

2006 Arbitration Awards - Minnesota B.M.S.

Summary of Arbitration Awards listed on the Bureau of Mediation Services' web site (<http://www.mn.gov/bms/arbitration/awards/>).
 "Sustained" means the grievance prevails overturning the original action. "Denied" means the original action prevails.

December, 2006

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
|-------------|---|-------------------|---------------------------------|---|------------------------|--|
| 05-PA-0703 | Austin, City of AFSCME, Council 65 | Jay, Sara | Comp time - exempt employees | City discontinued hour for hour comp accrual for exempt employees wrking more than 40 hrs/week. | Sustained | Accepted practice for over 12 yrs. City's repudiation not valid due to subsequent actions. |
| 06-PA-1223 | Hennepin County AFSCME Minnesota Council 5 | Jacobs, Jeffrey | 1 day suspension | Social worker was critical of another's actions yelled at her in front of a child. | Wrtn reprmnd | 1 day based on prior discipline. Dispute if previous letter dropped? |
| None listed | ISD 199, Inver Grove Heights Education Minnesota, Inver Grove | Gallagher, Thomas | Retiree Insurance | Does time on leave count towards 20 years of continuous service required? | Denied | Requirement for full time service bars counting leave time. |
| 06-PN-0462 | LaCrescent, City of (Interest Award) Law Enforcement Labor Services, Inc. | Latimer, George | Interest | 1 year-u; 3%-e (u-8%); out of class pay-no-e; court cancellation-u; | 2007 - 3% | 1 yr-lack of date 2nd yr; 3% internal; out of class-not enough evidence. |
| 06-HN-0986 | Rice Memorial Hospital (Interest Minnesota Nurses Association | Bognanno, Mario | Interest | 3yrs-e; Wages (u-3%, 6%; e-0%, 3.5%, On call, EST, PTO, Easter & Mngmnt rights - no change. | 2006 - 0% 2008 - 5% | Duration-history of 3yrs; wages-external; Issues best resolved in negotiations. |
| FMCS | St. Mary's Duluth Clinic Health System United Steelworkers of America, Local | Bognanno, Mario | Lump sum pay | New pay grid, ees above the grid were to above" calls for double payment? ER | Denied | Intent of what was negotiated not |

November, 2006

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
|------------|--|-------------------|-------------------------|--|----------------------------|--|
| 06-RA-1059 | Ely-Bloomenson Hosp & Nursing Home Minnesota Nurses Association | Bognanno, Mario | 3 day suspension | Charge nurse rude & unprofessional. suspended 3 days. | Split | Counseling is not discipline, doesn't count as progressive discipline. 1 day susp & loss of charge duties. |
| 06-PN-0823 | Fergus Falls, City of (Interest Award) Law Enforcement Labor Services, Inc. | Daly, Joseph | Interest | Sgts. Work yr-FLSA language-e; OT- Union seeking pay v comp only-no-e; Severance incr-no-e; Insurance change \$ to %-no-e; Wages-2.5%,2.5%-e (u- 3.5%,3.5%); Uniforms \$600-e(U-\$700) | 2006 - 2.5% 2007 - 2.5% | No compelling reason for proposed new language. Xmas eve-external. Insurance, severance, wages-internal. |
| 06-PA-1223 | Hennepin County AFSCME Minnesota Council 5 | Jacobs, Jeffrey | 1 day suspension | Child protection social worker loud & unprofessional in criticizing co-wrker. | Wrtn Warning | Lack of prior discipline. |
| 06-PN-1089 | Hopkins, City of (Interest Award) Hopkins Police Association | Fogelberg, J.C. | Interest | Insurance 06 & 07-e (u seeking %) Opt out of Insurance increase-n-e | City's positions | Internal patterns. |
| 06-PA-1251 | ISD 833, Cottage Grove Association of School Bus Drivers ISD | Anderson, Richard | Blackout of Vacation | District barred use of unpaid vacation in fall and spring due to higher use of | Sustained | Management approval is for individual requests - does not create right to black |
| 06-PA-1183 | Metro Transit | Kircher, Andrea | Termination | False FMLA information re ineligible | Denied | FMLA used to shield from terminable |

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| | Amalgamated Transit Workers, Local | | | condition & failing to file Dr's reports that | | violation of absence policy. Dr slip re |
| 07-PA-0089 | Minnesota, State of, Fergus Falls AFSCME Minnesota Council 5 | Befort, Stephen | Termination | After passing probation, employer resume. | Denied | Dishonesty and would not have been |
| MSCF | Minnesota State Colleges & Minnesota State College Faculty | Ver Ploeg, Christine | Sabbatical | 6 teacher's sabbaticals were denied. | Sustained | Insufficient notice of change in explanation for denial. |
| 07-PA-0079 | Minnesota, State of, Department of AFSCME Minnesota Council 5 | Reynolds, James | Termination | Using state car to pick up child, surfing phone. | Denied | Continuing pattern of misusing time and |
| 06-PN-0903 | Nicollet County (Interest Award) Law Enforcement Labor Services, Inc. | Jacobs, Jeffrey | Interest | Shift differential-no-e; Shift suprv pay-no-e; Training officer-no-e; Comp time-60hrs-e (u-100hrs); Uniform voucher-e. | Co. positions | Jailers. Differential, Shift suprv. & Training-new items no market support. Comp & Uniform - same as deputies. |
| 06-PA-0371 | Ramsey County AFSCME Minnesota Council 5 | Gallagher, Thomas | Discharge | Counselor slapped mentally disabled patient. Pled to disorderly conduct. | 16 mo susp No backpay | State ruled abuse not recurring & is eligible to work w vulnerable adults. |
| 06-PA-0938 | Rogers, City of Teamsters, Local 320 | Frankman, Janice | Susp w/o pay Termination | Off-duty officer pulled his gun while stopping a speeding car. Charged & pled to 2 misdemeanors. | Sustained Sustained | Admin leave w/o pay = unsupported suspension. Termination rested on felony criminal case. |
| FMCS | St. Michael's Health & Rehabilitation Ctr United Steelworkers, Local 9349 | Jacobowski, Daniel | Termination | LPN failed to take proper steps in an | Denied | Failed to apply CPR; left for suction in report. |

October, 2006

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
|--------------|---|-------------------|---------------------|---|-------------------------------------|--|
| 06-PN-0457 | Hubbard County (Interest Award- Sheriff's Deputies) Teamsters, Local 320 | Toenges, Rolland | Interest | 3 yrs-e (u-2y); Wages: 3%, 3%, 3%-e (u-\$1+4%, 4%, 4%); Insurance-new plan-e; Comp accrual 80 to 120-no-e; OT (1st claim to part time hrs)-no-e; Severance: lower hrs required-u; Uniform incr-yes-u; Personal leave day-no-e; longevity increase-no-e. | 2006 - 3% 2007 - 3% 2008 - 3% | History of 3 yrs.; wages, insurance, longevity internal comparisons. Lack of compelling need for change on other issues. Can change to aggregate value of ins be arbitrated? - yes. |
| 06-PN-0456 | Hubbard County (Interest Award- Jailers/Dispatchers) Teamsters, Local 320 | Toenges, Rolland | Interest | Jailers, similar to deputies requests. Wages: 3%, 3%, 3%-e (u-\$.80+4%; \$.50+4%, 4%). Increase longevity-no, Eliminated triple gold insurance plan. Comp accrual increase-no-e; 1st choice to all OT-no-e; Severance:lower min hrs-yes-u Uniform increase-yes-u; Persnl leave day-no-e.. | 2006 - 3% 2007 - 3% 2008 - 3% | Wages internal pattern - comparable to market when insurance & longevity considered. Longevity is a uniform benefit. Union made aggregate value of insurance reduction argument-no bar to arbitrator changing value. Soc services severance min lowered. |
| 06-PA-1243 | Itasca County of AFSCME Minnesota Council 5 | Jacobs, Jeffrey | Seniority Promotion | Systems manager position bypassed qualified internal candidate. | Denied | Contract qualifies seniority by adding providing it is in best interest of Co. |
| 06-PA-0620 | Steele County Law Enforcement Labor Services, Inc. | Befort, Stephen | Written reprimand | Changed shift without informing his supervisor. | Oral reprmnd | Change necessary to complete arrest reports w/o incurring OT. |
| 06-PA-1147 | Todd County Teamsters, Local 320 | Daly, Joseph | Me too clause | Are elected officials employees under "me too clause"? - No. | Denied | 179A.03, subd 14 excludes elected public officials as "public employees". |

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|------------|--|-------------------|------------------|--|---|--|
| 06-RA-1144 | United Parcel Service IAMAW, District Lodge 77 | Jacobs, Jeffrey | Termination | Violation of Anti Harassment policy. Called ee queer & challenged to fight. | Denied | No progressive discipline, but many counseling sessions. |
| 06-PA-0192 | University of Minnesota AFSCME Minnesota Council 5 | Paull, David | 1 day suspension | While being counseled, ee made a fist and threw a water bottle. | Wrtn warning | Split award. Blameworthy but no progressive discipline. |
| 06-PN-0650 | Winona, City of (Interest Award-Includes Clarification) Law Enforcement Labor Services, Inc. | Jacobs, Jeffrey | Interest | Wages-u (e 06-2%/1%, 07-3%); Insur. employer's position (u has PEIP); | 2006 - 3.25% 2007 - 3.25% | Wages-external & history of police receiving more than other ees. |
| 06-PN-0743 | Wright, County of (Interest Award) Law Enforcement Labor Services, Inc. | Gallagher, Thomas | Interest | 3 yrs-e (u-2yrs); Wages-e (u-4%,3.5% & 3.5%); Insurance-e; Comp carryover accrual-no-e; Uniforms-+\$25 ea yr-u; Court minimum incr-no-e; Invst on call incr-no-e; Sick accrual incr-no-e; Shift diff-no-e; Chnge Mileage lang-no-u Out of title must wk 5 days-no-u. | 2006 - 2% 2007 - 2.75% 2008 - 2.75% | Duration wages & insurance - internal pattern. Performance pay systems distort wage comparisons. Other requests denied when not supported by evidence. |

September, 2006

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
|------------|---|--------------------|------------------|--|----------------------------|--|
| AAA | ADT Security Services, Inc. IBEW, Local 110 | Daly, Joseph | Unit Work | Unit described as ees working out of Twin Cities office. Are ees working from home required to join union?-yes. | Sustained | 35% of wrk done by ees of subdivision is unit work therefore they must join union. |
| 05-PN-1185 | Arrowhead Regional Corrections Board AFSCME Minnesota Council 5 | Holmes, Barbara | Interest | OT: calculate based on compensated no-e; Shift differential increase-no-e. | Employer's | Union failed to prove a compelling need |
| 06-PN-0798 | Cottage Grove, City of (Interest Award) Law Enforcement Labor Services, Inc. | Daly, Joseph | Interest | Sgts wages-c (u-06-4%, 07-3.5%) | 2006 - 2.5% 2007 - 3.5% | Wages-internal, same as police. |
| FMCS | Garelick Manufacturing Company IUE-CWA, Local 87042 | Jacobowski, Daniel | Termination | Workplace feud with 2 co-workers. Joked about using his pistol. | 3 day susp. | Was not a threat, rather a joke w a friend. Other 2 were the instigators. |
| FMCS | Highland Chateau Care Center UFCW, Local 789 | Toenges, Rolland | Termination | Nursing home worker failed to work a shift he signed up for - claimed not properly posted. | Denied | Failure to report to work is presumed to be a resignation. Alleged errors in posting were not significant. |
| FMCS | Indian Health Board of Minneapolis SEIU, Local 113 | Bognanno, Mario | Extra Shift Pay | Dr.'s schedule changed frm 4 to 5 day total hours the same. Claiming pay for extra shift. | Sustained | MOU "The current practice of Physicn Administrator time shall continue", is a bar to mngmnt changing schedule. |
| 06-PA-0181 | ISD 316, Greenway-Coleraine AFSCME Minnesota Council 5 | Kircher, Andrea | Termination | Food service worker complained to school board member re supervisor. Violated a written warning not to retaliate vs anyone who criticized her wk. | Sustained | Letter re needed changes & warning against retaliation was marred by inscrutable verbiage. Also - lack of progressive discipline. |
| 06-PN-0742 | Marshall, City of (Interest Award) Law Enforcement Labor Services, Inc. | Remington, John | Interest | Officers-1yr-u; Wages-4%-u (e-3%); FTO pay-no-e; Shift pay increase-n-e; Uniform allowance-no change-e. | 2006 - 4% | Duration - expecting compensation study in 2007. Wages-external. FTO Shift & Uniform - insufficient evidence. |
| 06-PA-0161 | Roseville, City of Law Enforcement Labor Services, Inc. | Holmes, Barbara | 1 day suspension | Officer failed to follow an order. | Sustained | Order wasn't clear and investigation was insufficient. |

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| FMCS | Steele-Waseca Cooperative Electric IBEW, Local 160 | Daly, Joseph | Loss of Seniority | Clarification of 12/23/2002 arbitration award regarding seniority date. Denied medical leave & terminated. Reinstated-given new seniority date. | Sustained | Seniority given in arbitration can't be challenged using contracts medical leave provision because they never gave the employee medical leave. |
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August, 2006

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
|------------|--|--------------------|------------------------------------|--|-----------------------------|--|
| FMCS | Ainsworth Engineered (USA), LLC United Steelworkers of America, Local | Reynolds, James | Termination | Employee repeatedly instructed to return to her work area. She did not - | Denied | Contract allows termination upon 1st act of insubordination. No prior record |
| 06-PN-0527 | Alexandria, City of (Interest Award) Law Enforcement Labor Services, Inc. | Anderson, Richard | Interest | Sgts: Vac incr-no-e; 1.5 pay for all Hol.-y-u; Uniform incr-no-e; 2006-4%-e (u-4%+\$200); 2007-2% Jan, 3%July-e (u-4%+\$200); Insur-same as officers | 2006 - 4% 2007 - 2%, 3% | Vacation, Wages, Insurance,Uniforms based on internal pattern-same as officers. Holiday premium - external market. |
| 06-PN-0479 | Belle Plaine, City of (Interest Award) Law Enforcement Labor Services, Inc. | Boyer, John | Interest | 2yrs (u-1yr, e-3yr); Holiday prem-y-u; Uniform: +\$20, +\$15-u; Wages-u (e-3%, 3%). | 2006 - 3.35% 2007 - 3.3% | Pattern of multiple year contracts. Holidays - external. Uniform-not increased for 3 yrs. Wages-external. |
| 06-PN-0525 | Crystal, City of (Interest Award) Law Enforcement Labor Services, Inc. | Jensen, Eugene | Interest | FTO +\$.05-u; Investigator no incr-e; 2006nsurance 2006 Insurance-e; 2007 ins reopener-u. | Employer's Positions. | Arbitrator rejected increasing prem. by % due to history of parties. Insurance - internal pattern. |
| 05-PA-132 | Eveleth, City of AFSCME Minnesota Council 5 | Reynolds, James | Unit Work | Casual workers hired to cut lawns in the summer w/o first consulting union. | Denied | LOU has not been consistently enforced. No Union jobs lost. |
| FMCS | Fairview Oxboro & Ridges Clinics SEIU, Local 113 | Bognanno, Mario | Health Insurance-unilateral change | Insurance change to high deductible plan are not substantially similar as required by contract. | Sustained | ER claims substantially similar when considering premium savings. But no actuarial study done to support this. |
| 06-RA-0322 | Griggs, Cooper & Company, Inc. Teamsters, Local 120 | Boyer, John | Termination | Violated attendance policy-given last chance agreement which was violated. | Denied | Good discussion of attendance policies and last chance agreements. |
| 06-PA-0136 | ISD 182, Crosby-Ironton Education Minnesota Crosby-Ironton | Jensen, Eugene | Reprisal Clause | After a strike - teacher terminated for budgetary reasons. Later applied for for position but not selected. | Sustained | Totality of facts pointed to reprisal in violation of MOU. |
| 06-PA-0684 | ISD 861, Winona Winona Education Association | Jacobowski, Daniel | Coaching position | Denied asst soccer coach position due to parent complaints. | Sustained | Complaints occurred as head coach but no opportunity to respond. ER failed to use dispute process. |
| 05-PA-1036 | Koochiching County Int'l Union of Operating Engineers, Local 49 | Daly, Joseph | Promotion - best qualified. | Part-time ee claimed seniority for full-time position based on senior qualified contract language. | Denied | Part-time ees don't have seniority to fill full-time vacancies. And testing showed he was not best qualified. |
| 05-PN-1168 | Lyon County (Interest Award-Includes Clarification) Law Enforcement Labor Services, Inc. | McCoy, Arthur Ray | Interest | 05-0%, 4%merit-e (u-3%, 4%m); '06-0%, 2.5%merit-e (u-3%). Incr Court & Call back pay-no-e; remove sub- | 2005 - 0% 2006 - 0% | Wages-internal. Insurance-failed to provide compelling reason. Other issues not supported by region 8 data. |

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| | | | | contacting-y-u; change Columbus day to floating hol-n-u; Insur change-n-u; Shift differential?-n-e | | Clarification order explores legal basis for change to award. |
| 06-PA-0990 | Metropolitan Council 1005 | Befort, Stephen | Pay Rate | Bus cleaner trying to alter specified wage rate because work is harder than other titles who are paid more. | Denied | Arbitrator's role is to read & apply the parties contract - not determine if different contract terms are preferable. |
| 06-PA-1182 | Metropolitan Council 1005 | Jacobs, Jeffrey | Final Warning | 3rd bus accident in rolling 3 yr period accident will result in termination. | Denied | Denied accident. Case proven with circumstantial evidence. |
| FMCS | Midwest Coca-Cola Bottling Company Teamsters, Local 792 | Frankman, Janice | Termination | Told co-worker to stop making racist remarks, pushed him dn on chair, told him to apologize - violation of violence policy. | 30 day susp. | Impropriety of ee using form of self-help to address another ee's bad behavior. Reduced to 30 days. |
| 05-PA-0910 | Orono, City of Law Enforcement Labor Services, Inc. | Jay, Sara | Seniority Accrual | Sgt went back to patrol. City credited time as sgt for patrol seniority - no. | Sustained | Patrol seniority doesn't count towards Sgt seniority in spite of same language. |
| 06-PN-0916 | Ramsey, County of (Interest Award) Law Enforcement Labor Services, Inc. | Anderson, Richard | Interest | 06-2% Mar1-e, '07-2% Mar1, 08-1.5% Mar1 & 1.5% July1-e, (U-3.5%, 3.5%, 3.5%); Change yrs of service for steps -n-u; Deferred comp-y-u; Lic premium-n-e | 2006 - 2% 2007 - 2% 2008 - 3% | Wages & Deferred comp - internal. Yrs of service change and License premium - no compelling reasons given for change. |
| 06-PN-0476 | Redwood County (Interest Award) Law Enforcement Labor Services, Inc. | Remington, John | Interest | 3 yrs-e (u-2yrs); Wages-e (u-4%,4%, 4%); Rotating shift pay-n-e; Uniforms-from \$525 to \$600-u (e-\$550). | 2005 - 1.5% 2006 - 2% 2007 - 2% | Duration-18 months into new contract Wages-internal pattern; Shift pay-disputed schedules should be neg. |
| 06-PA-0177 | University of Minnesota AFSCME Minnesota Council 5 | Fields, Bernice | Written Warning | Ee accidentally bumped her chair, she went to his desk & harassed him.. | Denied | History of aggressive misconduct. Both received written reprimands. |
| 06-PA-0645 | West St. Paul, City of Law Enforcement Labor Services, Inc. | Bard, Stephen | Job Elimination | Dispatch services moved to Dakota County. City didn't negotiate impact. | Sustained | City policy requires 60 day notice of layoff - held to be part of contract. Awarded pay and benefits for last month of the contract. |

July, 2006

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
|--------------|---|-------------------|-----------------------------|---|--------------|---|
| FMCS | ABM Building Security SEIU, Local 26 | Jacobs, Jeffrey | Pre-assignment Training Pay | ER pays for State mandated CEU & ER required training-not state required pre-assignment training. | Denied | Expressio exclusio -separate listing of required training excludes training not listed. |
| FMCS | Abbott Northwestern Hospital SEIU, Local 113 | Jacobs, Jeffrey | Termination | Theft of cash from parking receipts in an integrity audit. | Denied | Clear and convincing standard of proof. |
| FMCS | Aramark Refreshment Services Teamsters, Local 792 | Jacobs, Jeffrey | Recall | Laid off driver not called back prior to drivers less senior. | Sustained | ER claimed driver turned down recall but circumstances support driver. |
| FMCS | Cambridge Medical Center IUOE, Local 70 | Jacobs, Jeffrey | No-pyramiding clause | Seeking weekend premium & double back pay in spite of no pyramiding. | Sustained | No pyramiding bars OT on top of premium pay- not 2 premiums. |

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| FMCS | Centerpoint Energy and Minnesota Gas Gas Workers Union, Local 340 | Jacobs, Jeffrey | Termination-last | Gas service tech violated Last Chance | Sustained | Performance blameworthy, but didn't Can't discipln for legitimate sick use? |
| 06-PA-0422 | Grant County Teamsters Local 320 | Befort, Stephen | Senior qualified | Seeking financial worker position. Came in second in test-not hired. | Denied | Relative ability standard. Seniority only a factor if qualifications equal. |
| 06-PA-0699 | Hennepin County AFSCME Minnesota Council 5 | Jacobs, Jeffrey | 10 day susp. | Child protection wrkr reunited child with mother w/o supervisor's ok. | Denied | Long term ee w/o prior discipline. ER considered termination. |
| 06-PA-0885 | Hennepin County AFSCME Minnesota Council 5 | Jacobs, Jeffrey | Termination | Sexual harassment. | Sustained | Failed extra-marital affair that took place outside the workplace. |
| 06-PA-0401 | ISD 306, Laporte Laporte Federation of Education | Jensen, Eugene | Recall | ER in SOD, all hrs equitably reduced "to share the pain". | Sustained | Layoff or reduction in hours must be by class - ees with least seniority must be laid off or reduced first. |
| None listed | Minnesota, State of, Department of Minnesota Association of Professional | Bognanno, Mario | Bumping | I.T. ee bumped into position but given then reevaluated to lower grade. | Sustained | Software in position a bad fit for ee. a real bump. |
| 06-PN-0326 | New Brighton, City of (Interest Award) Law Enforcement Labor Services, Inc. | Kircher, Andrea | Interest | Wages-e (u-4%, 4%); Insurance-e; School Resource+\$100-u; Det, FTO, Call back, Sick leave increase-n-e; Uniform+\$40-u; MLK Hol-y-u; SELF-u | 2006 - 3% 2007 - 3% | Wages & MLK Hol-internal patterns. Det, FTO, Call back, Sick leave & SELF - insufficient data to support any changes. |
| 06-PA-0801 | Princeton, City of AFSCME Minnesota Council 5 | Anderson, Richard | Termination - V.P. | Maintenance man accused of stealing gas from city garage. | Sustained | ER unable to prove charge. |
| 06-PA-0719 | Ramsey County AFSCME Minnesota Council 5 | Jacobs, Jeffrey | FLSA Overtime | Tax clerk used sick day during week therefore not eligible for OT on Sat. | Sustained | Contract states OT paid for working on day off. But - did not work & not paid. |
| FMCS | St. Francis Regional Medical Center SEIU, Local 113 | Jacobs, Jeffrey | Weekend pay to casual employees | \$50 bonus for "full extra/unscheduled weekend shift." | Sustained | Casual employees have no regularly scheduled hours so they qualify. |
| 06-PA-0010 | St. Paul, City of IAFF, Local 21 | McCoy, Arthur Ray | 2 shift suspension | Fire Capt (Union President) confronted black firefighter on Union OT dispute. | Sustained | Not harassment - legitimate role of Union President. |
| 05-PA-0383 | SSD 1, Minneapolis AFSCME Minnesota Council 5 | McCoy, Arthur Ray | Termination | Are holidays "duty days" for meeting 130 day probationary period - yes. | Sustained | Also discussion of timelines. |
| FMCS | Stock Yards Meat Packing Company Teamsters, Local 120 | Jacobs, Jeffrey | Termination | Ee denied time off for knee surgery fired for not showing up for work. | Sustained | ER's denial based on their Doctor. Ee's Doctor said surgery necessary. |

June, 2006

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
|--------------|--------------------------------------|--------------------|---------------------------------|--|--------------|---|
| FMCS | Great River Energy IBEW, Local 260 | Jacobowski, Daniel | Travel Pay | Scheduled for OT Sat. & Sun. ER claimed scheduled shifts exempt. | Sustained | Travel time paid when called back. Not limited to emergency situations. |
| 06-PA-0644 | ISD 281, Robbinsdale SEIU, Local 284 | Fogelberg, J.C. | Arbitrability 5 d susp/demotion | Head custodian called principal a lesbian dictator. Timeliness? | Denied | Waited 8 mos before filing grievance. Contract has 30 day requirement. |
| 06-PA-0383 | ISD 283, St. Louis Park | Reynolds, James | Promotion - most | Shall consider seniority. External | Denied | ER determines most qualified. Used |

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| | SPARK | | qualified | candidate selected over internal. | | orderly process-committee selection. |
| 06-PA-0053 | Richfield, City of Law Enforcement Labor Services, Inc. | Paull, David | 10 day susp | Made traffic stop using unmarked car; lied about showing his badge. | Wrtn Reprmd | Admitted violating policy for car stop. No improper motivation or intention re denial of showing badge. |
| 05-PA-1121 | Thief River Falls, City of Teamsters, Local 320 | Flagler, John | 3 day suspension | Profanity with co-worker escalated to "fighting words" . | Denied | Previous reprimand re anger issues. |
| | | | Termination | Non-work related threat to insurance ee. Charge with felony - pled to DOC. | Sustained | Failure to provide Loudermill hearing created a fatal due process error. |

May, 2006

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
|--------------|---|--------------------|--|--|------------------------------------|--|
| FMCS | Advanced Shoring Company Teamsters, Local No. 120 | Bognanno, Mario | Subcontracting | Cartage subcontracted in '90. Drivers guaranteed Union benefits as part of agreement expired in '92. Non-Union Trucking Co hired in 2005. | Denied | Agreement expired but honored for 15 yrs - enforceable past practice-no. Grievant never worked for ASC. |
| 05-PA-0997 | AFSCME, Council 65 Minnesota Independent Field Staff and | Jensen, Eugene | Termination | Business Agent's performance issues and felony drug conviction. | Denied | Section 504(a) of the Labor-Mngmnt Reporting & Disclosure Act (LMRDA) 29 U.S.C.A. § 504 bars employment as U Rep for 13 yrs if drug conviction. |
| FMCS | Allina Hospitals & Clinics - Abbott SEIU, Local 113 | Flagler, John | Termination | Parking ramp cashier stole money by cash box in an integrity test. | Denied | Clear and convincing" evidentiary Discussion of circumstantial evidence. |
| 06-PN-0102 | Crow Wing County (Interest Award) Law Enforcement Labor Services, Inc. | Holmes, Barbara | Interest | Wages-u (e-1.5%, 1.5%, 2%); Court & Call out-no change-e; Shift diff incr- y-e; Floating Holiday from 2 to 3-n-e. | 2005 -3% 2006 - 3% 2007 - 3% | Wages-external (deviations in internal settlements). Shift diff- internal and external. Other issues-not compelling. |
| 05-PA-0932 | Duluth Housing and Redevelopment AFSCME, Minnesota Council 5 | Neigh, Charlotte | Contracting out. | Union failed to meet step 3 grievance | Denied | Procedural deficiencies by Union. |
| 06-PA-0564 | ISD 314, Braham SEIU Local 284 | Miller, Richard J. | Promotion Timeliness Arbitrability | Senior qualified language. Ee not qualified due to poor performance, felony record (unable to trust unsuperv), & lack of skills required. | Sustained | District's determination re qualifications were arbitrary, capricious & wrong. Discussion on Timeliness & Arbitrability regarding a management right. |
| FMCS | Lund Food Holdings, Inc. UFCW, Local 789 | Gallagher, Thomas | Work Schedules | 4 sr ee's work 10 hr shifts. All others on 8 hrs. All ees scheduled to start 2 days at 10:00am so the sr ees must work until 8:00pm-feel jr should work nights. | Sustained | Management right to schedule upheld but contract requires consideration of (ees interest & ability of ER to cover needed hrs.) No solution provided. |
| 06-PA-0658 | Metro Transit Commission Amalgamated Transit Union, Local | Holmes, Barbara | Recognition Program | ER failed to post ridership numbers that are used to determine eligibility for a | Denied | Not required per contract. Past practice argument fails-have not been |
| 05-PA-0711 | St. Louis County Teamsters, Local 320 | Daly, Joseph | Seniority Accrual | Union denied seniority to supervisor who left unit, then voluntarily returned. | Denied | Neither practice nor contract bar accrual. |
| FMCS | Star Tribune | Anderson, Richard | Termination | Unacceptable attendance. | 30 day susp. | Medical and alcohol issues. Sought |

