days later. JSF 39-40.

On February 23, 2016, Owoyemi called Balogh (formerly manager for MVT), who at this time was a manager of Respondent at its Batavia facility, and introduced himself as the new lead Union representative for the Unit. JSF 41, 20. Balogh dropped the bombshell and told Owoyemi that bargaining with the Union for the Unit was "not necessary." JSF 41. Owoyemi called Balogh back a second time later the same day and stated that if Respondent did not bargain with the Union by the end of the month, the Union would have to file a charge with the NLRB. Balogh stated that he understood. JSF 43.

Respondent did not agree to meet with the Union to bargain over the Unit by the end of February 2016, so the Union filed the charge in this matter on March 8, 2016. JX1.

#### **D. Respondent Is A *Burns* Successor**

Respondent is a classic *Burns* successor under Supreme Court law. It has been stipulated that there is "substantial continuity" between MVT and Respondent at the Batavia facility, and that Respondent has been performing the same work and operating the same business in unchanged form. It has been stipulated that Respondent took over the same PACE contract under which MVT was providing services without a hiatus in operations and using Unit

employees to provide these services. It has been stipulated that the Unit employees are performing the same job functions, providing the same services to the same customers, using the same equipment and vehicles, driving the same routes, operating under the same working conditions, and reporting to the same supervisors/managers as when they were employed by the Predecessor. It has been stipulated that a majority of Respondent's drivers, dispatchers, and mechanics had been employed by MVT as of the time Respondent took over operations of the clinics on June 29, 2015. It has been stipulated that the Union made a written demand for recognition and bargaining in the Unit. Respondent was fully operational from the date of the takeover on June 29 (or at latest by the end of its first pay period on July 12), at which time it employed as its majority of employees those individuals from the MVT Unit.<sup>9</sup> JSF 9, 10, 11, 43.

Under all of these circumstances, and because Respondent puts forth no evidence to show that it was privileged to withdraw recognition or stop recognizing the Union after bargaining with it from June 2015 through January 2016, Respondent is a successor employer under the Act and is bound to recognize and bargain with the Union as the collective-bargaining representative of the Unit. *Burns; Fall River Dyeing*, supra. See also *Always East Transportation, Inc.*, 365 NLRB No. 71 (2017) (transportation company found to have substantial continuity between predecessor and successor operations is held to be a successor employer that violated Section 8(a)(5) by failing and refusing to recognize and bargain with the union).

However Respondent may style its communications with the Union from June 2015 through January 2016,<sup>10</sup> Respondent did in fact operate as the successor employer and engage in

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<sup>9</sup> Respondent failed to cite to any Supreme Court or Board case which would direct the substantial and representative complement to be calculated months after it began its operations. Similarly, Respondent does not challenge the fact that it was fully operational with the employees it had as of the date of the takeover on June 29, 2015. JSF 9; JX 12.

<sup>10</sup> From its 10(b) affirmative defense, Counsel for the General Counsel presumes that Respondent will assert that the Union should have filed its charge within 6 months of Respondent's takeover in June 2015. However, Respondent misses the mark by asserting that the Union is time-barred in this matter. Respondent stipulates to several facts showing that it and the Union were engaged in bargaining from June 2015 through January 2016. In doing so,

bargaining with the Union during that time period by meeting to review the collective-bargaining agreement, asking and answering questions about the Unit's wages and seniority, and advertising to the public for additional Union drivers. Why Respondent summarily withdrew recognition of the Union in February 2016 and ceased recognition and bargaining has gone unexplained.

As the successor employer, Respondent may not withdraw recognition of the Union unless it has objective proof of loss of majority support, as delineated directly below.

### **III. RESPONDENT'S FEBRUARY 2016 WITHDRAWAL OF RECOGNITION OF THE UNION AND SUBSEQUENT FAILURE TO RECOGNIZE AND BARGAIN IS ILLEGAL**

#### **A. NLRB Legal Standard For Withdrawal of Recognition**

The withdrawal of recognition is unlawful if an employer's failure to prove that the union had lost majority support at the time it withdrew recognition. See *Latino Express, Inc.*, 360 NLRB No. 112, slip op. at 15-16 (2014). In *Levitz Furniture Co. of the Pacific*, 333 NLRB 717, 725 (2001), the Board set forth its current standard for evaluating claims that an employer has unlawfully withdrawn recognition from a union: [A]n employer may rebut the continuing presumption of an incumbent union's majority status, and unilaterally withdraw recognition, only on a showing that the union has, in fact, lost the support of a majority of the employees in the bargaining unit.

