

JOINT COUNCIL OF TEAMSTERS NO. 28

Affiliated with the International Brotherhood of Teamsters

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John A. Williams, President

MEMORANDUM

DATE: JULY 27, 2010

TO: ALL MEMBERS SIGNATORY TO THE OAK HARBOR FREIGHT LINES LABOR AGREEMENT
LOCALS 81, 174, 231, 252, 324, 483, 589, 690, 760, 763, 839 & 962 and Joint Councils 28 & 37

FROM: JOHN A. WILLIAMS, PRESIDENT
JOINT COUNCIL OF TEAMSTERS NO. 28

RE: UNITED STATES GOVERNMENT'S PROSECUTION OF OAK HARBOR FOR MULTIPLE
VIOLATIONS OF FEDERAL LABOR LAW

Dear Brothers and Sisters:

As you will remember, following a full investigation, the Seattle Office of the National Labor Relations Board concluded that Oak Harbor had engaged in multiple violations of federal labor law around the time the strike began in September, 2008 and again in February and March, 2009, when the strike ended. The NLRB filed a lengthy complaint against Oak Harbor and proceeded to trial on July 6, 2010. The trial ran nine days, concluding on Friday, July 16, 2010.

As a result of a number of settlements, the main issue left to be decided by the Administrative Law Judge was whether the company broke the law when it unilaterally ceased pension and retiree health and welfare coverage (placing contributions in an escrow account), and changed current employee health and welfare coverage when the strike ended.

The Union's trial attorneys report that the trial could hardly have gone better on this issue. As you probably know, company attorney John Payne had repeatedly claimed that he and Bob Braun had an agreement with the Union to give "returning strikers" company health and welfare and to place their pension and retiree contributions into an escrow account at a bank. Yet, once placed under oath, attorney Payne admitted that this was a "misstatement." He admitted that (as Union leaders Al Hobart and Buck Holliday had testified) any such alleged agreement was expressly limited to people who crossed the picket line during the strike, and had nothing to do with "returning strikers" when the strike ended. As the Government's lawyer established that attorney Payne had repeatedly reiterated this misstatement in his communications with the NLRB, some of the starch appeared to go out of him. His two young associate lawyers, both of whom sat beside Payne through virtually the entire trial, were powerless to rescue him.

Equally heartening, in discussions that were partly off the record, the Administrative Law Judge appeared to reject the company's main defense. He indicated that the company could not contend that it did not have an obligation under federal law to continue to honor the benefits provisions of the expired collective bargaining agreement when the strike ended.

Finally, the Union's trial attorneys report that the company largely failed to articulate a defense to the Government's charges. The Judge, the Government's attorneys, and the Union's attorneys repeatedly challenged the company's attorneys to state their defenses and to confirm or deny particular defenses. For the most part, the company maintained an awkward silence or did not respond directly and clearly, saying that it would deal with all issues in its post-hearing briefing.

While the Union is optimistic, it cannot, of course, guarantee victory. At present, it appears that the company's defense is based entirely upon technicalities, and we do not know whether the Judge will be impressed by them.

Post-hearing briefs will be submitted by all parties on September 30, 2010. A decision is expected several months after that.

The Union is also extremely pleased with its settlements of several other Government charges against the company. We are elated to welcome back 174 member Travis Tuttle, who was illegally fired after the strike. Travis has been reinstated with partial backpay. Numerous Auburn and Portland drivers whose reinstatements were illegally delayed received supplemental wage payments totaling tens of thousands of dollars. Two Auburn Local 763 members also received payments for a delayed offer of reinstatement and an improper layoff. Portland member Mike Neubauer, who was illegally fired after the strike, decided to take a healthy buyout and move on to other endeavors. We wish him all the best.

The Union remains committed to a negotiated solution and invites the company to forward a response to the Union's comprehensive offer of April 15, 2010.