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| | IAMAW, District Lodge No. 77 | | | | | | and completed treatment. Given LCA |
| FMCS | Weyerhaeuser Company UFCW, Local 9 | Bognanno, Mario | Termination | EE came to work drunk, passed out on parts shop floor. Prior DUI can't be used since it didn't occur at work. | Sustained | | M.S.§181.953, Subd.10, requires 1st offenders be given opportunity to enter a substance abuse program. |
| 05-PA-1001 | University of Minnesota University Education Association | Holmes, Barbara | Merit Pay | Seeking written criteria for distribution of merit pay. | Denied | | None exist, not required by contract nor policy governing non-union. |
| April, 2006 | | | | | | | |
| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | | Basis/Argument |
| 05-PN-0772 | Austin, City of (Interest Award) AFSCME Minnesota Council 5 | Jacobs, Jeffrey | Interest | Comp time-u (see S Jay Dec'06 arb) Er Authority language-y-e; Waiver language-n-u; Sick payout-e; Insur-e; Longevity-no-e; On call pay-no-e; Clothing-e; Wages: '05-0%, '06-2.4% April, 1.6% July; '07-2.4%January, 1.6% Jul; Fire Chief incr of \$3,500-u | 2005 - 0% 2006 - 4% 2007 - 4% | | Er argued comp time policy not subject to negotiation, but Er listed it as issue. Language dependant on Sara Jay arb. Er Authority-statutory lang;Waiver-new-no compelling reason; Fire chief external market; all other issues - internal pattern. |
| 06-PA-0009 | Fergus Falls, City of Teamsters, Local 320 | Fogelberg, J.C. | Overtime | Ee told he would be working 12 hrs, than only 4hrs Friday to eliminate OT. | Sustained | | Contract-hrs in excess of assigned shift paid OT-means normal shift. |
| 06-PA-0005 | ISD 91, Barnum Education Minnesota - Barnum | Toenges, Rolland | Prep Time | Teacher transferred & lost 1hr used for Activity Directors duties forcing use him to use prep time. | Sustained | | Transfer proper. Even though he received schedule C compensation for Directors duties, there was a 5 year practice of allowing extra hour. Went to 6 classes in 1999 (1 was 20 minute home room). Changed home-room to regular class in 2004. Fails on timeline (1999 change) and merit. |
| 05-PA-0269 | ISD 2154, Eveleth/Gilbert Education Minnesota Eveleth-Gilbert | Anderson, Richard | Class period day | Increase from 5 to 6 classes. Timely? District Court compelled arbitration. | Denied | | Report was not accurate and could have |
| 06-PA-216 | Minnesota, State of, Dept of AFSCME Minnesota Council 5 | Anderson, Richard | Demotion | Sgt.demoted 6 months for filing false not support accusation. | Denied | | Report was not accurate and could have |
| 06-PA-0325 | Minnesota, State of, St. Peter Regional AFSCME Minnesota Council 5 | Jacobs, Jeffrey | Accommodating job restrictions | Barred frm contact w vulnerable adults unless under supervision. Unable to accommodate so placed on unpaid leave. | Sustained | | Contract required "every reasonable effort to accommodate". Can't deny placement due to inconvenience. |
| FMCS | Owens & Minor SEIU, Local 113 | Toenges, Rolland | Termination | Warehouse worker was warned about poor productivity (lines of orders filled).. He started generating additional lines. | Denied | | Accurate records necessary to check productivity, Action were dishonest. |
| FMCS | Pepsi Bottling Group, Inc. Teamsters, Local 792 | Daly, Joseph | Termination | Driver told store manager he doesn't shop at Wal-Mart because they don't provide ees health care. Store complained; | Sustained | | Comments not inappropriate. They were in response to manager's question. |
| FMCS | University of Minnesota Medical Center AFSCME, Minnesota Council 5, Local | Anderson, Richard | Termination | Last chance agreement. Falsified attend sister's funeral. | Sustained | | Claiming half-sister as a sister not funeral bulletin was changed. |
| FMCS | Viking Drill and Tool, Inc. | Anderson, Richard | 3 day suspension | Unwanted sexual comment to female | Wrtn warning | | One time event. Lack of progressive |

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| | Teamsters, Local 120 | | | ee was sexual harassment. | | discipline. |
| 05-PA-0599 | Washington County Law Enforcement Labor Services, Inc. | Befort, Stephen | Termination | Officer pointed his gun at others in horseplay. | 30 day susp | Supervisors failed to take corrective action. No progressive discipline. |
| 04-PA-0670 | West St. Paul, City of Law Enforcement Labor Services, Inc. | Remington, John | 2 day susp | Officer failed to return to training class after noon break-did not notify superv. | Wrtn reprmnd | Discourteous to a superior officer. |
| March, 2006 | | | | | | |
| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
| FMCS | Aggregate Industries Teamsters, Local 120 | Jacobowski, Daniel | Termination | Cement truck driver w excessive tardiness in violation of policy. Union denied policy ever posted. | 3 day susp. | Policy does not distinguish between tardies & no shows which detracts from just cause element in the policy. |
| 05-PA-0610 | Brainerd, City of Law Enforcement Labor Services, Inc. | Bard, Stephen | Evading OT by changing shift | Sgts schedule changed to eliminate need for an officer's holiday OT to fill in shift at the airport. | Denied | No guarantee of OT in contract. No schedule changed for any officer. Issue of subcontracting not raised. |
| FMCS | Electrolux Home Products International Association of Machinists | Flagler, John | Termination | Refused to do work involving pushing & pulling a cart, claiming medical | Denied | Restriction to raise arm over his head. Dispute between doctors diagnosis |
| FMCS | Group Health SEIU, Local 113 | Gallagher, Thomas | OT Seniority | Lab Tech went on vac. Hours offered to Lab assistants. | Denied | ER free to adjust its staffing. Bid was for Assistants - only. |
| 06-PA-0262 | Hopkins, City of Hopkins Police Officers Association | Befort, Stephen | Senior Qualified | Jr officer selected as investigator both had experience in investigations. | Denied | Jr officer had 14 mos experience v 3 mos. & is was more recent. |
| 06-PA-0150 | ISD 115, Case Lake/Bena Cass Lake Education Association | Anderson, Richard | Senior Qualified | Jr teacher selected for counseling position despite seniority language. | Denied | District has right to determine qualifcn & if applicant possesses qualifications. |
| FMCS | Kemps, LLC Teamsters, Local 160 | Befort, Stephen | Termination | Profane language towards female ee. | Denied | Words constituted sexual harassment. Previously disciplined for similar acts. |
| 06-PA-0219 | Minnesota, State of, Anoka Metro AFSCME Minnesota Council 5 | Jacobs, Jeffrey | Termination | Staff person brought in cigarettes for MN Statue from facility grounds. | Denied | Financial exploitation of vulnerable |
| ??? | Minnesota, State of, Dept of Revenue Minnesota Assn of Professional | Bognanno, Mario | 5 day suspension | Failed to meet performance standards | Denied | Received prior discipline & counseling regarding failure to meet standards. |
| FMCS | Progress Casting Group, Inc. Glass, Molders, Pottery, Plastics and | Toenges, Rolland | Termination | Factory worker pushed metal casting with his foot, knocking it off conveyor - | Denied | Repeatedly kicked castings even after being asked to stop by co-worker. |
| FMCS | Veterans Administration - St. Cloud American Federation of Government | Remington, John | Senior Qualified Timeline | Junior nurses selected based on "clinic not a requirement for position. Two | Sustained Denied | Eliminating qualified senior nurses for abuse of discretion. Untimely, no |
| FMCS | Viking Drill & Tool, Inc. Teamsters, Local 120 | Toenges, Rolland | Vocational Rehab -Termination | Ee place on permanent disability. Union grieved as a discharge. | Denied | Unable to perform essential functions of any available job. |
| February, 2006 | | | | | | |
| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |

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|------------|---|-------------------|------------------------------------|---|--------------|---|
| 06-PA-0228 | Arrowhead Regional Corrections AFSCME Minnesota Council 5 | Dichter, Fredric | Termination | Probation officer went to gentlemen's club where his client was dancing. | 60 day susp. | Poor judgment crossed boundary of PO & Client. Did not violate any rule. |
| 05-PA-1076 | Carver County Law Enforcement Labor Services, Inc. | Lundberg, James | Overtime Pay/ Past practice | Year end adjustments for OT if over 2080 hrs eliminated. | Denied | Proper notice given to end practice. |
| FMCS | Cemstone Products Company International Association of Machinists | Gallagher, Thomas | Holiday - work schedule change. | New Yrs holiday on Sat.- Co. closed Fri and paid ees for holiday. Contract | Sustained | No allowance in contract. One prior situation didn't create practice. May |
| 05-PA-0996 | Coon Rapids, City of Law Enforcement Labor Services, Inc. | Paull, David | Termination | Officer went to a women's home after a traffic stop seeking sexual favors. | Denied | Unprofessional behavior. Prior 30 day suspension w similar situation. |
| FMCS | Federal Deposit Insurance Corporation National Treasury Employees Union, | Remington, John | Merit award | MOU provides 3% merit award if ee not nominated, nor would ER share what | Sustained | ER has broad discretion to decide who be prepared to defend its discretion. |
| FMCS | Federal Deposit Insurance Corporation National Treasury Employees Union, | Remington, John | Merit award | MOU provides 3% merit award if ee not nominated, nor would ER share what | Sustained | ER has broad discretion to decide who be prepared to defend its discretion. |
| 06-PA-0066 | ISD 15, St. Francis (Arbitrability) School Service Employees, Local 284 | Remington, John | Arbitrability | Timeliness, grievant failing to sign grievance, selection of arbitrator. | Sustained | Offer to accept resignation anytime amounts to waiver. U owns grievance. |
| 06-PA-0066 | ISD 15, St. Francis (Merits) School Service Employees, Local 284 | Remington, John | Termination | Maintenance worker's excessive unexcused absences. | Denied | Failure to suspend meaningless, he only showed up for 38% of days schd. |
| 06-PA-0012 | ISD 726, Becker, Minnesota School Service Employees, Local 284 | Torosian, Herman | Senior Qualified | "Senior most qualified"" means senior qualified. | Sustained | Addendum is part of contract. Past practice gives meaning to the words. |
| 05-PA-0588 | ISD 993, Minnesota River Valley Minnesota River Valley Education | Toenges, Rolland | Severance | Teacher w 23 yrs service left district to severance/retirement benefit because | Denied | Union - contract requires retirement MS 122A.48, sec 5 governs. It requires |
| 05-PA-0849 | Minnesota, State of, Department of AFSCME Minnesota Council 5 | Reynolds, James | Termination | Stopped w van of clients to conduct cooler from work. | Denied | Poor judgment & lack of boundaries. |
| FMCS | Pan-O-Gold Bakery Company BCTGM Local 22 | Flagler, John | Holiday Pay | 25 yr practice of not paying for holiday unless worked. | Sustained | Grievance serves notice to end practice & force compliance w contract language. |
| FMCS | Regina Medical Center Minnesota Nurses Association | Fogelberg, J.C. | Insurance Plan design | Contract bar to substantially reducing plan benefits. Base plan remained similar, but the 3 plans were replaced by 2 new plans. | Denied | Plan (singular) language met by base plan. Keeping current plans constitutes substantial diminishment in benefits due to large jump in required premiums. |
| 06-PA-0056 | St. Paul, City of St. Paul Firefighters, Local 21 | Befort, Stephen | Sick slip | Reimburse cost to obtain sick slip? MN Stat 181.61 prohibits requiring ee to pay cost of medical exam. | Denied | Not arbitrable. Is a matter of statutory construction excluded from arbitration by the contract. |
| 05-PA-1233 | St. Paul's Church Home SEIU, Local 113 | Neigh, Charlotte | Termination | Nursing Asst. failed to feed diabetic patient all of his lunch. | Sustained | Faulty investigation. No evidence of any improper act. |
| 05-PA-1233 | SSD 1 - Minneapolis AFSCME, Council 5 | Bard, Stephen | Termination | Health care asst continued using perform when told to stop. No rule nor was anyone else so barred. | Denied | Insubordination re scented products poor job performance & attendance cumulatively constituted just cause. |

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|------------|-------------------------------------|-----------------|--------------|---|--------|--|
| 05-PA-1221 | Winona County AFSCME, Council 65 | Lundberg, James | 4 week susp. | Child protection worker accessed & added personal info to a complaint re ex-husband.& sought restricted data. | Denied | Using position to further personal goals is a conflict of interest violating policies central to County's operation. |
|------------|-------------------------------------|-----------------|--------------|---|--------|--|

January, 2006

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
|--------------|---|--------------------|------------------------------|--|------------------------|--|
| FMCS | Gopher Resources, Inc. Teamsters, Local 120 | Toenges, Rolland | Senior Qualified Overtime | Ee not trained on loader. Seeking training so he can bid for OT. ER only trains for need. | Denied | Ee not qualified. No requirement to train ees outside a department No fixed & established practice. |
| 05-PA-1113 | Grant County Teamsters, Local 320 | Bognanno, Mario | Payroll Period | ER implemented hold back of pay by holding back 1 day for 5 pay periods. | Split | ER had right to hold back pay, but must negotiate impact. |
| 05-PA-0443 | ISD 276, Minnetonka Minnetonka Teachers Association | Toenges, Rolland | President's 40% release time | New president denied .4 release time afforded prior presidet. ER - release was given to individual, not to the title. | Denied | MS 179A. Sub.3,(10) - it is unfair practice for ee organization to cause pay for services not performed. |
| 05-PA-1093 | ISD 595, East Grand Forks East Grand Forks Education | Gallagher, Thomas | Lane advancement | Teacher took 2 internet golf classes & was seeking lane advancement. | Denied | Classes were continuing education. CBA requires grad or undergrad level. |
| FMCS | Kerry Ingredients Teamsters, Local 1602 | Flagler, John | Job Elimination | Old light duty jobs were combined due to declining busn. Incumbent ees not qualified due to medical conditions. | Denied | Management right. Discussion of effects vs decision bargaining. |
| 06-PN-0030 | Minneapolis Park and Recreation Minneapolis Professional Employees | Kircher, Andrea | Interest | Add a 6th step to Environment Prog equity argument. | Employer | Statute requires a reasonable jobs be paid the same. |
| FMCS | Pierz Villa USW, Local 9359 | Frankman, Janice | Union work | Part-time maintenance ee laid off due to budget cuts. Community volunteers continued working. | Sustained | Can't use volunteers while employees laid off. |
| FMCS | Saint Paul's Church Home SEIU, Local 113 | Daly, Joseph | Termination | Nurse violated safety and policy requirements. | Sustained | ER failed to sustain burden of proof. |
| FMCS | Sappi - Cloquet LLC PACE, Local 63, USW | Jacobowski, Daniel | Termination | Viewing pornography and lying when questioned. | 6 day susp. | Policy of automatic termination is excessive & was unilaterally imposed. |
| None listed | University of Minnesota AFSCME, Council 5 | Flagler, John | Termination | Sprayed co-worker in eyes w window cleaner. 1st claimed horseplay then denied involvement. | Denied | 3rd incident of disruptive behavior. Discussion on circumstantial evidence. |
| FMCS | Virginia Regional Medical Center (Interest) Minnesota Nurses Association | Remington, John | Interest | Wages: July '04-4%, July '05-3%, July 3% Jan '07). Longevity-no-e. Vacation for 12 hr nurses-u. Eliminate Retiree insurance-no-u Increase life insurance-yes-u. Health Insur. 50/50-e. Change insurance waiting period-no-u. | 2004 - 4% 2006 - 3% | Wages-external comparisons. Long-no benefit enjoyed by 8hr nurses. Retiree change should be negotiated. Life insurance-external comparisons. Health insurance-hospital's finances. Waiting period-failed to show need. |

2007 Arbitration Awards - Minnesota B.M.S.

Summary of Arbitration Awards listed on the Bureau of Mediation Services' web site (<http://www.mn.gov/bms/arbitration/awards/>).
 "Sustained" means the grievance prevails overturning the original action. "Denied" means the original action prevails.

December, 2007

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
|------------|---|--------------------|----------------------------------|--|---------------------------------------|--|
| FMCS | American Iron and Steel Company UER & M Workers of America, #1139 | Lundberg, James | Termination | Employee failed to drain fluids from a crane that was being cut for scrap. | Denied | Employee claimed he forgot, but evidence showed insubordination. |
| 07-PN-0414 | Beltrami County (Interest Award) Teamsters, Local 320 | Jacobs, Jeffrey | Interest | Attorney's 1st contract. Wages and schdl-c (c offered 2.5% per yr-despite pattern of 2.5,3 &3); Longevity-u; Comp | 2006 - 2.5% 2007 - 3% 2008 - 3% | Wages,Longevity, Waiver clause, Drug Testing - internal patterns. State Bar fee & professional fee-no-c; |
| 06-PN-0874 | Dodge County (Interest Award) Law Enforcement Labor Services, Inc. | Miller, Richard J. | Interest | 2 yrs-u (e-3y); 2006-3%, 2007-2.8%-u (e-2.5% each yr); wage step change-e Uniforms-\$650, \$700-u; receipt based-e. Incr call back-no-e; Shift diff \$.30-u Longevity-no-e; FTO pay-no-e; Sunset retiree insur-no-u. | 2006 - 3% 2007 - 2.8% | Duration-history of 2 yrs; lack of data for 3rd y. Wages=avg of Region 10. Shift differential,new benefit which is common in Region. |
| FMCS | Dotson Company, Inc. Glass, Molders, Pottery, Plastics and | Gallagher, Thomas | Written Warning | Two ees received warnings due to leaving work area and visiting for 27 | Denied | Past lax enforcement would have been considered if this was a prior to discipline not fatal since ER |
| FMCS | Dotson Company, Inc. Glass, Molders, Pottery, Plastics and | Lundberg, James | Negotiating with an employee. | Negotiated a weekend flex schedule with an employee. | Sustained | Although contract allows flexing exclusive weekend work is in conflict |
| 07-PN-0721 | Faribault, City of (Interest Award) Firefighters, Local 665 | Jacobs, Jeffrey | Interest | Wages and insurance. | 2007 - 3.25% 2008 - 3.25% | Final offer, employers position. |
| FMCS | Fairview University Hospital SEIU, Local 113 | Jacobs, Jeffrey | Information Requests | Requirement that grienance info requests be in writing challenged. | Denied | No bar to requirement in contract. Should rely on common sense. |
| FMCS | Federal Bureau of Prisons American Federation of Govt Empl. | Daly, Joseph | Bargaining over Safety Equipment | Request that ER return to table to negotiate re Safety Equipment. | Denied | ER has Contract right to determine safety needs. |
| FMCS | Flint Hills Resources USW Local 7-662 | Lundberg, James | Withholding Performance Pay | Received a verbal reprimand for an accident and P-Pay withheld. | Denied | Unsafe condition created when he continued working w/o helper. |
| 06-PN-0614 | Goodhue County (Interest Award) Law Enforcement Labor Services, Inc. | Miller, Richard J. | Interest | 1 yr-u (c-3 yrs), 2006-2.5%-c (u-5%); Increase Hol. Vac. & Sick-no-c; inc. Hol premium & out of class pay-no-c. | 2006 - 2.5% | Wages - internal pattern; benefit increases- Union failed its burden of proof. Duration-history, lack of data, and new BA. |
| FMCS | Honeywell International, Inc. Teamsters, Local 1145 | Anderson, Richard | Clarification of August Award | EE signed up for early retirement before termination. Can he revoke that election due to make whole award? | Employer's position. | ER can honor earlier election in spite of EE's change of heart. |

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|-------------|---|--------------------|------------------------------|--|---------------|---|
| FMCS | Honeywell International, Inc. Teasmtrers, Local 1145 | Daly, Joseph | Termination | EE under influence of alcohol at work | Denied | Long term employee, but with 4 major disciplines. |
| 07-PA-1034 | Metropolitan Council AFSCME Minnesota Council 5 | Malamud, | Termination | Fradulent workers comp claim filed by ee who claimed she fell on ERs property. | Denied | Workers have been consistently fired for filing fradulent workers comp claims. |
| None listed | Minneapolis, City of Police Officers Fed. of Minneapolis | Befort, Stephen | Termination | Sgt. went drinking with another sgt.; allowed him to drive; failed to inform IA. | 40 hour susp. | Main issue-on or off duty? He used comp time therefor disclpl based on failure to report incident to I.A. |
| None listed | Minneapolis, City of Police Officers Fed. of Minneapolis | Lundberg, James | Termination | Officer guilty of carrying firearm while under influence of alcohol & barred from carrying firearm for 1 year. | Denied | He lost the ability to carry out an essential job requirement. |
| 07-PA-1126 | Minneapolis Public Housing Authority AFSCME Minnesota Council 5 | Miller, Richard J. | Seniority Selection | Junior employee selected based on interview. Grievant claiming seniority | Denied | Relative ability clause in contract. Interview is appropriate tool for ranking candidates. |
| 07-PA-0894 | Minnesota, State of, Judicial Branch AFSCME Minnesota Council 65 | Lundberg, James | Written Reprimand | Court clerk commented on woman's upcoming marriage in front of child who did not know about it. | Sustained | Union able to prove it could not happen as alledged due to layout of beauty parlor location. |
| 07-PA-0788 | Minnesota, State of, Dept of State Residential Schools Education | Bognanno, Mario | Arbitrability | Union sought arbitration on a written 4 requesting arbitration was sent to the | Denied | Contract language clear. Copying adequate. |
| 06-PA-1191 | Minnesota, State of AFSCME Minnesota Council 5 | Flagler, John | Extending Medical Leave | State's refusal to extend 1 yr medical leave was unreasonable. | Denied | Unable to return to work due to permanent physical limitations. |
| 07-PA-0917 | Mower County AFSCME, Council 65 | Bryant, Bernardine | Subcontracting | County subcontracted overflow child welfare case management. | Denied | Contract silent re sub-contracting. Union did not suffer harm. |
| 07-PA-1091 | Northfield, City of Operating Engineers Local 70 | Miller, Richard J. | Holiday Pay for Part time ee | City failed to pay part-time bus driver claiming Recognition clause barred her from union. | Sustained | Exclusion of part-time employees refers to those under 14 hrs per week & not public employees. |
| FMCS | Prospect Foundry, Inc. Glass, Molders, Pottery, Plastics and | Lundberg, James | Termination | EE came to work sick, sent home by supervisor & charged for violating | Sustained | Employer should have allowed ee to use vacation day, since they sent ee |
| 07-PA-0158 | St. Louis County AFSCME Minnesota Council 5 | Lundberg, James | 5 shift susp. | Nurse supervisor refused to send nursing home patient to hospital. | Denied | Nurse failed to check patient before refusing request to send to hospital. |
| 07-PN-0505 | St. Paul, City of (Interest Award) St. Paul Police Federation | Lundberg, James | Interest | Wages: 2007-2.5%, Officers step B-10yrs additional .5% July 1-u (emplr 2.5%; u-step b-10y 3.25%) | 2007 - 2.5% | Internal pattern 2.5%. Additional .5% for steps B-10y to maintain market position. |
| 07-PA-1166 | Scott, County of Operating Engineers, Local 49 | Kircher, Andrea | Termination | Medical condition - mechanic was allergic to red dye used in diesel fuel. | Denied | Not considered a disability - not necessary to seek accommodation. |
| FMCS | Smurfit-Stone Container Corporation USW District 11, Local 1259 | Lundberg, James | Termination | Machine helper was cited for an error and pushed another employee. Returned to work without backpay. | 6 month susp. | Disparate treatment. Co-worker not disciplined for language that started incident. |

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| FMCS | Walter G. Anderson, Inc. United Steelworkers, Local 1259 | Lundberg, James | Termination | Repeated quality errors by operator of a package gluing machine. | Denied | Given warnings & training. Refused to bid less responsible position. |
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November, 2007

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
|-------------|---|--------------------|---------------------------------|--|---|--|
| 07-PN-0661 | Anoka County (Interest Award) Law Enforcement Labor Services, Inc. | Anderson, Richard | Interest | Work release officers. 1 yr-u (e-3y); Wages-3% (e-2%, u-6%);merit-3% (e-2%, u-5%); shift-\$5-u; PTO me too language-e; OT-no change-u; stability calculation-no-e. | 2007 - 3% | Duration-no internal pattern 08-09; wages/merit-internal (corrections); Language changes-party proposing must show need. |
| 08-PA-0083 | Duluth, City of Duluth Police Union | Flagler, John | Involuntary Transfer | Senior patrol sergeant transferred to to Family Crimes Unit. | Sustained | No persuasive, substantial facts that justify ingnoring seniority. |
| 07-PA-0918 | Fergus Falls, City of Teamsters, Local 320 | Scoville, James | Termination | Liquor store ee violated policies re taking time off, use of breakroom, socializing. | Sustained | Repeated failures to discipline "muddied the waters." |
| FMCS | Immanuel St. Joseph's Hospital-Mayo AFSCME, Minnesota Council 5 | Jacobs, Jeffrey | Termination | Employee on FMLA did not return on the | Sustained | Employer had been accomadating & not |
| None listed | ISD 318, Grand Rapids Education Minnesota | Latimer, George | Meet & Confer | Failure to meet and confer re online learning collaborative.. | Sustained | Rejected arguments of statutory rights due to contract language. |
| 07-PA-0016 | ISD 622, North St. Paul-Oakdale- North St. Paul/Maplewood Education | Jacobs, Jeffrey | Involuntary | Teacher bid for a posted as 1 year. | Sustained | Nothing in contract re temporary |
| None listed | Minnesota, State of, Department of Minnesota Association of Professional | Miller, Richard J. | Weather based | Employee at Moose Lake seeking | Split | Determination of who is weather case by case.. |
| FMCS | Lund's Food Holdings, Inc. UFCW, Local 789 | Befort, Stephen | Termination | 19 violations of attendance policy which calls for termination after 16. | 10 day susp. | 3 with more violations not fired. Has shown improvement. |
| 07-PN-0824 | New Hope, City of (Interest Award) Law Enforcement Labor Services, Inc. | Neigh, Charlotte | Interest | 07-08-e (u-3 yrs); Comp time for Capt-no-3; Admin Sergeant 6.5%-u (e-0%). | Union position | Council rejected neg settlement - main issue admin sgt. |
| 07-PN-0824 | New Hope, City of (Clarification) Law Enforcement Labor Services, Inc. | Neigh, Charlotte | Interest | Administrative Sgt pay effective 1/1/2007 | Union position | City sought clarification. |
| 06-PN-0871 | Orono, City of (Interest Award) Law Enforcement Labor Services, Inc. | Miller, Richard J. | Interest | 06-3%-e (u-5%); 07-4% (u-5%,e-3%); Insur-e; Comp incr 40 to 60 hrs-no-e; Premium pay-no-e; Severance incr-u. | 2006 - 3% 2007 - 4% | 06-internal, 07-market; Insur-intrnl; Severance-external. |
| FMCS | Paulson's Super Valu, Inc. UFCW, Local 116 | Anderson, Richard | Failure to fill vacant position | Contract bar to filling full time position with 2 part-time. | Denied | Missed timeline by 7 months and no contract violation. |
| 06-PN-0605 | Ramsey County (Interest Award) Teasmters, Local 320 | Miller, Richard J. | Interest | Sergeant's wages-counties position. Union 3.5% each yr plus adjustment to steps = to 10% above corrections | 2006 - 2% 2007 - 2% 2008-1.5/1.5% | Internal pattern. Pay equity points suggest corrections should be frozen. Sgts compare to extnl mkt. |

October, 2007

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
|--------------|---|-------------------|-------------------------|---|----------------------------------|--|
| FMCS | Badger Equipment Company UAW, Local 633 | Imes, Sharon | Out of title pay | Temporary transfers to higher class should receive higher pay. | Sustained | Not doing all duties of classification was rejected. |
| 07-PA-0948 | Becker County Teamsters, Local 320 | Gallagher, Thomas | Seniority for promotion | Seniority language for full time, not part time employees. | Denied | Legal maxim - the expression of one thing excludes the other. |
| FMCS | Conagra Foods, Inc. Bakery Workers, Local 13G | Imes, Sharon | Discharge | Violated zero tolerance safety rule re locking out machine. | Sustained | Unilateral right to establish work rules but subject to just cause challenge. |
| 07-PN-0383 | Duluth, City of (Interest Award) Duluth Police Union | Bard, Stephen | Interest | Wages:2%,3%,3% (c-1,3,3; u-3,3,4); Eliminate retiree insurance for new ees-e (\$12,000+1%/yr into HCSP) Health club- \$30 per mo-u. | 2007 -2% 2008 -3% 2009 -3% | Wages-external plus CPI. Insurance internal pattern. Health club same as firefighters. |
| FMCS | Fairmont Medical Center Minnesota Nurses Association | Bognanno, Mario | Termination | Nurse went on vacation w/o finding a replacement as required for 5 shifts. | Denied | Contract considers such absences as job abandonment & resignation. |
| 07-PA-0251 | ISD 2168, New Richland Harland New Richland Hartland Geneve | Jacobs, Jeffrey | Weather based | 2 teachers did not work make up day as required and were seeking pay. | Denied | District has the right to set schedule. dealing with this issue are listed. |
| 07-PA-0912 | Metro Transit Amalgamated Transit Union Lcal 1005 | Boyer, John | Termination | Driver given 10 day susp for accident, then fired for lying about details. | Denied | Not a second discipline, but based on totality of record. |
| 07-PA-0732 | Minnesota, State of - Department of AFSCME Minnesota Council 5 | Holmes, Barbara | Work Rules - class | State modified Snow & Ice call in plan so leave no pay for time missed. | Denied | Union denied ability to substitute vac |

September, 2007

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
|--------------|---|-------------------|--------------|---|---------------------------|---|
| 07-PA-830 | Community Action Partnership of Ramsey AFSCME Minnesota Council 5 | Jacobs, Jeffrey | Termination | Teacher grabbed young child's arm in an teacher caught child who was jumping off a counter. | Sustained | Lack of evidence. Second teacher in room |
| 07-PN-0021 | Eagan, City of (Interest Award) Law Enforcement Labor Services, Inc. | Paull, David | Interest | Sgts; Wages: 06-3%-e (u-4%); 2007-3.75%-u (e-3% or 3/1 if cap on tuition) Tuition cap-no-u; 2 x major Hol-no-e; Vac accrual incr-no-e; longevity-no-e; 4% for Master's-no-e; 3 h crt call back -u; Waive Retiree Ins for \$.80/hr-no-u. | 2006 - 3% 2007 - 3.75% | Wages: 2006-internal pattern; 2007; external. Vac - internal; Court call back same as officers; |
| FMCS | Honeywell, International Inc. Teamsters, Local 1145 | Anderson, Richard | Termination | Violated time and attendance policy. | Denied | Prior discipline and clearly stated guidelines. |

