

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES-SAN FRANCISCO BRANCH OFFICE**

**TRACY AUTO, L.P.
d/b/a TRACY TOYOTA**

**Cases 32-CA-260614
32-CA-262291
32-RC-260453**

and

**MACHINISTS AND MECHANICS LODGE
NO. 2182, DISTRICT LODGE 190,
INTERNATIONAL ASSOCIATION OF
MACHINISTS AND AEROSPACE WORKERS, AFL-CIO**

**ORDER GRANTING IN PART AND DENYING IN PART
THE GENERAL COUNSEL AND CHARGING PARTY'S
PETITIONS TO REVOKE VARIOUS SUBPOENA DUCES DECUM**

Respondent Tracy Auto, L.P. d/b/a Tracy Toyota has served a subpoena for documents on the following individuals Kevin Humeston (B-1-1B22VOZ); Tyrome Jackson (B-1-1B230Q3); Joshua Vega (B-1-1B237AH); Ociel Solano (B-1-1B23725); Mauro Martinez Ramirez (B-1-1B231M1); Devin Fetui (B-1-1B2318P) and Phong Lo (B-1-1B2HUMD) (the subpoenaed individuals). On December 14, 2020, petitions to revoke (i.e., “quash”) portions of each subpoena were filed by Counsel for the General Counsel and Charging Party Counsel for Machinists and Mechanics Lodge No. 2182, District Lodge 190, International Association of Machinists and Aerospace Workers, AFL-CIO (Charging Party or the Union).

Following briefing and oral argument by the parties, I have determined that the subpoenaed individuals are responsible for providing certain subpoenaed documents in their current possession and control by 5:00 p.m. (PST) on Wednesday, December 30, 2020. These documents should be provided to Counsel for the General Counsel, Jason Wong, preferably via email at Jason.Wong@nrlb.gov. Documents should be scanned into a pdf format if possible; if not, they may be photographed, provided that the photograph in question captures the entire document (i.e., all four corners of each page). To the extent that text messages are to be provided, the subpoenaed individuals should provide “screen shots” of the messages in question that fully capture the text exchange in question.

Subpoenaed individuals Joshua Vega, Ociel Solano, Mauro Martinez Ramirez, Devin Fetui and Phong Lo are required to provide the following documents:

1. For the period of January 1, 2020 to the present, all documents (including, but not limited to emails, text messages, instant messaging, social media posts or direct messaging, snapchat or similar electronic or hard copy communications or

documents reflecting or relating to your employment at Tracy Toyota between you and a Foreman, including, but not limited to the following subject matters:

- hiring
 - transferring
 - suspending
 - laying off
 - recalling
 - promoting
 - discharging
 - assigning work
 - rewarding
 - disciplining
 - scheduling or granting time off
 - assigning overtime
 - adjusting grievances
 - directing work
 - evaluating
 - dispatching work
 - reviewing comebacks
 - addressing customer concerns
 - addressing misdiagnosed vehicle, errors, warnings, codes or other vehicle repair concerns
 - addressing incorrectly repaired vehicles
 - addressing substandard performance or work quality
2. For the period of May 1, 2020 to the present, all documents, including, but not limited to, payroll records, pay stubs, and/or personnel records of any employment and the performing of labor to any person or entity, other than employment with Tracy Toyota.
 3. For the period of March 1, 2020 to the present, all documents reflecting, referring to and/or regarding any days you have missed from work at Tracy Toyota, other than May 15-21, 2020.
 4. For the period of January 1, 2020 to August 5, 2020, all documents showing communications between you and Kevin Humeston or Tyrome Jackson related to the Union and or work at Tracy Toyota.

Subpoenaed individuals Kevin Humeston and Tyrome Jackson are required to produce documents described in categories 2 and 3, above, and are additionally required to produce the following documents:

1. For the period of January 1, 2020 to present, all documents, showing all of your communications to technicians (including lube technicians) or foremen, including, but not limited to, emails, text messages, instant messaging, social media posts and/or direct messaging regarding the Union and/or work at Tracy Toyota.
2. For the period of January 1, 2020 to the present, all documents (including, but not limited to, emails, text messages, instant messaging, social media posts or messaging, snapchats or similar electronic or hard copy communications) reflecting or relating to your involvement or participation, including recommendations and/or opinions for the following personnel actions concerning any employee at Tracy Toyota:
 - hiring
 - transferring
 - suspending
 - laying off
 - recalling
 - promoting
 - discharging
 - assigning work
 - rewarding
 - disciplining
 - scheduling or granting time off
 - assigning overtime
 - adjusting grievances
 - directing work
 - evaluating
 - dispatching work
 - reviewing comebacks
 - addressing customer concerns
 - addressing misdiagnosed vehicle, errors, warnings, codes or other vehicle repair concerns
 - addressing incorrectly repaired vehicles
 - addressing substandard performance or work quality
3. For the period of January 1, 2020 to the present, all documents (including, but not limited to, emails, text messages, instant messaging, social media posts or direct messaging, snapchat or similar electronic or hard copy communications) relating to, reflecting or regarding any of the following topics or subject matters:
 - The strike and surrounding picketing commencing on May 15, 2020
 - Any offer to return to work during and/or after the conclusion of the strike on May 21, 2020

- Recall or failure to recall employees
 - Petitioner Machinists' Union's organizing efforts where YOU were communicating with employees of Tracy Toyota or the Union while employed as a Foreman of Tracy Toyota, including but not limited to the time period of May 15, 2020 to May 22, 2020
4. For the period of May 21, 2020 to the present, all documents, including, but not limited to, email messages, text messages, internal memoranda, notes, and letters reflecting your communications with any employee(s) who began striking at Tracy Toyota on or about May 15, 2020 through May 21, 2020.
 5. For the period of January 1, 2020 through the present, all documents, including, but not limited to, emails, text messages, letters, notes and any other form of communication between you and Jesse Juarez.
 6. For the period of January 1, 2020 through the present, all documents, including, but not limited to, emails, text messages, letters, notes and any other form of communication between you and Jason Wong.

NO SUBPOENAED INDIVIDUAL IS TO PROVIDE A COPY OF ANY AFFIDAVIT OR OTHER SIGNED OR SWORN STATEMENT PROVIDED TO AN AGENT OF THE NATIONAL LABOR RELATIONS BOARD.

IT IS SO ORDERED.

Date: December 29, 2020, San Francisco, California.



Mara-Louise Anzalone
Administrative Law Judge

Served by email upon the following:

For the General Counsel:

Jason P. Wong, Esq. jason.wong@nlrb.gov

For Tracy Auto, L.P.:

John P. Boggs, Esq. jboggs@employerlawyers.com

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