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12
13 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **IN AND FOR THE COUNTY OF SAN FRANCISCO**

15 ENVIRONMENTAL LAW FOUNDATION; OUR
16 CHILDREN'S EARTH FOUNDATION; and
17 COMMUNITIES FOR A BETTER
18 ENVIRONMENT, On Behalf of the General Public

19 Plaintiffs,

20 v.

21 LAIDLAW TRANSIT INC. dba LAIDLAW
22 EDUCATION SERVICES; LAIDLAW TRANSIT
23 SERVICES, INC.; DURHAM SCHOOL
24 SERVICES; DURHAM SCHOOL SERVICES,
25 L.P.; NATIONAL EXPRESS CORPORATION; and
26 DOES 1 through 100, inclusive,

27 Respondents.

CASE NO.: CGC-06-451832

28 **DECLARATION OF MANUEL
CONTRERAS IN SUPPORT OF
PLAINTIFF'S MOTION FOR
PRELIMINARY INJUNCTION**

[CCP §§526, 527]

Date: June 8, 2007

Time: 1:30 p.m.

Court: Dept. 613

Judge: Hon. Ernest H. Goldsmith

Complaint filed: May 2, 2006

Trial Date: Nov. 26, 2007

1. My name is Manuel Contreras. I am currently employed by United Parcel Service as a mechanic. I have personal knowledge of the facts stated below and, if required to do so, could and would competently testify thereto.

Background

2. I was employed as a mechanic at the Laidlaw bus yard on Jerrold Avenue in San Francisco for nineteen years, from 1986 – 2005. During that time I was the Lead Man in the shop (a position analogous to foreman) off and on for about five or more years. I was also the union shop steward for roughly the last ten to twelve years and therefore have knowledge about all aspects of the Laidlaw operations and school bus fleet in San Francisco. I had to leave Laidlaw in 2005 because I was unable to secure my class 2 drivers license, which was required.

3. I learned about this lawsuit against Laidlaw for exposing children to diesel engine exhaust without a warning from the media. I contacted the Environmental Law Foundation to provide the following facts to them and because for many years I have wanted Laidlaw to clean up its operations both environmentally and as they pertained to worker safety and health.

Fleet Maintenance and Record Keeping

4. Laidlaw consistently disregarded protocols when it came to the proper maintenance of their San Francisco bus fleet. Laidlaw has horrible record-keeping practices, in that all maintenance records are written by hand and kept in paper files. Many times important maintenance records could not be found or retrieved. During my employment I often personally observed important maintenance records being deliberately placed in the trash by Laidlaw supervisors. For example, while I was employed at Laidlaw if a driver noticed a problem with a bus, proper protocol required

that the driver record the problem in a Driver Vehicle Inspection Report (“DVIR”). I was told by someone from the California Highway Patrol that Laidlaw is and was required by law to keep these reports. However, I know that sometimes if a repair or repairs could not be made, the Inspection Reports were thrown into the trash. I saw this happen when Tony Griego was our foreman. For many years, because a large percentage of the bus fleet was old and in disrepair, the mechanics would have more DVIRs than they could handle in a given amount of time. This led to the practice, which was condoned by management, of throwing the DVIRs that would pile up in the trash without the repairs being made. This usually occurred at the end of the school year, so we could start fresh the next year.

Park-Outs

5. For about ten years Laidlaw has been requiring drivers to park small and mid-sized buses at their homes or in residential neighborhoods because Laidlaw lost the use of the parking lot they were renting from the Post Office. When Laidlaw management established this “park out” practice they explained to employees that the company couldn’t afford to rent another lot.

6. This “park out” practice is problematic because it interferes with proper and timely maintenance of the fleet. Because they are “parked out” the small and mid-sized buses are not in the yard often enough for routine maintenance to be performed. This practice also poses a potential environmental problem: when these “parked out” buses leak any oil or fluids, which occurs often when they are parked in the Laidlaw yard, they leak onto the streets of San Francisco. And most importantly, many times buses that were “parked out” would be past due for inspection and would have to be called back into the yard for inspection.