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|------------|--|---------------------|------------------------------|---|----------------------------|---|
| 07-PA-0893 | ISD 112, Chaska IUOE, Local 70 | O'Toole, Carol Berg | Reorganization | Head Engineer title eliminated. All engineers then hired as Building Operations Coordinators - a supervisor position outside the union. | Sustained | They continued doing bargaining unit work. |
| 07-PA-0639 | ISD 318, Grand Rapids Education Minnesota, Grand Rapids | Bognanno, Mario | 3 day suspension | Special needs teacher shouted at & grabbed 4 yr old's arm to stop him. | Denied | Prior discipline for similar incidents. |
| 05-PA-0387 | Minnesota, State of, Minnesota AFSCME Minnesota Council 5 | Befort, Stephen | Unpaid leave | Health service worker put on unpaid check to establish min qualifications.. | Denied | Contract requires paid admin leave for to determine eligibility for job. |
| 07-PN-0695 | New Hope, City of (Interest Award) Law Enforcement Labor Services, Inc. | Kircher, Andrea | Interest | Uniforms-change from provide system to allowance-no-e; Incr sick leave into PRHCSP from 16 to 24 hrs-no-e; PTO plan for new ees-no-u; Specialty pay increase-u. | Split | No change to Officer's uniform despite Sgt's receiving allowance since 1980s. Sick to HCSP same as Sgts; PTO not ordered in 2 prior arbitrations; Specialty pay based on extensals. |
| 07-PA-0586 | Saint Paul, City of Saint Paul Police Federation | Befort, Stephen | 10 day susp. 30 day susp. | Investigator unable to manage her case load after repeated counseling. Ended up retiring. | Split | 10 day grievance denied. 30 day reduced to 15 days. Demotion is the next step & 30 leads to termination. |
| 07-PA-0586 | Sibley County (Interest Award) Law Enforcement Labor Services, Inc. | Gallagher, Thomas | Interest | Wages: 2.5%, 2.5%-u (e-1%,1%); Shift diff-no-e; Increase comp-no-e; Holiday pay if called back-no-e; Xmas eve pay change-no-u. | 2007 - 2.5% 2008 - 2.5% | Wages exceed internal pattern, used CPI and externals in award. |
| 07-PA-0845 | University of Minnesota Teamsters, Local 320 | Latimer, George | Layoff | U claims 2 were laid off due to lack of work. EEs claim anti-union retaliation. | Sustained | Language in letters and timing of lay-offs support union's claim. |
| 07-RA-0877 | USEM, Inc. UAW, Local | Gallagher, Thomas | Layoff and Termination | Car dealership laid off a utility man, terminated him after 1 year, then hired someone else the following year. | Sustained | No time limit on recall rights. No provision for termination w/o just cause. |

August, 2007

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
|------------|--|-------------------|-------------|--|--------------------------|--|
| FMCS | Alliant Techsystems, Inc. Teamsters, Local 1145 | Flagler, John | Termination | Insubordination in refusing to accept training for stockroom job. | Denied | Claimed conflict with trainer. Rule is "do the work first, grieve latter." |
| 06-PN-0526 | Blue Earth, City of (Interest Award) Law Enforcement Labor Services, Inc. | Kapsch, Frank | Interest | Police; wages-u (u-5%,5%; e-0%,0%) wage structure-n-e; comp accrual-n-e uniform incr-no-e; vac, eliminate 2 tier-no-e; insurance \$ amt vs %-no-u. | 2006 - 3% 2007 - 2.4% | Wages internal pattern. Other issues denied due to failure of proposing party to provide compelling need for change. |
| FMCS | Honeywell International, Inc. Teamsters, Local 1145 | Anderson, Richard | Termination | Company investigated collusion of Labor Relations & Union in arbitration cases. Union head lied to investgtrs. | Sustained | Grievant was on leave of absence & acting as Union head. (see case below). |
| FMCS | Honeywell International, Inc. Teamsters, Local 1145 | Befort, Stephen | Termination | Former head of Union lied during investigation re arbitration collusion. | Denied | Was back working for company when investigation took place. (see above). |

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|------------|---|-------------------|---------------------|---|-------------------------------------|--|
| FMCS | Honeywell International, Inc. Teamsters, Local 1145 | Toenges, Rolland | Assigning work | Assembly workers doing inspections. | Denied | Not arbitrable based on earlier transfer of work agreement. |
| 07-PA-0492 | ISD 2687, Howard Lake Education Minnesota | Fogelberg, J.C. | Overload Pay | Middle school teachers denied pay for teaching 6th class that High School teachers receive. | Sustained | Middle school replaced junior high where the practice was to pay. |
| 07-PA-1001 | ISD 720, Shakoe SEIU, Local 284 | Latimer, George | Seniority promotion | Cook manager position filled with outside candidate. | Denied | Contract exception for manager. Dropping grievance no bar to future g. |
| 06-PN-0511 | Lac qui Parle County (Interest Award) AFSCME Council 65 | Miller, Richard | Interest | Deputies/Jailers. Duration-3 yrs-e; 2006-3%-u (e-2.5%), 07-08 not in dispute; wage structure-no-e; Insur-u; on call \$250 to \$282/m-u; Holiday premium - no-e. | 2006 - 3% 2007 - 2% 2008 - 2% | Duration, Wages, Insurance-internal pattern. On call-external average. Holiday - no internal nor external support. |
| 06-PA-0990 | Metropolitan Council Amalgamated Transit Union Lcal 1005 | Befort, Stephen | Pay rate | Cleaner 3 job class is discriminatory since job is harder v others paying more. | Denied | Not arbitrable. Union negotiated a grade 13 for the position. |
| 07-PA-0832 | Metro Transit Amalgamated Transit Union Lcal 1005 | Gallagher, Thomas | Termination | Another employee took a parking parking space. He followed her into work making a major scene. | Sustained | Incident differed from earlier final wrng. Unusual behavior, not misconduct. Must pass a fitness for duty exam. |
| 07-PA-0919 | Metro Transit Amalgamated Transit Union Lcal 1005 | Latimer, George | 6 mo evaluation | Union - 6 month evaluation requires 6 mo before decision can be made. | Denied. | Employer can set job qualifications. No requirement to keep ee who can't do the job. |
| FMCS | St. Marks Lutheran Home UFCW, Local 789 | Anderson, Richard | Termination | LPN gave resident insulin shot in a public area & failed to do a pain assesment for resident that fell. | Sustained | Acts were not egregious but moved her to discharge step of disciplinary policy. Failed to establish just cause. |
| 07-PN-0555 | Sherburne County (Interest Award) AFSCME, Minnesota Council 65 | Holmes, Barbara | Interest | Asst Co Attorneys. 2007 reopener to consider job study recommendations. Union seeking 4%-no. | County's Position | Pay ranges moved up, but not current wages unless below minimum. |
| 06-PA-0972 | Special School District 1 Minneapolis Federation of Teachers | Befort, Stephen | 21 week susp | Teacher accused of touching & hitting students with a yardstick. | 5 day susp. | Hearsay evidence from 6 yr olds. She did touch with ruler. |

July, 2007

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
|--------------|---|-------------------|--------------|---|----------------------------|---|
| 04-PIR-1363 | Alexandria HRA Independent Review Case | Daly, Joseph | Termination | HRA director kept pills scheduled for destruction intending to seek okay to keep them for her use. | Sustained | Nothing illegal,nor any policy violated. At Will ees are eligible for independent review through the BMS. |
| 07-PN-0300 | Bemidji, City of (Interest Award) Law Enforcement Labor Services, Inc. | Gallagher, Thomas | Interest | 2 yrs-u (e3-yrs); 2007-3.5%, 08-3.5% (e-3%,3%; u-6.5%, 6.5%); Ins-e Uniforms+\$10, +\$10-u (no to provide system); Change standby-no-u. | 2007 - 3.5% 2008 - 3.5% | Sgts - Duration-lack of data for 3rd yr. Wages-differential from patrol has shrunk; Insurance-internal pattern; Uniform & standby - changes should negotiated, not awarded. |

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|------------|--|--------------------|----------------------------|---|--------------------------|--|
| FMCS | CenterPoint Energy - Minnesota Gas Gas Workers Union, Local 340 | Frankman, Janice | Requiring use of computers | Union seeking additional pay for using computers to fill out forms. | Denied | Change in work was not significant & was reasonable. |
| FMCS | Fairview Lakes Regional Health Care Minnesota Nurses Association | Kapsch, Jr., Frank | Holiday OT | Employer did not pay holiday pay & OT for the same hours worked. | Sustained | Hol pay is incentive pay & not barred as duplication of OT payment. |
| FMCS | Falls Memorial Hospital AFSCME, Minnesota Council 65 | Kircher, Andrea | 1 day suspension | LPN allegedly discourteous to a RN. | Sustained | Failure to use progressive discipline and defective investigation. |
| 06-PN-0486 | Hastings, City of (Interest Award) Law Enforcement Labor Services, Inc. | Miller, Richard | Interest | Firefighter's final offer total package. Union seeking 19.6% for 2 yrs. based on pay equity with police. | 2006 - 3% 2007 - 3.5% | City's position. History and internal pattern. |
| FMCS | Highland Chateau Health Care Center UFCW, Local 789 | Anderson, Richard | Termination | Assistant accused of bruising a resident and insubordination. | Sustained | Flawed investigation. No acts worthy of discipline. |
| 07-PA-0769 | ISD 197, West St. Paul SEIU, Local 284 | Scoville, James | Unit work | Para's serving breakfast at 2 schools which is food service work. | Denied | Practice is 9 years old. Grievance is untimely. |
| 07-PA-0408 | Maplewood, City of Law Enforcement Labor Services, Inc. | Befort, Stephen | Probation | Officer on medical leave for 1 yr, put on probation when allowed back to wk. | Denied | Not arbitrable. No bar to a 2nd probation in contract. |
| 07-PN-0516 | Maplewood, City of (Interest Award) Law Enforcement Labor Services, Inc. | Paull, David | Interest | Wages: 2007-3.5% (e-3%, u-4.5%). | 2007 - 3% | External - maintains market ranking. |
| 07-PN-0026 | Olmstead County (Interest Award) Law Enforcement Labor Services, Inc. | Miller, Richard J. | Interest | Jail Sgts, 1st contract. Wages-2%-e (u-3.5%); 2 wk schedule posting-u; OT language-no-e; Call back-u; "Step" language-u; Probation language-e | 2007 - 2% | Wages-internal; 2 wk posting, call back, step & probation-internal pattern. OT-FLSA exempt employees-issue being heard at Dept of Labor; |
| FMCS | Smead Manufacturing Company United Steelworkers of America, Local | Gallagher, Thomas | Termination | Took notebook ees put together to help setup machinery fearing loss of wk w | 8 mo susp. | Mitigation - thought book belonged to employees who put it together & |
| 06-PA-0971 | Special School District 1 Minneapolis Federation of Teachers | Gallagher, Thomas | 5 mo suspension | Teacher slapped students hand. | 30 day susp. | Teacher under great stress. Not premeditated corporal punishment. |
| 07-RA-0129 | Super Valu, Inc. Teamsters, Local 120 | Daly, Joseph | Termination | Excessive absences. Failed to provide FMLA documentation. | 18 mo susp | He had a medical condition, but was his responsibility to document. |

June, 2007

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
|--------------|--|-------------------|--------------|--|--------------|--|
| FMCS | American Crystal Sugar Company Bakery Workers Local 372G | Anderson, Richard | Layoffs | Laid off some seasonal workers who were replaced with full time ees. | Denied | Union claimed past practice required laying off all or retaining all. Contract clear - no past practice established. |
| 05-RA-0190 | Immanuel St. Joseph's Hospital AFSCME Minnesota Council 65 | Reynolds, James | Pager pay | Seeking pay if required to wear pagers or respond to calls during breaks | Denied | Mngmnt right to order wearing pagers, monitoring not compensable. Breaks must be reschedld/paid if interrupted. |

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|------------|--|----------------------|------------------------------|--|---|--|
| 07-PA-0137 | ISD 413, Marshall Marshall Education Association | Anderson, Richard | Coaching Pay | Seeking coaching compensation while on sick leave (only worked 1 day).. | Sustained | Sick leave language does not exclude coaching pay. |
| FMCS | Johnson Brothers Liquor Company Teamsters, Local 792 | Frankman, Janice | Restricting Vac usage. | Company barred vacations on short Holiday weeks due to increased bus. | Denied | Management right. No requirement to hire vac temporaries to allow vacs. |
| 07-PA-0701 | Metropolitan Council - Metro Transit Amalgamated Transit Union Local 1005 | Holmes, Barbara | Termination | Bus mechanic injured on job was working at his auto repair business while receiving worker compensation. | Denied | Numerous misrepresentations over a 2 month period. Caught on video. |
| FMCS | Sauer Memorial Home UFCW, Local 789 | Jacobs, Jeffrey | Minimum hours for insurance. | Volunteered to have hours reduced if necessary - fell bellow full-time and lost insurance coverage. | Sustained | Reduction was for employers purpose therefore this is an exception per contract. |
| 06-PN-0882 | Wright County (Interest Award) Teamster 320, Ess. Supervisory Unit | Ver Ploeg, Christine | Interest | 3 yrs-e (u-2y); 2%, 2.75%, 2.75%-e (U-4.24%, 4%, 3%); 1 1/2 Hol pay-n-e Uniform-u; Leg funding wage freeze-no | 2006 - 2% 2007 - 2.75% 2008 - 2.75% | Lt, group. Duration/Wages-internal. Hol pay- exempt ees & prior arb; Uniform-internal. |
| 06-PN-0864 | Wright County (Interest Award) Teamsters 320, Non-Licensed, Ess. | Ver Ploeg, Christine | Interest | Uniforms-u; Salary adjustment-n-e Severance for Comm ees-e (u-amount same as jailers); Shit differential-no-e. | | Uniform-intnl; Salary-reclassification is a mangmnt right; Severance-new benefit same as courthouse. |

May, 2007

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
|--------------|---|-------------------|-----------------|--|--------------------------------|---|
| FMCS | Electrolux Home Products IAMAW District Lodge 168, Local 165 | Bognanno, Mario | Termination | No-fault absentee policy considers 3 consecutive days w/o calling in a resignation. EE was in jail. | Denied | Policy is valid, clear & enforced. Failure to call is required even if ER knew grievant was in jail. |
| 06-PA-1255 | ISD 623, Roseville Education Minnesota - Roseville | Fields, Bernice | Step Placement | Teacher lacking 15 required credits frozen at step for 2 yrs & only moved 1 step when achieving credits. | Denied. | Management right. Contract silent on issue. Ruling on merit in spite of timeline - issue may arise in future. |
| | | | Timeline | Union claims continuing violation. | Denied. | Continues to each paycheck only until Union is aware of violation. |
| None listed | Minnesota, State of, Natural Resources Middle Management Association | Jacobs, Jeffrey | Termination | Defrauding state claiming expenses for | Split-reinstate - (12 months). | Business purpose for trips. Guilty of lax perform personal errand. |
| 06-RA-1240 | Supervalu, Inc. Teamsters, Local 120 | Bard, Stephen | Termination | Violation of attendance policy. | Denied | Attendance policy was applied reasonably and fairly. |
| 06-PA-178 | University of Minnesota AFSCME, Minnesota Council 5 | Jay, Sara | Termination | Loud & threatening to supervisor. Arrested by police & charged w DOC. | Denied. | 2 previous suspensions for similar behavior. Anger directed at suprvr. |
| 07-PA-0610 | Winona, City of AFSCME, Minnesota Council 65 | Jay, Sara | Written Warning | Union president disciplined for using city computer to conduct Union bus. | Sustained | Award discusses Union protected activities. |
| 06 PN 0904 | Winona, City of (Interest Award) Firefighters, Local 575 | Daly, Joseph | Interest | Firefighters; total package final offer. Wages identical. Union seeking incr. premiums for medics & specialists. | 2006 - 2%/1% 2007 - 3% | City's position awarded. Insufficient evidence to support any increase to existing premiums. |

April, 2007

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
|--------------------------|---|--------------------|------------------------------------|---|--------------|--|
| FMCS | Honeywell International, Inc. Teamsters, Local 1145 | Befort, Stephen | Termination | Violation of Time and Attendance policy. | Denied. | Employer has right to establish reasonable work rules. |
| 07-PA-0349 | ISD 13, Columbia Heights Columbia Heights Federation of | Daly, Joseph | Step Placement | New hire placed in step 3 of expiring, but continuing contract. New contract step in new contract ignoring continuing | Sustained | Never worked in years covered by old contract. Current ees at step 3 of new hire. |
| 07-PA-0004 | ISD 316, Greenway Coleraine Education Minnesota - Greenway | Bognanno, Mario | Retiree Insurance | Missed timelines? - no. Change to retiree contribution | Denied. | Alleged violation is continuous. Contract language rules despite Union denying negotiating it. |
| 07-PA-0395 | ISD 911, Cambridge SEIU, Local 284 | Jacobowski, Daniel | FLSA Overtime calculation. | Should paid non-work hours be used to calculate overtime? District gave notice it repudiated the practice. | Sustained | Hours worked means you must work the hours over 40 for OT. District's interpretation reduces other benefits. |
| 07-PA-0544 | Metro Transit Amalgamated Transit Union, #1005 | Bognanno, Mario | Denied placement on Operator list. | Bus cleaner/p.t.driver went to light rail then came back as cleaner-not put on pt driver list due to safety concerns. | Denied | Contract gives employer right to determine who is on list and treated same as others. |
| FMCS | Minnesota Valley Electric Cooperative IBEW, Local 160 | Frankman, Janice | Safety Policy | ER unilaterally changed discipline in the safety policy. | Sustained | Discipline is a mandatory subject of negotiations. |
| 06-PA-1221 06-PA-1256 | Northfield, City of Law Enforcement Labor Services, Inc. | Miller, Richard | Forcing use of Comp time | Officer ordered to reduce comp time to 80 hrs. Dept denied his choice of days & assigned days off. | Denied | Christensen v Harris US supreme ct allowed assigning time. Nothing in contract bars practice. |
| 06-PA-0741 | Prior Lake, City of Law Enforcement Labor Services, Inc. | Gallagher, Thomas | OT to less senior employee. | Union seeking seniority bidding on OT that is an extension of a shift. | Denied | Contract requires seniority for an OT shift - defined as having 3 breaks. |
| 06-PA-1215 | Roseville, City of Law Enforcement Labor Services, Inc. | Daly, Joseph | Sgt working OT | Sergeants given Officer's OT work. | Denied | Past practice. |
| 07-PA-0106 | Sauk Centre, City of Teamsters, Local 320 | Gallagher, Thomas | Termination | Officer accused of insubordination & theft of rifle and pistol from prop room. | 10 mo. susp. | Lack of evidence or intent. Returned to wk with no backpay. |
| 06-PA-0751 | University of Minnesota Teamsters, Local 320 | Holmes, Barbara | Termination - LC | Last chance agreement - absences. | Denied | Union argued absences were exempt chronic illness - lacked documentation. |

March, 2007

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
|--------------|--|-------------------|----------------------------------|--|--------------|--|
| 07-PA-0316 | Baxter, City of AFSCME, Minnesota Council 65 | Kircher, Andrea | Eliminating Job - laying off ee. | Brainerd ISD 181 took over admin of city's recreation fields - suprv laid off. | Sustained | Considered subcontracting. Contract bars job loss due to subcontracting. |
| FMCS | Goebel Fixture Company Carpenters, Joiners & Cabinetmakers, | Jacobs, Jeffrey | Attendance Policy | Reasonableness of no-fault policy. Award examines how arbitrators view | Denied | Reasonable if designed to further a legitimate interest & provides options for |

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|--------------------------|--|---------------------|--|---|------------------|--|
| 06-PA-1283 | ISD 31, Bemidji Bemidji Education Association | Gallagher, Thomas | Ltr of Reprimand involuntary transfer | Failure to cooperate in providing EBD service. Transfer due to conflict with other staff members. | Sustained | No evidence of being uncooperative. Transfer decision made prior to required meeting w teacher. |
| 05-PN-0893 05-PN-0894 | ISD 197, West St. Paul SEIU, Local 284 | Frankman, Janice | Selection of Insurance carrier. | District Court ordered arbitration over Unfair Labor Practice claim unilateral selection of insurance carrier was allowed by contract language. | Union position | Contract does not supersede MS 471.6161 bar to reduction of aggregate value of insurance. Damages = amount of premium savings. |
| 06-PA-0769 | Metro Transit Amalgamated Transit Union Lcal 1005 | Lundberg, James | Termination | Bus driver w 4 accidents in 2 1/2 yrs, | Denied | Violated valid, well understood policy. Received progressive discipline. |
| 07-PA-0543 | Metro Transit Amalgamated Transit Union Lcal 1005 | O'Toole, Carol Berg | Termination | Bus driver; excessive absenteeism and accidents. | Denied | Clear policy and proper counseling. Short term employee. |
| 07-PA-0328 | Minnesota, State of, Department of AFSCME Minnesota Council 5 | Lundberg, James | Termination | TV news crew caught maintenance Also left work w/o permission. | 9 mos. susp. | 27 yr employee w good work record. Joined AA. Returned w no back-pay. |
| 07-VP-0442 | Minnesota, State of, Department of Individual Grievant | Befort, Stephen | Termination - VP | DNR Lt failed to respond to call a man | Denied | A good long-term employee, but he responsibilities. |
| 06-PA-0924 06-PA-1174 | Oakdale, City of Law Enforcement Labor Services, Inc. | Befort, Stephen | Invest w/o Union 1 day suspension | Off claims Capt did disciplinary invest w/o a Union representative present. Disobeyed Sgts order not to conduct interview of girl using Hmong officer. Claims it was only a conversation. | Denied Denied | Officer initiated the meeting & since facts not disputed no prejudice results. Was insubordinate. Gathering info is an investigation. |
| 06-PA-1074 | Supervalu, Inc. Teamsters, Local 120 | Gallagher, Thomas | Termination | Unexcused absences in violation of no-fault policy. | Denied | Just cause to discharge when conduct has significant adverse effect. |
| FMCS | University of St. Thomas Teamsters, Local 120 | Jacobs, Jeffrey | Termination | Harassing and inappropriate language. 3 writtens-no prior suspensions. | Denied | Contract has lower standard than Just Cause.- Legitimate Business reason. |

February, 2007

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
|--------------|--|-------------------|--------------------------------------|--|--------------|---|
| FMCS | Honeywell Teamsters, Local 1145 | Jacobs, Jeffrey | Termination | Received "Blk History Month" text to slap 5 white co-workers, got black co- worker to join her slapping whites and lied about incident. | 11 mo. susp. | Found mitigation that victims did not know racial intent of grievant. See Flagler below where co-worker's grievance was denied. |
| FMCS | Honeywell International Teamsters, Local 1145 | Flagler, John | Termination | She took 2 vacation days when there were restriction-putting her over her negotiated level of absences. | Sustained | Company did not give sufficient notice that she could not take vacation off. |
| FMCS | Honeywell International Teamsters, Local 1145 | Flagler, John | Termination | Black History month text message to slap 5 white co-workers was acted on by tapping them on check, & she lied about the text message. | Denied | Violation of Code of Conduct by creating racial discord & unrest in workplace. And lied about material aspect of incident. See Jacobs above. |
| 06-PA-1220 | ISD 11, Anoka-Hennepin Anoka-Hennepin Education Minnesota | Bard, Stephen | Pay for Extra- Curricular assign. | Extra-curricular assignment pay if working at multiple assignments. | Union | Based on Andover exception - never communicated to Union. |

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|------------|--|------------------|--------------|---|-------------|---|
| 06-PA-1053 | ISD 726, Becker Becker Education Association | Boyer, John | Overload Pay | Special Ed teacher seeking back-pay for prep time not taken | Denied | Teacher had freedom to set own schedule and should have included prep time. |
| ??? | Minneapolis, City of - Convention Teamster, Local 320 | Befort, Stephen | Termination | Unauthorized smoking break. | Denied | 17 coaching and disciplinary efforts over a 2 year span. |
| 06-PA-1225 | Minnesota, State of, Minneapolis AFSCME Minnesota Council 5 | Toenges, Rolland | Termination | Violence towards a co-worker. Angry struggled with cart until she let go. | Denied | Although no priors, short term ee who employer's Violence Policy. |
| 06-PA-0953 | Minnesota, State of, DHS, MCOCS AFSCME Minnesota Council 5 | Flagler, John | Termination | Aversive treatment procedures with a vulnerable adult. | Denied | Employment record reinforces the irremediability of her conduct |
| FMCS | St. Paul Pioneer Press Teamsters, Local 4 | Daly, Joseph | Termination | Machine operator violated offensive behavior policy by harassing an assistant regarding his disability. | 9 mo. susp. | Returned to work without back-pay (due to prior discipline). Case of lack of civility - not harassment. |

January, 2007

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
|--------------|---|-------------------|-------------------------------------|---|--------------|--|
| FMCS | Abbott Northwestern Hospital SEIU, Local 113 | Flagler, John | Termination | Falsifying timecard. Punched in, then took his daughter somewhere w/o punching out. | Sustained | Was on sick leave and volunteering for charity event. Punched in so he could use truck. Written rep re truck. |
| FMCS | Ecowater Systems, Inc. Teamsters, Local 120 | Befort, Stephen | Termination | Two factory workers fired for pushing and shoving each other. | 20 day susp. | Initial reports of a 3 minute fight with a knife present were not proven. |
| 06-PA-0199 | Hastings, City of Teamsters, Local 320 | Jensen, Eugene | 2 day suspension | Sgt told not to talk to officer being investigation. Borrowed a tow strap from the officer. | 1 day susp. | Evidence did not support Sergeant interfered. Failure to investigate this suspension, while not fatal, allowed alternate explanation to be considered. |
| FMCS | Honeywell Teamsters, Local 1145 | Jacobs, Jeffrey | Termination | Violated no-fault attendance policy. His Dr. failed to extend his medical for reasons unknown. | Split | Rigid no-fault policies are not a "one size fits all" standard for just cause. Returned w no back-pay. |
| FMCS | Intek Plastics, Inc. IBEW, Local 949 | Toenges, Rolland | Reasonable Accommodation | Union seeking accommodation due to inability to use piece of equipment. | Denied | Not disabled per ADA. Offered other work, but rejected it. |
| 07-PA-0075 | ISD 622-N.St. Paul-Maplewood- IUOE, Local 70 | Paull, David | Removal from | Driver had 2 accidents, 1 w injuries. | Sustained | Not discipline, but driving did not |
| 07-PA-0169 | ISD 2899, Plainview-Elgin-Millville Education Minnesota Plainview-Elgin- | Jensen, Eugene | Married eligible for 2 family insr. | Districts merged w new contract. Plainview only allowed 1 to receive | Sustained | Despite combined contract, ees will be governed by past practice of their |
| FMCS | Minnesota Electrical Cooperatives Electrical Workers, Local 160 | Befort, Stephen | Premium Pay | Interplay between FLSA & CBA re premium pay obligations on Sat/Sun. | Sustained | On call added to regular for FLSA calculations then x2 per contract. |
| FMCS | Rainbow Foods UFCW, Local 789 | Flagler, John | Termination | Clerk sold cigarettes to a minor after entering dob into register 3 times w "not for sale" message. | 1 week susp. | Asked supervisor what message meant? She did not know - poor training by company. |

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|------------|---|--------------------|-------------------------------------|--|-----------|--|
| 02-PA-1107 | St. Louis Park, City of Law Enforcement Labor Services, Inc. | Jensen, Eugene | Benefit accrual on workers comp. | Vacation and sick accrued at Workers Comp earning of 2/3 wages. | Sustained | Union not given chance to neg. change in policy. |
| FMCS | Spartech Plastics, Inc. Teamsters, Local 120 | Jacobowski, Daniel | Termination | Excessive tardiness in violation of no fault policy. | Denied | Negotiated no fault policy therefore numerical penalty constitutes just cause. Prior discipline. |
| FMCS | Spartech Plastics, Inc. Teamsters, Local 120 | Bognanno, Mario | Termination | Violated last chance agreement re absenteeism. | Sustained | Violation de minimus. Failed to notify BA of Last chance agreement. |

2008 Arbitration Awards - Minnesota B.M.S.

Summary of Arbitration Awards listed on the Bureau of Mediation Services' web site (<http://www.mn.gov/bms/arbitration/awards/>).
 "Sustained" means the grievance prevails overturning the original action. "Denied" means the original action prevails.

