

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

<p>I. (a) PLAINTIFFS Transport Workers Union of Philadelphia, Local 234</p> <p>(b) County of Residence of First Listed Plaintiff <u>Philadelphia</u> (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p>(c) Attorney's (Firm Name, Address, and Telephone Number) Kaufman, Coren & Ress, P.C. 1717 Arch Street, Suite 3710, Philadelphia, PA 19103</p>	<p>DEFENDANTS Southeastern Pennsylvania Transportation Authority, Frances C. Keating, Richard J. Hanratty, Jr., and Michael Liberi</p> <p>County of Residence of First Listed Defendant <u>Philadelphia</u> (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.</p> <p>Attorneys (If Known) Duane Morris, LLP 30 South 17th Street, Philadelphia, PA 19103</p>
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<p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant) (For Diversity Cases Only)</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:25%;"></td> <td style="width:10%;">PTF</td> <td style="width:10%;">DEF</td> <td style="width:45%;"></td> <td style="width:10%;">PTF</td> <td style="width:10%;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td><input checked="" type="checkbox"/> 1</td> <td><input checked="" type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input checked="" type="checkbox"/> 1	<input checked="" type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY - Med. Malpractice <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	OTHER STATUTES
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Tort to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input checked="" type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

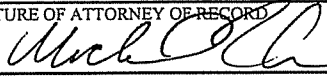
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. 1983

Brief description of cause:
Violation of First and Fourteenth Amendment Rights

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ _____ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE _____ DOCKET NUMBER _____

DATE: 6/23/2010 SIGNATURE OF ATTORNEY OF RECORD: 

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFF _____ JUDGE _____ MAG. JUDGE _____

DUANE MORRIS LLP

By: Dana B. Klinges
Michael S. Zullo

30 South 17th Street
Philadelphia, PA 19103-4196

Telephone: 215.979.1000

Facsimile: 215.979.1020

E-mail: dklinges@duanemorris.com
mszullo@duanemorris.com

Attorneys for Defendants

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
PENNSYLVANIA

TRANSPORT WORKERS UNION OF
PHILADELPHIA, LOCAL 234,

Plaintiff,

v.

SOUTHEASTERN PENNSYLVANIA
TRANSPORTATION AUTHORITY, FRANCES
C. KEATING, RICHARD J. HANRATTY, JR.,
and MICHAEL R. LIBERI,

Defendants.

NOTICE OF REMOVAL


Defendants, the Southeastern Pennsylvania Transportation Authority (“SEPTA”), Frances C. Keating, Richard J. Hanratty, Jr., and Michael Liberi, remove this action, originally brought by Plaintiff, Transport Workers Union of Philadelphia, Local 234 (“Local 234”), in the Court of Common Pleas of Philadelphia County, April Term, Number: 04133, pursuant to 28 U.S.C. §§ 1441 and 1446 and in support thereof state as follows:

1. On April 27, 2010, Local 234 instituted suit against Defendants in the Court of Common Pleas of Philadelphia County, April Term, Number: 04133. A copy of the Complaint and all exhibits thereto is attached as Exhibit 1.
2. The Complaint alleged causes of action under Article I, Section 7 of the Pennsylvania Constitution (“Count I”), and under Article IV of the Pennsylvania Public Employee Relations Act (“Count II”). *See* Exhibit 1 at pp. 7, 11.
3. The Complaint did not allege any causes of action under the federal Constitution or the treaties and laws of the United States.
4. On May 18, 2010, Defendants filed Preliminary Objections to the Complaint and a Memorandum of Law in Support of Defendants’ Preliminary Objections. A copy of the Docket is attached as Exhibit 2.
5. On June 4, 2010, Local 234 filed an Amended Complaint. The Amended Complaint alleges causes of Action under Article I, Section 7 of the Pennsylvania Constitution (“Amended Count I”), and under 42 U.S.C. § 1983 (“Amended Count II”). A copy of the Amended Complaint and all exhibits thereto is attached as Exhibit 3.
6. On its face, Amended Count II states a cause of action under the laws of the United States, specifically under 42 U.S.C. § 1983. *See* Exhibit 3 at p. 13. Thus, this Court has original jurisdiction pursuant to 28 U.S.C. § 1331, and Defendants may remove the action pursuant to 28 U.S.C. § 1441. Further, this Court has supplemental jurisdiction over the state law claims in the Amended Count I under 28 U.S.C. § 1367, as this claim forms part of the same case or controversy as the claim over which this Court has original jurisdiction.
7. This Notice of Removal is being filed within thirty days of receipt of a copy of the Amended Complaint as required by 28 U.S.C. § 1446. A copy of this Notice of Removal is

being filed with the Clerk of the Court of Common Pleas of Philadelphia County and will be served on all parties.

WHEREFORE, Defendants hereby remove this action to this Court and respectfully request that this Court assume jurisdiction of this matter and take all further steps as may be required to determine this controversy.

DUANE MORRIS LLP

By: 
Dana B. Klinges
Michael S. Zullo
30 South 17th Street
Philadelphia, PA 19103-4196
Telephone: 215.979.1000
Attorneys for Defendants

Dated: June 23, 2010

CERTIFICATE OF SERVICE

I, Michael S. Zullo, Esquire, hereby state that a true and correct copy of the foregoing


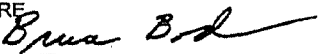
Notice of Removal was sent via Federal Express to counsel of record as follows:

Bruce Bodner
Kaufman, Coren & Ress, P.C.
1717 Arch Street, Suite 3710
Philadelphia, PA 19103

DUANE MORRIS LLP

/s/Michael S. Zullo

EXHIBIT 1

Court of Common Pleas of Philadelphia County Trial Division CIVIL COVER SHEET		For Prothonotary Use Only (Docket Number) APRIL 2010 04133	
PLAINTIFF'S NAME TRANSPORT WORKERS UNION OF PHILADELPHIA, LOCAL 234		DEFENDANT'S NAME SOUTHEASTERN PENNSYLVANIA TRANSPORTATION AUTHORITY	
PLAINTIFF'S ADDRESS 500 n. 2 ND Street, Philadelphia, PA 19123		DEFENDANT'S ADDRESS 1234 Market Street, Philadelphia, PA 19107	
PLAINTIFF'S NAME		DEFENDANT'S NAME FRANCES C. KEATING, Individually and in Her Official Capacity	
PLAINTIFF'S ADDRESS		DEFENDANT'S ADDRESS 1234 Market Street, Philadelphia, PA 19107	
TOTAL NO. OF PLAINTIFFS 1	TOTAL NO. OF DEFENDANTS 4	COMMENCEMENT OF ACTION <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Petition Action <input type="checkbox"/> Notice of Appeal <input type="checkbox"/> Writ of Summons <input type="checkbox"/> Transfer From Other Jurisdictions	
AMOUNT IN CONTROVERSY <input type="checkbox"/> \$50,000 or less <input checked="" type="checkbox"/> More than \$50,000	COURT PROGRAMS <input type="checkbox"/> Arbitration <input type="checkbox"/> Mass Tort <input type="checkbox"/> Commerce <input type="checkbox"/> Settlement <input checked="" type="checkbox"/> Jury <input type="checkbox"/> Savings <input type="checkbox"/> Minor Court Appeal <input type="checkbox"/> Minors <input type="checkbox"/> Non-Jury & Equity <input type="checkbox"/> Petition <input type="checkbox"/> Statutory Appeals <input type="checkbox"/> W/D/Survival <input type="checkbox"/> Other:		
CASE TYPE AND CODE (SEE INSTRUCTIONS) Pennsylvania Constitution, Free Speech Case -- Miscellaneous #26070		Transport Workers Union Of Phila Local 234 V-CMPLT	
STATUTORY BASIS FOR CAUSE OF ACTION (SEE INSTRUCTIONS)		 10040413300006	
RELATED PENDING CASES (List by Case Caption Docket Number) None		IS CASE SUBJECT TO COORDINATION ORDER? N/A YES NO <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
TO THE PROTHONOTARY: Please enter my appearance on behalf of Plaintiff, Transport Workers Union of Philadelphia, Local 234 Papers may be served at the address set forth below.			
NAME OF PLAINTIFF'S/PETITIONER'S/APPELLANT'S ATTORNEY Bruce Bodner PHONE NUMBER FAX NUMBER (215) 735-8700 (215) 735-5170		ADDRESS (See Instructions) Kaufman, Coren & Ress, P.C. 1717 Arch Street, Suite 3710 Philadelphia, PA 19103	
SUPREME COURT IDENTIFICATION NO. 79516		E-MAIL ADDRESS BBodner@kcr-law.com	
SIGNATURE 		DATE April 27, 2010	

JURY FEE PAID

JURY FEE PAID

DATE: 04/27/10 TIME: 12:31
 TICKET NO: 655621
 DOCKET NO: 04133
 TOTAL AMT: \$1,632.42
 REGISTER: Register 8 2010
 ORDER: 12h walk-in
 VALIDATION

RECEIVED

APR 27 2010

CLAIMS DEPARTMENT
 DOCKET CLERK

KAUFMAN, COREN & RESS, P.C.

