

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

ABF FREIGHT SYSTEM, INC.

and

**CASES 09–CA–208379
09–CA–210267**

**GENERAL TRUCK DRIVERS, WAREHOUSEMEN,
HELPERS, SALES AND SERVICE, AND CASINO
EMPLOYEES AND INTERNATIONAL BROTHERHOOD
OF TEAMSTERS (IBT), LOCAL 957**

NOTICE AND INVITATION TO FILE BRIEFS

On August 20, 2018, Administrative Law Judge Keltner W. Locke issued a decision in the above-captioned case, finding, among other things, that the Respondent did not violate Section 8(a)(5) of the National Labor Relations Act by installing video cameras in break/locker rooms at its facility in Dayton, Ohio. The General Counsel excepts to that finding, and argues that under the clear and unmistakable waiver standard, “the record evidence does not establish that the Union waived its right to bargain over the installation of the cameras in the areas in question.” In its Answering Brief, the Respondent states, among other things, that Article 26 of the parties’ National Master Freight Agreement (NMFA)—which provides some prohibitions on the installations of cameras—was not intended “to prohibit the use of cameras in areas where employees removed weather-related outerwear such as coats, hats, gloves and boots.”

Since the parties filed their briefs in this case, the Board issued *MV Transportation, Inc.*, 368 NLRB No. 66 (2019), where it abandoned the “clear and unmistakable waiver” standard and

adopted a “contract coverage” standard.¹ The Board stated that under contract coverage, it will “examine the plain language of a collective-bargaining agreement to determine whether action taken by an employer was within the compass or scope of contractual language granting the employer the right to act unilaterally.” *Id.*, slip op. at 2.

The parties are invited to address the following questions:

1. How, if at all, should the Board’s decision in *MV Transportation* affect the Board’s analysis in this case?
2. If *MV Transportation* does impact this case:
 - (a) Is the issue of the camera installations “covered by” the NMFA?
 - (b) What is the significance, if any, of the parties’ grievance-arbitration proceedings and their arguments in those proceedings?

Supplemental briefs not exceeding 25 pages in length may be filed with the Board in Washington, D.C. on or before December 16, 2019. The parties may file responsive briefs on or before December 30, 2019, which shall not exceed 15 pages in length. The parties shall file briefs electronically at <http://mynlrb.nlr.gov/efile> and serve all case participants. If assistance is needed in E-filing on the Agency's website, please contact the Office of Executive Secretary at 202-273-1940 or Executive Secretary Roxanne Rothschild at 202-273-2917.

Dated, Washington, D.C., October 31, 2019.

By direction of the Board:

Roxanne Rothschild
Executive Secretary

¹ Member McFerran dissented from the Board’s decision in *MV Transportation* to adopt the “contract coverage” standard, and she adheres to the views expressed in her dissent. She agrees, however, that it is appropriate to provide the parties an opportunity to address the impact, if any, of *MV Transportation* on this case.