December, 2008

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
|-------------|---|--------------------|--------------------------|--|-----------------------|--|
| 09-PA-0022 | Brooklyn Park, City of Brooklyn Park Police Federation | Latimer, George | 24 hr. susp. | Police officer arrested for DUI & open bottle. | Denied. | Seeking credit for time served while license was revoked. |
| 08-PN-0750 | Buffalo, City of (Interest Award) Law Enforcement Labor Services, Inc. | Yaeger, Thomas | Interest | Health Insurance reopener: Family 2008 - \$780-u, (City \$740.49) | Union position | Non-Union internal pattern rejected Based on external % average. |
| 08-RA-0781 | Duluth Dodge, Inc. UAW Local 241 | Gallagher, Thomas | Lay off | Senior technician, who was also union steward. | Denied. | Past practice used to interpret contract. Skills trump seniority. |
| 08-PA-1363 | ISD 701, Hibbing AFSCME Council 65 | Fogelberg, J.C. | Leap year pay | Salary calculated by dividing annual amount by 24 pay periods. | Denied. | Seeking additional amount for leap day. Past practice prevailed. |
| FMCS | Loram Maintenance of Way, Inc. Steelworkers 2002-09 | Jacobs, Jeffrey | Performance appraisal | Union wanted to remove items and bar as basis for discipline. | Denied. Sustained. | Mngmt right to document, but not basis for discipline. |
| FMCS | McQuay International Sheetmetal Workers Local 480 | Flagler, John | Termination | Defaced an air conditioner case by writing a message on it. | Sustained. | Damage wasn't permanent. No back pay (off for 8 months.). |
| 08-PA-1394 | Minnesota State of, Human Rights AFSCME Minnesota Council 5 | Flagler, John | Termination | Swore at patients and staff, bumped a patient (18 year employee). | Sustained. | Demoted from lead counselor, no back pay (off for 11 months.). |
| 08-PA-4358 | Minnesota, State of, Lottery AFSCME Minnesota Council 5 | Imes, Sharon | Termination | Lottery warehouse worker harassing co-worker. | Sustained. | Due process flaws. Made whole. |
| 09-PA-0064 | Minnesota, State of, Tenth Judicial AFSCME Minnesota Council 5 | Miller, Richard J. | Timelines Termination | Request for arbitration 2 days late. Court employee failed to quash wrnt., amend charges & other errors. | Sustained Denied | History of lax enforcement. Behavior so egregious so as not to restricted by progressive discipline. |
| None Listed | Minnesota State of, Transportation MN Assoc. of Professional Employees | Fogelberg, J.C. | Layoff/Recall | Laid off as an ITS 3, not recalled when new position posted. | Denied. | Resume did not meet minimums. |
| 08-PN-0453 | Owatonna, City of (Interest Award) Teamsters Local 320 | Bryant, Bernadine | Interest | Sgts group; wage reopener 2008. City offered 2.75%. | 3.25% | No internal pattern. |

November, 2008

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
|------------|--|-----------------|----------|----------------------------|---------------|-----------------------------------|
| 08-PN-0303 | Apple Valley, City of (Interest Award) | Kircher, Andrea | Interest | 2007-2009, City 3%,3%,2.5% | 3%, 3%, 3.25% | First 2 yrs. Based on pattern. No |

| | | | | | | |
|-------------|--|--------------------|-----------------------------------|---|---|---|
| | Law Enforcement Labor Services, Inc. | | | | | internal pattern for 2009. |
| 08-PN-0926 | Dakota Communications Center Law Enforcement Labor Services, Inc. | Miller, Richard J. | Interest | First contract, 2 years 2008-2009. | 3%, 3% | Main issue of a salary step matrix or merit pay left unanswered. |
| FMCS | Department of Labor (Mine Safety & National Council of Field Labor Locals | Anderson, Richard | Performance evaluation | Denied performance based cash as a result of poor evaluation. | Dismissed. | Evaluation from previous supervisor do not prove new ratings wrong. |
| FMCS | Graphic Communications International Graphic Communications International | McCoy, Arthur Ray | Cost of Retiree health insurance. | 1991 arbitration ordered retirees to pay pay full cost. How to calculate? | Can't combine with actives. | Combining active and retiree costs results in a subsidy for retirees. |
| FMCS | Group Health d/b/a Health Partners OPEIU Local 12 | Bognanno, Mario | 10 day susp. Termination | Receptionist at eye clinic-scheduling errors; rudeness to patients. | Denied. Sustained. | Grievant has bi-polar disorder. Will return to work if cured within 1 yr. |
| 09-PN-0048 | Metropolitan Council Metropolitan Council Management | Gallagher, Thomas | Interest | ER offered 2.5%, 2.5%. ER won Ins. & duration change from June to Dec. | 2.7%, 2.7% | Added .2% saved by not awarding ER's merit request. |
| 08-VP-1069 | Minnesota, State of, Arts Board Individual Grievant | Jacobs, Jeffrey | Lay-off | Reorganization due to budget. | Denied. | Managements' right to reorganize. |
| None listed | Minnesota State Colleges & Minnesota State College Faculty | Befort, Steven | Project payment | Award for excellence project was not | Split decision. | Awarded \$2,500 and parties to go back |
| 08-PN-0266 | Stillwater, City of (Interest Award) Law Enforcement Labor Services, Inc. | Neigh, Charlotte | Interest | Court time incr. to 3 hrs; investigator | 2007 - 3% 2008 - 3% 2009-3%, July.25% | Wages internal, ct time external. |

October, 2008

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
|--------------|--|--------------------|-----------------|---|--------------|---|
| FMCS | Allstate Sales Corporation IAMAW District Lodge 77 | Gallagher, Thomas | Termination | Didn't get along with other Bodyshop workers, reluctant to do some work. | 7 mo. Susp. | Insubordinate, others threatened to quit-but no progressive discipline. |
| 08-PN-1039 | Apple Valley, City of (Interest Award) Law Enforcement Labor Services, Inc. | Miller, Richard J. | Interest | City offered 2.5% for 2009. Awarded uniform request of +\$25 for 08 & 09. | 3.25% | Wages same as 2009 sergeant's arbitration award. |
| 08-PN-0816 | Brainerd, City of (Interest Award) Law Enforcement Labor Services, Inc. | Miller, Richard J. | Interest | City's duration 1yr and wages 3.0% Union won longevity incr. at top .5%. | 3.00% | Internal pattern. Longevity equals top administrators. |
| FMCS | Ferguson Enterprises, Inc. Teamsters Local 346 | Gallagher, Thomas | Pay steps | Step progression shortened, but only applied to new hires. | Denied | Parole evidence & plain meaning of the contract language. |
| 07-PA-0717 | Grant County AFSCME Council 65 | Tonges, Rolland | Termination | Mechanic lost CDL due to DUI. Given 5 day susp then terminated when learned of CDL loss of 18 months. | Denied | U claimed double jeopardy. Discp. Can be increased if "more serious than it looked at first". CDL required for job. |
| 08-PA-1070 | ISD 115, Cass Lake Minnesota School Employees | Lundberg, James | Scheduled hours | Bus monitoring duties part of paras regular schedule instead of adding hr. | Sustained | Issue previously led to a mediated agreement. Must neg. change. |

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|-------------|--|--------------------|------------------|---|--------------------------------------|--|
| 08-PA-1107 | ISD 775, Kerkhoven-Murdock Kerkhoven-Murdock Education Assn. | Fogelberg, J.C. | Prep time | Special Ed teacher lost prep time when given more students. | Denied | Contra proferentem-language construed against party drafting. |
| FMCS | Methodist Hospital Minnesota Nurses Association | Befort, Steven | Termination | Nurse failed to report medication error. | Denied | Error was concealed, which trumped no priors discipline. |
| None listed | Metropolitan Council Individual Grievant | Toenges, Roland | Termination V.P. | Accidents, rider complaints, poor judgment & absences from work, | Denied | Limits on acceptability of sub- standard performance. |
| 08-PA-0145 | Paynesville, City of (Interest Award) AFSCME Council 65 | Jacobs, Jeffrey | Interest | First contract, 2007-2009. Awarded mngmt rghts, OT, reduced retiree ins. | 2007-5.3% 2008-2.25% 2009-2.5% | 2007 schedule adjusted 5.3% vs. city offer of 1% - pattern for 08-09. |
| 08-PA-1081 | Stillwater, City of Operating Engineers Local 49 | Fields, Bernice | 3 day | Unable to answer call to plow snow - cited for insubordination. | Sustained | Contract did not have mandatory language. |
| 08-PN-0127 | Stillwater, City of (Interest Award) Law Enforcement Labor Services, Inc. | Bryant, Bernardine | Interest | 2007 - 1% above city's offer; 08 & 09 city pattern. | 2007-4% 2008-3% 2009-3% +.25% | Market 2007, pattern 08, 09. |
| 07-RA-0130 | Supervalu Teamsters Local 320 | McCoy, Arthur Ray | Termination | Violation of attendance policy - 11 unexcused absences. | Denied. | Union argued he was covered by the FMLA. |

September, 2008

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
|--------------|---|-------------------|---------------------------------|--|--------------------|--|
| FMCS | American Crystal Sugar Company Bakery Workers Local | Reynolds, James | 9 day | Insubordination for failing to turn off a tape recorder in a meeting as ordered | Denied | Arb did not reduce susp, because no claim it was excessive. |
| 08-PN-0349 | Becker County (Interest Award) Teamsters' Local 320 | Daly, Joseph | Interest | 24 hr funeral leave, longevity, shift diff increase-pattern; zipper clause-no. | 2008-3% 2009-3% | Pattern for 2008-2009.. |
| 08-PA-0614 | Corcoran, City of Teamsters Local 320 | Wallin, Gerald | 4 hr. suspension Assignments | Mishandled DUI. Removed from FTO and range officer assignments. | Denied | Removal from assignments is not considered discipline. |
| FMCS | DCI, Inc. Boilermakers Local Lodge 647 | Jacobs, Jeffrey | Termination | Interpretation of no fault attendance language-points that fall off after 1 yr. | 1 day susp. | Contra proferentem-lanugage construed against party drafting. |
| 07-PA-0857 | Dakota County Dakota County Comm. Corrections | Kircher, Andrea | Return from | Probation officer assigned to a different job upon return to work. | Denied | Employers failure to exercise a right not create a practice. |
| FMCS | Electrolux IAMAW District Lodge 165 | Bognanno, Mario | Safety Policy | Plant policy requiring safety sleeves and gloves to & from work stations. | Split | Some provisions unreasonable. |
| 08-PA-0275 | ISD 186, Pequot Lakes School Service Employees Local 284 | Wallin, Gerald | Substitute Empl. Benefits | Substitute employee worked full time for 1 year and is seeking benefits. | Denied | No contract language. Bar from negotiating for non-public employee. |
| 08-PA-0964 | Mille Lacs County AFSCME 65 | Jacobs, Jeffrey | Senior Qualified | New empl hired who knew software vs.senior employee who scored better. | Denied | Process reasonable and related. Contract requires relative ability. |

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|------------|---|---------------------|--------------------------|---|--------------------|--|
| 08-PN-1091 | Mound, City of (Interest Award) Law Enforcement Labor Services, Inc. | O'Toole, Carol Berg | Interest | U-4%+\$.75, 4%+\$.25; E-2.5%, 2,5% Insur: \$25, \$25-E. | 2008-3% 2009-3% | External avg. and city suggested it was reasonable. |
| FMCS | R. R. Donnelly & Sons Company GCC/IBT Local 1M | Gallagher, Thomas | Job Bidding | Temporary quality inspector position created, sought by laid-off proofreaders | Denied | Different duties-temporary position |
| 08-PA-0277 | Saint Cloud, City of AFSCME Council 65 | Wallin, Gerald | Civil Service Testing | Utilities maintenance mechanic job. | Denied | Civil service rules referenced in contract- mandatory v permissive. |
| FMCS | Sappi – Cloquet LLC United Steel Workers Local 11-63 | Frankman, Janice | Termination | Threatened and harassed co-worker refused to enter EAP-"fire me". | Denied | Thoroughly investigated, followed progressive discipline. |
| 08-PN-0547 | Scott County (Interest Award) Law Enforcement Labor Services, Inc. | Jacobs, Jeffrey | Interest | County changed salary matrix that had just been negotiated in 2007. | 2008-1% 2009-1% | Wages & other issues based on internal pattern. |
| 07-PA-0220 | Steele County Law Enforcement Labor Services, Inc. | Befort, Stephen | Termination | Deputy pulled out his penis. Hearsay and non appearance of complaining party discussed. | Denied | Off-duty conduct has a nexus to job as police officer. |

August, 2008

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
|--------------|---|-------------------|-------------------------------------|--|--------------|---|
| 08-PA-0724 | Blaine, City of Law Enforcement Labor Services, Inc. | Scoville, James | Termination | Officer took leave due to stress - failed fitness for duty recertification. | Sustained | Test flawed, must be given new test in order to return to work. |
| 07-PA-0990 | Brainerd, City of IBEW, Local 31 | Bognanno, Mario | 1 & 4 shift susp. | Firefighter rude & threatening to co-workers. | Denied. | 4 shift reduced to 3 shift. His wife calling should not be added to days. |
| 08 PA-0886 | ISD 138, North Branch Teamsters Local 320 | Latimer, George | Termination | School bus driver fainted - her CDL was revoked. She took medical leave after CDL reinstated she was fired. | Sustained | District can restrict her driving but must offer another job. |
| 08-PA-0562 | ISD 194, Lakeville Education Minnesota Lakeville | Gallagher, Thomas | Written | Student threw carrot in lunch room, teacher grabbed & turned his head. | Oral Reprmd | Infraction did not warrant jumping first step in grievance process. |
| 08-PA-0243 | ISD 316, Greenway-Coleraine Education Minnesota | Jacobs, Jeffrey | Sick buy back | \$5,000 available if family coverage is waived at retirement. | Sustained | Not necessary to have family coverage prior to retirement. |
| 08-PA-1013 | ISD 719, Prior Lake, Savage Prior Lake-Savage Education Assn. | Lundberg, James | 30 minute lunch | District counted 5 minute passing before & after 20 minute lunch. | Sustained | 5 minute passing time not duty free. |
| ??? | MN State Colleges & Universities Minnesota State College Faculty | Gallagher, Thomas | 5 day | College early childhood development coordinator entered into agrmnt with White Earth tribe for similar duties. | Denied | Conflict of interest, if in doubt she should have cleared it with her supervisor. |
| FMCS | Red Wing Shoe Company UFCW, Local 427 | Befort, Stephen | Mandatory OT (failure to offer). | Employee not notified of OT. Union wants pay without need to work OT. | Denied | Make up opportunity-appropriate remedy. |
| 08 PN 0912 | Richfield, City of (Interest Award) | Toenges, Rolland | Interest | City's pattern 3% Jan; .5% July. | 2008-3.6% | Internal & external averaged. .6% |

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|------------|---|-----------------|------------------------------------|--|---------------------|---|
| | Law Enforcement Labor Services, Inc. | | | Award 3% Jan; .6% Aug. | | in Aug.- same cost as .5% in July |
| 08 PA 0597 | Rochester, City of, Public Utilities IBEW, Local 949 | Imes, Sharon | Promotion to Shift Foreman | Relative ability clause. Junior ees promoted on two occasions. | Sustained | Plant manager bias. |
| 06-PA-1306 | St. Louis County Teamsters Local 320 | Befort, Stephen | Arbitrability Seniority Bidding | Class action grievance allowable? Eligibility definitions. | Sustained Denied | Representational role of Union. Past practice gives meaning to definitions. |
| FMCS | St. Paul Pioneer Press Newspaper Guild Local 37002 | Befort, Stephen | Health Insurance Eligibility. | New employee injured after 9 days. Insurance requires 90 days. | Denied | Definition of continuous service vs, continuous employment. |
| AAA | Xcel Energy Electrical Workers Local 160 | Daly, Joseph | Overtime | ER selected ee who lived closest to cite vs equal distribution requirement. | Sustained | ER claimed 1st responder exception, but none listed in contract. |

July, 2008

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
|--------------|--|--------------------|------------------------------|--|--|---|
| FMCS | Fairview Medical Center AFSCME, Minnesota Council 5 | Jacobs, Jeffrey | Reasonable Accommodations | Employer failed to accommodate disabilities & find suitable work. Job postings changed retroactively. | Split | Arbitrator refused to order an ADA type policy or where to place ee. Job postings must be accurate. |
| 08-PA-0278 | Hibbing Public Utilities Commission AFSCME, Council 65 | Jacobs, Jeffrey | Apprenticeship Standards | ER changed minimums for lineman. Contract requires negotiating Standards apprenticeship standards. | Denied | Management's right to establish minimum requirements for entry. |
| 08-RA-0745 | Human Development Center AFSCME, Minnesota Council 5 | Bognanno, Mario | Termination | Rude and disrespectful behavior towards supervisors. | Denied. | Progressive discipline and due process followed. |
| 08-PA-1150 | ISD 2534, Bird Island-Lake Lillian Minnesota School Employees | Bryant, Bernardine | Longevity Increases | New contract; 3% longevity each yr, does it compound? - No. | Denied | Contract ambiguity should be construed against drafting party. |
| None listed | Minneapolis, City of IBEW, Local 292 | Befort, Stephen | Termination | Electrician with bad back discharged due to inability to lift over 50 pounds. | Denied | ADA accommodation required only if injury limits a major life activity. |
| 08-PN-0114 | Minnesota, State of (Interest Award) Minnesota Nurses Association | Miller, Richard J. | Interest | Union seeking 10%, 10%; shift dif. from \$.65 to \$.70-e; mandatory OT-u; attach MOAs to contract-u; on-call-u. vacation accrual new hires-u. | 2007-3.25% 2008-3.25% | Budget constraints & internal pattern. |
| FMCS | Northern Management Corporation Bakery Workers, Local 22 | Jacobs, Jeffrey | Severance Pay | Should time with previous owner be used to calculate severance. | Sustained | Contract language rather than impact. |
| 08-RA-0575 | Rainbow Foods, Inc. UFCW Local 653 | Gallagher, Thomas | Termination | Grievant claimed his pay check was short 2 hours - video rebutted claim. | Sustained | No fraudulent intent. Only 75% back pay - ee to blame for claim. |
| 08 PN 0862 | Traverse County (Interest Award) Traverse Cty Highway Employee | Toenges, Rolland | Interest | Non-essential, agreed to final offer arbitration. Dispute re mkt adj. Co. 3 yr w mrkt adj 2008; Union 1 yr-4%. | 2008-mkt adj 2009-3.15% 2010-3.25% | County position. Union was less expensive for 2008, but County was consistent w internal pattern. |

June, 2008

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
|--------------|---|--|------------------------------|--|-------------------------------------|---|
| FMCS | Aggregate Industries Operating Engineers, Local 49 | McCoy, Arthur Ray | Termination | False time card. Claimed he was at training but did not attend. | Denied. | There was progressive discipline, act was intentional. |
| 07-PN-1013 | Anoka County (Interest Award) Law Enforcement Labor Services, Inc. | Fogelberg, J.C | Interest | 2 yrs.-u; Wages 2%, 2%-e;Perf pay 2%,2%-e; PP eff Jan-u; spec pay-no; | 2007-2% 2008-2% | Investigative Unit, award matches other internal LELS units. |
| FMCS | Interplastic Corporation United Steelworkers, Local 11-409 | Flagler, John | Termination | Attendance and performance. | Denied | Arbitrator used seven steps to just cause approach in his analysis. |
| 08-PA-0952 | Martin County - Step Adjustment AFSCME, Council 65 | Jacobs, Jeffrey | Step Adjustment | 15 step pay schedule, but requires board approval beyond step 12. | Denied | Contract must be applied in accordance with its terms despite the equities. |
| 08-PA-1211 | Martin County - Part Time AFSCME, Council 65 | Jacobs, Jeffrey | Part Time Merit Increases | Contract-eligible employees receive a step increase on Jan.1. County held PT increases until 2080 hrs. earned. | Sustained. | PT eligible on Jan 1 regardless of hours, but arb cannot order step - they are subject to board approval. |
| 08-PA-0901 | Metropolitan Council Amalgamated Transit, Local 1005 | Befort, Stephen | Termination | Disciplined numerous times-triggering event - late start when bus didn't start | Sustained. | Named event did not merit term. Reinstated w/o backpay (8 mos.). Placed on "last chance". |
| 08-PA-0900 | Metropolitan Council Amalgamated Transit, Local 1005 | Jacobs, Jeffrey | Last Chance Agreement. | Terminated for exceeding 5 absences in a rolling year. | Denied | Very specific Last Change Agreement. |
| None listed | Minnesota, State of Minnesota Assn of Professional Empls. | Jacobs, Jeffrey | Extension of Medical Leave | Job related injury; seeking extension of one year medical leave. | Denied. | State was granted full discretion in contract re extension of leave. |
| None listed | Minnesota State Colleges & Inter-Faculty Organization | Gallagher, Thomas | Meet & Confer | Union not allowed to appoint reps to assistant V.P. selection committee. | Sustained | Analysis of Meet & Confer. Ok to exclude fair share frm rep duties. |
| 08-PA-0790 | MN, Department of Transportation Minnesota Government Engineers | Lundberg, James | Termination | Computer tech filled out timesheet claimed 10 hr days - only wrkd 7 hrs. | Denied. | State documented 67 claimed, but unworked hours. |
| 07-HIN-1058 | Monticello-Big Lake Community Minnesota Nurses Association | Miller, Richard J. Tripartite Panel | Interest | Wages-u; Differentials-u; Diff retro-er; Weekend defined-er; STO/STC-er; 1 hr pay to meet new members-u; 457 plan-er; Provisional hires-er | 2007 - 4% 2008 - 4% 2009 - 3% | Wages & differentials - external market. Status quo on most language items. |
| FMCS | Polar Tank Trailer, LLC IAM&AW, District Lodge 165 | Kapsch, Frank | Termination | Welder threw washers at co-worker. Bad attitude. | Denied | Progressive discipline. |
| FMCS | Prospect Foundry GMP Local 63B | McCoy, Arthur Ray | Termination | Foundry worker fell asleep under a while zero tolerance policy. | Sustained | Rules warn of discipline up to & including termination - inadequate notice for zero tolerance. |

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|------------|--|--------------------|--------------------|---|--------------------|---|
| 08-PN-0187 | St. James, City of Law Enforcement Labor Services, Inc. | Latimer, George | Interest | Wages: City \$.66 across the board both year = to 3%, u 08-7%, 09-4%. Comp incr: no-e; Insurance change % to fixed \$: no-u; Sick leave change: no - union position. | 2008-5% 2009-4% | External market, CPI & \$.66/hour = 4% for other city employees. |
| FMCS | 3M Company USW, Local 11-75 | Jacobowski, Daniel | Subcontracted Work | Safety inspections subcontracted out at Maplewood plant. | Sustained | Inspections done by Union at St. Paul plant until it closed-union wk. |
| 04-PA-1416 | University of Minnesota AFSCME Minnesota Council 5 | McCoy, Arthur Ray | Lay Off | Sr word processing specialist laid off due to budget. Questions re process. | Denied | Budget & obsolete title supported move. U failed to propose options. |

May, 2008

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
|--------------|--|---------------------|--------------------------------|--|-----------------|---|
| 07-PA-0931 | ISD 11, Anoka-Hennepin Anoka-Hennepin Education Minnesota | Gallagher, Thomas | Staff | Pay for training that extends beyond regular school day. | Sustained | Specific language prevails over general language. |
| 07-PA-0711 | Lakeville, City of Law Enforcement Labor Services, Inc. | Yaeger, Thomas | Combining ECC Severance Pay | Dispatchers merged into Dakota Co. seeking sick leave severance. | Denied | Rollover of accrued leave was negotiated. |
| 08-PA-0312 | Minnesota, State of, Department of AFSCME, Minnesota Council 5 | Bognanno, Mario | Shift Exchange | Can employer define reasonable basis | Denied | Employer can establish work rules but decided case by case. |
| 08-VP-0612 | Minnesota, State of, Department of Individual Grievant | VerPloeg, Christine | Termination | Violation of travel and cell phone policies. | Denied | Although no prior discipline, she was a high level manager. |
| 08-PA-0650 | Minnesota, State of, Department of Minnesota Government Engineers | Flagler, John | Over Time for | Allowed to take off hours worked over | Denied | No violation of contract or FLSA. |
| FMCS | Pan-O-Gold Baking Company Teamsters, Local 289 | Befort, Stephen | Unit Work | Part-time non-union employees stocking shelves. | Denied | Practice in place for over 20 yrs. |
| 07-PN-0791 | Red Wing, City of (Interest Award) Teamsters, Local 320 | Laitmer, George | Interest | New pay scale; Sgts placed in step above current pay, seeking same placement as Fire Captains. | City's position | Capt's base higher since 1999 due to OT exempt status. Reversing would abrogate negotiations. |
| 07-PA-0461 | St. Cloud, City of Law Enforcement Labor Services, Inc. | Bognanno, Mario | Holiday Premium Pay | Should Labor day 12 hour shifts be paid OT in addition to holiday pay? | Sustained | No bar to pyramiding in contract. |
| FMCS | Weyerhaeuser Company UFCW, Local 9 | Befort, Stephen | Termination | Employee fired when cardboard bailing machine jammed. | Sustained | Lack of investigation. Ee was on different assignment that day. |

April, 2008

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
|--------------|--|-------------------|--------------|--|--------------|---|
| FMCS | Aggregate Industries Teamsters, Local 120 | Toenges, Rolland | Work Rules | Must employer negotiate work rules more restrictive than existing rules? | Sustained | Must negotiate due to contract protection vs more restrictive rules |

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|-------------|---|--------------------|---------------------------------|---|----------------------|--|
| None listed | Consolidated Telephone Company Communication Workers,Dst 7, Local 7212 | Jacobs, Jeffrey | Termination | Confrontational at an ee meeting & previously counseled on behavior. | Sustained | Prior discipl. may never be used to determine if grievant is guilty. |
| 07-PN-1174 | Freeborn County (Interest Award) Law Enforcement Labor Services, Inc. | Kapsch, Frank | Interest | Wage reopener for 2007; u-3.5%, c-2.5% | 2007-2.5% | Internal pattern and consistent with cost of living. |
| 08-PA-0857 | ISD 482, Little Falls Minnesota School Employees | Bryant, Bernardine | Uniform Change | District historically required uniform color. Change to uniform style shirt. | Denied | Clear & unambiguous language. Not bound by practice. |
| 07-PA-1072 | ISD 2859, Glencoe-Silver Lake School Service Employees, Local 284 | Anderson, Richard | Subcontracting | Challenge to subcontracting bus operations. | Denied | Arbitrator lacks jurisdiction to resolve issues raised. |
| 07-PA-1071 | ISD 2859, Glencoe-Silver Lake School Service Employees, Local 284 | Jacobowski, Daniel | Termination vs. Resignation. | Bus driver's vacation denied, taken anyway - said it was his last day. | Denied | Not terminated, he quit his job. |
| None listed | Minneapolis, City of Police Officers' Federation of | Gallagher, Thomas | Out of Title Pay | Sergeant claimed she was doing lieutenants work. | Denied | Contract requires doing 40% of work for 5 consecutive days. |
| 07-PA-0900 | Minnesota, State of, Department of AFSCME, Minnesota Council 5 | Holmes, Barbara | Termination | LPN deviated from treatment plan for a | Denied. | Cannot substitute judgment for the plan and did not admit error. |
| None listed | Minnesota, State of, Department of AFSCME, Minnesota Council 5 | Befort, Stephen | Out of Class Pay | Firefighter assigned 2nd seat which is | Denied | Did not substantially perform all of the |
| 09-PA-0064 | Minnesota, State of, Tenth Judicial AFSCME Minnesota Council 5 | Miller, Richard J. | Termination Timeliness | Judicial clerk made numerous errors in Request for arbitration was late. | Denied Arbitrable | Egregious conduct does not require Lax enforcement practice. |
| FMCS | Park Nicollet Hospital, Inc. SEIU Local 113 | Gallagher, Thomas | Work Plan | Nursing asst. got DUI and was forced to agree to a return to work plan. | Sustained | Considered discipline and no just cause demonstrated need for it. |
| FMCS | Progress Castings Group, Inc. Glass Molders Pottery Plastic Wrks 63B | Jacobs, Jeffrey | Termination | Factory wrkr asked to fill time card accurately-got into shouting match. | 30 day susp. | Could not prove he pushed sprvsr. Suprvs also at fault, losing temper |

March, 2008

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
|------------|---|---------------------|------------------|---|-----------|--|
| 07-PA-1179 | Apple Valley-Lakeville-Farmington (ALF) AFSCME Minnesota Council 5 | J Gallagher, Thomas | 160 hr. susp. | Medic declined 911 call & told clinic to call | Denied | Advised not to leave area due to to make 1st hand evaluation. |
| FMCS | Ely Bloomingson Community Hospital ASFCME, Council 65 | Orman, Tony | Termination | Exhausted Family Med Leave, offered extended med leave if documented | Denied | Failed to provide documentation required by last chance agreement |
| 08-RA-0368 | Fairview Range Regional Health AFSCME, Council 65 | Jacobs, Jeffrey | Termination | Cook accused of stealing 2 chicken | Denied | Theft is an offense justifying termination even for a relatively small amount |
| 08-PA-0423 | ISD 77, Mankato | Jacobs, Jeffrey | Out of Title Pay | Para w LPN license assgn LPN wrk. | Sustained | Pay at higher rate for all hours. |

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| | Minnesota School Employees | | Timeliness | U argued clock starts when Union discovers violation, not employee. | Denied | Starts when ee discovers. On-going, backpay starts at filing . |
| 08 PN 0262 | ISD 241, Albert Lea (Interest Award) Albert Lea Education Association | Toenges, Rolland | Interest | D - 2%,2%; U - 2.3%, 2.4%. | 2008-2% 2009-2% | Total package. District's position based on internal pattern. |
| 03-PA-0652 | ISD 728, Elk River School Service Employees, Local 284 | Remington, John | Elimination of Bus Service | 2004 arb ruled district failed to neg in good faith re subcontracting. Dispute regarding remedy. | Sustained | Backpay improperly deducted workers compensation. District not required to reinstate as drivers |
| FMCS | Jefferson Lines Amalgamated Transit Union Local 1498 | Gallagher, Thomas | Termination | Driver left w/o checking to see if there were any passengers. | Denied | U acknowledged ground for discl. argued for reversal for failure to put charges in writing. |
| FMCS | U.S. Department of Veterans Affairs American Federation of Gov't | Frankman, Janice | Termination | Failure to immediately respond to a call and sleeping on duty. | Denied | Respiratory Therapist responsible for patient safety. |
| 07-PA-0380 | University of Minnesota AFSCME, Minnesota Council 5 | Holmes, Barbara | Termination | Survey interviewer accused of falsifying report. | 3 day susp. | Could not establish intent, only proved mistakes were made. |

February, 2008

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
|--------------|---|-------------------|----------------------------------|--|-------------------------------|--|
| FMCS | Abbott Northwestern Hospital SEIU, Local 113 | Jacobs, Jeffrey | Written Warning | Attendance - 7th violation of policy. | Denied | Union asked for an oral; overall record supports discipline. |
| | | | Final Warning | Head on desk sleeping, in an office not designated for breaks. | Sustained | Stretching injured back - not sleeping sleeping. Lax enforcement of rule on using office for breaks. |
| 07-PA-1026 | Anoka County Education Minnesota Anoka County | Gallagher, Thomas | Failure to Post for Positions | Co. failed to post for para positions. | Denied | Contract requirement written prior to para's being added to unit. |
| 07 PN 0285 | Bemidji, City of (Interest Award) Law Enforcement Labor Services, Inc. | Toenges, Rolland | Interest | Duration: 3yrs (u-2y, e-3y); W.3%/yr. (u-5.5%, e-3%); Insur: internal patrn. (u position, e offered less due to u moving to PIEP). | 2007-3% 2008-3% 2009-3% | Duration, wages and insur based on internal pattern. Shift diff incr \$.5 in 08 & 09. 1 yr bar to discl. invest removed. |
| FMCS | Children's Hospitals and Clinics SEIU Local 113 | Gallagher, Thomas | Change in Work Rules | Stopped practice of checking out 1 to 7 minutes early - arb said no. | Sustained | Protected by a Maintenance of Benefits article for contract duration |
| 07-PA-1127 | Hastings, City of Law Enforcement Labor Services, Inc. | Frankman, Janice | Termination | Officer pursued drunken man running from him and hit him with squad car. | 30 day susp. | Faulty investigation, failure to prove charges. |
| FMCS | Hickory Tech Corporation IBEW Local 949 | Jacobs, Jeffrey | Overtime | Can employer change one day of a shift w/o incurring OT? | Denied | Even if employer always changed a whole week in past - not limited. |