**By: Bruce Bodner
I.D. No. 79516
1717 Arch Street - Suite 3710
Philadelphia, PA 19103-2713
215-735-8700**

Attorneys for Plaintiffs

**THIS IS NOT AN ARBITRATION
MATTER. AN ASSESSMENT OF
DAMAGES HEARING IS NOT
REQUIRED.**

TRANSPORT WORKERS UNION OF
PHILADELPHIA, LOCAL 234
500 North 2nd Street
Philadelphia, PA 19123

Plaintiff,

v.

SOUTHEASTERN PENNSYLVANIA
TRANSPORTATION AUTHORITY
1234 Market Street
Philadelphia, PA 19107

and

FRANCES C. KEATING, Individually and in
Her Official Capacity
SEPTA
1234 Market Street
Philadelphia, PA 19107

and

RICHARD J. HANRATTY, JR., Individually and
in His Official Capacity
SEPTA
1234 Market Street
Philadelphia, PA 19107

and

MICHAEL R. LIBERI, Individually and in His
Official Capacity
SEPTA
1234 Market Street
Philadelphia, PA 19107,

Defendants.

PHILADELPHIA COUNTY
COURT OF COMMON PLEAS

CIVIL ACTION

TERM,

NO.

JURY TRIAL DEMANDED

COMPLAINT - CIVIL ACTION

NOTICE TO DEFEND

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHETHER YOU CAN GET LEGAL HELP.

Philadelphia Bar Association
Lawyer Referral Service
1101 Market Street, 11th Floor
Philadelphia, Pa 19107
Telephone: (215) 238-6333
TTY: (215) 451-6197

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademas, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

Asociacion de Licenciados de Filadelfia
Servicio de Referencia e Informacion Legal
1101 Market Street, 11th Floor
Filadelfia, PA 19107
Telefono: (215) 238-6333
TTY: (215) 451-6197

KAUFMAN, COREN & RESS, P.C.
Bruce Bodner, Esq. #79516
1717 Arch Street, Suite 3710
Philadelphia, PA 19103
(215)735-8700

Attorneys for Plaintiff

**TRANSPORT WORKERS UNION OF
PHILADELPHIA, LOCAL 234
500 North 2nd Street
Philadelphia, PA 19123,**

Plaintiff

v.

**SOUTHEASTERN PENNSYLVANIA
TRANSPORTATION AUTHORITY,
1234 Market St.
Philadelphia, PA 19107**

**FRANCES C. KEATING, Individually and in
her official capacity
SEPTA
1234 Market Street
Philadelphia, PA 19107**

**RICHARD J. HANRATTY, JR., Individually
and in his official capacity
SEPTA
1234 Market Street
Philadelphia, PA 19107**

**MICHAEL R. LIBERI, Individually and in his
official capacity
SEPTA
1234 Market Street
Philadelphia, PA 19107**

Defendants.

**COURT OF COMMON PLEAS
PHILADELPHIA COUNTY**

CIVIL ACTION

NO.

JURY TRIAL DEMANDED

COMPLAINT—CIVIL ACTION

Plaintiff, Transport Workers Union of Philadelphia, Local 234 (“Local 234” or the “Union”), by its undersigned counsel, asserts constitutional and statutory free speech claims against Defendant Southeastern Pennsylvania Transportation Authority on behalf of the Union and its members, as follows:

INTRODUCTORY STATEMENT

1. The Southeastern Pennsylvania Transportation Authority (“SEPTA” or the “Authority”), an agency and instrumentality of the Commonwealth of Pennsylvania, is interfering with the free speech rights of Local 234 and approximately three thousand (3,000) public employees working for SEPTA as operators, cashiers, station assistants, station cleaners and loaders—in violation, *inter alia*, of Article I, Section 7 of the Pennsylvania Constitution and Article IV of the Public Employee Relations Act of July 23, 1970 (“Act 195”) by prohibiting the donning of Union buttons based on the message the button conveys and by threatening to discipline a targeted group of employees who elect to wear the buttons. By this action, Local 234 seeks to enjoin SEPTA’s unwarranted and unlawful interference with the free speech rights of the Union and its members.

PARTIES

2 Plaintiff Transport Workers Union of Philadelphia, Local 234 (“TWU” or “Local 234”), is an unincorporated association representing public transit employees pursuant to Pennsylvania’s Public Employee Relations Act, with offices located at 500 North 2nd Street, Philadelphia, Pennsylvania 19123.

3. Defendant SEPTA is a regional public transit authority organized under the laws of the Commonwealth of Pennsylvania, with its principal executive offices located at 1234 Market St., Philadelphia, Pennsylvania 19107.

4. Defendant Frances C. Keating is employed by SEPTA as the Authority’s Chief Labor Relations officer, with offices located at 1234 Market St. Phila. Pa. 19107.

5. Defendant Richard J. Hanratty Jr. is employed by SEPTA as the Authority’s Chief Rail Transportation Officer, with offices located at 1234 Market St. Phila. Pa. 19107.

6. Defendant Michael R. Liberi is employed by SEPTA as the Authority’s Chief Surface Transportation Officer, with offices located at 1234 Market St. Phila. Pa. 19107.

VENUE

7. Plaintiff has its principal place of business in the City of Philadelphia and the vast

majority of Local 234's members work and/or reside within Philadelphia County. Moreover, Plaintiff's causes of action arose out of a series of transactions and occurrences which took place, in whole or in part, in the City of Philadelphia. Therefore, venue is appropriate in Philadelphia County pursuant to Pa.R.C.P. 1006(a)(1).

FACTS

8. Local 234 represents over 5,000 employees employed by SEPTA, including bus, trolley and train operators, cashiers, station assistants, station cleaners and loaders, most of whom are employed in SEPTA's City Transit Division, serving, *inter alia*, residents of the City of Philadelphia.

9. On or around November 10, 2009, one day after the settlement of a six-day transit strike, a representative of the Authority announced that SEPTA planned to increase fares in 2010 for its transit service in the City of Philadelphia by approximately six percent (6%) on average.

10. According to the Authority spokesperson, the fare increases included in SEPTA's fiscal year 2011 budget would take effect July 1, 2010, following public hearings and the approval of SEPTA's fifteen-member (15) board of directors.

11. The Authority scheduled the required public hearings on the new budget on the following dates: April 14, 2010 in Montgomery County; April 15, 2010 in Chester County; April 16, 2010 in Delaware County; April 19, 2010 in Philadelphia County; and, April 20, 2010 in Bucks County.

12. The fare increases in SEPTA's FY 2011 budget included, but were not limited to, a ten cent (\$.10) increase in the cost of tokens, from \$1.45 to \$1.55, a twenty-five cent (\$.25) increase in the cost of transfers, from seventy-five cents to one dollar (\$1.00), and a five dollar (\$5) increase in the cost of a monthly TransPass, from \$78 to \$83.

13. Numerous residents of the City of Philadelphia who rely on the public transit system are in a state of severe financial distress due to the impact of the recent economic recession, and are experiencing high rates of unemployment and under employment, less income, and increasing levels

of debt—making it difficult for many to use the public transit system—a problem that will be exacerbated by SEPTA’s proposed fare increases. Indeed, SEPTA expects ridership to *decline* as a direct result of its fare hikes.

14. With SEPTA’s announcement of a fare increase coming just one day after the end of a six-day strike, a significant number of riders mistakenly came to believe that Local 234 and its members were somehow responsible for the fare increases proposed by SEPTA.

15. As a result, Local 234 and its members looked for a way to communicate their sympathy and concern for the impact of any fare increase on the riding public.

16. To that end, on or about April 9, 2010, the President of Local 234, Willie Brown (“Brown”) asked SEPTA’s Chief Labor Relations Officer, Defendant Frances C. Keating (“Keating”), whether SEPTA had a policy prohibiting the donning of pins on the uniforms of employees operating vehicles in revenue service. Keating responded that she wasn’t sure, but would get back to President Brown after investigating the matter.

17. Later that afternoon, Keating informed Brown that SEPTA had no policy prohibiting the wearing of pins. Indeed, for months, the Authority had been encouraging bus and trolley operators to wear a three (3) inch SEPTA button on their uniforms with the message: “We Love (in the form of a heart) Our Customers.” SEPTA also recently instituted a policy requiring all operators to wear name tags on their uniforms “to promote better customer relations.”

18. On Thursday, April 15, 2010, staff representatives of Local 234 began distributing a union sponsored button to be worn by members of Local 234 in the transportation and maintenance departments and divisions of the Authority. Many operators, cashiers, vehicle maintenance mechanics, cleaners and other employees elected to wear the union button.

