

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 13th day of December, 2005

P R E S E N T:

HON. THEODORE T. JONES,

Justice.

-----X
NEW YORK CITY TRANSIT AUTHORITY and
MANHATTAN and BRONX SURFACE TRANSIT
OPERATING AUTHORITY,

Plaintiffs,

Index No. 37469/05

- 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, AINSLEY STEWART, JULIO RIVERA, JOHN MOONEY, RANDY NEVELS, BARRY ROBERTS, BILL PELLETIER, individually and as Vice President of Local 100, CARLOS ALBERT, DENNIS BOYD, ROSLYN CARR, RONALD CARTER, ANITA CLINTON, ANNELLE CRUZ, GREGORY DAVIS, ELADIO DIAZ, GRIGORIY DUNICHEV, CARLOS GALAN, MARTIN GOODMAN, DEBORAH HARDWICK, MARVIN HOLLAND, MITCHELL HOLMES, THOMAS LENANE, CHRIS MAGWOOD, MICHAEL MORALES, DESMOND MUIR, GEORGE PERLSTEIN, NORMAN POU, MILTON RAMOS, DAVID ROSZKOWSKI, CAROL SARA UW, KATHRYN TAYLOR-DAVIDSON, HERMAN THOMAS, DAVID THROWER, MARIETTA THROWER, MARIO TRISCHITTA, ANTHONY VAGLICA, RICARDO VICTORIA,

HENRY WILLIAMS, AGNES WOOLFORD-BARRETT, individually and as Executive Board Members of Local 100, MARC ALBRITTON, LLOYD ARCHER, FRANK AUSTIN, CHARLES AYALA, RICHARD BERMUDEZ, JACK BLAZEJEWICZ, GILBERT BOBE, NICHOLAS BRANCO, JOSEPH CAMPBELL, PHILIP CARUANA, BRIAN CLARKE, EDWARD DE CAMILLIS, JOSEPH DE PROSSINO, ROY DOLCH, EDWARD DOS SANTOS, RENEE ENGLISH, JOHN FARRINGTON, RICARDO FIGUEROA, DAVID FRANCIS, THOMAS GOODWIN, MICHAEL HALL, JOSEPH JAMES, CHARLES JENKINS, JOHN JIMISON, JEFFREY LEE, PATRICK LYNCH, CLAUDE MARSHALL, SHIRLEY MARTIN, KEVIN MCCAWLEY, GREGORY MCDONALD, DANIEL O'BRIEN, JOHN O'FARRELL, GLENN O'SULLIVAN, KENNETH ONUNKWO, LAWRENCE PALADINO, CHRISTOPHER PETERSEN, ANDREEVA PINDER, ANTHONY PREDDIE, BRADLEY REESE, RICHARD RIVERA, WILLIAM RIVERA, FERNANDO ROBINSON, ROBERT ROGERS, CHARLOTTE RUSSELL, JOHN SAMUELSEN, KRISHNA SHIVRATTAN, JOHN SIMINO, EUGENE SIRIGNANO, HOWARD SMALLER, DANIEL SMALL, DONOVAN SMITH, MICHAEL SMITH, JOSEPH SORRENTINO, DOMINICK SPAGNOLO, DAVID ST. JOHN, MICHAEL STATON, STEVE TAAFFE, CURTIS TATE, MICHAEL TUTRONE, DAVID TUTT, ANTHONY UTANO, ROBERTO WATSON, SHARON WATTS, GREGORY WHITE, JAMES WILLIS, HARRY WILLS, WILLIAM WYATT, 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 plaintiffs), being persons employed in the operation and maintenance of the transit facilities operated by the plaintiffs; and all other persons acting in concert with them,

Defendants.

-----X

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 plaintiffs New York City Transit Authority, Manhattan and Bronx Surface Transit Operating Authority, and 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 13th 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 plaintiffs, it is

ORDERED that the plaintiffs' 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 New York City Transit Authority and the Manhattan and Bronx Surface Transit Operating Authority; 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 New York City Transit Authority and the Manhattan and Bronx Surface Transit Operating Authority; 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 plaintiffs 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.