Buses with Defective Fuel Vents

7. Laidlaw has failed to correct serious defects that harm workers and the environment. As the worst example, from roughly 2000 to 2005, Laidlaw management knowingly ignored and refused to fix a serious defect in their buses that resulted in fuel spillage all over the streets of San Francisco. Many, if not all, of the 2000 Thomas buses had defective fuel vents. This defect resulted in fuel visibly spilling from the gas tanks and dripping down the side of the buses as they were parked and while they were on the streets of San Francisco. I personally made Laidlaw management aware of this problem. I and other mechanics complained that we needed to replace the vent system but they refused to do anything to correct or address it during my tenure there. I also know that Diane Johnson, one of the bus drivers, complained to me that these buses were leaking fuel. She took some of these buses to San Jose and complained that they were leaking fuel in San Jose. I had to tell her that Laidlaw management knew about the problem but did not want to do anything to fix it.

8. The problem persisted and fuel would leak from these buses after each refueling, until the level dropped enough to so as not to leak from the vent. I suspect that this was a pressure problem but I was not allowed to do anything to fix it. To my knowledge, this problem still remains with these buses whether they are still in the fleet in San Francisco or elsewhere in the state of California. I believe there are currently at least a couple of these buses in the San Francisco fleet and I believe they are still leaking.

Buses with Cracked Exhaust Pipes

9. The 84 passenger 2000 Thomas buses also have a problem with cracked flex exhaust pipes. Cracks develop in these pipes and the cracks allow exhaust to get inside the passenger compartment. Laidlaw management would not keep the flex pipes in stock so mechanics were often ordered by our supervisors to put buses with these cracked flex

pipes back into service. These were the largest buses in the fleet. Because there are never enough buses in the fleet to allow for timely maintenance of problems like this, these buses are routinely put into service with this problem. The exhaust pipe is a flexible pipe that extends from the turbo to the muffler. These pipes crack because they're flexible and diesel buses shake and vibrate and cause the pipes to crack.

Opacity Tests

10. Opacity tests performed to monitor each bus's exhaust were also routinely manipulated or falsified. Laidlaw performs its own opacity tests on its fleets. However, the instrument used in San Francisco to analyze bus emissions is defective. Laidlaw has been using it for years and as far as I am aware is still using it to "pass" buses that should not have passed inspection. My coworker, William Padilla, a mechanic who performed these opacity tests, showed me how easy it was for the test results to be falsified. This instrument is held manually near the end of the tailpipe. The instrument is so defective that merely moving it outward from the tailpipe just a few inches would allow a smoky bus that could not pass inspection to "pass" and be certified.

1-800-EXHAUST Letters

11. The Bay Area Air Quality Management District has a program in which drivers can report vehicles with dirty exhaust by calling 1-800-EXHAUST. It is my understanding that BAAQMD then sends a letter to the registered owner. I know that my former boss at Laidlaw, Dean Langerman, would not open the 1-800-EXHAUST letters from BAAQMD because I saw envelopes full of those unopened letters in the trash.

A Inspections

12. Laidlaw's own 45-day A Inspections could be a sham. Under California law buses are required to be inspected every 45 days. At Laidlaw, these 45-day inspections

are called "A Inspections" or "A Sheets." A Inspections are mandatory safety and mechanical inspections performed every 45 days on every school bus by Laidlaw mechanics and signed by the shop managers.

13 The California Highway Patrol also conducts annual inspections of each motor carrier, such as Laidlaw, to insure that they are in compliance with the law and performing the required 45-day inspections.

14. In the fall of 2003, I called the California Highway Patrol to inform them that Laidlaw San Francisco was behind on their 45-day inspections and was operating about 80 buses that should have been out of service. The CHP followed up with my complaint, conducted an investigation and grounded several buses in the San Francisco fleet. This means that these buses were so in need of repair that the CHP took them out of service.