19. The Union button measured approximately one and one-quarter inches in diameter, less than half the size of SEPTA’s button, bore a large Union Local at the center and conveyed the following message around the periphery: “Keep Fares Affordable----Protect The Riding Public.” A copy of the two buttons is attached to this Complaint as Exhibit “A.”

20. The Union produced the button and its members wore the button to express concern over the impact SEPTA's fare increases would have on the public's ability to continue using the public transit system. The button also sought to communicate to the riding public that the Union and its members did not support unaffordable fare increases and that the union contract and SEPTA's fare increases were not directly linked, as many riders had come to believe.

21. The individual operators, cashiers, station assistants, station cleaners and loaders wearing the "Keep Fares Affordable" buttons are without readily available alternative means to communicate their views to the riding public.

22. On Thursday, April 15, 2010, President Brown and Ms. Keating held a previously scheduled meeting to discuss other labor relations matters. During the course of the meeting, however, Keating informed President Brown that the Authority intended to publish a notice banning the "Keep Fares Affordable" button in a matter of days.

23. On Friday, April 16, 2010, top ranking managers in SEPTA's Rail and Surface Transportation Departments, Defendants Richard J. Hanratty Jr. and Michael R. Liberi, respectively, issued a Notice, dated April 15, 2010, banning operators, cashiers, station assistants, station cleaners and loaders from wearing the "Keep Fares Affordable" button. A copy of the Notice is attached to this Complaint as Exhibit "B."

24. The Notice issued by the Authority offered no substantive reason or rationale for prohibiting the donning of the "Keep Fares Affordable" button.

25. In their Notice, Messrs. Hanratty and Liberi stated that the donning of the Union's "Keep Fares Affordable" button is prohibited under Authority Standard Rule ("ASR") 8.A, which, according to the Notice, states the following: "Only those pin emblems, or insignias that are specified by the current Labor Agreement, Authority rule or notice are permitted to be worn with the regulation uniform." The Notice goes on to state that: "The wearing of the [the TWU-234 "Keep Fares Affordable"] button while in uniform is a violation of the uniform policy."

26. A violation of SEPTA's "uniform policy" can lead to progressive discipline and, in

some cases, to discharge. Employees may also be barred from work if they are deemed to be in violation of the uniform policy.

27. The Notice posted on April 16, 2010 misrepresented the content of Rule ASR 8.A, which in the most recent edition of SEPTA's "Bus Operations Rules And Regulations Manual," read as follows: "Only those pin emblems and insignias that are specified in the current labor agreement are permitted to be worn with the regulation uniform." A copy of Rule ASR 8.A is attached to this Complaint as Exhibit "C."

28. SEPTA's April 15, 2010 Notice singles out the Union's "Keep Fares Affordable" button, and includes a likeness of the button at the bottom of the page. No other pin emblem, insignia, or button, including SEPTA's "We Love Our Customers" button is prohibited under the Notice.

29. By its terms, the version of Rule ASR 8.A which appears in SEPTA's Notice restricts expression on all subjects (absent permission from the Authority)—not only the "Keep Fares Affordable" button which is the catalyst for the instant controversy.

30. SEPTA's button ban is in effect at all times of the day, including times in which the targeted employees—operators, cashiers, station assistants, station cleaners and loaders—are on break, in the depots, or otherwise out of contact with the public.

31. Notwithstanding its ban on the Union's "Keep Fares Affordable" button, SEPTA has essentially turned its own vehicles into a commercial bill board by selling space for advertisements that are displayed in SEPTA buses, trolleys and trains. Likewise, the outside of many buses and trolleys are literally covered, from back to front and everywhere in between, with advertisements aimed at the riding and non-riding public alike. Some SEPTA vehicles going down the street appear to be sneakers on wheels rather than a bus.

32. Authority Rule ASR-8.A is one of many rules unilaterally promulgated by the Authority without consultation or negotiation with the Union; except that, as written, Rule ASR-8.A creates the impression that it is the product of collective bargaining with Local 234 by referencing

pin emblems and insignias “specified by the current labor agreement.”

33. There is nothing in the current labor agreement concerning the wearing of pin emblems, insignias, or buttons. In fact, for years, operators and other members of Local 234 required to wear regulation uniforms have worn union pins, patches, pen holders, insignia and buttons without comment or threat of discipline from SEPTA. Indeed, the Notice posted by the Authority on April 16, 2010 is the first time that SEPTA has attempted to prohibit, under the threat of discipline, the donning of union sponsored buttons.

34. On April 16, 2010, counsel to Local 234 wrote to Defendant Keating, in her capacity as SEPTA’s Chief Labor Relations Officer, asserting that SEPTA’s button ban was both overly broad and viewpoint discriminatory, and requested that the unlawful Notice be rescinded.

35. On April 19, 2010, Keating responded by stating that SEPTA did not consider the Notice barring the wearing of “unauthorized buttons” a “free speech issue.”

36. On April 19, 2010, SEPTA held a public hearing in the City of Philadelphia over the fare increase. In many respects, the hearing was a sham. The SEPTA Board failed to circulate a copy of the FY 2011 budget to all those in attendance. The Board also failed to provide the attendees with an analysis of SEPTA’s purported operating deficit. Instead, the Board took questions from the floor, blamed the fare increases meant to support SEPTA’s operating budget on the loss of [capital] funds under Act 44, and then adjourned the meeting.

37. If the public hearings held in the surrounding counties resembled the “hearing” held in Philadelphia, it is doubtful that SEPTA acted in compliance with the letter and the spirit of the law requiring hearings on fare increases in front of a public with sufficient information to judge whether the proposed increases are, in fact, necessary.

COUNT I

**Infringement of Free Speech Rights in
Violation of Article I, Section 7 of the Pennsylvania Constitution
Against All Defendants**

38. Plaintiff incorporates by reference paragraphs 1-37 of this Complaint, as if fully set

forth herein.

39. Freedom of expression has a robust constitutional history and place in Pennsylvania.

40. Article I of the Pennsylvania Constitution consists of the Pennsylvania Declaration of Rights, and the first section of that Article affirms, among other things, that all citizens “have certain inherent and inalienable rights.” Among those inherent rights are those delineated in Section 7, which addresses “Freedom of Press and Speech; Libels.” That section provides, in relevant part, that:

The free communication of thoughts and opinions is one of the invaluable rights of man, and every citizen may freely speak, write and print on any subject, being responsible for the abuse of that liberty.

41. Article I, Section 7 of the Pennsylvania Constitution is broader than the First Amendment of the U.S. Constitution in that it guarantees not only freedom of speech and the press, but specifically affirms the “invaluable right” to the free communication of thoughts and opinions, and the right of “every citizen” to “speak freely” on “any subject” so long as that liberty is not abused.

42. Under the Pennsylvania Constitution, the right to free expression is a fundamental one, expressly recognized in the organic law of our state as belonging to “citizens.” In other words, the Constitution does not confer the right, but guarantees its free exercise, without let or hindrance from those in authority, at all times, under any and all circumstances.

43. The Pennsylvania Supreme Court has long recognized that freedom of expression has special meaning in Pennsylvania given the unique history of this Commonwealth. The freedom of speech has been guaranteed since the first Pennsylvania Constitution, not simply as a restriction on the powers of government, as found in the Federal Constitution, but as an inherent and invaluable right of man. Thus, Article I, Section 7 provides protection for freedom of expression that is broader than the federal constitutional guarantee.

44. Public employees such as those represented by Local 234 cannot constitutionally be required to relinquish their constitutional rights to comment on matters of public concern as a

condition of public employment. Indeed, the constitutional protections afforded public employee speech are rooted in the notion that public employees, as employees of governmental entities like SEPTA, are uniquely positioned to provide the public with incites into the operation of the governmental entity and, in the context of fare increases, to call into question whether such increases are actually necessary.

45. Government may not, under the Pennsylvania Constitution, suppress political speech on the basis of the speaker's corporate identity.

46. Because SEPTA is a public employer and Plaintiff is a union enjoying constitutional protection(s), SEPTA's content based button prohibition is an impermissible burden on speech under Article I, Section 7 of the Pennsylvania Constitution.

47. Because SEPTA is a public employer and the members of Local 234 are public employees, SEPTA's content based button prohibition is an impermissible burden on speech under Article I, Section 7 of the Pennsylvania Constitution.

48. Speech on a matter of public concern has been broadly defined by the U.S. Supreme Court as speech relating to "any matter of political, social or other concern to the community."

49. Under Pennsylvania law, SEPTA cannot increase fares without first conducting public hearings to give those served by SEPTA the opportunity to comment, debate, criticize, and question whether a fare increase is necessary to operate the transit system, rendering the subject of fare increases a statutorily recognized "matter of public concern."