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|------------|---|--------------------|---|---|-------------------------|--|
| 07-PA-0726 | Metropolitan Council/Met Transit Amalgamated Transit Union Local 1005 | Miller, Richard J. | Bargaining Unit Work | Payroll work transferred from ATU to St. Paul AFSCME employees | Sustained | Efficiency does not trump contract language. ATU retains work. |
| RCDC | Metropolitan Council/Met Transit Amalgamated Transit Union Local 1005 | Ramsey County | Arbitration Award | BMS ruled payroll wrk was AFSCME. | Vacated -Arb | BMS representation ruling trumps |
| Court of | Metropolitan Council/Met Transit (Court Amalgamated Transit, Local 1005 | State of Minnesota | District Court | ATU Union challenged District Court | Reversed and | BMS ruling not in conflict, contract |
| 08-RA-0067 | Northern Communities Credit Union AFSCME, Minnesota Council 65 | Jacobs, Jeffrey | Pay for Severe Weather | Paid if open, then sent home, Were sent home upon arrival & not paid. | Sustained | Memo - would open if buses ran. Failed to notify they were closed. |
| FMCS | Progress Castings Group, Inc Glass Molders Pottery Plastic Wrks | Jacobs, Jeffrey | Elimination of 10 hour shifts. Timeliness | Contract states shift are 8 or 10 hrs. Grievance not filed when policy posted. | Sustained Arbitrable | Specific language trumps the general. Can be filed immediately or upon implementation. |
| 05-PA-0532 | SSD 1, Minneapolis Education Minnesota | Toenges, Rolland | Continuing Pay Pending Appeal of Lay Off. | Are teachers entitled to be paid under M.S.21A.41 pending recall or final Board Action? | Denied | Issue alleges violation of statue - not grievable. |
| 07-PA-0044 | Wright County Law Enforcement Labor Services, Inc. | Neigh, Charlotte | Termination | Off-duty deputy served underage girls alcohol. Tried, found not guilty. | Denied | Failure to stop illegal activity sufficient just cause. |

January, 2008

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
|--------------|--|-------------------|----------------------------|--|----------------------------|--|
| FMCS | Ainsworth Engineered United Steelworkers of Amer, Local | Bognanno, Mario | Outside Contracting | Plant is shut down. Sub contracted work vs. calling laid-off workers. | Sustained | Not an emergency exception. Failed to even call a laid-off worker. |
| FMCS | Ainsworth Engineered United Steelworkers of Amer, Local | Flagler, John | Supervisor doing Unit Work | Supervisors doing work considered common sense efficiency | Remanded for Vol. Resolutn | De minimus wrk to avoid delays in work don't qualify for wage remedy |
| FMCS | Ainsworth Engineered United Steelworkers of Amer, Local | Reynolds, James | Recall from Recall | Can senior employees decline recall? Union wants phone call in addition to certified mail - no mail sufficient. | Sustained. Denied | Can decline temporary or partial recall - not permanent recall.. No contract prohibition, mail creates paper trail. |
| 07-PN-0910 | Anoka County (Interest Award) Law Enforcement Labor Services, Inc. | Kapsch, Frank | Interest | Wages: 2%, 2% - e (u-5%, 5%); change Retiree Ins-no-u. | 2007-2% 2008-2% | Wages internal pattern. Retiree Insurance awarded in arbitration. |
| 08-PA-0053 | Hibbing, City of International Assn of Firefighters 173 | Kapsch, Frank | Call Back | Chief change practice of releasing called back firefighters immediately/ | Denied | Union claimed 20 yr practice, but contract language is clear. |
| FMCS | Honeywell International, Inc. Teamsters, Local 1145 | Toenges, Rolland | Termination | Failed to attend fitness for duty exam leading to violation of time and attendance policy. | Denied | Won Worker's Comp appeal 1 yr after termination - just cause determined by facts known at time |

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|-------------|--|-------------------|-----------------------------|---|------------------------|---|
| 08-PA-0082 | ISD 94, Cloquet AFSCME Council 65 | Gallagher, Thomas | Bumping Rights | Union claims bumping rights if a position or assignment is eliminated. | Denied | Contract right to assign continues even if bumping allowed in past. |
| 07-PA-1203 | ISD 319, Nashwauk-Keewatin Education Minnesota, Local 1444 | Bognanno, Mario | Retiree Health Benefits | Retiree with 2 yrs sought insurance. District seeking definition in new contract is not dispositive. | Denied | Past practice gives meaning to definition of eligible retiree. |
| 08-PA-0052 | LaCrescent, City of IUOE, Local 49 | Daly, Joseph | Recall Rights | Was golf course employee laid off or terminated each year? | Sustained | Laid off - duties not description determined recall rights. |
| None listed | MN State Colleges and Universities Inter Faculty Organization | Befort, Stephen | Tuition Waiver | Does waiver apply to new high cost doctoral program created mid contract. | Sustained | Economic need does not provide a basis for repudiating contract. |
| None listed | MN State Colleges and Universities Minnesota State College Faculty | Befort, Stephen | Tuition Waiver | Tech & community college faculty. Same issue as above | Sustained | Same award as above. |
| 08-PA-0157 | Mower County UFCW, Local 9 | Anderson, Richard | Short Term Disability Leave | Grievant failed to comply with policy requirements. | Denied | Contract references policy - policy determinative. |
| 07-PA-1041 | Northfield, City of IUOE, Local 70 | Daly, Joseph | Continuing Contract | Contract expired Dec 2005, New pay study called for reductions. Union would not negotiate new contract. | Sustained | Continuing contract statue. Steps & COLAs awarded for 2006 2007 and 2008. |
| 07-PA-0903 | Redwood County - Payscales Law Enforcement Labor Services, Inc. | Scoville, James | Pay Scales vs. Steps | Salary increases occur on anniver, so new schedule not used until anniver. | Sustained | Contract refers to step movement not schedule implementation. |
| 07-PA-0540 | Redwood County - Uniform Allowance Law Enforcement Labor Services, Inc. | Scoville, James | Uniform Allowance | How retroactive uniform increase was handled. | Denied | Union sought cash payout, but contract has voucher system. |
| 06-PN-0946 | St. Louis County (Interest Award) Law Enforcement Labor Services, Inc. | Remington, John | Interest | Union 5%, 5%; County 2%, 2% On call-no; Sick leave def of child-yes | 2006-2.5% 2007-2.5% | Wages exceed 2% pattern - based on CPI & externals. |
| 07-PA-506 | University of Minnesota AFSCME, Minnesota Council 5 | Jacobs, Jeffrey | Termination | Created a fraudulent parking card for her boyfriend. Lied at hearing. | 6 mo. Susp. | Depts lax enforcement of rules. Returned to work with no backpay. |
| 07-PA-0879 | University of Minnesota, Crookston University Education Association | Moeller, Lon | Merit Increase | Increase was a fixed dollar amount rather than a percentage of base. | Sustained. | Past practice - percentage incr. |
| FMCS | University of St. Thomas Teamsters, Local 120 | Jacobs, Jeffrey | Termination | Punching timecards for her children. | Sustained. | Weingarten violation and children claimed they committed fraud. |
| FMCS | University of St. Thomas Teamsters, Local 120 | Jacobs, Jeffrey | Back Pay | Does make whole remedy require pay for OT not worked? | Denied. | Voluntary OT is different than mandatory OT. |
| 07-PN-1161 | Wayzata, City of (Interest Award) Law Enforcement Labor Services, Inc. | Gallagher, Thomas | Interest | County 3%, 3%; Union 4%, 4%. Reduce IOD-no; FTO-no; Tuition -no. | 2007-3.3% 2008-3.4% | Wages - external average. |
| 07-PN-0602 | Wilkin County (Interest Award) Teamsters, Local 320 | Powers, Nancy | Interest | County 3%, 3%; Union 5%, 5%. Union, comp time carry over - no. | 2007-3% 2008-3% | Wages - internal pattern. |

2009 Arbitration Awards - Minnesota B.M.S.

Summary of Arbitration Awards listed on the Bureau of Mediation Services' web site (<http://www.mn.gov/bms/arbitration/awards/>).
 "Sustained" means the grievance prevails overturning the original action. "Denied" means the original action prevails.

December, 2009

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
|-------------|---|-------------------|---------------------------------------|--|------------------|--|
| FMCS | CUB Foods United Food & Commercial Wrkrs 789 | Daly, Joseph | Unit Work | Store manager cut meat. Contract clauses are in conflict. | Sustained | Specific vs. general language. |
| 09-PA-0945 | Dakota County Teamsters Local 160 | Jacobs, Jeffrey | Termination | Created hostile work environment. | Sustained | Lack of notice. Discrepancy of witness statements. |
| None Listed | Hennepin County Hennepin Cty Sheriffs Deputies Assn | Befort, Stephen | Premium Pay | 6/3 schedule required 1.5% premium. Schedule changed - premium ended. | Denied | Contract language specified 6/3. |
| 09-PA-1051 | Hennepin County Medical Center Hennepin County Assn of Paramedics | Gallagher, Thomas | 5 day susp. | Paramedic referred to patient as a crazy bitch. | 3 day susp. | Based on similar discp. Admin pay does not have to include premium. |
| FMCS | Honeywell Teamsters Local 1145 | Jacobs, Jeffrey | Termination | Unexcused absences. | Denied | No fault policy in contract that calls for termination after 60 hours. |
| None listed | Minneapolis, City of Police Officers Federation of | Reynolds, James | Termination | Domestic abuse - wife obtained restraining order against police officer | Denied | Sustained pattern of abuse toward women in his life. |
| FMCS | US Dept of Justice, Federal Bureau of Council of Prisons, American Fed. of | Daly, Joseph | Assignment of OT; Detail needed in | OT in prison factory denied to Union in Employer challenged lack of detail. | Denied Denied | Based on qualifications. Article violated and basic nature is |
| 09-PA-0178 | Winona, City of Law Enforcement Labor Services, Inc. | Fields, Bernice | Shift Differential | Should officers called in to work shift receive differential + overtime. | Sustained | Contract does not bar payment. |
| 09-PA-0933 | Wright County AFSCME Minnesota Council 65 | Jacobs, Jeffrey | Probationary Employee? | County argued 6 mo probation = 1 yr for part-time per past practice. | Sustained | Practice not clearly articulated. Good discussion on past practice. |

November, 2009

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
|------------|--|-------------------|-------------|--|-----------|--|
| 09-PA-0991 | Cloquet, City of Teamsters Local 346 | Kircher, Andrea | Termination | Police investigator started dating girlfriend of suspect he was investigating. | Sustained | Double jeopardy, he was reduced to patrol officer 16 mos. earlier. |
| FMCS | Grand Itasca Clinic and Hospital Minnesota Nurses Association | Gallagher, Thomas | Termination | Nurse failed to fill out reporting off duty form and discourteous behavior. | 35 days | Nurse left w/o filling form, but had talked to other nurses re patient. |
| 09-PA-0561 | ISD 186, Pequot Lakes School Service Employees 284 | Jacobs, Jeffrey | Termination | Comptr Tech hrs cut 50% & other duties added. Grievant did not report. | Denied | Grievant considered this a layoff & did not report-"do work,then grieve" |
| 09-PA-0919 | ISD 2860, Blue Earth Blue Earth Area Education Assoc. | Anderson, Richard | Sick Leave | Teacher wished to use sick leave to be with husband in hospital. | Denied | Sick is for employee and or child. |

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|-------------|---|------------------|-------------------------|---|-----------|--|
| None listed | Minneapolis, City of Police Officers Federation of | Fogelberg, J.C. | Working out of Class | Union filed grievance on behalf of 3 members working out of class, 2 as | Denied | Procedurally flawed. Union was the grievant. Contract states ee must |
| 07-PA-0439 | Jordan, City of Law Enforcement Labor Services, Inc. | Lundberg, James | Termination | Police officer accused of improperly touching an unlicensed female driver. | Denied | Credibility at issue. Failed to document stop. Found not guilty in court. |
| 09-RA-1128 | People's Cooperative Power Services of IBEW 949 | Jensen, Eugene | Bargaining unit | Purchasing agent was given superv. | Sustained | Majority of duties did not change. Duties |
| FMCS | Vanguard Car Rental USA, Inc. Teamsters Local 926 | Frankman, Janice | Termination | Hostile work environment - swearing, abusive language | Denied | Discipline does not require specific policy re abusive behavior |

| October, 2009 | | | | | | |
|----------------------|---|---------------------|-----------------|---|--------------|---|
| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
| 10-PA-0107 | Andover, City of Teamsters Local 320 | Jacobs, Jeffrey | Layoff | Street dept maintenance worker laid off instead of junior park or utility worker. | Sustained | Contract calls for title seniority, not department seniority. |
| 09-PA-0415 | Benton County Law Enforcement Labor Services, Inc. | Befort, Stephen | Time line | Arbitrability of 1 day suspension due to exceeding time line. | Denied | Contract calls for selecting Arb. In 90 days - over 90 not arbitrable. |
| FMCS | Jefferson Lines ATU Local 1498 | Flagler, John | Termination | 3 accidents; failed to pick up at stops, tried to negotiate kickback with restaurant | | Short term employee; cavalier attitude towards rules. |
| 09-PA-1019 | Metropolitan Council Pipefitters Local 455 | Jacobs, Jeffrey | Reducing Hours | Pipefitters required to take off 1 day per pay period. | Denied | No guarantee of hours. Employer can manage its budget. |
| 09-PA-0461 | Minnesota, State of, Moose Lake AFSCME Minnesota Council 5 | Jacobs, Jeffrey | 5 & 7 day susp. | Clerical performance issues. | Sustained | 5 day susp reduced to 3; 7 day overturned; given another state job. |
| ??? | Minnesota, State of Individual Grievant | Befort, Stephen | Termination | DNR employee's work as chair for a & State DNR. | Sustained | Ultimate decisions were made by her |
| FMCS | Nilfisk-Advance, Inc. IAMAW District Lodge 77 | Gallagher, Thomas | Termination | Grievant stole pain pill from co-worker. | Denied | Work rules call for discharge. Not interviewing grievant not critical. |
| 09-PA-0836 | Oakdale, City of Law Enforcement Labor Services, Inc. | Orman, Anthony | Termination | Accused of lying about improperly filled out auto theft report. | 40 hr susp. | Sgts testimony questioned due to past conflicts with grievant. |
| 10-PA-0024 | Ramsey County AFSCME MN Council 5 | O'Toole, Carol Berg | Termination | Nursing assistant abused Alzheimer's patient by twisting hand & pushing. | Denied | Serious offense. A long time empl. with no previous discipline. |
| 09-PA-0588 | Roseua County Law Enforcement Labor Services, Inc. | Yaeger, Thomas | Termination | Deputy Sergeant's excessive force, & sexual harassment. | Denied | Force not excessive, but caught in numerous lies. |

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|------------------------|---|--------------------|----------------------------|---|-----------------------------|--|
| 09-PA-0528 | Watonwan County AFSCME Council 65 | Remington, John | Termination | Light equipment operator lost license due to 2nd DUI. | Denied | Job requires CDL. |
| FMCS | Xcel Energy IBEW Locals, 23, 160, 949, 953, 1426 | Anderson, Richard | Subcontracting | Meter readers in rural areas worked subcontract on piecemeal rate. | Sustained | Must hire as temporary employees and pay back pay. |
| September, 2009 | | | | | | |
| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
| 09-RA-0636 | Homeward Bound, Inc. AFSCME Council 65 | Anderson, Richard | Termination | Staff person at care facility caught sleeping. | Denied | Zero tolerance for sleeping. 25 fired in past. |
| 09-PA-0165 | ISD 191, Burnsville Service Employees, #284 | Jacobs, Jeffrey | Seniority | Junior employee selected to work as a summer cook. | Denied | Seniority only has to be considered as one of many factors. |
| 09-PA-0174 | ISD 316, Coleraine AFSCME Council 65 | Fogelberg, J.C. | Longevity Pay | Are longevity steps compounded? | Sustained | Contract, Union testimony and negotiation notes support award. |
| 09-PA-0527 | ISD 861, Winona Winona Education Association | Martin, William | Staff Development | Principal denied 2 of 4 teachers request for a conference | Denied | Contract & Statutory Staff Devlpmt lost to management rights. |
| 09-PA-0006 | Lincoln, Lyon, Murray Counties Human AFSCME Council 65 | Imes, Sharon | 5 day susp. Termination | Insubordination Violated last chance agreement. | Sustained Sustained | Due process rights violated. Due process rights violated. |
| 09-PA-1066 | Metropolitan Council Amalgamated Transit Union #1005 | Befort, Steven | Termination | Last chance agreement. Driver used snow scraper to chase rider. | 10 day susp | LCA covered different situation. New LCA ordered. |
| 09-PA-0951 | Metropolitan Council dba Metro Transit Amalgamated Transit Union #1005 | Anderson, Richard | Record of Warning | An accident after 3 warning is grounds for termination. Had 2 priors. | Denied | Bus spun out, while turning in a snow covered parking lot. |
| 08-PA-0766 | Metropolitan Council d/b/a Metro Transit Law Enforcement Labor Services, Inc. | Anderson, Richard | Termination | Part-time officer missed mandatory training without an excuse. | Sustained | Suspended from 11/07 until spring 2008 training. Back pay forward. |
| 09-PN-0698 | Minnetonka, City of Clarification of Award Law Enforcement Labor Services, Inc. | Gallagher, Thomas | Interest | Union asked for 2009-2.75%, 2010-1%; City offered 1%, 1%. | 2009 - 2.75% 2010 - 1.0% | Internal pattern. |
| FMCS | Robbinsdale Rehabilitation&Care Clinic, Service Employees Healthcare #113 | Gallagher, Thomas | Timelines | Arbitrability in termination case | Denied | Notification of steward same as notifying |
| 09-PA-0748 | Steele County Law Enforcement Labor Services, Inc. | McGilligan, Dennis | Termination | Corrections deputy lied in hearings to protect a fellow deputy. | Denied | Seriousness of main charge in spite of lack of prior discipline. |
| FMCS | Upper River Services, Inc. IUOE Local 49 | Bognanno, Mario | Termination | Barge worker on winter layoff failed drug test & wasn't called back. | Sustained | Laid off worker is an employee & protected by MN drug statue. |

| August, 2009 | | | | | | |
|---------------------|--|-----------------------|-------------------|--|--------------|---|
| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
| 08-PA-1183 | Benton County AFSCME Council 65 | Jacobs, Jeffrey | Work Schedule | Employer changed schedule raising issues of flexing, vacation & seniority. | Denied | Management rights. |
| 09-PN-0540 | Crookston, City of Law Enforcement Labor Services, Inc. | McGilligan, Dennis | Interest | Only issue, wages for 2009. Union asked for 4%, City offered 0%. | 2009 - 2.75% | Internal pattern. City wanted to deviate frm pattern due to economy. |
| FMCS | Hertz Corporation Teamsters Local 974 | Daly, Joseph | Termination | Employee left work early without seeking management approval | Denied | Testimony deemed untruthful. Poor work record. |
| FMCS | Honeywell, Inc. Teamsters Local 1145 | Daly, Joseph | Termination | Falsifying time clock records. Punching in then leaving work. | 2 yr. susp. | Lack of progressive discipline & personal crisis. |
| 09-TL-12 | ISD 191, Burnsville Individual Grievant | VerPloeg, Christine | Termination | Principal had kindergarten child who plugged toilet, remove paper towels. | 15 day susp. | Remediability standard. |
| 09-PA-0214 | ISD 656, Faribault (Award) | Paull, David | Job Consolidation | Union clerical duties moved to a confidential employee. | Sustained | Majority of duties were clerical. |
| Dist. Ct. | District Court Decision (Faribault Arb.) | 3rd Judicial District | Vacating Award | School District asked court to overturn arbitration. | Vacated | Not a grievance-no ee injured. Not arbitrable-management right. |
| Appeals Ct. | Court of Appeals Decision (Upholding Operating Engineers Local 70 | Court of Appeals | Arbitrator | District Ct vacated award. Union | Denied | Reorganization vs sub-contracting. |
| 09-TD-14 | ISD 742, St. Cloud Individual Grievant | VerPloeg, Christine | Termination | Abuse of sick leave and falsifying duty day hours. | Denied | Violations sufficiently serious as not to require progressive discipline. |
| 09-PA-0844 | Metro Transit Amalgamated Transit Union Local 1005 | Toenges, Rolland | 20 day susp. | Bus driver at layover stop refused to let passengers on - below 0 temp. | 10 day susp. | 20 days excessive compared to other passenger boarding incidents. |
| None listed | Minnesota State Colleges & Universities MN Colleges Faculty Association | Befort, Stephen | Layoffs | Layoff of 3 cosmetology teachers. Laid-off, hired as temporary, then LO | Sustained | Manipulation of contract language. |
| ??? | Minnesota, State of, Department of AFSCME Minnesota Council 5 | Miller, Richard J. | Termination | DL required for job, lost license due to | Denied | Third DWI. |
| 09-PA-0801 | Ramsey County Teamsters Local 320 | Jacobs, Jeffrey | Assigning OT | Grievant not guaranteed OT would be in control room per 2007 MOA. | Sustained | County gave up its right in MOA. |
| 09-PA-0140 | University of Minnesota AFSCME Minnesota Council 5 | Miller, Richard J. | Termination | Released medical records to police. | Split | 4 month suspension. Good work record. |
| July, 2009 | | | | | | |
| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
| None listed | Allina Hospitals and Clinics SEIU Healthcare Minnesota | Jacobs, Jeffrey | Subcontracting | Agreement allows for changes under extraordinary circumstances | Sustained | 40% saving alone did not meet test loss of 17 jobs was key factor. |

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|------------|---|------------------|------------------|---|--------------|--|
| 08-PA-0247 | Grant County Teamsters Local 320 | Jacobs, Jeffrey | Public employee | Employee hired as hourly with no benefits. Is she eligible for benefits? | Sustained | Met 67 day and over 14 hour standards. |
| 09-VP-1011 | ISD 721, New Prague Individual Grievant | Frankman, Janice | Termination | Custodian put plastic glove with dog feces on teachers desk. | 15 day susp. | No progressive discipline. |
| 09-PA-0459 | MN, Silver Bay Veterans Home AFSCME Council 5 | Fogelber, J.C. | Termination | Violent verbal outbursts to co-workers. | Denied | Attempts at anger counseling failed. Co-workers feared for their safety. |
| 09-PA-0004 | Three Rivers Parks District Law Enforcement Labor Services, Inc. | Holmes, Barbara | 4 day suspension | Officer drunk & had sexual activity in a horse barn after dept. training. Police Discipline Act, formal statement w/o complaint. | 1 day susp. | Unable to prove sexual activity. Violation has penalty-not reversal. |
| FMCS | Xcel IBEW Local 1426 | Remington, John | Termination | Falsified meter readings | Denied | Long term employee, no discipline but company practice to terminate. |

June, 2009

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
|--------------|--|-------------------|-----------------|--|--------------|--|
| 09-PA-0638 | Belle Plaine, City of Law Enforcement Labor Services, Inc. | Paull, David | Termination | Police Sergeant pressured officer to release DUI suspect | Denied. | A number of actions brought discredit to his department. |
| FMCS | Gopher Resources Teamsters Local 120 | Jacobs, Jeffrey | Termination | Time card fraud. | Denied | Work rules called for termination. |
| 09-PA-0562 | Hennepin County AFSCME Council 5, Local 34 | Anderson, Richard | Termination | Computer used to view sexual images and for personal business, | Denied. | Violated policy on computer use - 24 yr employee, no discipline. |
| FMCS | Honeywell, Inc. Teamsters, 1145 | Befort, Stephen | Subcontracting | Subcontracted work is to be called back if an employee is laid off. | Denied | Employee accepted a lower level position therefore was not laid off. |
| 08-PA-1115 | Itasca County Itasca County Employees Association | Jacobs, Jeffrey | 5 day susp. | Land commissioner's bad relationships with employees and other agencies. | 3 day susp. | Politics mitigated some charges. |
| 09-PA-0749 | Metropolitan Council Amalgamated Transit Union Local 1005 | Befort, Stephen | Termination | Bus driver wearing an earphone. | Denied | Last chance agreement. |
| 09-PA-0845 | Metro Transit Amalgamated Transit Union Local 1005 | Holmes, Barbara | Final warning | Third accident for bus driver. 4th results in termination. | Denied | No other buses had accidents. |
| 09-PN-0267 | Morrison County (Interest Award) Law Enforcement Labor Services, Inc. | Holmes, Barbara | Interest | Union seeking 4%, County 1% FTO-no; 1yr- co. position; Co. insur. | 2009-1% | Ability to pay and internal pattern. |
| 07-PA-1084 | Roseville, City of Law Enforcement Labor Services, Inc. | Fogelberg, J. C | OT for Training | Regular schedule was changed to avoid overtime for training days. | Sustained | Contract language and practice. |
| 09-RA-0637 | Safe Haven Shelter for Battered Women AFSCME Minnesota Council 5 | McCoy, Arthur Ray | Termination | Insubordination. Failure to transport a client as requested. | Sustained | Request was bogus, intended to provoke or punish grievant. |

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|--------------------|---|-------------------|-----------------------------------|--|----------------------|---|
| 09-PA-0027 | Washington County Law Enforcement Labor Services, Inc. | Bognanno, Mario | Unit Work | Bailiff's working after hours court-house security | Denied. | Low on policing continuum. |
| May, 2009 | | | | | | |
| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
| FMCS | ABM Janitorial Services, Inc. SEIU Local 26 | Holmes, Barbara | Termination | Inappropriate sexual behavior. Is just cause needed, or was he "at will"? | Denied. | Progressive discipline requirement and listing types of misconduct amount to a just cause standard. |
| FMCS | Ambassador Press, Inc. GCC/IBT Local 1B | Gallagher, Thomas | Termination | Failed to give proper notice of leave needed for surgery. | Sustained | Lack of just cause. Mgmt knew of surgery - no wrttn notice of penalty |
| FMCS | American Spirit Graphics Corporation GCC/IBT Local 1M | Befort, Stephen | Bumping | Entitled to higher pay at lower spot. | Sustained | Contract & past practice |
| 09-PA-0001 | Arrowhead Regional Corrections AFSCME, Council 5 | Anderson, Richard | 75 day susp. | Mistreatment of juvenile client. | Sustained | Reduced to 30 days. |
| 09-PA-0126 | Benton County AFSCME Council 65 | Imes, Sharon | Longevity | Eligible at start or completion of year? | Denied. | Past practice. |
| FMCS | Federal Bureau of Prisons-Waseca American Fed of Gov't Empls 801 | Holmes, Barbara | Pay for Union Training seminar | Training for Union finance officer - for internal union or mutual benefit? | Sustained | Mutual benefit. How to file IRS & DOL reports. |
| 09-PA-0428 | ISD 241, Albert Lea Albert Lea Education Minnesota | Jensen, Eugene | Matching Contributions | Statute on 403b max contributions increased - contract sites statute. | Sustained | Contract language does not list a maximum amount. |
| 09-PA-0495 | ISD 700, Hermantown Education Minnesota Hermantown | Lundberg, James | Out of Title Pay | Janitor job description changed to include maintenance duties. | Sustained | Change in duties and pay must be negotiated. |
| 08-PA-1360 | ISD 2364, Belgrade, Broten, Elrosa AFSCME, Council 65 | Holmes, Barbara | Termination | School bus driver accident. | Denied. | Severity of accident |
| 09-PA-0709 | Moorhead Public Service Commission IBEW Local 1426 | Jacobs, Jeffrey | Termination | Meter reader for non performance | Letter of reprimand. | Due to procedural errors |
| 09-PA-0086 | Ramsey County AFSCME Council 5 | Holmes, Barbara | Termination | Boiler operator doing part time work on county time. | Denied. | Phone calls, emails and meetings amount to theft-only 3 yrs.service. |
| April, 2009 | | | | | | |
| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
| 08-PA-1165 | Bloomington, City of Bloomington Police Federation | Befort, Stephen | Termination | 3 issues: 20 day suspension, re-assignment; and termination. | Denied | 5 years of progressive discipline. |
| FMCS | CUB Foods UFCW Local 789 | Jacobs, Jeffrey | Termination | Swearing at supervisor: being tardy over 90 times. | 20 day susp. | Tardiness not basis for termination no one else heard swearing. |

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|-------------|--|--------------------|------------------|---|-------------|---|
| 08-PN-0677 | Faribault County (Interest Award) Teamsters Local 320 | Befort, Stephen | Interest | 2008-2009; County argued against their established pattern | Union | 2008-2.9%, 2009-3%.. Co. did not try to reduce others due to budget. |
| FMCS | Gilleland Chevrolet/Cadillac Int'l Assn of Machinists, Dist. 165 | Remington, John | Demotion | 3 mechanics demoted due to lack of higher level work. | Split | Can demote, but not by 2 grades. |
| 09-TD-3 | ISD 111, Watertown-Mayer Individual Grievant | Miller, Richard J. | Termination | Elementary principal having an affair with a teacher. | 5 day susp. | Conduct is remediable. |
| 09-VP-0041 | ISD 279, Osseo Individual Grievant | Lundberg, James | Termination | Threatening student | Sustained | Lack of evidence and due process. |
| None listed | ISD 625, St. Paul AFSCME Council 5 | Gallagher, Thomas | Termination | Theft by food delivery driver | Denied | Only assurance theft will not be repeated. |
| None listed | Tri-County Community Action, Inc. AFSCME Council 65 | Miller, Richard J. | Lay offs | Child care center forced to close due to funding. Notice of layoff timeline? | Denied | Arbitrability of class action-allowed limit by doctrine of latches-denied. |
| FMCS | U.S. Department of Justice, Federal American Federation of Govt. Empl's | Lundberg, James | Reassignment | Wife of administrator bumped secretary | Sustained | Union has right under contract to transfers. |
| None listed | WCCO NABET – CWA Local 411 | Lundberg, James | 3 day suspension | Cameraman pushing & shoving in a crowd & swearing at a coworker. | Denied | Aggressive behavior when other options available. |