15. It is my understanding that, as long as an A Inspection is incomplete, and until any "safety item" found during the inspection is repaired, the bus is supposed to be "grounded," that is, taken out of service. Some examples of safety items are: bad brakes, fuel leaks, exhaust leaks, broken windshields, broken windows, bald tires, front end work, belts, major leaks. Any fuel leak would ground a bus, even a minor one. If one drop of fuel leaked, we were required to ground the bus, but this policy was not enforced. For example, Bob Gonzales allowed all of the defective 2000 Thomas buses to leak fuel in the bus yard and onto the streets of San Francisco and never attempted to fix this problem. This defect was known to all of the mechanics and all expressed concern about it.

16. During my time at Laidlaw, Laidlaw managers routinely ordered mechanics to sign A Inspections before repairs were made to the buses. This policy did not sit well

with the mechanics and we complained about it. We were concerned that Laidlaw was putting buses that should have been grounded on the road to transport kids. We were also very concerned that we would be held responsible if something were to happen to the kids. We would conduct A Inspections, find safety items that needed repair, be forced to sign the A Inspections before we were given a chance to make the repairs, and Laidlaw management would put these unrepaired buses on the road.

17. The A Inspection process worked like this: 1) mechanics would do an Inspection, 2) before any or all the repairs were made, we would be forced to sign off on it by Laidlaw management, 3) the A Sheet paperwork would then go upstairs to the office, where the shop manager was supposed to sign it, and 4) the paperwork would get filed. The problem was that once an A Sheet would go upstairs to the office, the paperwork would never come back downstairs to the shop so the repairs could be made. The mechanics never got a copy coming back downstairs so they could complete the repairs they found during the inspection. The only time an A Sheet would come back down stairs would be if a mechanic would make a big hassle about it. Then, and only then, would Laidlaw management give you one. Only if you asked would they give you a copy because that meant we would be doing "extra work." It would also mean that the bus would be grounded and out of service for however long it took to make the repairs. Laidlaw did not want their buses taken out of service. It was all about saving money for them. They did not really care about bus safety only about keeping up with paperwork. This was the way A Inspections were done at Laidlaw.

18 It is my belief that Laidlaw's chief concern was completing the A Inspection paperwork in time – but not the repairs – to avoid problems with the California Highway Patrol.

19. A few years ago, in 2002, the mechanics confronted management about having to sign the A Inspection forms when repairs were not getting done. I and all the other mechanics expressed concern about being held personally responsible if something went wrong with the buses when repairs from the A Inspections were not made. I and all the other mechanics expressed the belief that by signing an A Sheet, we were saying that the bus we inspected was legal to be put on the road.

20. In fact, the issue was raised during a union meeting where Bob Gonzalez (Laidlaw's division manager), Laidlaw's attorney (Ron English), the mechanics union representative (John Moran) and a representative from the California Highway Patrol (whose first name is Chris) were present. At that meeting Bob Gonzalez told the mechanics to "just sign it and let them go," meaning to sign the A Sheets and let the buses be put back into service with the defect. At that same meeting, Mr. Gonzales told us "this is our responsibility, you don't have to worry about it." He also told us that if we did not sign the A Inspections we would be discharged, so the union representative (John Moran) told us to sign them.

Failed A Inspection

21. Until recently Laidlaw employed a mechanic, Tony Griego, who was elderly and very loyal to Laidlaw management. To do a proper A Inspection takes about two hours per bus. Mr. Griego would routinely perform A Inspections in about ten minutes. Everyone knew about this, including management, but he was never disciplined for it. He once signed off on an A Inspection and let a bus go into service that had no brakes. As a result the bus driver, Tina Bell, while was assisting children off the bus, had to run to catch the bus as the emergency brake failed and the bus headed downhill. It was only luck that Ms. Bell didn't kill or hurt herself or any of the children. She was actually

injured during the ordeal. When Ms. Bell tried to take this matter to litigation, the brake shoes, brake drums and the A Inspection, performed the day before the incident, could not be located. I was in the shop when the bus was brought in. I know the bus had no brakes because I helped take the brakes apart. I was there when the union representative took photographs. I also know that this evidence disappeared. To my knowledge, Laidlaw management knew about the incident and never took any disciplinary or any other action to ensure it would not be repeated. I do not believe Mr. Griego was ever written up.