50. The speech curtailed by SEPTA's ban on the Union's "Keep Fares Affordable" button is a matter of public concern, protected by Article I, Section 7 of the Pennsylvania Constitution. Moreover, the button prohibition rule promulgated by the Authority *restricts expression on all subjects* (absent permission)—not only the "Keep Fares Affordable" buttons around which the controversy arose.

51. As a result, SEPTA's ban on "unauthorized" pin emblems, insignia and buttons is an unconstitutionally overbroad restriction of speech, and the instant action is directed against the rule's

prohibition of *all communicative buttons* other than those approved by the Authority

52. A restriction on speech is content-based when the message conveyed determines whether the speech is subject to the restriction.

53. SEPTA's ban on the "Keep Fares Affordable" button is an unconstitutionally content based restriction, the purpose of which is to suppress any communication with the riding public that might call into question the wisdom and efficacy of SEPTA's proposed fare increases—while at the same time SEPTA encourages its operators to wear the Authority's "We Love Our Customers" button, even though the SEPTA's button is not "specified in the labor agreement" either.

54. Article I, Section 7 of the Pennsylvania Constitution makes it unlawful for SEPTA to restrict expression based on the message, the ideas, the subject matter or content of the communication.

55. While SEPTA, as an employer, has an interest in promoting the efficiency of the public services it performs through its employees, there is nothing about the banned button that would interfere with or detrimentally impact on the functioning of the Authority's operations. To the contrary, by conveying a message of empathy for the riding public, the "Keep Fares Affordable" button would more than likely have had the affect of promoting the efficiency of the services SEPTA provides to the people of Philadelphia and the region.

56. The Defendants, acting individually and in their capacities as supervisory and administrative officials of the Authority, conspired, planned, and agreed with each other to violate the constitutional rights of Plaintiff and its members.

57. At all times relevant hereto, in their actions described herein, each Defendant is and was acting under color of law, state authority, or statute and pursuant to his/her official authority.

58. The Defendants engaged in the unlawful conduct complained of herein intentionally, knowingly, maliciously, wantonly and/or in reckless disregard for the rights of Plaintiff and its members, thereby subjecting the Defendants to liability for punitive damages.

59. If not restrained and enjoined by this Court, the illegal acts of the Defendants will

continue to cause irreparable harm to the Plaintiff, including but not limited to irreparable damage to the civil rights of Plaintiff and its members.

COUNT II

**Infringement of Free Speech Rights In Violation of Article IV of Act 195
Against All Defendants**

60. Plaintiff incorporates by reference paragraphs 1-59 of this Complaint, as if fully set forth herein.

61. Article IV of Act 195, entitled "Employee Rights," provides, in relevant part, that: "It shall be lawful for public employees to organize, form, join or assists in employee organizations or to engage in lawful concerted activities for the purpose of collective bargaining or other mutual aid and protection..."

62. Among those rights protected by Article IV of Act 195 is the right of the Union and its members to express their views on matters impacting collective bargaining and other forms of mutual aid and protection.

63. As a public employee organization which engages in collective bargaining with a public employer, Local 234 and its members have a vital interest in developing good relations with the riding and non-riding public.

64. To that end, Local 234 issued and its members donned the "Keep Fares Affordable" buttons which SEPTA immediately and unlawfully banned.

65. Article IV of Act 195 makes it unlawful for SEPTA to interfere with the free speech rights of the Union and the individual employees subject to SEPTA's prohibition against the donning the Union's "Keep Fares Affordable" button.

66. The Defendants, acting individually and in their capacities as supervisory and administrative officials of the Authority, conspired, planned, and agreed with each other to violate the statutory rights of Plaintiff and its members.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff TWU, Local 234 demands that judgment be entered in its favor and against the Defendants, jointly and severally, on all counts of the Complaint and that Plaintiff be awarded the following relief:

(i) An Order voiding the April 15, 2010 button prohibition and permanently enjoining the Defendants, and their officers, agents, and employees from continuing to engage in the aforesaid unlawful conduct, and mandating that the Defendants, and their officers, agents, and employees implement, publicize and enforce policies and practices to ensure that such unlawful conduct is eradicated and no longer tolerated;

- (ii) Compensatory damages in an amount yet to be definitively determined;
- (iii) Punitive damages;
- (iv) Reasonable attorneys' fees, costs and related litigation expenses;
- (v) Such other relief as the Court deems just and proper under the circumstances.

KAUFMAN, COREN & RESS, P.C.



Bruce Bodner, Esquire
1717 Arch Street, Suite 3710
Philadelphia, PA 19103
(215) 735-8700

Dated: April 26, 2010

Attorneys for Plaintiff

EXHIBIT A

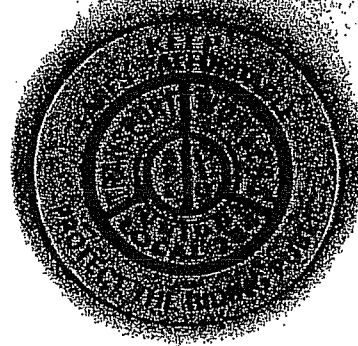


EXHIBIT B



NOTICE

April 15, 2010

ALL OPERATORS, CASHIERS, STATION ASSISTANTS STATION CLEANERS and LOADERS

Bus - Subway/Elevated - Suburban - Trolley

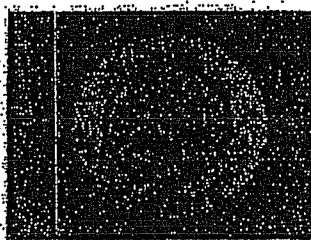
Re: Uniforms

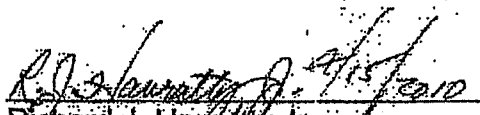
It has been brought to our attention that TWU-234 buttons were recently issued to TWU-234 members.

Employees are reminded of rule ASR-8.A, 'Only those pin emblems, or insignias that are specified by the current Labor Agreement, Authority rule or notice are permitted to be worn with the regulation uniform'.

These buttons are not authorized.

The wearing of the button while in uniform is a violation of the uniform policy.




Richard J. Harfatty Jr.
Chief Rail Transportation Officer


Michael R. Liberi
Chief Surface Transportation Officer

EXHIBIT C

pass the required examination before operating a train or vehicle.

ASR-6. Standard Time, Standard Clocks, Correct Time

Standard time will apply to all Authority operations. Employees whose duties are affected by transportation schedules must have a reliable watch in their possession while on duty. Before starting their assignment, they must assure that their watch is set with the correct standard time in accordance with the Authority's operating time.

Eastern Standard Time will apply on Authority property except as follows: Daylight Saving Time will apply between 2:00 a.m. on the second Sunday in March and 2:00 a.m. on the the first Sunday in November. Employees on duty during these periods must make certain standard clocks and watches are properly advanced or set back at those times. Employees not on duty must make certain standard clocks and watches are changed as soon as practical before assuming duty.

ASR-7. Personal Conduct

Employees are expected at all times to conduct themselves in a manner which does not jeopardize or otherwise disgrace the public image of the Authority. Any actions which are deemed to be insubordinate, uncivil, immoral, indecent, socially disapproved, or otherwise abusive to other employees, passengers or the general public will be considered as conduct unbecoming of an Authority employee, and may subject the offending employee to disciplinary action up to and including discharge and other civil penalties depending upon the severity of the offense.

Employees must give their name and account number to any other employee who identifies himself as a management employee of the Authority.

ASR-8. Personal Appearance

A. General

Employees required to wear a uniform must wear the prescribed uniform when reporting for duty, on duty, and all other times while on Authority property and must remain in full uniform. Such employees must maintain a presentable uniform appearance at all times.

Personal clothing cannot be worn in conjunction with the prescribed uniform, i.e. long sleeve shirt under short sleeve shirt, colored T-shirt underneath uniform shirt, etc. Shirrtails must be tucked into pants. When ties are worn, ties must be properly tied, top button of shirt buttoned and positioned up to collar/neck, fitted snugly.

The prescribed baseball style hat may be worn, but may not be worn backwards, rolled or on the side. Employees are required to present themselves in a neat and clean manner, and are expected to maintain personal hygiene. Employees are governed by the policies of their division pertaining to hair, facial hair, jewelry, and other such adornments or accessories which may not be permitted by the division's departmental standard rules, regulations, or policies.

Employees who are reporting for work will not be permitted to work unless they are in proper uniform. When off duty and occupying public areas, employees who elect to remain in uniform must be in the full uniform. Off-duty employees are not required to be in full uniform when located in designated quarters provided for their use.

→ Only those pin emblems and insignias that are specified in the current labor agreement are permitted to be worn with the regulation uniform.

Employees are prohibited from wearing any jewelry which detracts from the uniform appearance or in any way becomes a hazard to the safety of the employee.

