

**SECOND JUDICIAL DISTRICT COURT
COUNTY OF BERNALILLO
STATE OF NEW MEXICO**

Case No. CV-2004-04508

**CHAUFFEURS, TEAMSTERS AND HELPERS,
LOCAL UNION 492,**

Plaintiff,

vs.

**THE CITY OF ALBUQUERQUE,
MAYOR MARTIN CHAVEZ,
MEMBERS OF THE CITY LABOR BOARD,
PATRICK HALTER, DEBORAH
LATTIMORE, and DEBRA SAINÉ,**

Defendants.

UNOPPOSED MOTION TO INTERVENE

The New Mexico Transportation Union (NMTU), Robert C. Gutierrez, Chairman, and the officers and members of the NMTU, hereby move to intervene in the above-captioned cause as a matter of right pursuant to Rule 1-024(A)(2), and as a permissive matter pursuant to Rule 1-024(B)(2), N.M.R.Civ. Proc., stating as grounds therefore:

1. The New Mexico Transportation Union is a labor union representing the bargaining unit composed of City of Albuquerque Motorcoach Operators and Sun Van Drivers.
2. Prior to 2001, the United Transportation Union, Local 1745, represented the City bus and van drivers.

3. The NMTU is the successor in interest to UTU, Local 1745. After the UTU filed a disclaimer of interest, the name of the union was changed but in all other respects the union stayed the same: continuing with the same officers, operating under the same collective bargaining agreement, maintaining the same rules and procedures, and representing the same bargaining unit employees.

4. Following a challenge by the Teamsters' Union to the NMTU's contract as the sole and exclusive bargaining agent for the Transit drivers, the Defendant City Labor Board issued a decision on June 18, 2004, confirming that the NMTU is the sole and exclusive bargaining agent for Transit Department drivers and dismissing the Teamsters Union's claim to represent Transit Department Employees.

5. The Teamsters' Union did not appeal the decision of the City Labor Board.

6. Nonetheless, on September 29, 2004, the Teamsters Union filed an "Amended Complaint for Temporary Restraining Order, Permanent Injunction, Damages, Attorney Fees and Court Fees" against the City of Albuquerque Defendants.

7. The Teamsters Union did not name the NMTU or any of its members or officials as Defendants in this action.

8. Despite their failure to name the NMTU in this action, the Teamsters Union claimed entitlement to "a temporary injunction and a permanent restraining order" directing the City "not to honor or recognize the purported labor organization of the New

Mexico Transportation Union as the exclusive bargaining agent for certain transit drivers employed by the City of Albuquerque.”

9. If the relief sought by the Teamsters Union is granted, the NMTU would suffer the loss of its representational status and would necessarily cease to function as a union representing Transit Department employees.

10. Accordingly, Interveners are the real parties in interest, entitled to intervene as a matter of right and entitled to permissive intervention.

11. Defendant City of Albuquerque, et al., have not yet filed any responsive pleading; nor has the Teamsters’ request for a temporary restraining order, permanent injunction, damages, attorney fees and court fees been set for a hearing.

12. Interveners have contacted both the Teamsters, through their attorney Gerald Bloomfield, and the City, through its attorney Robert Kidd, and neither the Teamsters nor the City oppose this Motion to Intervene by the NMTU.

13. Pursuant to Rule 1-024(C) the New Mexico Transportation Union attaches a Response in Intervention, a pleading setting forth the claims and defenses for which intervention is sought.

WHEREFORE, the Court should grant the New Mexico Transportation Union’s Unopposed Motion to Intervene, allowing entry of the Complaint in Intervention as a pleading in this case.

Respectfully submitted,

Paul Livingston
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I hereby certify that I sent a copy
of the foregoing to opposing counsel
Gerald Bloomfield and Robert Kidd
by facsimile on October 28, 2004.

Paul Livingston