Bus Safety

22. Buses with problems and in need of significant repair, such as leaking fuel pumps, cracked exhaust pipes or faulty brakes, were commonly left in service to transport school children until the maintenance could be performed or until the necessary part could be obtained. Basically, Laidlaw did not have enough spare buses in San Francisco to allow buses that needed proper and timely maintenance to be taken out of service. Instead, the buses remained in service and mechanics would have to wait to make those kinds of major repairs until either the parts would come in or until the maintenance necessary could be performed at a convenient time.

Downing Buses

23. For years, managers at Laidlaw would override the opinion of the mechanics about which buses were safe to be put back into service and which were not. We, the mechanics, expressed concern about this because we were told by the California Highway Patrol that this was against the law, that managers did not have the authority to override mechanics, but this was how it was done at Laidlaw. We knew that Laidlaw had been doing this for years. We were finally told by the new manager at Laidlaw San

Francisco, Jack Duke, that we were right, that mechanics were the only people at Laidlaw authorized to put the buses back into service. For years, however, Bob Gonzales and Laidlaw management took the position that managers could put the buses back into service. I was frustrated for years because I would down buses, write what needed to be repaired on the board and come to work the next night to find that my manager had erased what I had written and put the bus back into service.

24. For example, there were several times when I worked on a bus that needed both front and rear brakes. I worked on the night shift so during a shift I'd only get to do the front brakes. I'd leave work, leave the bus out of service, write it on the board and leave the bus for the day mechanics to do the rear brakes. Several different times I came back to work the next night, looked on the board and it wouldn't be there. I'd ask "guys, who did the brakes?" They'd answer "oh we let it go because they needed the bus." The manager took the Repair Order out of the incomplete box, erased it from the board and let the bus go. So, if I didn't complain about the brakes getting fixed, they didn't get done. Only if you complained about repairs would they get done. It got so bad at one point that to insure that the rear brakes would be repaired I would take one of the rear tires apart so they couldn't let the bus go the next morning. There were times when the day shift would be made by the manager to put that tire back together in the morning so they could put the bus back into service. The rear brakes would not have been repaired.

Worker Safety

25. The workers who routinely fuel the buses are known as "fuelers." In the course of their job they are routinely exposed to very high levels of diesel fuel. Breathing diesel can cause a person to be nauseous, feel sick, and have headaches. It is my understanding that OSHA requires some form of masks or proper respiratory equipment to protect them

from the chemicals in diesel fuel. One of the fuelers told me that Laidlaw refused to do this and told the workers that the cost was too high to comply with OSHA. Furthermore about two years ago, management made a decision to remove the latches on the nozzles that would allow fuelers to walk away from the buses while they were being fueled. Management actually required fuelers to hold the nozzles and breathe the diesel fumes with no respiratory protection. It is my understanding that this practice has since been stopped.

Prop 65 Warning

26. In all my time as an employee at Laidlaw, and in my time as shop steward, I never saw, nor did anyone ever tell me about, any Proposition 65 Warning saying diesel exhaust could cause cancer. There was no sign that said this, nor was it discussed in any safety or hazards communication meeting by management.

27. When we would have safety meetings, which were not held consistently, we were supposed to watch a safety video. We were never allowed to watch the whole video. The supervisors would fast forward through the video and say "you already saw this, right?... you saw this last year, right?" And they would skip through the whole video that way.

28. We were never told either in writing or verbally that diesel exhaust causes cancer. We never discussed any Prop 65 sign. Our safety meetings were a joke as compared to the safety training we receive at United Parcel Service. At UPS we have to watch hours of safety videos. I spent all day watching videos at UPS. At Laidlaw, the whole meeting would last about twenty to thirty minutes. We'd be told to sign a paper and be made to get back to work. We were not given the safety training or information

we were supposed to have been given because Laidlaw didn't want us to waste time when we could have been working. That was clear.

Environmental Hazards

29. Until about 2000, Laidlaw used underground hoists (or racks) in the shop to lift the buses up for maintenance work to be performed. The hoists/racks themselves used to leak oil into these below ground pits all the time. The pits were about 2 feet wide by 10 feet deep by about 20 feet long. In 2000, Laidlaw installed new hydraulic hoists/racks inside the shop. But when the new hydraulic racks were installed, Laidlaw did not dig up or clean the oil-soaked dirt in the underground pits. Instead, they covered the area with dirt and cement without removing the contaminated soil.