B. Personal Protective Equipment

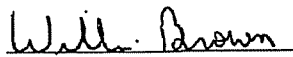
Employees must wear personal protective equipment specified by safety rule, regulation, contract or other requirement.

C. Sunglasses

1. Employees may wear sunglasses when exposed to direct rays of the sun.
2. Employees are prohibited from wearing sunglasses during the evening or at night, in the subway, or when prevailing weather

VERIFICATION

I, Willie Brown, verify that I am the President of Plaintiff Transport Workers Union of Philadelphia, Local 234 and that the facts set forth in the foregoing Complaint are true and correct to the best of my knowledge, information and belief; and that this verification is made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.



Willie Brown

April 26, 2010

EXHIBIT 2

Docket Report

Case Description

Case ID: 100404133
Case Caption: TRANSPORT WORKERS UNION OF PHILA LOCAL 234 VS SEPT
Filing Date: Tuesday , April 27th, 2010
Location: CH - City Hall
Case Type: 10 - CONTRACTS OTHER
Status: CLWCM - WAITING TO LIST CASE MGMT CONF

Related Cases

No related cases were found.

Case Event Schedule

No case events were found.

Case Parties

Seq #	Assoc	Expn Date	Type	ID	Name
1			ATTORNEY FOR PLAINTIFF	A79516	BODNER, BRUCE
Address:		KAUFMAN, COREN & RESS PC 1717 ARCH ST SUITE 3710 PHILADELPHIA PA 19103 (215)735-8700 (215)735-5170 - FAX		Aliases: none	
2	1		PLAINTIFF	@6575915	TRANSPORT WORKERS UNION OF PHILA LOCAL 234
Address:		500 N 2ND ST PHILADELPHIA PA 19123		Aliases: none	

3	8		DEFENDANT	I1002	SEPTA
Address:	1234 MARKET STREET, 5TH FLOOR PHILADELPHIA PA 19107		Aliases:	none	
4	8		DEFENDANT	@6575918	KEATING, FRANCES C
Address:	1234 MARKET ST C/O SEPTA PHILADELPHIA PA 19107		Aliases:	none	
5	8		DEFENDANT	@6575922	HANRATTY JR, RICHARD J
Address:	1234 MARKET ST PHILADELPHIA PA 19107		Aliases:	none	
6	8		DEFENDANT	@6575923	LIBERI, MICHAEL R
Address:	1234 MARKET ST PHILADELPHIA PA 19107		Aliases:	none	
7			TEAM LEADER	J359	TERESHKO, ALLAN L
Address:	231 CITY HALL PHILADELPHIA PA 19107 (215)686-7324		Aliases:	none	
8			ATTORNEY FOR DEFENDANT	A91827	ZULLO, MICHAEL S
Address:	DUANE MORRIS LLP 30 SOUTH 17TH STREET		Aliases:	none	

PHILADELPHIA PA 19103 (215)979-1000 (215)979-1020 - FAX		
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Docket Entries

<input checked="" type="checkbox"/> Uncheck for Full Docket				
Filing Date/Time	Docket Type	Filing Party	Disposition Amount	Approval/Entry Date
17-MAY-2010 04:17 PM	PROBJ - PRELIMINARY OBJECTIONS	ZULLO, MICHAEL S		18-MAY-2010 07:48 AM
Documents:	PROBJ_8_003.pdf PROBJ_8_002.pdf PROBJ_8_001.pdf PROBJ_8.pdf			
Docket Entry:	13-10052013 PRELIMINARY OBJECTIONS TO COMPLAINT FILED. RESPONSE DATE: 06/07/2010 (FILED ON BEHALF OF MICHAEL R LIBERI, RICHARD J HANRATTY JR, FRANCES C KEATING AND SEPTA) ENTRY OF APPEARANCE MICHAEL S. ZULLO FILED ON BEHALF OF MICHAEL R LIBERI, RICHARD J HANRATTY JR, FRANCES C KEATING AND SEPTA.			
10-JUN-2010 04:38 PM	PODAM - PRELIM OBJECTIONS- MARKED MOOT			10-JUN-2010 04:38 PM
Docket Entry:	13-10052013 P.O.'S WITHDRAWN AS MOOT - AMENDED COMPLAINT FILED.			

EXHIBIT 3

KAUFMAN, COREN & RESS, P.C.

By: Bruce Bodner

I.D. No. 79516

1717 Arch Street - Suite 3710

Philadelphia, PA 19103-2713

215-735-8700

Attorneys for Plaintiffs

TRANSPORT WORKERS UNION OF
PHILADELPHIA, LOCAL 234
500 North 2nd Street
Philadelphia, PA 19123

Plaintiff,

v.

SOUTHEASTERN PENNSYLVANIA
TRANSPORTATION AUTHORITY
1234 Market Street
Philadelphia, PA 19107

and

FRANCES C. KEATING, Individually and in
Her Official Capacity
SEPTA
1234 Market Street
Philadelphia, PA 19107

and

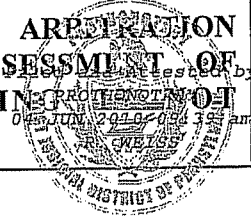
RICHARD J. HANRATTY, JR., Individually and
in His Official Capacity
SEPTA
1234 Market Street
Philadelphia, PA 19107

and

MICHAEL R. LIBERI, Individually and in His
Official Capacity
SEPTA
1234 Market Street
Philadelphia, PA 19107,

Defendants.

THIS IS NOT AN ARRESTATION
MATTER. AN ASSESSMENT OF
DAMAGES HEARING IS NOT
REQUIRED.



PHILADELPHIA COUNTY
COURT OF COMMON PLEAS

CIVIL ACTION

APRIL TERM, 2010

NO. 04133

JURY TRIAL DEMANDED

AMENDED COMPLAINT

NOTICE TO DEFEND

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHETHER YOU CAN GET LEGAL HELP.

Philadelphia Bar Association
Lawyer Referral Service
1101 Market Street, 11th Floor
Philadelphia, Pa 19107
Telephone: (215) 238-6333
TTY: (215) 451-6197

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notification. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notification. Ademas, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

Asociacion de Licenciados de Filadelfia
Servicio de Referencia e Informacion Legal
1101 Market Street, 11th Floor
Filadelfia, PA 19107
Telefono: (215) 238-6333
TTY: (215) 451-6197

KAUFMAN, COREN & RESS, P.C.
Bruce Bodner, Esq. #79516
1717 Arch Street, Suite 3710
Philadelphia, PA 19103
(215)735-8700

Attorneys for Plaintiff
Transport Workers Union,
Local 234

TRANSPORT WORKERS UNION OF
PHILADELPHIA, LOCAL 234
500 North 2nd Street
Philadelphia, PA 19123,
Plaintiff

v.

SOUTHEASTERN PENNSYLVANIA
TRANSPORTATION AUTHORITY,
1234 Market St.
Philadelphia, PA 19107

FRANCES C. KEATING, Individually and in
her official capacity
SEPTA
1234 Market Street
Philadelphia, PA 19107

RICHARD J. HANRATTY, JR., Individually
and in his official capacity
SEPTA
1234 Market Street
Philadelphia, PA 19107

MICHAEL R. LIBERI, Individually and in his
official capacity
SEPTA
1234 Market Street
Philadelphia, PA 19107

Defendants.

COURT OF COMMON PLEAS
PHILADELPHIA COUNTY

CIVIL ACTION

April Term, 2010

No. 04133

JURY TRIAL DEMANDED

AMENDED COMPLAINT

Plaintiff, Transport Workers Union of Philadelphia, Local 234 (“Local 234” or the “Union”), by its undersigned counsel, asserts constitutional free speech and associational claims against Defendants Southeastern Pennsylvania Transportation Authority, Frances C. Keating, Richard J. Hanratty Jr. and Michael R. Liberi on behalf of the Union and its members, as follows:

INTRODUCTORY STATEMENT

1. The Southeastern Pennsylvania Transportation Authority (“SEPTA” or the “Authority”), an agency and instrumentality of the Commonwealth of Pennsylvania, is interfering with the free speech and associational rights of Local 234 and approximately three thousand (3,000) public employees working for SEPTA as operators, cashiers, station assistants, station cleaners and loaders—in violation, *inter alia*, of Article I, Section 7 of the Pennsylvania Constitution, the First and Fourteenth Amendments to the U.S. Constitution and 42 U.S.C. § 1983—by conspiring to prohibit the donning of Union buttons based on the message the button conveys and by threatening to discipline a targeted group of employees who choose to wear the buttons. By this action, Local 234 seeks, *inter alia*, to permanently enjoin SEPTA from unlawfully interfering with the free speech rights of the Union and its members and to recover damages, attorneys’ fees and the costs of suit.

