

FILED

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO

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PAUL MORRIS, et al.,

Plaintiffs,

v.

INTERNATIONAL BROTHERHOOD
OF LOCOMOTIVE ENGINEERS,

and

UNITED TRANSPORTATION UNION

Defendants.

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

Civil Action No. 1:01 CV 2153

COPY

STIPULATION AND CONSENT ORDER

Whereas, on September 17, 2001, this Court granted plaintiffs' motion for a preliminary injunction and impounded the merger referendum ballots cast by members of the Brotherhood of Locomotive Engineers ("BLE") during August and September of 2001; and

Whereas, the Brotherhood of Locomotive Engineers ("BLE") hereby agrees to direct the American Arbitration Association ("AAA") to destroy those impounded ballots; and

Whereas, the BLE has independently decided to conduct a re-run referendum on the question of whether or not the BLE will merge with the United Transportation Union ("UTU"); and

Whereas, the referendum will be conducted by secret ballot; and

Whereas, the merger will be approved by the BLE only if a majority of the combined ballots cast by all active BLE members (including Americans and Canadians) are in favor of merger; and

Whereas, the BLE and UTU have agreed to make the technical modifications to the Unification Agreement to conform with the method for balloting Canadian BLE members and the time schedule for conducting the referendum as herein described; and

Whereas, the BLE will utilize the services of the AAA to handle all phases of the re-run referendum and tally of ballots and agrees to furnish AAA with a revised mailing list containing the names and updated addresses of all active members; and

Whereas, it is understood that the AAA will mail the ballots on or before November 7, 2001, together with a notice that the ballots must be received by the AAA no later than December 10 , 2001, to be counted; and

Whereas, there will be no interim or running daily vote counts and plaintiffs will be allowed to designate two persons to observe the ballot count to occur on December 10 , 2001; and

Whereas, the BLE agrees to provide the plaintiffs an opportunity to submit a written statement in opposition to the merger (the responsibility for and costs of printing which shall be borne by plaintiffs), which statement, along with any pro-merger literature, shall be included in the envelope containing the ballot as described above; and

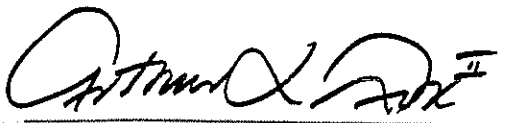
Whereas, the BLE will post a copy of this Stipulation and Consent Order, as well as this Court's Memorandum Opinion of September 21, 2001, on its web-site in advance of the mailing of the ballots, which posting shall remain on the web-site until the conclusion of the referendum; and

Whereas, nothing in this Stipulation and Consent Order shall constitute an admission of liability by any party; accordingly,

IT IS HEREBY ORDERED that this matter shall be and hereby is dismissed with prejudice; and

IT IS FURTHER ORDERED that the plaintiffs and BLE will attempt to reach a settlement on attorneys fees, and that the Court will retain jurisdiction over the issue of attorneys fees to resolve that issue should the parties be unable to reach agreement.

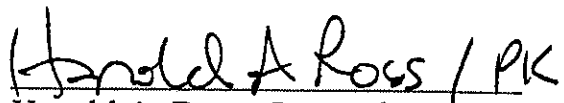
On Behalf of Plaintiffs:



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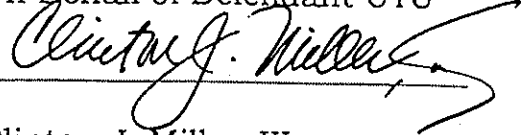
On Behalf of Defendant BLE:



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On Behalf of Defendant UTU



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SO ORDERED:



ANN ALDRICH
UNITED STATES DISTRICT JUDGE

Dated: October , 2001

Copies to:

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UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED

OCT 24 2001

O R D E R

LEONARD GREEN, Clerk

PAUL MORRIS; JOHN M. KARAKIAN; TONY SMITH

Plaintiffs - Appellees

v.

INTERNATIONAL BROTHERHOOD OF LOCOMOTIVE ENGINEERS; UNITED TRANSPORTATION
UNION

Defendants - Appellants

Upon consideration of the appellant's motion to voluntarily dismiss
the appeal herein pursuant to Rule 42(b), Federal Rules of Appellate
Procedure,

It is **ORDERED** that the motion is **GRANTED** and the appeal is
dismissed.

ENTERED PURSUANT TO RULE 45(a),
RULES OF THE SIXTH CIRCUIT.
Leonard Green, Clerk

Leonard Green *for*