March, 2009

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
|--------------|--|-------------------|-----------------------------|--|----------------------|---|
| 08-PA-0806 | Community Action Programs of Ramsey AFSCME Council 5 | Befort, Stephen | Termination | H&R driver hit her school bus. She did school drop area. | Sustained | No progressive discipline. No back pay to not recognizing wrongdoing. |
| 08-VP-1432 | ISD 279, Osseo Individual Grievant | Gallagher, Thomas | Termination | Para wrestling with EBD students. | 30 day susp. | Clarification of backpay awarded. |
| 08-PA-0954 | ISD 2609, Erskine Win-E-Mac Teachers United | Martin, William | Broken promise. | Teacher claimed hiring contract error in 2005 placed him at wrong step. | Denied. | School board, not the principal have authority to offer contract. |
| Veterans P. | Metropolitan Council Individual Grievant | Jacobs, Jeffrey | Demotion V.P. Hearing | Failed to obtain required license. | Denied. | Lack of license constitutes incompetency for the position. |
| 08-PN-1141 | Metropolitan Council Law Enforcement Labor Services, Inc. | Bognanno, Mario | Interest | 2008 U 4%, E 2%; 09 U 4%, E 2.5% Insurance - E position. | 2008-2% 2009-2.5% | Internal patterns. Ignored old settlements neg in better times. |
| 08-PA-0791 | Minnesota, State of, Department of Minnesota Government Engineers | Kircher, Andrea | Termination | 5 day susp for a # of minor issues & then meeting as ordered. | Denied | Insubordination. Violated work now, |
| 08-PA-0791 | Minnesota, State of, Department of Minnesota Government Engineers | Kircher, Andrea | Arbitrability Timeliness | Timelines followed? | Arbitrable | Timelines for arbitration start when the Union receives the answer letter. |
| FMCS | Owatonna Public Utilities IBEW Local 949 | Befort, Stephen | Unit work. | Duties split, half remained in unit, half went to another unit. | Denied. | Another position was also created, change was therefore deminimus. |

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|-------------------------|---|---------------------|-----------------------------------|---|----------------|---|
| None listed | Twin City Hospitals Minnesota Nurses Association | Gallagher, Thomas | Language vs. Practice. | Pension plan language when new benefits should be paid if reemployed. | Denied. | Language trumps practice. |
| 08-PA-0398 | University of Minnesota AFSCME Council 5 | Imes, Sharon | Oral Reprimand | Employees shouting at each other. | Sustained | Disparate treatment, one only received counseling. |
| 09-PA-0142 0143-0146 | University of Minnesota, Crookston AFSCME Council 5 | Jacobs, Jeffrey | Online Class Assignment | Required to consult re assignment. Meet & confer re change - no change. | Denied. | Requirement to consult does not restrict management's rights. |
| Merit | | | | Merit pay not grievable. Policy used to determine merit questioned. | Denied. | No change in criteria from past. |
| FMCS | VA Illiana Health Care System Am Fed of Govnmt Employees 1963 | Toenges, Rolland | Break mobility | Requirement to remain in boiler plant 15 minute breaks challenged. | Denied. | Contract allows for restriction. |
| February, 2009 | | | | | | |
| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
| 08-PA-1361 | Benson, City of AFSCME Council 65 | Toenges, Rolland | Layoff | Qualified to bump less senior ees? | Denied. | Based on qualifications. |
| 08-PN-0472 | Blue Earth County (Interest Award) Teamsters Local 320 | VerPloeg, Christine | Interest | 2008-2010, 2%Jan, 2%July each yr. | Union position | Internal pattern. Lead pay, shift differential and HCSP denied. |
| 08-RA-0552 | Brown-Wilbert Teamsters Local 120 | Scoville, James | Reduction of Insurance benefit | Unilateral change to deductibles and co-pays in mid-contract. | Sustained. | Minor adjustments, might be allowed-but these were major. |
| 09-PA-0287 | Duluth, City of AFSCME Council 65 | Remington, John | Right to reclaim job. | Took job in another division, did not make probation; denied old job. | Sustained. | Under city policy has 30 days to return to old job. |
| FMCS | Hertz Corporation, Minneapolis/St. Paul Airport Teamsters 947 | Jacoboswki, Daniel | Discharge | Time card fraud. See Befort's Jan, 2009 Hertz case-different result. | 27 day susp. | Termination came after request for Union representation. |
| 08-PA-0314 | ISD 621, Mounds View School Services Employees Local 284 | Imes, Sharon | Transfers | 12 custodians transferred due to budget. | Denied. | Discusses limitations of past practice. |
| 08-PA-1284 | ISD 2853 Lac Qui Parle Education Minnesota | Fogelberg, J.C. | FMLA | Use of paid leave while on FMLA. | Sustained. | Not supported by contract, but authorized by school board. |
| FMCS | Methodist Hospital SEIU Healthcare Minnesota | Jacobs, Jeffrey | Vacation accrual | Full time/part time accrual amounts pro-rated accrual or anniversary dump? | Denied. | Union issue on part-time pro-rating was sustained but results in a loss. |
| 09-PA-0271 | Metro Transit Amalgamated Transit Union 1005 | Wallin, Gerald | Termination | Transit bus driver hit female rider with ice scrapper. | Denied. | There was provocation but force used was excessive. |
| 08-PA-1446 | Minnesota, State of, Department of AFSCME Minnesota Council 5 | Malamud, Sherwood | 1 day suspension | LPN made 10 transcription errors. | Denied. | Counseled and received training prior to |
| ??? | Minnesota State Colleges & Universities MN College Faculty Association | Befort, Stephen | Layoff rights | Laid off professor claimed right to teach a | Denied. | Management and contract right to assign |

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|------------|---|-----------------|-------------|---|--------------------|---|
| 08-PA-0452 | Pennington County Law Enforcement Labor Services, Inc. | Scoville, James | Termination | Corrections officer threatened co-worker; insubordination | Sustained. | Grievant off work for 15 months - no back pay awarded. |
| 08-PA-0806 | Stearns County Law Enforcement Labor Services, Inc. | Befort, Stephen | Demotion | Failure to review officers reports thus failed to supervise. | Denied. | Progressive discipline not required if nonperformance is material to job. |
| 08-PA-1218 | University of Minnesota AFSCME Council 5 | Jacobs, Jeffrey | Layoff | Junior employee laid off. Failure to negotiate new Classification. | Denied. Denied. | Lay offs based on work location. New position created - not classif. |

| January, 2009 | | | | | | |
|----------------------|---|--------------------|-----------------------|--|--------------------|--|
| BMS # | Employer/Union | Arbitrator | Issue | Details | Award | Basis/Argument |
| FMCS | AMPCO Parking Teamsters Local 120 | Befort, Stephen | Termination. | Parking lot accident that approached \$1,650 threshold for termination. | Verbal Wrning | Threshold reached by including owners rental costs. |
| FMCS | Cutler Magner Company United Steelworkers 1028 | Jacobs, Jeffrey | Termination. | Failed to move salt pile inside out of rain. Third incident in 9 months. | 6 months | 31 years of service. Problems only in past 9 months. |
| 08-PN-0828 | Fridley, City of (Interest Award) Law Enforcement Labor Services, Inc. | Miller, Richard J. | Interest | Union 4%, City 2%-3%; insur-pattern; Ct standby 2 to 3 hrs-u; incr prem-no. | 2008-3% 2009-3% | 3% internal pattern. Sgts sought 3 hrs for standby same as officers.. |
| FMCS | Hertz Corporation Teamsters Local 947 | Befort, Stephen | Termination. | See Jacobowski's February Hertz case - different result. | Denied. | Timecard fraud. |
| 09-VP-0076 | ISD 281, Robbinsdale Individual Grievant | Toenges, Rolland | Termination. | School bus driver. Failure to safety checks/bad driving habits. | Denied. | Action reasonable due to safety risk inherent in his driving conduct. |
| 08-PA-1178 | ISD 706, Virginia AFSCME Council 65 | Anderson, Richard | Bad Faith Bargaining. | Monthly rate calculated incorrectly since 1980. Hourly rate negotiated. | Denied. | No indication employer was hiding ramification of change during neg. |
| FMCS | Kellogg Snacks Company Teamsters Local 471 | Bognanno, Mario | Termination. | Delivery driver; barred from two stores due to his attitude. | Denied. | Grievant compromised Company-customer relationship. |
| 08-PA-1439 | Minnesota, State of AFSCME Council 5 | Bard, Stephen | Termination. | Residential treatment employee who was verbally abusive w vulnerable adults. | Denied. | Welfare & safety of extremely vulnerable adults-potentially dangerous setting. |
| 05-RA-0845 | Minnesota State of, Ninth Judicial AFSCME Council 65 | Fogelberg, J.C. | Termination. | Court clerk read confidential court file & | Denied. | Serious breach of code of ethics and |
| 08-PN-0751 | Murray County Law Enforcement Labor Services, Inc. | Gallagher, Thomas | Interest | U 4%+steps; E 3% w/o steps-A 2.5% with steps; co's insurance pattern. | 2008-2.5% | Arbitrator combined wages & insr. in market comparison. |
| FMCS | Red Wing Shoe Company UFCW, Boot & Shoe Workers # 527 | Remington, John | Pension Contrbtn. | No contribution made on vacation, holiday, OT, etc. | Sustained | Ordered to pay, back to 2007. |
| 09-PA-0239 | St. Paul, City of Professional Employees | Befort, Stephen | Insurance. | Failure to sign up for flexible spending account to qualify for \$1,200. | Denied. | City gave adequate notice. |

FMCS

Star Tribune Company
Teamsters Local 120

Gallagher, Thomas

Termination.

Light duty employee left for therapy,
but did not attend, nor return to work.

Denied.

Lied re. therapy-gross misconduct
not requiring progressive discipline.

2010 Arbitration Awards - Minnesota B.M.S.

Summary of Arbitration Awards listed on the Bureau of Mediation Services' web site (<http://www.mn.gov/bms/arbitration/awards/>).
 "Sustained" means the grievance prevails overturning the original action. "Denied" means the original action prevails.

| December, 2010 | | | | | | |
|----------------|---|--------------------|----------------------------------|---|---------------------------|---|
| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
| FMCS | Radisson Hotel Chicago and Midwest Regional Joint | McCoy, Arthur Ray | Seniority based shift bidding | Restaurant claimed business reason for ignoring seniority for dinner shift. | Sustained | Reasonable consideration language requires a performance deficiency to ignore seniority. |
| 10-PN-0956 | Blaine, City of (Interest Award) Law Enforcement Labor Services Inc. | Miller, Richard J. | Interest | 1yr-u (c-2yr); Insur. eff. 12/21/10 \$940 (u-\$990, e-\$870); Wages 2010-1% (u-3%, e-1%); Comp time-no-e; Increase Call Back from 2 to 3 hours.-no-e; | 2010 - 1% | Duration-lack of data. Insur.- \$70 avg. increase in past (eff. for 2011); Wages- fund balance 43% & avg. increase for Stanton V. Call Back-no, even though officers receive 3 years. Arbitrator's ruling is prospective. No violation occurred - Union sought interpretation of language. |
| 10-PA-1569 | Duluth, City of International Assn of Firefighters Local | Kapsch, Frank | Retiree Health Insurance | Do retirees keep insurance coverage in place at time of retirement? Yes. New contract language distinguishes this from Savela v Duluth Dist. Crt. case. | Sustained | Wages - based on city's financial shape. Insurance-internal pattern. Shift differential-denied as new benefit. |
| 10-PN-1183 | Edina, City of (Interest Award) Teamsters Local 320 | Frankman, Janice | Interest | Wages: 3%, 3% -u (e-.5% 7/10, .5% 7/11); Insurance: 2010-\$775, 2011- same as other ees-e; Shift diff.-no-e. | 2010 - 3% 2011 - 3% | Sergeant received 10 days & a senior officer received 5 days - this fell between those suspensions. |
| 10-PA-1612 | Forest Lake, City of Law Enforcement Labor Services, Inc. | Moeller, Lon | 10 day susp. | Officer made humorous Star Wars video about labor negotiations while at work & put it on a Dept. computer | 7 day susp. | Award defines AFSCME work vs. management work appropriate to new title. |
| 10-PA-0085 | Hibbing, City of AFSCME Minnesota Council 65 | Gallgher, Thomas | Bargaining Unit Work | AFSCME & MAPE titles combined into a Parks Maintenance Supervisor who continued to do AFSCME work. | Sustained | Maintains relationship to Stanton V average. Ignores Sergeants taking 0%. Insurance-equitable cost sharing. |
| 10-PN-1058 | Inver Grove Heights, City of (Interest Aw Law Enforcement Labor Services, Inc. | Schiavoni, Mary Jo | Interest | Wages: 1.5%-u (e-0%). Insurance- City's position: high ded. single +\$57.32; freeze most expensive (ee cost \$25.06), Ed Assistant (Korean Club advisor) | 2010 - 1.5% | Failed to seek School permission & boundary issues with students. Suspended until there is an opening. |
| ??? | ISD 625, St. Paul St. Paul Federation of Teachers | Miller, Richard J. | Termination | took students on field trip to LA for Korean music festival w/o telling school. Seeking removal of record of warning for an accident. | Suspended without pay. | Video showed bus did not signal when moving to left lane. |
| 10-PA-1428 | Metro Transit Amalgamated Transit Union Local 1005 | Paull, David | Bus Accident | Manager accused of threatening and yelling at a subordinate. | Denied | Evidence was equipoised. Investigator did not talk to all witnesses. |
| 10-PA-1545 | Metropolitan Council Metropolitan Council Management Assn | Bognanno, Mario | Ltr of Reprimand | Corrections Sgt. Convicted of GM for | Sustained | Discharge unduly harsh. Returned to |
| 10-PA-1594 | Minnesota, State of, Department of AFSCME Minnesota Council 5 | Beens, Richard | Termination | Right to bear arms not restored in | Sustained in | Assigned to a position that does not |
| 10-PA-1594 | Minnesota State of Department of AFSCME Minnesota Council 5 | Beens, Richard | Termination | Deputies seeking step movement for 2010 - accepted 0% for wages. | 2010 no steps | Internal pattern; have fewer steps than other counties. |
| 10-PN-0141 | Rice County (Interest Award) Teamsters Local 320 | Fogelberg, J.C. | Interest | Bus driver didn't let female off bus unless she gave him a hug? He claims | 9 month susp. | Video not working. He said, she said, situation. His asking who she lived with |
| FMCS | Rochester City Lines Company, Inc. Amalgamated Transit Union Local 1005 | Daly, Joseph | Termination | Firefighter assigned to rescue squad | Sustained | Contract guarantees 3 firefighters |
| 10-PA-0796 | St. Paul, City of | Bard, Stephen | Failure to Back | | | |

| | Firefighters Local 21 | | Fill a Position | detailed to work as a paramedic for 1 shift-no one called to back fill rescue sqd. | | on each rescue squad. |
|-----------------------|--|-------------------|-------------------|--|---------------|--|
| 10-PA-1634 | Special School District No. 1 Minneapolis Federation of Teachers | Befort, Stephen | Unpaid Leave | Teacher on unpaid leave after being charged criminally seeking paid status. | Denied | Neither Teacher Tenure Act nor Contract cover situation. Past practice governs. |
| November, 2010 | | | | | | |
| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
| FMCS | Cargill Salt Division Internat Chemical Workers Local 188C | McCoy, Arthur Ray | Termination | Accused of lying about whether a coding machine was working at start of his shift. | Sustained | Others also incorrectly thought codes were printed, but did not receive discipline. |
| FMCS | Electrolux Home Products IAMAW District Lodge 165 | Reynolds, James | Attendance Policy | Deduction of attendance points for absence from work. | Denied | Grievance was untimely, but ER asked for ruling on merit. |
| 10-PA-1611 | Forest Lake, City of Law Enforcement Labor Services, Inc. | Beens, Richard | 5 day susp. | Officer made humorous video about negotiations & put it on the dept computer. | Denied | Spent 5.7 hours on duty working on the video. Punishment is "lenient". |
| 10-PN-0932 | Hennepin County (Interest Award) Hennepin County Supervisors Assn | Fogelberg, J.C | Interest | Correction supervisors accreted into Suprvsr. Assn. seeking to retain Holiday & Officer in Charge pay. | Denied | Existing benefits not in Master Agreement viewed as new benefits. |
| 10-PA-1585 | ISD 625, St. Paul AFSCME Minnesota 5 | Kapsch, Francis | Termination | School clerk failed to deposit cash receipts - about \$2,100 missing. | Denied | Preponderance of evidence test. Good discussion of Just Cause. |
| 10-PA-1536 | Metro Transit Amalgamated Transit Union, Local | Fields, Bernice | 20 day susp. | Bus driver using a cell phone while driving. | Denied | Policy calls for 20 day suspension for first offense. |
| 08-PA-0900 | Metro Transit Amalgamated Transit Union, Local | Jacobs, Jeffrey | 20 day susp. | Bus driver failed to turn cell phone off & failed to stop after hitting a parked | Split | Reduced from 30 days to 20 days. Violation of cell phone policy was minor - |
| 10-PA-0810 | Mille Lacs County AFSCME Minnesota Council 65 | McCoy, Arthur | Funeral Leave | Does the word grandparents include coverage for great-grandparents. | Denied | By defining immediate family, those not listed are excluded. |
| 10-PA-1297 | Minnesota, Departmnt of Corrections AFSCME Minnesota Council 5 | Scoville, James | Termination | Corrections sergeant failed to follow Segregation Unit rules. | Denied. | 4 security or safety breaches all on camera. |
| 10-PA-0386 | Prior Lake, City of Law Enforcement Labor Services, Inc. | Martin, William | Termination | Officer broke into bedroom of former girlfriend confronting her & boyfriend. | Denied | Actions occurred while on-duty & in uniform - serious policy & legal violations. |
| 10-PA-0387 | Ramsey County Law Enforcement Labor Services, Inc. | Kircher, Andrea | 5 day susp. | ECC dispatcher claimed co-worker offered her a sport drink that contained alcohol. | Sustained | Numerous discrepancies: drink not tasted by complainant; happened in February, reported in June. |
| 10-RA-0514 | Supervalu, Inc. Teamsters Local 120 | Gallagher, Thomas | Termination | Stole returned merchandise from dock area over a period of years. | Denied | 2 other ees received suspensions 10-RA-512 & 513. They consumed stolen items at work - this involved taking non-food items home. |
| FMCS | Turso Companies, Inc. GCIU - Teamsters Local 1B | Gallagher, Thomas | Subcontracting | Subcontract work fixed in-house with 2 office staff doing bookbinders work. | Sustained | Union workers paid 12 hours OT for the time in question. |

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| 10-PA-0058 | Wright County Wright County Deputys' Association | Befort, Stephen | Travel Time | Should travel time outside city for training & court be compensable. | Sustained | Ruling relies on F.L.S.A. |
| October, 2010 | | | | | | |
| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
| FMCS | Culligan Soft Water Company Machinists Lodge 77 | Befort, Stephen | Termination | Failed to note vehicle damage on inspection report. | Denied | 20 performance issues led to this last chance agreement violation.. |
| 09-PA-1127 | Fridley, City of Law Enforcement Labor Services, Inc. | Bognanno, Mario | Termination | Officer convicted of DUI, LSA and 3 violations of probation for alcohol use. | Denied | Off-duty behavior not protected by drug testing statute. |
| FMCS | Good Samaritan Society Woodworkers Lodge W-33 | Bognanno, Mario | Reduction of hrs. | Across the board reduction vs. Union preference to reduce based on seniority. | Denied | Contract provides that, "needs of residents" trumps seniority. |
| 10-PN-0623 | Hennepin County Teamsters Local 320 | Neigh, Charlotte | Interest | Comp time: ee option to select pay or time off-no-e. Seniority bidding for days off-no-e. Penalty if less than 10 day notice of schedule change-n-e. | Co. Position | Union has burden to demonstrate need for change. Some of the issues rejected in prior arbitrations. Wage & step freezes negotiated for 2011. |
| FMCS | Honeywell International, Inc. Teamsters Local 1145 | Toenges, Rolland | Job Selection | Denied photographer position due to lack of experience. | Denied | Management right to set education & experience requirements for jobs. |
| 10-PA-0695 | ISD 690, Warroad Education Minnesota - Warroad | Malamud, Sherwo | Coaches Pay | Asst. coaches eliminated; hired back as lower paid middle school coaches. | Sustained | Duties were not limited to middle school - must be paid as asstnts. |
| None listed | Minnesota, Department of Health Middle Management Association | Jacobs, Jeffrey | Termination | Issuing birth certificates w/o payment or tangible interest. | Sustained | Evidence did not support charges. |
| | | | Due Process | Failure to notify nature of allegations prior to investigation. | Sustained | Case rested in part on interview - subsequent grievance steps can't "unring the bell". |
| 10-PN-1107 | Plymouth, City of Law Enforcement Labor Services, Inc. | Latimer, George | Interest | Wages only issue. U seeking 3%, AFSCME received 2%. E offered 0%. | 2010 - 0% | Economy; no internal pattern, Union vs AFSCME-raises of 37% to 30% in 8 yrs. & 5% v 2% in 2009. Market rank should include longevity. |
| 10-PA-1259 | Rice County Teamsters Local 320 | Miller, Richard J. | Termination | Incompetence, 75 data entry errors since her 2008 work improvement plan. | 7 month susp. | Returned to work w/o backpay. Long term ee, no discipline - errors serious but can be corrected. |
| 10-PN-0959 | Shakopee, City of (Interest Award) Law Enforcement Labor Services, Inc. | Lundberg, James | Interest | Duration: 1yr-u; Wages: 1% (u-3%, e-0%); Uniform-\$800 (u-\$815, e-\$775) Longevity: no change-u; Performance pay: no change-u. | 2010 - 1% | Duration-only 1 internal & lack of data; Wages: 67% fund balance; Longevity & Performance Pay: city burden to prove need for change. |
| 10-PA-0859 | Special School District No. 1 Minneapolis Federation of Teachers | Imes, Sharon | Step movement | District failed to pay step increases to teachers when contract expired. | Sustained | CBA states steps & lanes earned are to be paid at start of new year. Leaves open question of what happens in 2nd year if not settled. |
| 10-PA-1133 | Special School District No. 1 Minneapolis Federation of Teachers | Jacobs, Jeffrey | Step movement | District failed to pay step increases to ESPs when contract expired. | Sustained | PELRA's continuing contract provision & practice of honoring steps. |
| 10-PA-1133 | Special School District No. 1 | Jacobs, Jeffrey | Step movement: | Do steps vested in expired contract | Union's | Vested benefits continue until |

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| | (Clarification of award above) Minneapolis Federation of Teachers - | | 2nd year | continue for the second year?. | Position | replaced by a new contract. |
| AAA | Xcel Energy IBEW Local 23 | Daly, Joseph | Termination | While Investigating copper theft, ee lied about his past record. | Sustained | Failed to clearly and specifically articulate charges. Interview other terms of contract. |
| September, 2010 | | | | | | |
| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
| 10-PA-1258 | Aitkin County Teamsters Local 346 | Gallagher, Thomas | Volunteers | "Posse" members called to assist in search for lost hunter before all available | Denied | No contract distinction between external volunteers or internal who are |
| FMCS | Associated Milk Producers, Inc. Teamsters Local 120 | Befort, Stephen | Arbitrability | Termination grievance filed 9 vs 7 days as required. | Sustained | Union presented evidence that clock starts after informal steps. |
| 10-PA-1089 | Champlin, City of Law Enforcement Labor Services, Inc. | Miller, Richard J. | Demotion | Sgt. demoted for dating an officer in violation of fraternization policy. | Denied | Policy reasonable to protect city from favoritism or harassment claims. |
| 10-PA-0976 | Corcoran, City of Teamsters Local 320 | Fields, Bernice | Termination | Officer submitted claim for sunglass reimbursement w/o deducting discount & accused of theft. | Sustained | Opportunity to be heard, required before discharge. |
| 10-PN-0776 | Hennepin County Hennepin County Deputy Sheriff's Assn | Jacobs, Jeffrey | Interest | Wages: 0%, 0%-e (u-3%,3%); Steps: 10 yes, 11 no-e; Shift incr-no-e; Uniform increase-no-e; FTO, Latent Print, Firearm increase-no-e; Seniority-no-e; Pay for 28 day schdl-no-e; Penalty for schdl chng & definition of emergency-no-e;Lght duty-no-e. | 2010 - 0% 2011 - 0% | Internal pattern; or failure to provide compelling reason for change; or inherent management right (create light duty position). |
| FMCS | Horizon Milling LLC, A Cargill Foods Company Bakery, Confectionery, Tobacco Wkrs | McCoy, Arthur Ray | Seniority Selection. | Senior ee not selected because of lower evaluator ratings. Supervisor rated senior ee higher. | Sustained | Unreliability of raters who did not supervise the applicants. |
| 10-PN-1306 | Isanti, City of (Interest Award) Law Enforcement Labor Services Inc. | Miller, Richard J. | Interest | Duration: 1 year-u; Wages-0%-e (u-3%); Insurance: high deductible plan?-no-u; Sick cap increase?-no-e. | 2010 - 0% | 1 yr. - lack of 2011 data; Wages - economy; Insurance-can't change until 2011 - so negotiate. |
| 10-PA-0794 | ISD 482, Little Falls Minnesota School Employees | Martin, William | Professional Development Training | Food service workers denied approval to attend a summer conference. | Sustained | Contract language & past practice. Approval ordered in future, no compensation for those not allowed to attend. |
| 10-PA-1271 | ISD 748, Sartell School Service Employees Local 284 | Kircher, Andrea | Reinstatement from disability leave | Bus drive wanted route w more hours. | Denied | Not entitled to bid when off & not able to work. |
| 10-VP-1553 | ISD 855, St. Michael-Albertville Individual Grievant | Latimer, George | Termination V.P. Hearing | Custodian stole dominoes and failed to admit when questioned. | Denied | Breach of trust. No extenuating circumstances to reduce penalty. |
| 10-PA-0012 | Itasca County AFSCME Council 65 | Fields, Bernice | Minimum Qualifications | Can items outside posted criteria count as equivalent to requirements. | Denied | Fairness requires eliminating subjectivity. Management right to set qualifications. |
| 10-PA-0319 | Lakeville, City of Teamsters Local 320 | Befort, Stephen | Termination | Public works driver failed 2 drug tests. | Denied | Safety sensitive position. City policy and CDL allow termination. |

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| 10-PA-1284 | Metro Council/Metro Transit Amalgamated Transit Union Local 1005 | Toenges, Rolland | Termination | Violated a last chance agreement re unexcused absences. | Denied | Claim he was misled by supervisor does not absolve responsibility. |
| 10-PN-0957 | Mounds View, City of (Interest Award) Law Enforcement Labor Services Inc. | Miller, Richard J. | Interest | Duration: 1 yr.-u; Insurance: \$867.33-u (e-\$842.20); Wages: 0%-e (u-2%). | 2010 - 0% | 1 yr. due to lack of 2011 data; Wages - economy; Insurance - offset 0% wages. |
| 10-PA-0322 | Olmstead County Olmstead County Employees Assn | Kircher, Andrea | Termination | Female maintenance worker slapped supervisor's arm during argument. | 6 mos susp. | Co. failure to address complaints vs supervisor may have led to incident EE had no prior discipline. |
| 08-PA-1338 | St. Joseph, City of Law Enforcement Labor Services, Inc. | Gallagher, Thomas | Holiday Pay | Officer on sick leave denied holiday pay based on policy barring pay if employee is on leave. | Sustained | Policy appears to be for unpaid leave situations. Contract does not limit pay. |
| 09-RA-0714 | Supervalu, Inc. Teamsters Local 120 | Bognanno, Mario | Termination | Took a break 13 minutes to long. 6 prior warnings. Returned w/o backpay. | 2 years | Infraction low level in nature. No backpay & a last chance agreement. |
| 10-RA-0512 | Supervalu, Inc. Teamsters Local 120 | Lundberg, James | Termination | Theft - grazing, eating expired food returned to the warehouse. | 30 day susp. | Grazing had been common, new policy not clearly communicated. Less egregious than 10-RA-0513. |
| 10-RA-0104 | Supervalu, Inc. Teamsters Local 120 | Scoville, James | Termination | Dock worker accused of shoving supervisor | Sustained | Video evidence was neither clear nor convincing re what happened. |

