

At Special Term of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse thereof, 360 Adams Street, Brooklyn, New York, on the 13<sup>th</sup> day of December, 2005

P R E S E N T:

HON. THEODORE T. JONES,

Justice.

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MTA BUS COMPANY,

Plaintiff,

Index No. 37468/05

against -

TRANSPORT WORKERS UNION OF AMERICA, AFL-CIO (“International”), an unincorporated voluntary association; MICHAEL O’BRIEN, individually and as International President, JOHN J. KERRIGAN, individually and as International Secretary-Treasurer, JAMES LITTLE, individually and as International Executive Vice President; LOCAL 100 of TRANSPORT WORKERS UNION OF AMERICA, AFL-CIO, an unincorporated voluntary association otherwise known as TRANSPORT WORKERS UNION OF GREATER NEW YORK (“Local 100”); ROGER TOUSSAINT, individually and as President of Local 100, ED WATT, Individually and as Secretary-Treasurer of Local 100, DARLYNE LAWSON, individually and as Recording Secretary of Local 100, NEIL WINBERRY, individually and as a Vice President of Local 100, MARY COOPER, JASON MCSHANE, HARRY C. PAULING, individually and as Executive Board Members of Local 100, RODERICK BAILEY, SEAN CONNOLLY, ROBERT ELZNIC, LAWRENCE ENGLEBERT, RONALD FITTS CHARLES GIBLIN, NEFTALI GONZALEZ, DONALD KAMPING, HENRY KELLY, KENNETH MOEN, THOMAS MONACO, JAMES O’CONNOR, KEVIN PRENDERGAST, SULTAN PREGJONI, MICHAEL TANON, FELIX TORO, individually and as Officers of Local 100; JOHN DOE and MARY ROE (said names of “JOHN DOE” and “MARY ROE” being fictitious, their true names being unknown to plaintiff), being persons employed in the operation and maintenance of the transit facilities operated by the plaintiff; and all other persons acting in concert with them,

Defendants.

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A motion having been brought by Order to Show Cause by Eliot Spitzer, Attorney General of the State of New York, on behalf of the plaintiff MTA Bus Company for a preliminary injunction pursuant to Civil Service Law §§ 210 and 211, and the defendants having appeared by Arthur Z. Schwarz, Esq., on behalf of Local 100 of the Transport Workers Union of America, AFL-CIO (Local 100), including the Executive Board and Officers of Local 100, and by James R. Grisi, Esq., on behalf of the Transport Workers Union of America, AFL-CIO (the International), including the Officers of the International, and said motion having regularly come before this Court on the 13<sup>th</sup> day of December, 2005;

NOW, upon reading and filing the Orders to Show Cause signed by the Hon. Theodore T. Jones, Justice of this Court, on December 12, 2005, the Affidavit of Lawrence G. Reuter, the Affirmation of Assistant Attorney General James B. Henly, the Affirmation of the Commissioner of the New York City Office of Emergency Management, Joseph F. Bruno, the Memorandum of Law in Support of Plaintiffs' Application for Preliminary Injunctive Relief, and the Summons and Verified Complaint, and the Defendants' Memoranda of Law in opposition thereto, Affidavits of Roger Toussaint, Edward Watt and Michael T. O'Brien, the Affirmation of Arthur Z. Schwartz, Esq., and the Amicus Curie Brief of the United Federation of Teachers, and

Upon hearing oral argument by all parties, and after due deliberation by this Court having been had,

NOW, on motion of Eliot Spitzer, Attorney General of the State of New York, attorney for plaintiff, it is

ORDERED that the plaintiff's motion for a preliminary injunction is granted to the following extent:

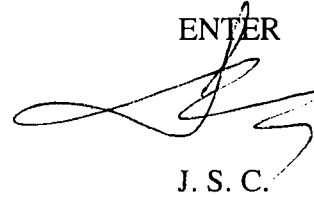
1. Defendant Transport Workers Union of America, AFL-CIO and defendant Local 100 of the Transport Workers Union of America, AFL-CIO, and the officers, directors, executive board members, members, employees, agents and representatives of defendant Transport Workers Union of America, AFL-CIO and/or Local 100 of the Transport Workers Union of America, AFL-CIO are enjoined from violating section 210 of the Civil Service Law by conducting, engaging or participating in, through any manner or any means a strike, work stoppage, sick-out, slowdown, or any other concerted activity with the intent of interrupting the normal and regular operations of the MTA Bus Company; and

2. Defendant Transport Workers Union of America, AFL-CIO and defendant Local 100 of the Transport Workers Union of America, AFL-CIO, their officers, directors and executive board members are enjoined from violating section 210 of the Civil Service Law by causing, instigating, or inciting a strike, work stoppage, sick-out, or slowdown against the MTA Bus Company; and

IT IS FURTHER ORDERED that each and every member of the Local 100 receive proper notice of this Order, based upon the requisite notice contemplated by the relevant statutes providing for effectuating proper service, and further, based upon the practical difficulties facing individual service upon the over 35,000 employees of Local 100, the plaintiff shall serve a copy of this Order by ordinary first class mail and obtain a certificate of mailing from the United States Postal Service. Furthermore, the officers, directors, and executive board members of Local 100 shall notify, forthwith, all of its members of their obligation not to strike in accordance with State Law and the

directives of the instant Order and that they are obligated to continue to fulfill the terms of their employment. Such notice shall be by ordinary mail and e-mail, wherever feasible, and by placing such notification on the website of Local 100 and the International.

A decision setting forth the Court's reasoning in issuing this order to follow.

ENTER  
  
J. S. C.