The Board's decision to overrule *Celanese Corp.*, 95 NLRB 664 (1951), meant that an employer no longer could justify its decision to withdraw recognition from a union by producing evidence which only proved it had bonafide reasons to doubt the union's continuing majority status. The *Levitz* decision, which imposed the more stringent "actual proof" standard, furthered the purposes of the Act because an ongoing collective-bargaining relationship constitutes one of

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Respondent held itself out as the successor employer to the Predecessor for the Unit. Thus, the 10(b) period did not start to run until Respondent withdrew recognition from the Union and ceased bargaining on February 23, 2016. JSF 41. The Union filed the instant charge two weeks later on March 8, 2016, well within the 10(b) period. JX 1.

the “practices fundamental to the friendly adjustment of industrial disputes” that Congress intended to encourage. If a mere uncertainty about a union's majority status sufficed to end a collective-bargaining relationship, then a significant part of the statutory framework would be built of straw rather than brick. In *Levitz*, the Board stated:

We find no basis in either the language or the policies of the Act to warrant withdrawing recognition from a union that has not actually lost majority support. Indeed, we find that allowing withdrawal of recognition from unions that enjoy majority support undermines the Act's policies of both ensuring employee free choice and promoting stability in bargaining relationships.  
333 NLRB at 723.

#### **B. NLRB Law Does Not Permit Deauthorization To Be Evidence Of Union’s Loss Of Majority Support**

Under clear Board law, a deauthorization petition or election, terminating union membership, or declining to have dues checkoff, is different from expressing a desire to terminate the Union's representation rights. Terminating membership means that members wish to pay no, or limited, dues to the union, while the union continues to represent them in dealings with their employer. Terminating the union's representation rights means what it says: that the union no longer represents the employees in dealings with their employer. The Board has consistently held that the former is not a valid basis for withdrawing recognition or of refusing to bargain with the Union. *Pacific Coast Supply*, 360 NLRB 538 (2014); *Trans-Lux Midwest Corp.*, 335 NLRB 230, 232 (2001); *Alexander Linn Hosp. Assn.*, 288 NLRB 103, 122 (1988); *Orion Corp.*, 210 NLRB 633 (1974). A determination of “majority support” turns on whether a majority of unit employees wish to be represented by a particular union, not on whether a majority chooses to become members of that union or choose to authorize the checkoff of union dues. *Pacific Coast Supply*, supra; see also *Trans-Lux Midwest Corp.*, supra; *T.L.C. St. Petersburg, Inc.*, 307 NLRB 605, 605 (1992), enfd. 985 F.2d 579 (11th Cir. 1993); *Narricot*

*Industries*, 353 NLRB No. 82, slip op. at 2 (2009) (evidence of decreased union membership does not provide “objective proof of a union's loss of majority support”).

The Board has held for over forty years that, “there is no necessary correlation between membership and the number of union supporters since no one could know many employees who favor union bargaining do not become or remain members thereof.” *Terrell Machine Co.*, 173 NLRB 1480, 1481 (1969). The reasons as to why there is no such correlation was explained by Trial Examiner Fannie Boyls in *Gulfmont Hotel Company*, 147 NLRB 997 (1964), enf. 362 F. 2d 588 (5<sup>th</sup> Cir. 1966) at p. 1001-1002:

Employees for various reasons unconnected with their desire to have a union represent them, may fail to execute check off authorizations. There may be some who prefer, as a matter of principle, to pay their financial obligations in person; there may be others who prefer to decide when and if they can afford to spare the money for dues and fees; and there may even be some who are willing to vote for and accept union representation but who decide to be free riders and enjoy the expected benefits of representation without paying for them at all. Accordingly, although the voluntary signing of check off authorization by a majority in the unit may be considered as evidence of a union's majority status, the converse is not true.

The Board also disregards turnover in the bargaining unit.<sup>11</sup> It adheres to a presumption that newly hired employees support the union in the same proportion as the employees they have replaced, *Levitz Furniture* at p. 728 n. 60. Under the policy announced in *Levitz*, an employer itching with doubt about whether its employees supported the union scratch that itch by requesting the Board to conduct a secret ballot “RM” election. *Levitz*, supra. Respondent chose not to do so. Therefore, it must “live with” the Union as the 9(a) representative of the Unit and honor its bargaining obligation.

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<sup>11</sup> Respondent has indicated that it intends to use this case as a vehicle to challenge the Board’s longstanding disregard for turnover in the unit and to proffer a new standard – that an asserted subsequent turnover in the unit can be used as proof of loss of majority support. This is not the law, there are no facts in the record to support such a conclusion, and the Board should decline any arguments to overrule current precedent on this point.