August, 2010

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|------------|--|--------------------|----------------------------|--|---------------------|--|
| 10-VP-1227 | Brooklyn Park, City of Individual Grievant | Kircher, Andrea | Termination | 2 use of force incidents & 3 for being discourteous to the public; given 3 day suspension, and a Fitness for Duty Exam - fired for failing exam. | Sustained | No progressive discipline. Fitness for Duty can't be used alone as just cause. 2 psychologists had different opinions of test results. |
| 10-PN-0861 | Coon Rapids, City of (Interest Award) Law Enforcement Labor Services, Inc. | Bard, Stephen | Interest | Insur: no change-e; Vac: add 1 day/year 21yr to 25yr -u; Incr. Prem Pay: no-e; Unifrms:+\$35-u; Wages:1% (u-3%,e-0%) | 2010 - 1% | Benefits-internal (public works vaccs.) Uniforms-incr'd cost of "Buy American" Wages-external (maintains rank). |
| 10-PA-0913 | Ely, City of Ely Supervisory Employees Association | Miller, Richard J. | Termination | Deputy Clerk stole city funds. Claimed due process deficiencies. | Denied. | Any procedural defect was "cured" by the arbitration. |
| 10-PA-1081 | ISD 51, Foley Individual Grievant | Gallagher, Thomas | Termination V.P. Hearing | Threatening to kill coworkers, sexual comments, rudeness. | Denied | Conduct so adverse to operations not requiring progressive discipline. |
| 10-PA-0935 | ISD 276, Minnetonka Education Minnesota | Jacobs, Jeffrey | Filling New Position | Union grieved probationary hire vs. sr. teacher based on arbitrary qualifications | Denied | Management right to establish qualifications & license requirements. |
| 10-PA-1102 | ISD 742, St. Cloud St. Cloud Education Association | Imes, Sharon | Time lines Overload Pay | District's step 3 response was late - grant grievance on that basis? OPay due if exceeding avg # of mods | Denied Sustained | Union also had a technical error & there was no harm. Is resource time teaching time to be used in computing average - no. |
| FMCS | Lutheran Care Center Bridgeway United Steelworkers Local 9230 | Frankman, Janice | Bargaining Unit Work | LPN on night shift replaced by RN. Management rights vs. past practice? | Denied | No ambiguity or void in Contract which past practice clarifies/fills. |
| 10-PA-1037 | Metro Transit | Imes, Sharon | Bus Accident | Driver charged with accident with | Sustained | Witness did not leave name. Bus |

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|--------------------------|--|-----------------|------------------------------------|--|--------------|---|
| | Amalgamated Transit Union, Local | | | parked van - he denied involvement. | | camera does not indicate accident. |
| 10-PA-0692 | MN, Department. of Human Services AFSCME Minnesota Council 5 | Daly, Joseph | 10 day susp. | Human service tech at Ham Lake made a racist comment. | 5 day susp. | Admits making it to co-worker, no other staff or patients around. |
| 10-VP-0948 | MN, Department of Human Services Individual Grievant | Befort, Stephen | Termination | Administrator - sub par performance & computer. | 30 day susp. | No progressive discipline to support |
| 10-PA-0159 | MN, Department of Veterans Affairs AFSCME Minnesota Council 5 | Fogelbert, J.C | Termination | Second instance of improper cleaning of dishwasher (1st cost \$18,000). | Denied | Poor work record. Warnings and training provided. |
| 10-PA-0287 | Mower County Law Enforcement Labor Services, Inc. | Ogata, Harley | 1 day susp. | Dispatcher failed to forward info to deputy stopped vehicle was stolen | Denied | Failed to follow procedures. Officer safety jeopardized. |
| 10-PA-0838 10-PA-0839 | Ramsey County Law Enforcement Labor Services, Inc. | Powers, Nancy | 3 day susp. for Insubordination | 2 deputies working State Fair were asked to move a car and refused. | Denied | Deputies felt it was beneath them. Constituted insubordination. |
| 09-PA-0952 | Woodbury, City of Woodbury Police Officers Association | Bognanno, Mario | Timeliness | Union waited 18 mo. before arbitration. City argued doctrine of latches. | Denied | Union waited for criminal charges to be cleared. Latches untimely since not raised until hearing. |
| | | | 15 day susp. | Officer accidently fired weapon in a St. Cloud hotel room while practicing. | Denied | Failed to notify supervisor & did not check to see if anyone injured. |
| | | | Last Chance | Last chance notice part of discipline. | Sustained | Good record must be considered. |

July, 2010

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|---|-------------------|---------------------------|--|----------------------------|---|
| FMCS | Allina Health Systems/United Hospital SEIU Healthcare Minnesota | Jacobs, Jeffrey | Timeliness Termination | Union claimed did not receive email. Time theft - punched in before parking car. | Arbitrable 20 day susp. | Credible testimony. Same as Befort's June United Hospital award. Attendance vs. theft issue. |
| 10-PA-0577 | ISD 13, Columbia Heights Education Minnesota | Daly, Joseph | Ltr. of Deficiency | 4 week suspension w/o pay for verbal confrontations with students | Sustained | Did not meet just cause standard. Student had problems with others. |
| FMCS | Cytec Engineered Materials, Inc. Teamsters 160 | Befort, Stephen | Health Benefits | Greater benefits listed in Blue Cross plan document than in contract. | Denied | Contract prevails. Also notes employer can correct mistakes. |
| 09-PN-0833 | Metropolitan Council (Interest Award) Teamsters Local 320 | Fogelberg, J.C | Interest | 2009 0%-e (u-3%); 2010-0% (u-2%); Steps=yes-u; Longevity-no change-u (e- freeze steps & long., sunset longevity). | 2009 - 0% 2010 - 0% | Ability to pay more important than external market. |
| 10-PA-1034 | Metro Transit Amalgamated Transit Union 1005 | Neigh, Charlotte | Termination | 4 accidents in 36 month period and record of absenteeism and tardiness. | Denied | Discretion to fire after 4 at fault accidents plus 9 attendance warnings |
| None listed | MN, Department of Revenue MN Association of Professional Employees | Imes, Sharon | Termination | Tax department employee failed to file her taxes & lied about it. | Denied | Ample notice of policy and consequence of violation. |
| None listed | MN, Department of Revenue MN Association of Professional Employees | Befort, Stephen | Termination | Sent 25 anonymous letters critical of management. Deceptive during invest. | Denied | Letters considered threatening, so return to work would be disruptive. |
| 10-PA-0870 | Pope County Teamsters Local 320 | Gallagher, Thomas | Furlough | Union challenged county wide 1 hour per week furlough. | Sustained | Contract lists normal work week + layoff language provides seniority based method for reduction of hours. |

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|------------|---|-------------------|-------------------------------|--|-------------------------------|--|
| 10-PA-0172 | Richfield, City of Law Enforcement Labor Services, Inc. | Ogata, Harley | Failure to End Car Chase | Multi-jurisdiction car chase; failed to end when other Depts. called off. | Written Warning | Reduced from 1 day susp. Policy- judgment to pursue rests with officer. Discussion on Garrity warning. |
| FMCS | St. Paul Pioneer Press Minnesota Newspaper Guild/ Typographical Union Local 37001 | Remington, John | Timeliness Outsourcing | Filed 180 days after violation. Temporary warehouse workers used in excess of contract limits. | Arbitrable Sustained | Ongoing and failure to challenge prior to arb. is considered a waiver Long term temps made union ees. Short term pay differential given to U. |
| 10-RA-0513 | SuperValu Teamsters Local 120 | Anderson, Richard | Termination | Theft - grazing, eating expired food returned to the warehouse. | 90 day susp.+ restitution. | Grazing had been common, new policy not clearly communicated. |
| 10-PA-0126 | University of Minnesota AFSCME Minnesota Council 5 | Jacobs, Jeffrey | Timeliness Termination | Failure to file for Arb. within 90 days Abuse of sick leave & insubordinate, some mitigation (he was a steward). | Arbitrable Split | Parties lax timeliness in past. Reinstated without backpay, was off for 26 months since May 2008. |
| AAA Case | Xcel Energy Teamsters Local 160 | Jacobs, Jeffrey | Termination | Brought a large hunting knife to work and was seen waving it around. | Denied | Violated workplace violence policy. |

June, 2010

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------------------|---|-------------------|-------------------------------------|--|-------------------------|---|
| 10-PA-0817 | ISD 93, Carlton Education Minnesota - Carlton | Befort, Stephen | Steps & Lanes | Arbitration barred by: 2 year contract limit; filing after expiration; & right to strike maturing? Arbitrator separated arbitrability vs. merits of case. | Arbitrable | Continuing contract provision applies. Dispute "arises under the contract" since service & credits earned prior to expiration. |
| 10 PA 0676 | ISD 138, North Branch North Branch Education Association | Toenges, Rolland | Prep Time - Travel | Drive time between schools eats into prep time & should be compensated. | Denied | Difference in prep time vs. other teachers is de minimus. |
| 10-PA-1174 | Metro Transit Amalgamated Transit Union Local 1005 | Beens, Richard | Logged Complaint | Handicapped passenger wanted off where there was no stop. | Sustained | Driver did not see who was asking question. |
| None listed | Metro Transit Individual Grievant | Frankman, Janice | Termination VP Hearing | Bus accident. Driver previously fired but allowed back under a LCA. | Denied | Last chance agreement. |
| 10-PA-1030 | Metro Transit Amalgamated Transit Union Local 1005 | O'Toole, Carol | Cell Phone Policy | Is Policy arbitrable? Policy bars bus drivers having phones while driving. | Denied | Policy not arbitrable. Can't decide issue on what might happen. |
| 09-PA-1132 | Owatonna, City of Teamsters Local 320 | Neigh, Charlotte | Election of Remedies Demotion | Does contract bar grievance if EEOC age discrimination suit is filed? Sgt. demoted due to performance. | Sustained Denied | "Board of Governors" case allows filing in both venues. Unnecessary to suspend first. |
| FMCS | Regions Hospital Service Employees International Union | Toenges, Rolland | Seniority Job Assignment | Pharmacist assignment posted & tested. Senior employee not chosen. | Denied | Senior qualified language does not limit candidates to union members. |
| 10-PA-1021 10-PA-1024 | St. Francis, City of Law Enforcement Labor Services, Inc. | Wallin, Gerald | Holiday Pay | 5 grievances re how paid if scheduled to work vs. pay for day off. | Denied | Schedule posted monthly. |
| 10-PA-0237 | Special School District No. 1 Electrical Workers Local 292 | Befort, Stephen | Layoff | 2 Electronic technicians laid off yet ER continued using temp electricians. | Denied | "Class" refers to job not Civil Service status. ER can reassign duties. |
| 10-PA-0783 | Spring Lake Park, City of Teamsters Local 320 | Fogelberg, J.C | Arbitrability, Seniority Layoff | Challenged due to filing at step 2. Full time liquor store position dropped | Sustained | Principle of efficiency-step 1 had no authority to resolve grievance. |

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|------------------|--|-------------------|--|---|---------------------------|---|
| | | | | ee not allowed to bump part-timer. | Sustained | Department seniority vs. position. |
| FMCS | United Hospital SEIU Healthcare Minnesota | Befort, Stephen | Termination | Punched time clock, before parking car. Terminated for theft of time. | 20 day susp. | Considered attendance vs. theft problem. |
| 10-PA-1025 | University of Minnesota AFSCME Minnesota Council 5 | Gallagher, Thomas | Abuse of Sick Leave | Written reprimand re abuse of sick leave. | Split | Found there was sick leave abuse on 2 days, but pattern not proved. |
| May, 2010 | | | | | | |
| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
| 09-PN-0550 | Brainerd, City of Law Enforcement Labor Services, Inc. | Boldt, Charles | Interest | 2 yrs-e; 2009 u-3%, e-0%. 2010 u-no position, e-reopener. | 2009 - 3% 2010-reopen. | 2009 based on market average. 2 years w 2010 reopener-city pattern; |
| 10 PA 0650 | ISD 11, Anoka-Hennepin Anoka-Hennepin Education Minnesota | Imes, Sharon | Coaches Pay Timeliness | Union sought credit for time as asst. ISD - grievance is stale by 3 years. | Denied Denied | 30 years past practice. Ongoing grievance each pay period. |
| 10-PA-0346 | ISD 535, Rochester Education Minnesota | Jacobs, Jeffrey | Summer Position Seniority | ALC classes exempt from seniority. ISD claims all summer classes are ALC. | Sustained | Neither location nor funding source defined ALC classes. |
| 10-PA-1057 | Lexington, City of AFSCME Minnesota Council 5 | Latimer, George | Retroactivity vs. Continuing contract | Did MOU of April 2009 re continuing contract, bar city from collecting amount overpaid on insurance obligation in new contract? | Denied | New contract supersedes MOU. |
| None listed | Metro Transit Amalgamated Transit Union Local 1005 | Ogata, Harley | Transfer | Light rail operator returned to bus driver for 2 policy violations. | Sustained | Use of cell phone overturned - due to his admission & it was for business. |
| None listed | Minneapolis, City of Police Officers Federation of | Gallagher, Thomas | Promotional Test | Posting restricted advancement to top 18, but then changed to top 23. | Denied | Contract language & management right. |
| None listed | Minneapolis, City of Police Officers Federation of | Jacobs, Jeffrey | Termination | Pulled ex-girlfriend's hair and ripped out hoop earring. | Sustained | Victim was drunk, tried to jump out of car on hwy.-pulled back into car. |
| 10-PA-0523 | Minnesota, State of AFSCME Minnesota Council 5 | Befort, Stephen | Termination | LPN at Carlton addiction rec. facility allowed patient to retain 3 mos. Of drugs when released from facility. | Denied | Violated specific instructions re 3 mos. supply; narcotics that could cause addiction or death. |
| None listed | MN, Department of Revenue Minnesota Association of Professional | Jacobs, Jeffrey | Timeliness 3 day susp. | Was suspension & discharge bundled? Poor performance. | Sustained Denied | Request for extension & answer were vague. 3 day supported by prior discipline. and attempt to train. |
| | | | Termination | Failure to call in sick or return. | Sustained | Extenuating circumstance due to medical condition. No back pay. |
| 10-PA-0522 | MN, Department of Transportation AFSCME Minnesota Council 5 | Bard, Stephen | Termination | Indirect threat to beat up a fellow employee. | Denied | Zero tolerance provision does not require progressive discipline. |
| 09-PA-1140 | Ramsey, County of Law Enforcement Labor Services, Inc. | Fogelberg, J.C | Termination | Police dispatcher performance issues. Union cited lack of progressive discipline. | Denied | Discipline vs. Performance. Not competent to do job. |
| 10 PA 0859 | Special School District 1, Minneapolis Minneapolis Federation of Teachers | Imes, Sharon | Arbitrability | Does continuing contract provision expire when ability to strike matures? | Arbitrable | Issue is about step pay. Steps earned during existing contract, so arbitrable under contract. |
| FMCS | SYSCO Minnesota, Inc. | Bognanno, Mario | Ability to Change | Work compliance rate changed from | Denied | Duty to bargain waived by contract. |

Teamsters Local 120

Work Rules

95% to 100% to impose discipline.

Also, at impasse ER can impose.

April, 2010

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|-------------|--|--------------------|----------------------------------|--|----------------------------|--|
| FMCS | Allina Hospital, Buffalo SEIU Healthcare Minnesota | Fogelberg, J.C | Termination | Hospital entry clerk accessed a patient's records in violation of policy. | Sustained | Failed to prove there was no business purpose and disparate treatment. |
| FMCS | Axis MN, Inc. SEIU Healthcare Minnesota | Daly, Joseph | Termination | Employee left 15 minutes early w/o punching out or notifying suprv. | 1 day susp. | Mitigating circumstances. Worked 33 hours, was exhausted. |
| 09-PN-0840 | Centennial Lakes Police Department Law Enforcement Labor Services, Inc. | Daly, Joseph | Interest | Wages-e; Insur. 09-\$900-u, 10-\$900 (u-1,000, e-800); performance pay-u. | 2009 - 3.5% 2010 - 0.0% | Hard economic times. Insurance & performance pay based on internals. |
| 10-PA-0235 | Coon Rapids, City of Teamsters Local 320 | Gallagher, Thomas | Termination | Maintenance worker lost CDL due to DUI & could not reclaim it within 60 day grace period in contract. | Sustained | Termination after 60 day MOU in conflict with just cause standard. Suspended until he gets his CDL. |
| 10-PA-0235 | Coon Rapids, City of- Supplemental Teamsters Local 320 | Gallagher, Thomas | Termination | Original award stated CDL must be but not eligible till 2/4/11. | Sustained | Deadline extended to 90 days from benefits until reinstatement. |
| FMCS | Honeywell International Teamsters Local 1145 | Jacobs, Jeffrey | Subcontracting | Work to build a testing fixture. How to end a past practice discussed. | Denied | Practice properly ended. |
| 10-PA-0286 | ISD 197, West St. Paul West St. Paul Federation of Teachers | Fogelberg, J.C | Mandatory Report Times | Contract calls for 15 min. before & 30 minutes after class. Principal set mandatory start and end times. | Sustained | Language allowing district to schedule meeting suggested Union waived some rights. |
| 09-PA-1139 | ISD 279, Osseo Education Minnesota-Osseo | Schiavoni, Mary Jo | Termination | School Para fired for incompetence. Challenged on lack of progressive | Denied | Repeated letters of expectation constituted notice & working one on one |
| 09 PA 0947 | ISD 423, Hutchinson Hutchinson Education Association | Toenges, Rolland | Leave of absence | 5 year leave-can you come back early? | Denied. | Contract language & districts right to plan for replacement. |
| 09-PA-0653 | ISD 547, Parkers Prairie Education Minnesota-Parkers Prairie | Jensen, Eugene | Overload Pay | Should newly negotiated pay apply going back to earlier schedule? | Sustained | Arbitration is best served when awards make sense & avoid punitive |
| None listed | Minnesota, State of AFSCME Minnesota Council 5 | Jacobs, Jeffrey | Phone use | 1 day suspension for accepting call from son in jail billed at \$2.09. | Wrtn Reprmd | Failed to notify supervisor of call. Award is non precedential. |
| FMCS | St. Francis Regional Medical Center SEIU Healthcare Minnesota | Flagler, John | Termination | Falsifying initials on Medicare doc. that provided hospital release info. | Ref Employee Assistance. | Hosp. alleged forgery vs. violation of work rule. Arbitrator found lack of intent or gain to employee. |
| 09-PA-0654 | St. Louis County Law Enforcement Labor Services, Inc. | Latimer, George | 28 day susp. 5 day suspension | Tagged man dating ex-girlfriend. Failed to renew POST license. | Denied Denied | Used power of office for gain. Equaled # days w/o license. |
| 09-PA-0646 | St. Paul, City of St. Paul Police Federation | Anderson, Richard | Merit Steps vs. Longevity Steps | 7 yr. step denied due to performance. Does longevity trump performance? | Denied | Union's unsuccessful attempt to clarify in negotiation supports city's pos. |
| 09-PA-0546 | SuperValu Teamsters Local 120 | Befort, Stephen | Last Chance Agreement | Termination. Swearing at supervisors. | Denied | Only "shop talk" defense doesn't work when directed at supervisors. |

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|-----------------------|---|-------------------|---------------------------------|---|-------------------------|--|
| 10-PA-0124 | University of Minnesota AFSCME Minnesota Council 5 | McCoy, Arthur Ray | Written Warning | Employee notified co-worker vs suprvsr. re sick leave contrary to work rule. | Denied | Union's past practice argument rejected. |
| 09-PA-1012 | Wright County Wright County Deputies Association | Wallin, Gerald | Last Chance Agreement | Termination. Based on LCA for DUI & conduct unbecoming. | Denied | LCA not restricted to alcohol nor does it automatically sunset. |
| March, 2010 | | | | | | |
| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
| 09-PA-0912 | Beltrami, County of Teamsters Local 320 | Bognanno, Mario | FTO O.T. Pay | Officers claimed 1 hour of OT for work as an FTO. County stopped practice. | Denied | Where there is mutual willingness to vary from CBA, either party may withdraw from practice. |
| FMCS | Boise Cascade Corporation International Assn of Machinists and Aerospace Workers Local W-33 | Beens, Richard | Termination | Last chance agreement re drug use. Employer violated contract re testing procedure. | Sustained. | Contract calls for 5 panel test. Nurse failed to mark form, & a 9 panel test was conducted. |
| 09-PN-0806 | Carver County (Deputies' Unit) Law Enforcement Labor Services, Inc. | Gallagher, Thomas | Interest | Wage reopener MOU to negotiate results of a job study. U-9.12%, e-0% | 2009 - 0% | No market adjustment based on county's finances. |
| 09-PN-0424 | Carver County (Sergeants' Unit) Law Enforcement Labor Services, Inc. | Bognanno, Mario | Interest | Wage reopener MOU to negotiate results of a job study. U-10%, e-0% | 2009 - 2% | Based on market & sergeants underpayment vs. pay equity. |
| 09-PA-0907 | Dayton, City of AFSCME Minnesota Council 5 | Reynolds, James | Vacation Accrual | Calculating years of service for ees. who worked part time and full time. | Sustained. | Past practice crediting years vs. pro-rating based on hours. |
| 10-PA-0170 | Hennepin County (NPHWC) AFSCME Minnesota Council 5 | Jacobs, Jeffrey | Lay Off | Junior dental hygienist retained over more senior employees. | Denied. | Junior employees had REM license. |
| 10-PN-0265 | ISD 77, Mankato Mankato Teachers Association | Bard, Stephen | Interest | Final offer total package. | District's position. | Ability to pay. 1st yr.- hard freeze; 2nd yr. - steps & lanes. |
| 09 TD 6 | ISD 625, St. Paul Individual Grievant | Toenges, Rolland | Termination | Teacher discharge-insubordination & inefficiency. | Denied | Rejected numerous attempts at coaching to improve performance. |
| 09-PA-0608 | Maple Grove, City of Law Enforcement Labor Services, Inc. | Reynolds, James | Comp Time | Are hours carried over from prior year considered in 50 hr/yr. accrual? - yes. | Denied. | 50 hr. per year cap does not allow for replenishment. |
| 10-RA-0056 | Rainbow Foods UFCW Local 653 | Gallagher, Thomas | Termination | Meat cutter ground beef after pork without cleaning grinder. | 30 day susp. | Not deliberate. No prior discipline. |
| None listed | Rosen Industries/Long Prairie Packing UFCW Local 789 | Jacobs, Jeffrey | 3 day suspension Termination | Failure to punch out for an apptmnt. Put hand in sanitizer against rules. | Sustained Sustained | Progressive discipline. Credible witness, 4th discipline. |
| FMCS | Sodexo, Inc. HERE Local 17 | Flagler, John | Termination | 7 grievants fired for failing to correct mismatched SSN information. | Sustained | Company not responsible for correcting SSN data, only trying. |
| February, 2010 | | | | | | |
| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
| 10-PA-0516 | Adams Health Care Center Teamsters Local 160 | Jacobs, Jeffrey | Termination | Nursing home resident left unattended in a lift, while in the bathroom. | 5 day susp. | Lack of clear policy, consistent enforcement or prior discipline. |

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|------------|---|--------------------|----------------------|---|-------------------------|--|
| NLRB | Axis Minnesota, Inc. Healthcare SEIU Minnesota | Flagler, John | Termination | Left work area to do union business while caring for vulnerable adults. | 3 week susp. | Counseled previously but was not told consequence of repeat. |
| 10-PA-0029 | Champlin, City of Teamsters Local 320 | Befort, Stephen | Termination | CDL suspended for 1 year due to DUI | Denied. | Both job description and contract say CDL is required. |
| FMCS | Elk River Machine Company United Steelworkers Local 2002-1 | Kircher, Andrea | Recall, Seniority | A junior welder with specialty skills was recalled for a project. | Sustained. | Senior welders should have been trained first. 2 weeks pay to Sr. ee. |
| 09-PA-0943 | Hennepin County Medical Center Hennepin County Association of | Flagler, John | Overtime Pay | Do PTO hours count as time worked? No - it was a quid pro quo for the PTO. | Denied | Listing items in a contract means similar non listed items are excluded |
| 09-PA-0941 | ISD 255, Pine Island Pine Island Education Association | Martin, William | Coach Selection | Outside candidate selected. | Denied. | District operated in good faith, unbiased selection committee. |
| 10-PA-0042 | ISD 361, International Falls AFSCME Council 65 | McCoy, Arthur Ray | Job Posting | Does employee on sick leave create a vacancy requiring posting? | Sustained | Contract requires posting for temp jobs over 30 days. |
| 10-PN-0659 | ISD 2143, Waterville-Elysian- Education Minnesota - Waterville- | Miller, Richard J. | Interest | Joint submission of issues. Accepted by | 1st y-delayed | Step on 137th day; extra-curricular |
| 09-PN-0924 | Lake County Lake Co. Superv. Empl. Association | Paull, David | Interest | County VEBA insurance awarded; plan takes effect in 2010-Union argued | 2008 - 2% 2009 - 2% | County was willing to accept Union's wages if VEBA awarded. |
| 10PA0108 | Minneapolis Park and Recreation Board AFSCME Minnesota Council 5 | Torosian, Herman | Termination | Customer service clerk failed to make timely deposits & secure money. | Denied. | Ignored direct orders- seriousness trumps lack of progressive discipline. |
| 10PA0071 | Paynesville, City of AFSCME Council 65 | Jensen, Eugene | 8 hr. suspension | Liquor clerk disciplined for behavior seen in surveillance video | Written Rprmd | Can't use video w/o notice. Letter result of info developed from invest |
| FMCS | St. Catherine, College of Operating Engineers Local 70 | Daly, Joseph | Layoff | Seniority issue: sufficient vs. relative ability to determine layoff order. | Sustained | Qualifications refers to eligibility not ability. |
| 07PA1040 | St. Cloud, City of Law Enforcement Labor Services, Inc. | Gallagher, Thomas | Working out of Class | PD reorganized eliminating Captains. Lts. want Capt's pay for new duties | Split | Out of class pay awarded during 3 year transition period. |
| FMCS | United States Department of Justice, Counsel of Prisons Locals (AFL-CIO) | Daly, Joseph | FLSA work w/o | Pre & post shift responsibilities. Employer challenged timeliness and | Sustained Arbitrable | Employer to pay 15 minutes for pre work, Ongoing grievance. Union can file class |
| FMCS | University of St. Thomas Teamsters Local 120 | Beens, Richard | Disability Leave | Removed from seniority list and replaced-unable to do work after 6mo. | Denied. | Disability insurance plans referenced in contract allows action. |

January, 2010

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|------------|---|-----------------|--------------|---------------------------------------|-----------|--|
| 10-PA-0145 | Duluth Housing & Redevelopment Authority Teamsters Local 346 | Lundberg, James | Class of Pay | Property Manager position created due | Sustained | Moved from class 11 to class 12 due to |

| | | | | | | |
|-------------|--|--------------------|--------------------------------------|--|------------------------|---|
| 09 PA 0942 | ISD 745, Albany Albany Federation of Teachers | Imes, Sharon | Extra-curricular if on sick leave | Prorated pay, hired replacement. | Denied | Was not arbitrary, capricious nor covered by contract language. |
| 09-PN-0221 | ISD 2149, Minnewaska Teamsters Local 320 | Jacobs, Jeffrey | Interest-Total Package | New contract - 10 issues certified. | Employer's position | Union's wage proposal would put district in S.O.D. |
| No Case # | Ruling on Request for Modification of Teamsters Local 320 | Jacobs, Jeffrey | Continuing | Can't change or reduce obligations-not of negotiations. | Employer's | Benefits could be the subject of new |
| FMCS | Knife River, Inc. Teamsters Local 120 | Jacobs, Jeffrey | 3 day suspension | Truck drivers failed to wear seat belts as required in yard. | Denied. | Adequate notice. Policy listed 3 day suspension for violation. |
| 09-PA-0820 | Princeton, City of Individual Grievant | Anderson, Richard | Termination Vets 60 day pay | Veteran failed random drug test. Pay reduced during appeal because he | Denied Sustained | Progressive - 3rd failure. Contrary to statute. Paid at higher rate |
| 09-PA-0847 | Plymouth, City of Law Enforcement Labor Services, Inc. | Daly, Joseph | 20 day susp. | Police officer 8 minutes tardy for roll call. | Denied | Progressive discipline including a prior 15 day suspension. |
| None listed | Minnesota, State of Middle Management Association | Jacobs, Jeffrey | Early Retirement Incentive | Early retrmnt benefit to be declared at age 55. Ee over 55 when assigned. | Denied | Contract did not anticipate one over 55 being assigned to unit. |
| 10-PA-0025 | Ramsey County AFSCME Minnesota Council 5 | Miller, Richard J. | Termination | Program manager responsible for paying fostercare providers authorized double payment of \$952 to herself as "respite" pay for watching children. | 17 mo. susp. | She received ok for double payments so county shares blame. Reinstated without backpay due to prior discipline. |
| 09-PA-0628 | Minnesota, State of, Department of AFSCME Minnesota Council 5 | Daly, Joseph | 3 day suspension | Called co-worker to talk about her tan | Denied | Violated sexual harassment policy, |
| FMCS | St. Francis Regional Medical Center SEIU Local 113 | Gallagher, Thomas | Termination | Pharmacy employee took 4 pills after receiving permission from supervisor. | Sustained | Supervisor did not have authority, but grievant assumed she did. |
| 09 TD 16 | Special School District 1, Minneapolis Minneapolis Federation of Teachers | Toenges, Rolland | Termination | Teacher threatened to tape student to his chair. Conduct unbecoming. | Denied | Disciplined 4 times previously. |
| 08-PA-0019 | University of Minnesota AFSCME Minnesota Council 5 | Jacobs, Jeffrey | Termination | Threatened to have boyfriend take care of co-worker. | 10 day susp. | Threat made to supervisor not coworker Continued working another week. |
| 09-PN-1062 | West St. Paul, City of Law Enforcement Labor Services, Inc. | Miller, Richard J. | Interest | 2009-3%+steps-u(u-4%+steps; e-0% +steps); 2010-0%+steps-e(u-4%+stp; e-0% no steps); Xmas eve premium-u. | 2009 - 3% 2010 - 0% | Steps both years - city has 54% fund balance. Xmas eve premium=pattern. |

2011 Arbitration Awards - Minnesota B.M.S.

Summary of Arbitration Awards listed on the Bureau of Mediation Services' web site (<http://www.mn.gov/bms/arbitration/awards/>).
 "Sustained" means the grievance prevails overturning the original action. "Denied" means the original action prevails.