PARTIES

2. Plaintiff Transport Workers Union of Philadelphia, Local 234 (“TWU” or “Local 234”), is an unincorporated association representing public transit employees pursuant to Pennsylvania’s Public Employee Relations Act, with offices located at 500 North 2nd Street, Philadelphia, Pennsylvania 19123.

3. Defendant SEPTA is a regional public transit authority organized under the laws of the Commonwealth of Pennsylvania, with its principal executive offices located at 1234 Market St., Philadelphia, Pennsylvania 19107.

4. Defendant Frances C. Keating is employed by SEPTA as the Authority's Chief Labor Relations officer, with offices located at 1234 Market St. Philadelphia. Pennsylvania 19107.

5. Defendant Richard J. Hanratty Jr. is employed by SEPTA as the Authority's Chief Rail Transportation Officer, with offices located at 1234 Market St. Philadelphia, Pennsylvania 19107.

6. Defendant Michael R. Liberi is employed by SEPTA as the Authority's Chief Surface Transportation Officer, with offices located at 1234 Market St. Philadelphia, Pennsylvania 19107.

VENUE

7. Plaintiff has its principal place of business in the City of Philadelphia and the vast majority of Local 234's members work and/or reside within Philadelphia County. Moreover, Plaintiff's causes of action arose out of a series of transactions and occurrences which took place, in whole or in part, in the City of Philadelphia. Therefore, venue is appropriate in Philadelphia County pursuant to Pa. R.C.P. 1006(a)(1).

FACTS

8. Local 234 represents over 5,000 employees employed by SEPTA, including bus, trolley and train operators, cashiers, station assistants, station cleaners and loaders, most of whom are employed in SEPTA's City Transit Division, serving, *inter alia*, residents of the City of Philadelphia.

9. On or around November 10, 2009, one day after the settlement of a six-day transit strike, a representative of the Authority announced that SEPTA planned to increase fares in 2010 for its transit service in the City of Philadelphia by approximately six percent (6%) on average.

10. According to the Authority spokesperson, the fare increases included in SEPTA's fiscal year 2011 budget would take effect July 1, 2010, following public hearings and the approval of SEPTA's fifteen-member (15) board of directors.

11. The Authority scheduled the required public hearings on the new budget on the following dates: April 14, 2010 in Montgomery County; April 15, 2010 in Chester County; April 16, 2010 in Delaware County; April 19, 2010 in Philadelphia County; and, April 20, 2010 in Bucks County.

12. The fare increases in SEPTA's FY 2011 budget included, but were not limited to, a ten cent (\$.10) increase in the cost of tokens, from \$1.45 to \$1.55, a twenty-five cent (\$.25) increase in the cost of transfers, from seventy-five cents to one dollar (\$1.00), and a five dollar (\$5) increase in the cost of a monthly TransPass, from \$78 to \$83.

13. Numerous residents of the City of Philadelphia who rely on the public transit system are in a state of severe financial distress due to the impact of the recent economic recession, and are experiencing high rates of unemployment and under employment, less income, and increasing levels of debt—making it difficult for many to use the public transit system—a problem that will be exacerbated by SEPTA's proposed fare increases. Indeed, SEPTA expects ridership to *decline* as a direct result of its fare hikes.

14. With SEPTA's announcement of a fare increase coming just one day after the end of a six-day strike, a significant number of riders mistakenly came to believe that Local 234 and its members were somehow responsible for the fare increases proposed by SEPTA.

15. As a result, Local 234 and its members looked for a way to communicate their sympathy and concern for the impact of any fare increase on the riding public.

16. To that end, on or about April 9, 2010, the President of Local 234, Willie Brown ("Brown") asked SEPTA's Chief Labor Relations Officer, Defendant Frances C. Keating ("Keating"), whether SEPTA had a policy prohibiting the donning of pins on the uniforms of employees operating vehicles in revenue service. Keating responded that she wasn't sure, but would get back to President Brown after investigating the matter.

17. Later that afternoon, Keating informed Brown that SEPTA had no policy prohibiting the wearing of pins. Indeed, for months, the Authority had been encouraging bus and trolley operators to wear a three (3) inch SEPTA button on their uniforms with the message: "We Love (in the form of a heart) Our Customers." SEPTA also recently instituted a policy requiring all operators to wear name tags on their uniforms "to promote better customer relations."

18. On Thursday, April 15, 2010, staff representatives of Local 234 began distributing a union sponsored button to be worn by members of Local 234 in the transportation and maintenance departments and divisions of the Authority. Many operators, cashiers, vehicle maintenance mechanics, cleaners and other employees elected to wear the union button.

19. The Union button measured approximately one and one-quarter inches in diameter, less than half the size of SEPTA's button, bore a large Union Local at the center and conveyed the

following message around the periphery: "Keep Fares Affordable----Protect The Riding Public."

A copy of the two buttons is attached to this Complaint as Exhibit "A."

20. The Union produced the button and its members wore the button to express concern over the impact SEPTA's fare increases would have on the public's ability to continue using the public transit system. The button also sought to communicate to the riding public that the Union and its members did not support unaffordable fare increases and that the union contract and SEPTA's fare increases were not directly linked, as many riders had come to believe.

21. The individual operators, cashiers, station assistants, station cleaners and loaders wearing the "Keep Fares Affordable" buttons are without readily available alternative means to communicate their views to the riding public.

22. On Thursday, April 15, 2010, President Brown and Ms. Keating held a previously scheduled meeting to discuss other labor relations matters. During the course of the meeting, however, Keating informed President Brown that the Authority intended to publish a notice banning the "Keep Fares Affordable" button in a matter of days.

23. On Friday, April 16, 2010, top ranking managers in SEPTA's Rail and Surface Transportation Departments, Defendants Richard J. Hanratty Jr. and Michael R. Liberi, respectively, issued a Notice, dated April 15, 2010, banning operators, cashiers, station assistants, station cleaners and loaders from wearing the "Keep Fares Affordable" button. A copy of the Notice is attached to this Complaint as Exhibit "B."

24. The Notice issued by the Authority offered no substantive reason or rationale for prohibiting the donning of the "Keep Fares Affordable" button.

25. In their Notice, Messrs. Hanratty and Liberi stated that the donning of the Union's "Keep Fares Affordable" button is prohibited under Authority Standard Rule ("ASR") 8.A, which, according to the Notice, states the following: "Only those pin emblems, or insignias that are specified by the current Labor Agreement, Authority rule or notice are permitted to be worn with the regulation uniform." The Notice goes on to state that: "The wearing of the [the TWU-234 "Keep Fares Affordable"] button while in uniform is a violation of the uniform policy."

26. A violation of SEPTA's "uniform policy" can lead to progressive discipline and, in some cases, to discharge. Employees may also be barred from work if they are deemed to be in violation of the uniform policy.

27. The Notice posted on April 16, 2010 misrepresented the content of Rule ASR 8.A, which in the most recent edition of SEPTA's "Bus Operations Rules And Regulations Manual," read as follows: "Only those pin emblems and insignias that are specified in the current labor agreement are permitted to be worn with the regulation uniform." A copy of Rule ASR 8.A is attached to this Complaint as Exhibit "C."

28. SEPTA's April 15, 2010 Notice singles out the Union's "Keep Fares Affordable" button, and includes a likeness of the button at the bottom of the page. No other pin emblem, insignia, or button, including SEPTA's "We Love Our Customers" button is prohibited under the Notice.

29. By its terms, the version of Rule ASR 8.A which appears in SEPTA's Notice restricts expression on all subjects (absent permission from the Authority)—not only the "Keep Fares Affordable" button which is the catalyst for the instant controversy.

30. SEPTA's button ban is in effect at all times of the day, including times in which the targeted employees—operators, cashiers, station assistants, station cleaners and loaders—are on break, in the depots, or otherwise out of contact with the public.

31. Notwithstanding its ban on the Union's "Keep Fares Affordable" button, SEPTA has essentially turned its own vehicles into a commercial bill board by selling space for advertisements that are displayed in SEPTA buses, trolleys and trains. Likewise, the outside of many buses and trolleys are literally covered, from back to front and everywhere in between, with advertisements aimed at the riding and non-riding public alike. Some SEPTA vehicles going down the street appear to be sneakers on wheels rather than a bus.

32. Authority Rule ASR-8.A is one of many rules unilaterally promulgated by the Authority without consultation or negotiation with the Union; except that, as written, Rule ASR-8.A creates the impression that it is the product of collective bargaining with Local 234 by referencing pin emblems and insignias "specified by the current labor agreement."

33. There is nothing in the labor agreement concerning the wearing of pin emblems, insignias, or buttons. In fact, for years, operators and other members of Local 234 required to wear regulation uniforms have worn union pins, patches, pen holders, insignia and buttons without comment or threat of discipline from SEPTA. Indeed, the Notice posted by the Authority on April 16, 2010 is the first time that SEPTA has attempted to prohibit, under the threat of discipline, the donning of union sponsored buttons.