### **C. Respondent Does Not Rebut The Union's Presumption Of Majority Status**

In the instant case, Respondent has not rebutted the presumption of majority status the Union admittedly enjoyed since the Unit was employed by MVT, and any reliance on the Union's prior deauthorization carries no weight per Board law as detailed above. Respondent has no objective proof of loss of majority support. Respondent did not avail itself of the opportunity to test the Union's majority support by filing an RM petition. Thus, Respondent violated Section 8(a)(5) by withdrawing recognition from the Union on February 23, 2016, and for failing and refusing to bargain with the Union regarding the Unit.

### **IV. CONCLUSION**

Based on the foregoing, Respondent violated Section 8(a)(5) of the Act by withdrawing recognition from the Union at a time when there was no objective proof of loss of majority support, and for thereafter failing and refusing to recognize the Union as the exclusive representative of the Unit.

As part of the remedy for Respondent's unfair labor practices alleged above, the General Counsel seeks an Order requiring Respondent to: (1) post at its Batavia, Illinois facility any Notice to Employees that may issue in this case; and (2) electronically post the Notice to Employees at its Batavia facility if Respondent customarily uses electronic means such as an electronic bulletin board, e-mail, website, or intranet to communicate with those employees in accordance with *J. Picini Flooring*, 356 NLRB 11 (2010).

Furthermore, as part of the remedy for Respondent's unfair labor practices alleged in paragraph VI of the First Amended Complaint, the General Counsel seeks a Board Order requiring Respondent to: (1) recognize and bargain in good faith with the Union as the recognized bargaining representative in the appropriate unit, on request, for a reasonable period of not less than 6 months following the date of the illegal withdrawal of recognition to

commence upon the issuance of this decision; and (2) all other relief as may be just and proper to remedy the unfair labor practices alleged. Counsel for the General Counsel's Recommended Order and Notice are attached hereto.

Dated at Chicago, Illinois, this 4<sup>th</sup> day of August, 2017.

Respectfully submitted,

/s/ Lisa Friedheim-Weis

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## **RECOMMENDED ORDER**

The Respondent, Ride Right, LLC, its officers, agents, successors, and assigns, shall

1. Cease and desist from:

(a) Withdrawing its recognition of the Union as the exclusive collective-bargaining representative of the unit and failing and refusing since February 23, 2016, and continuing thereafter, to recognize and bargain with the Union as the exclusive representative of the unit.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

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

(a) Recognize the Union as the exclusive representative of the Unit as defined below.

(b) Bargain in good faith with the Union, on request, as the recognized bargaining representative of the unit for a reasonable period of time of at least 6 months following the date of the illegal withdrawal of recognition to commence upon the issuance of the Board Decision in the following appropriate Unit concerning terms and conditions of employment and, if an understanding is reached, embody the understanding in a signed agreement:

All full-time and regular part-time drivers, mechanics, and dispatchers employed by the Employer at its facility currently located in Batavia, Illinois, but excluding all clerical employees, professional employees, managerial employees, guards and supervisors as defined by the Act.

(c) Within 14 days after service by Region 13, post, in English and Spanish, at its facility in Batavia, Illinois, copies of the attached Notice To Employees. Copies of the Notice, on forms provided by the Regional Director for Region 13, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where Notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the Notices are not

altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since February 23, 2016.

(d) Within 14 days after service by Region 13, electronically post and disseminate, in English and Spanish, at its facility in Batavia, Illinois copies of the attached Notice To Employees, if the Respondent customarily uses electronic means such as an electronic bulletin board, e-mail, website, or intranet to communicate with those employees.

(e) Within 21 days after service by the Region, file with the Regional Director of Region 13 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

## **NOTICE TO EMPLOYEES**

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this Notice.

### **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** withdraw recognition of Teamsters Local Union No. 727 (“Union”) as your exclusive collective-bargaining representative and fail, and refuse to recognize and bargain with the Union as your exclusive representative.

**WE WILL NOT** in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

**WE WILL** recognize and, on request, bargain with the Union as the exclusive representative of the employees in the following appropriate unit concerning terms and conditions of employment for a period of at least 6 months from the date of the first bargaining session and, if an understanding is reached, embody the understanding in a signed agreement:

All full-time and regular part-time drivers, mechanics, and dispatchers employed by the Employer at its facility currently located in Batavia, Illinois, but excluding all clerical employees, professional employees, managerial employees, guards and supervisors as defined by the Act.

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that the Counsel for the General Counsel's Brief to the National Labor Relations Board was electronically filed with the Board's Office of Executive Secretary on this 17<sup>th</sup> day of August 2017, and true and correct courtesy copies of the document have been served on the parties in the manner indicated below on the same date.

### Via E-Mail:

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