

**ENDORSED
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SEP 29 2004

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

Quinn M. Quinn
CLERK DISTRICT COURT
No. CV 2004 04508
MICHELL KRANKE

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

-vs-

**THE CITY OF ALBUQUERQUE, a Municipal
Corporation in the State of New Mexico, MAYOR
MARTIN CHAVEZ, Mayor of the City of Albuquerque,
and MEMBERS OF THE CITY LABOR BOARD, mainly
PATRICK HALTER, Chairman, DEBORAH LATTIMORE,
and DEBRA SAINÉ, members of the Labor-Management
Relations Board.**

Defendants.

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**AMENDED COMPLAINT FOR TEMPORARY
RESTRAINING ORDER, PERMANENT INJUNCTION,
DAMAGES, ATTORNEY FEES AND COURT FEES**

Plaintiff states:

I.

That the Court has jurisdiction over the subject matter and the parties.

II.

That the Plaintiff, CHAUFFEURS, TEAMSTERS AND HELPERS, LOCAL UNION 492, hereinafter referred to as "Teamsters Union", is a labor organization operating pursuant to a Constitution and Bylaws representing approximately two million members in North America including Canada.

III.

The City Labor Board functions pursuant to a City Ordinance presently in effect which provides for representation of various City employees under certain circumstances including certification, proof of majority status, and other circumstances. The Ordinance has been in effect

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for a number of years and is commonly referred to as the Labor Management Relations Ordinance which is a municipal ordinance.

IV.

No election pursuant to the Ordinance has been conducted within the last twelve month period. The Union of transit employees is the same Unit that has been historically recognized by the City Labor Board. There is no recognized legitimate bargaining unit in place at the present time nor has there been for a number of years. There has been no election for representation or for any other purpose going back for some extended period of time including over a year from the date of the filing of this lawsuit.

V.

That on or about November 19, 2003, Moises L. Ortega, Organizer for Teamsters Local 492, wrote to the Honorable Martin Chavez, Mayor, advising the Mayor that Teamsters Local 492 represented a majority of the transit drivers employed by Sun Tran and Sun Van, both entities owned by the City of Albuquerque. In that correspondence, a copy of which is attached hereto and identified as Exhibit 1, the Teamsters Union requested the City recognize it as the exclusive bargaining agent for all matters related to wages, hours, and conditions of employment and requested a meeting with the City. This request was made pursuant to the City of Albuquerque Labor Management Relations Ordinance. In that same correspondence, the parties were advised that Teamsters Union represented a majority of employees employed by the Employer in an Unit appropriate for purposes of collective bargaining.

On November 24, 2003, Barbara Keiser, Labor Relations Officer for the City of Albuquerque, responded to Mr. Ortega by Exhibit 2 attached hereto. That letter simply advised the Teamsters Organizer that the procedures set forth in the above referenced Ordinance must be followed if there is going to be any recognition. By letter dated December 1, 2003, Moises Ortega wrote to the members of the Labor Management Relations Board, that the Teamsters desired to represent transit drivers employed in the appropriate Unit. He also stated that there was a significant showing of interest that met the requirement of the Ordinance. A copy of that letter is attached hereto and identified as Exhibit 3. Copies of that same letter were hand-delivered and sent by certified mail to Mayor Chavez. On or about March 26, 2004, Moises Ortega wrote to Board Chairman Halter advising him that the Teamsters continued to seek to represent a group of transit drivers in an appropriate Unit employed by the City of Albuquerque. A copy of that letter is attached hereto as Exhibit 4. Pursuant to that Ordinance the City did post the 10 day notice and a response was not received by any of the parties. Proof of majority status has been repeatedly forwarded to the Board and the Board has rejected the proof of majority status as well as any requests that the Teamsters be recognized as the exclusive bargaining representative for the transit employees. The City is presently in possession of the authorization cards and is well advised of the majority status of Teamsters Local 492.

VII.

That the Labor Management Relations Board on or about June 18, 2004, issued a decision, a copy of which is attached hereto and identified as Exhibit 5, recognizing a union referred to as the New Mexico Transportation Association as the collective bargaining agent for

transit employees in the Transit Department, City of Albuquerque. That the NMTU is purportedly an unincorporated association, with various individuals purporting to function as a labor organization. However, it is devoid of any charter, bylaws, or constitution and without formally elected leadership. The decision of the Labor Management Relations Board is invalid in as much as:

- (1) the Teamsters Union represents a majority of the employees employed in the appropriate bargaining unit.
- (2) that the Teamsters Union is not barred from representing those employees for any reason contained in the ordinance.
- (3) that there is no contract bar.
- (4) that the Mayor improperly and unlawfully extended recognition to a minority status unit.
- (5) that the Mayor's decision recognizing NMTU as exclusive representative is a clear violation of the terms and conditions contained in the Labor Management Relations Ordinance.

WHEREFORE, it is respectfully requested and prayed as follows:

1. That a temporary injunction and a permanent restraining order be issued against the Defendants directing them 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.

2. This matter be given priority treatment on the Court's docket and be scheduled for hearing on the merits at the earliest convenient time.

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3. That the Plaintiff be awarded its court costs and attorney fees incurred herein.

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