34. The free speech rights of Plaintiff and its members has never been the subject of collective bargaining between SEPTA and the Union and there is no provision in the labor agreement protecting free speech rights that would allow the instant dispute to be resolved by way of arbitration.

35. On April 16, 2010, counsel to Local 234 wrote to Defendant Keating, in her capacity as SEPTA's Chief Labor Relations Officer, asserting that SEPTA's button ban was both overly broad and viewpoint discriminatory, and requested that the unlawful Notice be rescinded.

36. On April 19, 2010, Keating responded by stating that SEPTA did not consider the Notice barring the wearing of "unauthorized buttons" a "free speech issue."

37. On April 19, 2010, SEPTA held a public hearing in the City of Philadelphia over the fare increase. In many respects, the hearing was a sham. The SEPTA Board failed to circulate a copy of the FY 2011 budget to all those in attendance. The Board also failed to provide the attendees with an analysis of SEPTA's purported operating deficit. Instead, the Board took questions from the floor, blamed the fare increases meant to support SEPTA's operating budget on the loss of [capital] funds under Act 44, and then adjourned the meeting.

38. If the public hearings held in the surrounding counties resembled the "hearing" held in Philadelphia, it is doubtful that SEPTA acted in compliance with the letter and the spirit of the law requiring hearings on fare increases in front of a public with sufficient information to judge whether the proposed increases are, in fact, necessary.

COUNT I

Infringement of Free Speech Rights in Violation of Article I, Section 7 of the Pennsylvania Constitution Against All Defendants

39. Plaintiff incorporates by reference paragraphs 1-38 of this Complaint, as if fully set forth herein.

40. Freedom of expression has a robust constitutional history and place in Pennsylvania.

41. Article I of the Pennsylvania Constitution consists of the Pennsylvania Declaration of Rights, and the first section of that Article affirms, among other things, that all citizens “have certain inherent and inalienable rights.” Among those inherent rights are those delineated in Section 7, which addresses “Freedom of Press and Speech; Libels.” That section provides, in relevant part, that:

The free communication of thoughts and opinions is one of the invaluable rights of man, and every citizen may freely speak, write and print on any subject, being responsible for the abuse of that liberty.

42. Article I, Section 7 of the Pennsylvania Constitution is broader than the First Amendment of the U.S. Constitution in that it guarantees not only freedom of speech and the press, but specifically affirms the “invaluable right” to the free communication of thoughts and opinions, and the right of “every citizen” to “speak freely” on “any subject” so long as that liberty is not abused.

43. Under the Pennsylvania Constitution, the right to free expression is a fundamental one, expressly recognized in the organic law of our state as belonging to “citizens.” In other words, the Pennsylvania Constitution does not confer the right, but guarantees its free exercise, without let or hindrance from those in authority, at all times, under any and all circumstances.

44. The Pennsylvania Supreme Court has long recognized that freedom of expression has special meaning in Pennsylvania given the unique history of this Commonwealth. The freedom of speech has been guaranteed since the first Pennsylvania Constitution, not simply as a restriction on the powers of government, as found in the Federal Constitution, but as an inherent and invaluable right of man. Thus, Article I, Section 7 provides protection for freedom of expression that is broader than the federal constitutional guarantee.

45. Public employees such as those represented by Local 234 cannot constitutionally be required to relinquish their constitutional rights to comment of matters of public concern as a condition of public employment. Indeed, the constitutional protections afforded public employee speech are rooted in the notion that public employees, as employees of governmental entities like SEPTA, are uniquely positioned to provide the public with incites into the operation of the governmental entity and, in the context of fare increases, to call into question whether such increases are actually necessary.

46. Government may not, under the Pennsylvania Constitution, suppress political speech on the basis of the speaker's corporate identity.

47. Because SEPTA is a public employer and the members of Local 234 are public employees, SEPTA's content based button prohibition is an impermissible burden on speech under Article I, Section 7 of the Pennsylvania Constitution.

48. Speech on a matter of public concern has been broadly defined by the U.S. Supreme Court as speech relating to "any matter of political, social or other concern to the community."

49. Under Pennsylvania law, SEPTA cannot increase fares without first conducting public hearings to give those served by SEPTA the opportunity to comment, debate, criticize, and question whether a fare increase is necessary to operate the transit system, rendering the subject of fare increases a statutorily recognized "matter of public concern."

50. The speech curtailed by SEPTA's ban on the Union's "Keep Fares Affordable" button is a matter of public concern, protected by Article I, Section 7 of the Pennsylvania Constitution. Moreover, the button prohibition rule promulgated by the Authority *restricts expression on all*

subjects (absent permission)—not only the “Keep Fares Affordable” buttons around which the controversy arose.

51. As a result, SEPTA’s ban on “unauthorized” pin emblems, insignia and buttons is an unconstitutionally overbroad restriction of speech, and the instant action is directed against the rule’s prohibition of *all communicative buttons* other than those approved by the Authority

52. A restriction on speech is content-based when the message conveyed determines whether the speech is subject to the restriction.

53. SEPTA’s ban on the “Keep Fares Affordable” button is an unconstitutionally content based restriction, the purpose of which is to suppress any communication with the riding public that might call into question the wisdom and efficacy of SEPTA’s proposed fare increases—while at the same time SEPTA encourages its operators to wear the Authority’s “We Love Our Customers” button, even though the SEPTA’s button is not “specified in the labor agreement” either.

54. Article I, Section 7 of the Pennsylvania Constitution makes it unlawful for SEPTA to restrict expression based on the message, the ideas, the subject matter or content of the communication.

55. While SEPTA, as an employer, has an interest in promoting the efficiency of the public service it performs through its employees, there is nothing about the banned button that would interfere with or detrimentally impact on the functioning of the Authority’s operations. To the contrary, by conveying a message of empathy for the riding public, the “Keep Fares Affordable” button would more than likely have had the affect of promoting the efficiency of the services SEPTA provides to the people of Philadelphia and the region.

56. The Defendants, acting individually and in their capacities as supervisory and administrative officials of the Authority, conspired, planned, and agreed with one another to violate the constitutional rights of Plaintiff and its members.

57. At all times relevant hereto, in their actions described herein, each Defendant is and was acting under color of law, state authority, or statute and pursuant to his/her official authority.

58. If not restrained and enjoined by this Court, the illegal acts of the Defendants will continue to cause irreparable harm to the Plaintiff, including but not limited to irreparable damage to the civil rights of Plaintiff and its members.

WHEREFORE, Plaintiff demands that judgment be entered in its favor and against the Defendants on Count I of the Amended Complaint and that an Order be issued voiding the April 15, 2010 button prohibition and permanently enjoining the Defendants, and their officers, agents, and employees from continuing to engage in the aforesaid unlawful conduct, and mandating that the Defendants, and their officers, agents, and employees implement, publicize and enforce policies and practices to ensure that such unlawful conduct is eradicated and no longer tolerated; along with such other relief the Court deems just and proper under the circumstances.

COUNT II

Infringement of First Amendment and Fourteenth Amendment Rights in Violation of 42 U.S.C. § 1983 Against All Defendants

59. Plaintiff incorporates by reference paragraphs 1-58 of this Complaint, as if fully set forth herein.

60. The First and Fourteenth Amendments of the U.S. Constitution protects public employees' right to freedom of speech and association on matters of public concern.

61. The speech curtailed by SEPTA's ban on the Union's "Keep Fares Affordable" button is a matter of public concern.

62. The Defendants, acting individually and in their capacities as supervisory and administrative officials of the Authority, conspired, planned, and agreed with one another to violate the constitutional rights of the Union and its members.

63. Defendants, acting under the color of state law, subjected the Union and its members to, and caused them to be subjected to, deprivations of the rights, privileges and immunities under the Constitution and laws of the United States, thereby subjecting Defendants to liability under 42 U.S.C. §1983.

64. The Defendants engaged in the unlawful conduct complained of herein intentionally, knowingly, maliciously, wantonly and/or in reckless disregard for the rights of Plaintiff and its members, thereby subjecting the Defendants to liability for punitive damages.

65. As a result of Defendants' violations of 42 U.S.C. §1983, the Plaintiff has suffered the harm previously set forth.

WHEREFORE, Plaintiff demands that judgment be entered in its favor and against the Defendants, jointly and severally, on Count II of the Amended Complaint and that Plaintiff be awarded the following relief:

- a. An Order voiding the April 15, 2010 button prohibition and permanently enjoining the Defendants, and their officers, agents, and employees from continuing to engage in the aforesaid unlawful conduct, and mandating that the Defendants, and their officers, agents, and employees implement, publicize and enforce policies and practices to ensure that such unlawful conduct is eradicated and no longer tolerated;

- b. Compensatory damages in an amount yet to be definitively determined;
- c. Punitive damages;
- d. Reasonable attorneys' fees, costs and related litigation expenses pursuant to 42 U.S.C. §1988;
- e. Such other relief as the Court deems just and proper under the circumstances.