30. It was common for buses to leak both fuel and coolant directly into the ground at the Jerrold Avenue bus yard. No one was ever given the task of regularly cleaning up leaked fluids, which were allowed to either soak into the ground or run off with the rainwater. Every now and then I would see someone putting regular kitty litter on the asphalt to soak up the leaked fuel or coolant or other fluid.

31. It was Laidlaw's practice not to dispose of the contaminated kitty litter as hazardous waste, but instead to dump it in with Laidlaw's municipal garbage. Laidlaw maintains no records concerning the disposal of contaminated kitty litter. I observed fuelers doing this and when I asked them why they were putting the kitty litter into the trash, I was told that "don't worry about it. That's what management told us to do."

Diesel Exhaust in the Shop

32. With regard to diesel exhaust in the shop, Laidlaw management was

unresponsive to repeated formal complaints from the mechanics about excessive diesel exhaust in the shop. I gave two letters, signed by several of my coworkers, to Bob Gonzales, our Division Manager, about the unhealthy working conditions in the Jerrold Avenue shop and requested that the shop have proper ventilation. I remember personally handing him a letter that was signed by all of my co-workers on January 7, 1998 . That letter specifically demanded that Laidlaw install an Exhaust and Cleaning System in the shop. Laidlaw management, specifically Bob Gonzales, ignored these complaints and requests.

33. The ventilation in the shop building was so bad that black soot covered everything in the shop, including all surfaces and all over the mechanics' tool boxes. The problem was so extensive that the computers in the offices in the shop were black with soot. I also remember that Bob and our supervisor at the time, Dean Langerman, harassed each one of the mechanics by making them feel bad for signing the letter that I had given them. Bob and Dean thought that I signed the letter for the other mechanics and to intimidate them, they asked each of them if they signed the letter. Bob threatened to fire us all the time. The mechanics were afraid that if they stood up to him or opposed him, they would lose their jobs. It took a lot of courage to sign that letter. You see, if you complain, they get you, they find a way to fire you. This is true for all the employees, the mechanics, the fuelers as well as the drivers.

34. As a concession to workers concerned about the shop air quality, Laidlaw built an elevated office inside the shop. During the construction of the office, Laidlaw removed one of the two ventilation fans in the shop, which ultimately made the air quality worse.

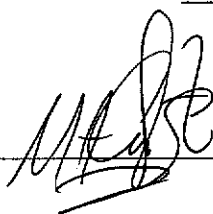
Diesel Exhaust in the Bus Yard

35. The smell of diesel was pervasive at the Laidlaw yard. This problem was especially bad at the end of the summer for about a week. Laidlaw would turn all of the bus engines on at the end of the summer to charge the batteries. The buses would be running, idling and emitting exhaust all day long until the batteries for all the buses were recharged and ready for the first day of school. The diesel exhaust was so bad during this time that your eyes would be crying from the diesel, especially if you had to walk to get a bus from the yard that was idling. They started this practice to save money. A long time ago they used to take the batteries out and leave them in the chargers during the summer so they'd be ready for school in the fall. This became too expensive so then they just started idling the entire fleet for a week or so to charge the batteries. The diesel exhaust was horrible.

Diesel Exhaust Inside School Buses

36. I also recall being able to smell diesel fumes inside the school buses on occasion. For example, there were some Genesis buses that had the engine compartment inside the bus cabin, just to the right of the driver's seat. You could smell and see the black diesel exhaust inside the cabin from these buses. Drivers complained about these busses all the time. They complained that the smell of the exhaust was "horrible." Because of the design of these buses, there was very little mechanics could do to mitigate this problem. I personally saw a lot of the DVIR's with complaints about diesel exhaust inside the bus cabins. I also personally say many of those DVIR's get thrown into the trash.

37. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed this 19 day of January, 2007, at Concord, California.

A handwritten signature in black ink, appearing to be 'M. J. [unclear]', written over a horizontal line.

Declarant