KAUFMAN, COREN & RESS, P.C.

BY: *Bruce Bodner*

BRUCE BODNER
1717 Arch Street, Suite 3710
Philadelphia, PA 19103-2713
215-735-8700
215-735-5170 (fax)
bbodner@kcr-law.com
Attorneys for Plaintiff, Local 234

Date: June 4, 2010

EXHIBIT A

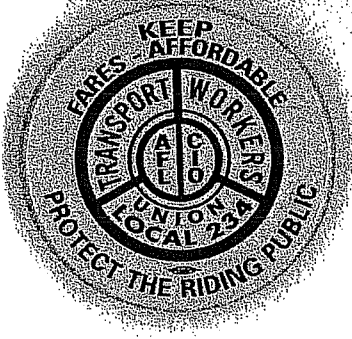
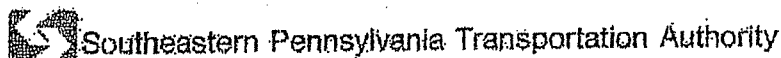


EXHIBIT B



NOTICE

April 15, 2010

ALL OPERATORS, CASHIERS, STATION ASSISTANTS STATION CLEANERS and LOADERS
Bus - Subway/Elevated - Suburban - Trolley

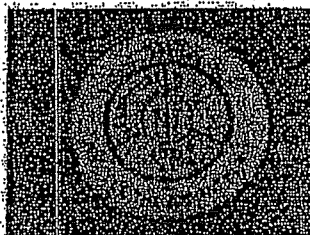
Re: Uniforms

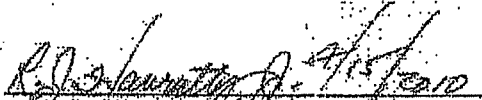
It has been brought to our attention that TWU-234 buttons were recently issued to TWU-234 members.

Employees are reminded of rule ASR-8.A, 'Only those pin emblems, or insignias that are specified by the current Labor Agreement, Authority rule or notice are permitted to be worn with the regulation uniform'.

These buttons are not authorized.

The wearing of the button while in uniform is a violation of the uniform policy.




Richard J. Hanrahan Jr.
Chief Rail Transportation Officer


Michael R. Liberi
Chief Surface Transportation Officer

BT-01110/YMM

EXHIBIT C

pass the required examination before operating a train or vehicle.

ASR-6. Standard Time, Standard Clocks, Correct Time

Standard time will apply to all Authority operations. Employees whose duties are affected by transportation schedules must have a reliable watch in their possession while on duty. Before starting their assignment, they must assure that their watch is set with the correct standard time in accordance with the Authority's operating time.

Eastern Standard Time will apply on Authority property except as follows: Daylight Saving Time will apply between 2:00 a.m. on the second Sunday in March and 2:00 a.m. on the the first Sunday in November. Employees on duty during these periods must make certain standard clocks and watches are properly advanced or set back at those times. Employees not on duty must make certain standard clocks and watches are changed as soon as practical before assuming duty.

ASR-7. Personal Conduct

Employees are expected at all times to conduct themselves in a manner which does not jeopardize or otherwise disgrace the public image of the Authority. Any actions which are deemed to be insubordinate, uncivil, immoral, indecent, socially disapproved, or otherwise abusive to other employees, passengers or the general public will be considered as conduct unbecoming of an Authority employee, and may subject the offending employee to disciplinary action up to and including discharge and other civil penalties depending upon the severity of the offense.

Employees must give their name and account number to any other employee who identifies himself as a management employee of the Authority.

ASR-8. Personal Appearance

A. General

Employees required to wear a uniform must wear the prescribed uniform when reporting for duty, on duty, and all other times while on Authority property and must remain in full uniform. Such employees must maintain a presentable uniform appearance at all times.

G.O. 07-02

ASR - 8

11/4/07

Personal clothing cannot be worn in conjunction with the prescribed uniform, i.e. long sleeve shirt under short sleeve shirt, colored T-shirt underneath uniform shirt, etc. Shirrtails must be tucked into pants. When ties are worn, ties must be properly tied, top button of shirt buttoned and positioned up to collar/neck, fitted snugly.

The prescribed baseball style hat may be worn, but may not be worn backwards, rolled or on the side. Employees are required to present themselves in a neat and clean manner, and are expected to maintain personal hygiene. Employees are governed by the policies of their division pertaining to hair, facial hair, jewelry, and other such adornments or accessories which may not be permitted by the division's departmental standard rules, regulations, or policies.

Employees who are reporting for work will not be permitted to work unless they are in proper uniform. When off duty and occupying public areas, employees who elect to remain in uniform must be in the full uniform. Off-duty employees are not required to be in full uniform when located in designated quarters provided for their use.

→ Only those pin emblems and insignias that are specified in the current labor agreement are permitted to be worn with the regulation uniform.

Employees are prohibited from wearing any jewelry which detracts from the uniform appearance or in any way becomes a hazard to the safety of the employee.

B. Personal Protective Equipment

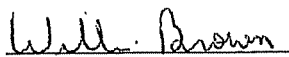
Employees must wear personal protective equipment specified by safety rule, regulation, contract or other requirement.

C. Sunglasses

1. Employees may wear sunglasses when exposed to direct rays of the sun.
2. Employees are prohibited from wearing sunglasses during the evening or at night, in the subway, or when prevailing weather

VERIFICATION

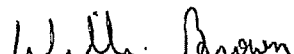
I, Willie Brown, verify that I am the President of Plaintiff Transport Workers Union of Philadelphia, Local 234 and that the facts set forth in the foregoing Complaint are true and correct to the best of my knowledge, information and belief; and that this verification is made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.


Willie Brown

April 26, 2010

VERIFICATION

I, Willie Brown, verify that I am the President of Plaintiff Transport Workers Union of Philadelphia, Local 234 and that the facts set forth in the foregoing Amended Complaint are true and correct to the best of my knowledge, information and belief; and that this verification is made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.



Willie Brown

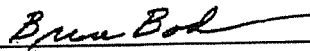
Date: 6-3-2010

CERTIFICATE OF SERVICE

I, Bruce Bodner, Esquire, certify that I caused a true and correct copy of the foregoing **Amended Complaint** to be served via Electronic Mail and First-Class Mail, postage prepaid on June 4, 2010, upon the following:

Dana B. Klinges, Esquire
Michael S. Zullo, Esquire
Duane Morris LLP
30 South 17th Street
Philadelphia, PA 19103-4196
dklinges@duanemorris.com
mszullo@duanemorris.com

Attorneys for SEPTA

BY: 
Bruce Bodner

Date: June 4, 2010

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 500 North 2nd Street, Philadelphia, PA 19103

Address of Defendant: 1234 Market Street, Philadelphia, PA 19107

Place of Accident, Incident or Transaction: Philadelphia (Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock? (Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes [] No [x]

Does this case involve multidistrict litigation possibilities? Yes [] No [x]

RELATED CASE, IF ANY: Case Number: Judge Date Terminated:

- Civil cases are deemed related when yes is answered to any of the following questions: 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?

- CIVIL: (Place [x] in ONE CATEGORY ONLY) A. Federal Question Cases: 1. [] Indemnity Contract, Marine Contract, and All Other Contracts 2. [] FELA 3. [] Jones Act-Personal Injury 4. [] Antitrust 5. [] Patent 6. [] Labor-Management Relations 7. [x] Civil Rights 8. [] Habeas Corpus 9. [] Securities Act(s) Cases 10. [] Social Security Review Cases 11. [] All other Federal Question Cases (Please specify) B. Diversity Jurisdiction Cases: 1. [] Insurance Contract and Other Contracts 2. [] Airplane Personal Injury 3. [] Assault, Defamation 4. [] Marine Personal Injury 5. [] Motor Vehicle Personal Injury 6. [] Other Personal Injury (Please specify) 7. [] Products Liability 8. [] Products Liability — Asbestos 9. [] All other Diversity Cases (Please specify)

ARBITRATION CERTIFICATION (Check Appropriate Category)

I, Michael Zullo, counsel of record do hereby certify: [] Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs; [x] Relief other than monetary damages is sought.

DATE: 6/23/10 Attorney-at-Law Attorney I.D.# 91827

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above. DATE: 6/23/10 Attorney-at-Law Attorney I.D.# 91827

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**


CASE MANAGEMENT TRACK DESIGNATION FORM

Transport Workers Union of Philadelphia Local 234	:	CIVIL ACTION
	:	
v.	:	
	:	
SEPTA, et al.	:	NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (x)

June 23, 2010	Michael S. Zullo	
Date	Attorney-at-law	Attorney for Defendants
215 979 1178	215 979 1020	mszullo@duanemorris.com
<hr/>	<hr/>	<hr/>
Telephone	FAX Number	E-Mail Address