| December, 2011 | | | | | | |
|----------------|--|--------------------|---------------------------|---|-------------------------------------|--|
| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
| FMCS | DeZurick Incorporated Int Assn of Machinists District 165 | Remington, John | Termination | Low productivity in a factory setting. | Sustained | Insufficient evidence to prove low productivity & procedural deficiencies. |
| FMCS | Dotson Company GMPIU | Jacobs, Jeffrey | Sick leave | Policy denies use of sick leave on Saturdays. | Sustained | No such restriction in contract. |
| 11-PA-0939 | Duluth, City of AFSCME Minnesota Council 5 | McCoy, Arthur Ray | 2 day suspension | Insubordinate by leaving assignment early; falsified timesheet and claimed mileage reimbursement not due. | Split. | Written warning. Can only bypass warning when conduct is so severe that warning can't correct it. |
| None listed | FMS Corporation IBEW Local 292 | Jacobs, Jeffrey | Union access to plant | BA denied access to plant. Co. cites when necessary language & Union dropped unfair labor practice. | Sustained | Contract only requires BA to sign in before entering. Union decides when necessary. |
| 12-PA-0049 | Hennepin County Medical Center AFSCME Minnesota Council 5 | Fogelberg, J.C. | Termination | Medical assistant - loud threatening abusive language. | Denied | Pattern of anger, loud outbursts, justified firing w/o prior suspension. |
| FMCS | Hilton Hotels Minneapolis UNITE HERE Local 17 | Gallagher, Thomas | Termination | Housekeeper let guest enter room w/o using his card key. | 10 day susp. | Situation not clearly defined in training. Good discussion on discipline. |
| 11-PA-0654 | ISD 625, St. Paul Teamsters Local 320 | Latimer, George | Termination | Food monitor filed false and fraudulent monitor logs. | Denied | Seriousness of offense justifies termination regardless of past record. |
| 10-PN-1606 | Little Falls, City of Law Enforcement Labor Services, Inc. | Latimer, George | Interest | Wages:'09-0%-e (u-3%);'10-0%-e(u-0% with steps or 1.5%);'11-0%-e(u-0% w steps or 2%). Funeral-5 sick days-u. | 2009 - 0% 2010 - 0% 2011 - 0% | Wages-economy & 16% fund balance Steps denied despite 49ers getting steps (only 2ees). Funeral-intern pattern |
| 11-VP-1279 | Minnesota, State of Individual Grievant | Daly, Joseph | Termination VP Hearing | Corrections officer convicted of 5 charges involving breaking into ex-girlfriend's apt. Failed to notify employer. Lts. not allowed to work Holidays so city saves 1 1/2 premium pay. | Denied | Serious criminal charges; barred from carrying a gun. Attempt to conceal details from employer. |
| 09-PA-0887 | Saint Cloud, City of Law Enforcement Labor Services Inc. | Beens, Richard | Right to work a Holiday. | Failed to call for snowplowing OT. Offered employee future OT but no pay. | Denied | Management right to schedule. Discussion on past practice. |
| 11-PA-0875 | Shakopee, City of Teamsters Local 320 | Wallin, Gerald | Over Time pay | | Sustained | City's policy not to pay ee when they don't work is not in contract. |
| November, 2011 | | | | | | |
| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
| 11-PN-0466 | Dakota County (Interest Case) Teamsters Local 320 | Jacobs, Jeffrey | Interest | Corrections Wages:2011-0%-e (u-3%) Merit pay-0%-e (u-3%). | 2011 - 0% | Internal pattern and the state of the economy. |
| 10-PA-0289 | Crystal, City of Law Enforcement labor Services, Inc. | Lundberg, James | Comp. Pay | City told officers they could only earn compensatory pay for detail. | Sustained | Contract gives ees option of cash or compensatory pay by virtue of listing compensatory pay option. |
| 12-PA-0226 | Edina, City of Firefighters Local 1275 | Lundberg, James | 1 day suspension | Passenger in medic unit failed to get out & act as a spotter when vehicle was backing, resulting in accident. | Wrtn Wrning | Driver acted so fast & distance so short there was no opportunity to act. Should have told driver to stop. |
| 11-PA-0739 | ISD 624, White Bear Lake White Bear Lake Teachers' Assoc. | Befort, Stephen | Leave Request | 2 teachers denied leave. 1 sustained, 1 denied. Only remedy was to use this award as a future guide. | Split | Past practice used adequacy of coverage as basis for denial. Length of leave not basis for denial. |
| 11-PN-1177 | Hennepin County Medical Center Minnesota Nurses Association | Miller, Richard J. | Interest | One issue - Layoff language -u | Union position | Problems with existing language. Same as other hospitals language. |

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| 11-PN-0581 | Hibbing, City of (Interest Award) Hibbing Police Federation | Ogata, Harley | Interest | Wages: '10-0%-e (u-8%); '11-2% (e-0.5%, u-5%); '12-2% (e-1%, u-5%). Insurance 85% to 80% in 2011-no-u | 2010 - 0% 2011 - 2% 2012 - 2% | Wages - job study & fund balance. Insurance - internal pattern of 85%. No change to duration language-e. |
| FMCS | Honeywell International, Inc. Teamsters Local 1145 | Gallagher, Thomas | Termination | Violated safety rules while repairing a machine; and failed drug test. | 14 mo susp. | Using drug test as basis to fire violates MN 181.953 subd 10. |
| 11-PN-0465 | Isanti County (Interest Case) Law Enforcement Labor Services, Inc. | Orman, Anthony | Interest | Deputies; 2 years-e (u-1yr.); 11-0%-e (u-1%), 2012-1.5%-u (e-1%); Steps 2011-y, 12-n-e; 24 hour furlough-n-u. | 2011 - 0% 2012 - 1.5% | Duration-history & pattern; Wages-pattern '11, 2012-pattern deviation; Furlough-questioned savings. |
| FMCS | Minnesota Epilepsy Group SEIU Healthcare | Jacobs, Jeffrey | Pyramiding | Ee volunteered to work Holiday was paid 2 1/2 X regular rate. He worked 88 hrs in 80hr period. Seeking 8 hrs OT. ER denied based on prohibition on pyramiding. | Sustained | OT triggered when 80 hours exceeded. Good discussion on pyramiding. |
| BMS 10-PA- | MN State of, Dept of Public Safety AFSCME Minnesota Council 5 | Lundberg, James | Termination | Alcohol & Gambling worker caused hostile work environment & intentionally gave bad info to clients. | Denied | Progressive discipline not required. Misconduct so egregious - discharge is the only remedy. |
| 11-PA-0539 | St. Cloud, City of AFSCME Minnesota Council 65 | Lundberg, James | Holiday pay for P.T Shift Pay for P.T. | Should part time & casual ees get shift differential & holiday pay? | Split | Casual ees don't receive either. All others receive Shift. Holiday for ees over 30 hours per contract. |
| 11-PA-1274 | St. Louis County AFSCME, Minnesota Council 5 | Befort, Stephen | Step Increase | Should ee hired at step 5 move up steps the same as if hired at step 1? | Denied | Timetable is tempered by longevity step requirements. |
| 10-PN-1621 | St. Louis County (Interest Case) AFSCME, Minnesota Council 5 | Remington, John | Interest | Attorneys; Stop employee contribution to County's self insurance plan-no-e; 2 floating holidays-yes-u. | Split | A wage increase was quid pro quo for insurance + is internal pattern; 2 Fl. Holidays replace 2 discretionary days. |
| 11-PA-0815 | South St. Paul, City of AFSCME, Minnesota Council 5 | Johnson, John | Timelines Seniority bidding Step Placement | 7 day requirement, took 14 days. Denied based on qualifications. From 7 to step 3 in new position. | Denied Denied Denied | Discussion of continuing violations. Timeline missed, not continuing. No rule on placement when demoted. |

October, 2011

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|------------|--|-----------------|-----------------------------------|--|-----------|--|
| FMCS | Aspen Medical Group SEIU Local 113 | Befort, Stephen | Disciplinary Investigation | Seeking reimbursement for 2 days pay when investigation found no fault. | Denied | Contract allows 7 unpaid days for investigation. Union sought pay for investigations in contract neg. |
| FMCS | FMS Corporation Electrical Workers Local 292 | Jacobs, Jeffrey | Wage Opener | Opener offered for 1/1/11. Must wage increase begin on that date? - no. | Split | Increase effective upon ratification. Contract vote valid despite union's promise to arbitrate effective date. |
| 11-PA-0608 | ISD 152, Moorhead Education Minnesota - Moorhead | Paull, David | Selection of Department Chair | Chairs had been selected by election. principal changed to selection based on application. | Sustained | Maintenance of standards clause, prevailed over management right argument. |
| 11-PA-0849 | ISD 197, West St. Paul Operating Engineers Local 70 | Lundberg, James | Termination | Grounds Worker injured shoulder & unable to perform essential functions. | Sustained | Failed to enter into interactive process to determine whether ee can perform. |
| 11-PA-355 | ISD 299, Caledonia Caledonia Education Association | Daly, Joseph | Claims margin return on insurance | Union seeking portion of insurance refunded due to lower usage. | Denied | Contract calls for a maximum amount from district - no language dealing with refund - ees got bargained amt. |

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| 11-PN-0203 | Lyon County (Interest Award) Law Enforcement Labor Services, Inc. | Befort, Stephen | Interest | Deputies wages 2010: 3% to merit grid-no-e; merit increase-yes-u. | Union Position | Internal pattern for 10. Deputies negotiated steps in 09 while pattern was for no steps. |
| 12-VP-0058 | Minnesota, State of, Department of Individual Grievant | Scoville, James | V.P. Termination | Moose Lake treatment employee took & caused escalation of 2nd situation. | Denied | Disciplined 5 times in past year for heart of treatment principles. |
| 11-PA-0525 | Minnesota, State of, Department of AFSCME Minnesota Council 5 | Bard, Stephen | Termination | Kicked door, pounded table, cursed site driving state truck recklessly. | 60 day susp. | Zero tolerance policy refers to ees not for similar acts was 5 years old. |
| 11-PA-1144 | Mounds View, City of Law Enforcement Labor Services, Inc. | O'Toole, Carol | Step movement | Sergeants seeking step increase at 6 months similar to past practice. | Denied | Contract calls for 12 month step Clear language trumps practice & employer free to correct mistake. |
| FMCS | North Memorial Medical Center Minnesota Nurses Association | O'Toole, Carol | Job Offer | Nurse offered a day/night supervisor job - offer then rescinded. | Sustained | Contract's written confirmation of work agreement can't be changed unilaterally. |
| 11-HA-0935 | Virginia Regional Medical Center AFSCME Minnesota Council 65 | Frankman, Janice | OT calculation | Calculating OT changed from using all hours paid to only hours worked. | Sustained | Well established past practice of counting all hours paid. |

September, 2011

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|---|-------------------|---------------------|---|-----------------|---|
| 10-PN-1346 | Dakota County (Interest Award) Law Enforcement Labor Services, Inc. | Bognanno, Mario | Interest | Police Wages: 2010-0%-e (u-2%); Merit: 0%-e (u-3%). | 2010 - 0% | Internal pattern (11 settlements) and state of economy. |
| 11-PA-0821 | Metro Transit Amalgamated Transit Union 1005 | Lundberg, James | 20 day suspension | Used cell phone while driving bus. Claimed trauma from witnessing accident. | Denied | Clearly stated, reasonable policy. Video showed cell in hand before acc. |
| 11-PN-0587 | Prior Lake, City of (Interest Award) Teamsters Local 320 | Fogelberg, J.C | Interest | Sgts. insurance reopener 2011-\$940-e (u-\$875+50% of increase = \$992). | City's Position | Pattern with one group. 10 year history of \$ amounts vs % formula. |
| 11-PA-0834 | Shakopee, City of Law Enforcement Labor Services, Inc. | Daly, Joseph | 1 day suspension | Officer returned unused uniform jacket seeking cash - received credit. Dept. felt it was someone else's jacket. | Sustained | No proof of jacket's origin. No specific policy dealing with this. Credit used for new Dept. items. |
| 11-PA-0434 | Stearns County Law Enforcement Labor Services, Inc. | Toenges, Rolland | Elimination of work | Ramsey County contracted to do Medical examiner work eliminating. Detective/medical examiners. | Sustained | Management right; not a demotion since work eliminated. Layoff seniority should have been used. |
| 11-PA-0434 | Stearns County (Implementation) Law Enforcement Labor Services, Inc. | Toenges, Rolland | Back pay | Union seeking base pay difference of position eligible to bump. ER wants to reduce amt by specialty pay received. | Split | Seniority rights election retro to Sept 2010. No back pay. |
| AAA | Xcel Energy Electrical Workers Local 160 | Jacobs, Jeffrey | Pool Cars | Foreman's ability to use own vehicles instead of pool vehicles for relief shifts. | Sustained | Past practice argument. Also informal negotiations allowed use. |

August, 2011

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|---|-------------------|--------------|---|------------------------|--|
| 11-PN-0635 | Brainerd, City of (Interest Award) Teamsters Local 346 | Reynolds, James | Interest | Captains and Sgts. wage reopener. 2010-3% eff. 12/31/10-u (u-3% 1/1/10; e-1% 12/31/10); 2011-1%-u (e-0%). | 2010 - 3% 2011 - 1% | Officers received 3% in arbitration (09-PN-0550). This maintains relationship with officers. |

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| 10-PN-0423 | Carver County AFSCME Minnesota Council 65 | Fogelberg, J.C | Interest | 2010-0%, no steps-e (u-steps); 2011-2.75% step, 1% to top-u (c-.5% step 2.5% to top); Ins 2011- \$650s,\$1150f. | 2010 - 0% 2011 - 1% | County Attorneys - Internal pattern. Those who already received 2011 step (4.5%) had to return pay. |
| FMCS | Capitol Beverage Sales, LLP Teamsters Local 792 | Gallagher, Thomas | Termination | Relief driver initially refused to make deliveries. Unhappy that pay would be less then his regular helper pay. Deliveries made as directed by Union. | 10 mo. susp. | Returned w/o back pay. Also to pay \$105-truck cost for delivery. Prior written for similar incident. |
| 11-PA-0314 | Cohasset, City of AFSCME Minnesota Council 65 | Befort, Stephen | Termination | Abusive behavior and insubordination. Personality conflict between sprvsr.&ee. | 20 day susp. | Lack of progressive discipline & supervisor's hands were not "clean". |
| FMCS | CUB Foods, Duluth UFCW Local 1189 | Daly, Joseph | Lay Off | Full time ees given option of layoff or part-time work, but part-time with less seniority not laid off. | Sustained | Store wide seniority vs class seniority when laying off in a class.. Pt time less senior to be laid off. |
| 11-PA-0996 | East Metro Integration District 6067 United Educators 6067 | Lundberg, James | Pre-approval of funds for training. | Teacher denied approval to attend a 2 day seminar. | Denied | Denial based on her having no leave time available - not the funding. |
| FMCS | Federal Bureau of Prisons - Federal Council of Prison Locals (AFL-CIO) | Kircher, Andrea | FLSA Overtime | Registered Nurses correction duties should make them non-exempt. | Denied | Nursing duties considered primary that is reason for existence. |
| 11-PN-0612 | Goodhue County (Interest Award) Law Enforcement Labor Services, Inc. | Johnson, John | Interest | Sergeants; H.S.A. Insurance plan that reduces aggregate value of insurance-e | Co.'s Position | Union seeking no change. Pattern, 5 other units accepted change. |
| None listed | Hennepin County AFSCME Minnesota Council 5 | Jacobs, Jeffrey | Termination | Social Services supervisor engaged in verbal altercation with client. | 11 mo. susp. | Oral warning only prior. Returned to work without back pay. |
| 11-PA-0725 | Metro Transit Amalgamated Transit Union 1005 | Anderson, Richard | Termination | Fell asleep in bus & failed to make his run. 4th violation in year. | 9 month susp. | Suffers from sleep apnea-seeking treatment. Reinstated w no back pay. |
| 11 PA-0490 | Metro Transit Amalgamated Transit Union 1005 | Imes, Sharon | Termination | Excessive absences in violation of. no fault policy. | Sustained | Faults unilateral policy defining excessive absenteeism. |
| 11-PA-0724 | Metro Transit Amalgamated Transit Union 1005 | Jacobs, Jeffrey | Termination | Job abandonment. Gone 23 days without contacting employer. | Denied | Claimed sick & carry status, but claim only made during grievance. |
| 11-PA-0623 | Metro Transit Amalgamated Transit Union 1005 | McCoy, Arthur Ray | Removal as Light Rail Operator. | Removed as light rail operator after third red-light overruns. | Denied | Contract calls for return to bus operations if 3 violations. |
| ??? | Minneapolis, City of Minneapolis Police Federation | Fogelberg, J.C. | Termination | Excessive force & untruthful Garrity. Garrity statement was basis for termination. | 2 month susp. | Inability to recall details of year old incident do not constitute a lie. |
| ??? | MN State Colleges and Universities Minnesota State College Faculty | Befort, Stephen | Eliminating Coordinator Duties | Coordinator duties and pay removed from assigned teachers who continued to perform duties. | Split | ER didn't make arrangements re who should do essential tasks. Partial pay 10 & 11- none forward. |
| None listed | MN, Department of Human Services Middle Management Association | Jacobs, Jeffrey | Termination | Suprvsr. at group home for vulnerable adults failed to report abuse or deal with hostile work environment. | 30 day susp. | Mitigation - she informed her supervisor re some of the incidents. |
| 11-HN-0894 | New River Medical Center Minnesota Nurses Association | Anderson, Richard | Interest | Duration: 7/1/10-6/13/13, | 2010 - 0% 2011 - 1% 2012 - 2% | No explanation for award. |
| 11-PA-0035 | St. Louis County Teamsters Local 320 | Fields, Bernice | Termination | Numerous threats to kill supervisor. Criminal investigation but no charges. | Sustained | Due process violations; no summary of investigation; failure to cite rule violated. Good record for 23 yrs. |

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| 11-PN-0027 | South St. Paul, City of (Interest Award) Law Enforcement Labor Services, Inc. | Wallin, Gerald | Interest | Wages: 0%.0%-e (u-1%,1%); Steps: 10&11-yes-u; 3 days off in lieu of 1%- no-e; comp payout 1st pay period per quarter- no-u; vac accrual as earned-no-u. | 2010 - 0% 2011 - 0% | Wages internal pattern and ability to pay. Steps reflect learning curve and employer is getting greater value. |
| FMCS | Star Tribune Company Minnesota Newspaper Guild Local | Gallagher, Thomas | Transfer to lower paid job | Cost cutting transfer to lower paid job should consider seniority. | Denied | Per contract, when move is due to economy seniority not a factor. |
| 11-PA-0452 | Stearns County Law Enforcement Labor Services, Inc. | Befort, Stephen | Termination | Officer used cocaine. | Denied | Off-duty misconduct may be grounds for discharge where misconduct has substantial impact on busnss or rep. |
| FMCS | SYSCO Minnesota Teamsters Local 120 | Miller, Richard J. | Termination | 3 preventable accidents within a 12 month period (last 2 within 53 days).. | Denied | Contract calls for termination after 3rd non-preventable accident. |
| 11-PA-0577 | University of Minnesota Law Enforcement Labor Services, Inc. | Fogelberg, J.C. | Unpaid Furlough | Unable to negotiate, U imposed 24 hour furlough on PD. | Denied | 2080 hours is not a guarantee; not a layoff. Allowed by Management Rights. Pope Co (BMS 10-PA-0870) sustnd. due to more specific contract. |
| 10-PA-0565 | Wright County AFSCME Minnesota Council 65 | Jacobs, Jeffrey | Out of Class Pay | Union challenged points awarded in job study. | Denied | Contract called for study & increase if over 1200 pts. Arbitrator has no authority to change points awarded. |
| July, 2011 | | | | | | |
| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
| 11-PA-0691 | Duluth, City of Firefighters Local 101 | Lundberg, James | Out of Network Insurance costs | Challenged how Health Partners calculated UCR insurance fee. | Sustained | Contract language. Deals with who is successor to listed entity. |
| 11-RA-0711 | Human Development Center AFSCME Minnesota Council 5 | Scoville, James | Health Insurance | 80/20 premium split in contract. ER has 3 plans and is paying 80% of low cost HRA - Union objected. | Sustained | Existing contract until 2012 has 80/20% formula. ER must pay. 80% of all plans. |
| None Listed | ISD 191, Burnsville Individual Grievant | O'Toole, Carol Berg | Termination VP Hearing | Plumber arrested - DUI & open bottle. Can't be insured to drive district vehicles. | Denied | Long history of progressive discipline. Without insurance is incompetent to hold the job. |
| 11-PA-0276 | Metropolitan Council Amalgamated Transit Union Local 1005 | Bognanno, Mario | Termination | Fraudulent workers comp claim. | Denied | Video playing soccer yet claiming permanent disability. |
| None listed | Minneapolis, City of Police Officers Federation of | Lundberg, James | Working out of Class | Two lieutenants claim they are doing captains work. | Denied | Managements right to reorganize & need for classification study to evaluate if working out of class. |
| None listed | Minneapolis Convention Center Teamsters Local 320 | Lundberg, James | 5 day suspension | Loud & threatening confrontation with co-worker. | Denied | Egregious nature of misconduct; detrimental impact to co-worker; & is progressive from priors. |
| 11VP1075 | MN Department of Transportation Individual Grievant | Fields, Bernice | Termination VP Hearing | Worked on neighbor's van in Dept. garage during working hours. | Denied | Violated clear ethics policy & 2nd similar violation in 6 month period. |
| 11-PA-0560 | Mower County Law Enforcement Labor Services, Inc. | Jacobs, Jeffrey | Termination | Deputy routinely left work early w/o using PTO or properly filling time card. | Denied | Union argued lapses due to Post Traumatic Stress Syndrome. |
| FMCS | Range Regional Health Services - United Steelworkers Local 9349 | Kircher, Andrea | Termination | LPN accused of bullying & creating hostility & fear in the workplace. | Denied | Misconduct serious because of its cumulative negative effect. |
| 11-HA-0639 | St. Michael's Hospital and Nursing | Paull, David | Termination | Nurse violated HIPPA regulations. | Sustained | Looked up a name - not "critical". |

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| FMCS | SEIU Healthcare Minnesota Thermo King Corporation United Steelworkers of America 2175 | Gallagher, Thomas | Evaluation of a combined job | Tube bender & Fabricator duties were combined. Dispute re classification. | Denied | Reduced to a final written reprimand. Reasoned explanation of classification process. Current duties of new position vs combining previous pts. |
| 11-RA-0788 | Usem Chevrolet United Auto Workers Local 867 | Remington, John | Insurance Opt-Out | Employees who opted out charged for dental & life insurance. | Sustained | Opted out of health, each type is in a different contract section. |

June, 2011

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|---|-------------------|----------------------------|--|-------------------------------------|--|
| FMCS | Abbott Northwestern Hospital Alliana Health System Operating Engineers Local 70 | Flagler, John | Termination | Maintenance engineer didn't respond to an alarm that a freezer with body parts was failing - parts were lost. | Sustained | Disparate treatment. No discipline when ventilating fan failed for 13 hours. |
| 10-PN-0934 | Brooklyn Park, City of (Interest Award) Teamsters Local 320 | Wallin, Gerald | Interest | Wages: 10-0%-e (u-1.5%), 11-0%-e (u-1.5%); Steps-2011-no-e; Mkt adj. language (0-2% based on average) to remain, but not applied. | 2010 - 0% 2011 - 0% | Internal pattern. Ability to pay has taken on greater weight; market less important due to city's differences. |
| 11-PN-0057 | Champlin, City of (Interest Award) Law Enforcement Labor Services, Inc. | Flagler, John | Interest | Wages-e (u seeking 8% over 3 years); Insurance-e; Sick leave-e; Parenting leave-e. | 2010 - 0% 2011 - 1% 2012 - 4% | Internal pattern cited on all issues. Lengthy discussion on why arbitrators prefer internal comparisons. |
| 11-PA-0069 | Douglas County Hospital Operating Engineers Local 70 | Frankman, Janice | Vacation Denial | Denied weekend vacation unless she could find her own substitute. | Sustained | Hospital unable to show any past practice requiring weekend trades. Can deny, but this request was 6 months in advance. |
| FMCS | Fairview Southdale Hospital Minnesota Nurses Association | Flagler, John | Mandatory On-Call | Mandatory On-Call requirement in job postings evades contract bar. | Split | Requirement in job posting improper because it nullifies contract language 2 hires must retain requirement. |
| 11-PA-0614 | Hennepin County Medical Center AFSCME Minnesota Council 5 | Jensen, Eugene | Termination | Interpretive Service scheduler's - performance issues. | Denied | Interpersonal communications problems primary reason. |
| 11-PA-0385 | ISD 911, Cambridge-Isanti School Service Employees Local 284 | Lundberg, James | Reorganization | Reorganized & duties shifted outside bargaining unit - employee laid off. | Denied | Inherent management right. |
| 11-PA-0018 | ISD 750, Ricori SEIU Local 284 | Gallagher, Sharon | Bargaining Unit Work | District eliminated child care program referring clients to the Girls and Boys club. | Denied | District is not subcontracting-no money is exchanged. Only needed to bargain effects of shutdown. |
| FMCS | Joseph T. Ryerson & Son, Inc. United Steel Workers Local 2002 | Beens, Richard | Distributing pay checks | Was practice of distributing pay checks at work binding? | Denied | Mailing checks does not result in any pecuniary loss to employees. |
| 11-PN-0174 | Metropolitan Council (Interest Award) Law Enforcement Labor Services, Inc. | Bognanno, Mario | Interest | Proper wage rate for new sergeant title? Differential between Sgts. & Lts. - E. | 2010 - 0% 2011 - 0% | Both agreed to 0%, Total cost 2% per year - internal pattern. |
| 10-RA-1645 | Peoples Cooperative Services IBEW Local 949 | Jacobs, Jeffrey | Job Requirements | Company changed job description so meter readers can change non-self contained meters. | Sustained | Position negotiated with specific limitations, therefore that change must be negotiated. |
| FMCS | Rainbow Foods UFCW Local 1189 | Beens, Richard | Layoff | Developmentally disabled utility worker on layoff, not given opportunity to take cashiers test. | Sustained | To be offered training & 3 tries to pass test per policy. |

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| 11-PA-0492 | Ramsey County AFSCME Minnesota Council 5 | Befort, Stephen | Termination | Inappropriate touching of female ee (touched butt & kissed on cheek). | Denied | Grievant not warned by Co., but ee previously told him to stop. |
| 11-PA-0450 | Shakopee, City of Law Enforcement Labor Services, Inc. | Jacobs, Jeffrey | 7 day suspension | Officer failed to include license # of hit & run vehicle in her report. | Denied | Previous coaching & discipline regarding attention to details. |
| FMCS | SYSCO Minnesota Teamsters Local 120 | Jacobs, Jeffrey | 1 day suspension | Slid into snow bank due to glare ice. Second accident warrants suspension. | Denied | Reasonable rule and appropriate suspension. |

May, 2011

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|---|-------------------|--|---|---------------|--|
| 11-PA-0030 | Anoka, City of Teamsters Local 320 | Martin, William | Termination | Safety violation - drove street sweeper around school bus w flashing lights. | Denied | 15 prior safety violations. |
| 11-PA-0615 | Hennepin Healthcare System, Inc. AFSCME Minnesota Council 5 | Bard, Stephen | Termination | Security officer at HCMC called Mpls. police to report H&R driver at Hosp. Fired for violating HIPPA. | Sustained | Patient told him she was in H&R. Words were not protected by HIPPA. Letter reprimnd-not reporting to suprvr. |
| 11-PA-0126 | Heritage Living Center Teamsters Local 320 | Frankman, Janice | Change schedule to avoid Overtime | Regular block schedule changed to avoid OT the week of July 4. | Split | Contract requires block scheduling. Can't change schedule changed to avoid holiday OT. Award does not bar employer changing schedules. |
| 10-PA-1521 | ISD 138, North Branch SEIU Local 284 | Gallagher, Sharon | Termination | Hostile work environment - obscene language & threats towards females. | Denied | Prior 10 day suspension & last chance agreement. |
| 11-PA-0395 | ISD 728, Elk River Elk River Education Association | Kapsch, Frank | 6 day suspensions | 3 coaches failed to supervise football player free time between 2 a day summer practices that led to hazing. | Denied | Good discussion of just cause. Disciplined as coaches, not as teachers. |
| 10-PA-0412 | Metro Transit Amalgamated Transit Union Local1005 | Beens, Richard | Termination | 4 chargeable accidents in 3 year period. Does responsible = preventable - yes. | Denied | Reasonable rule, prior notice, thorough investigation, employee engaged in conduct. |
| 11-PA-0088 | Metro Transit Amalgamated Transit Union Local1005 | Gallagher, Thomas | Termination | No fault absenteeism policy - 13 in 12 month period. Union allowed to challenge 4 even though not grieved. | 11 mo. susp. | 1 was for care of child and statue bars retaliation. Reinstated w/o backpay & 8 absences retained. |
| FMCS | Polar Tank Trailer Machinists District Lodge 165 | Remington, John | Job Posting | Posted for Operator position in the Robot Cell area rather than for Layout Set-up. Union-there is no Operator post. | Sustained | EE wanted Operator to learn duties then advance to Layout Set-up. Not in contract-must be negotiated. |
| 10-PN-1622 | Saint Louis County (Interest Award) AFSCME Minnesota Council 5 | Remington, John | Interest | Dispatch/Corrections unit. OT will not use sick or comp hrs. as time worked-e. Health Insurance: ee to pay \$37.72 for 2010 & 2011-u. | Co. Position | Award based on county pattern. Union sought insurance w/o OT change. Claimed others who agreed did not regularly receive overtime. |
| FMCS | Sappi Fine Paper-Cloquet Paper LLC United Steelworkers Local 11-63 | Reynolds, James | Proper pay rate for new classification | Parties negotiated new rate for Roll Handler. Union claimed duties were then added warranting more pay. | Denied | No showing of any significant change from what was negotiated |
| None listed | SSD 1, Minneapolis Individual Grievant | Powers, Nancy | Termination | Choral music teacher at Southwest H.S. terminated | Denied | Inefficiency in teaching in spite of extensive counseling and support. |

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| 11-PN-0209 | Washington County (Interest Award) Law Enforcement Labor Services, Inc. | Lundberg, James | Interest | Wages: Deputy10-0%, 11-0%-e (u-3%, 1,5%), Sgts. 3%, 1.5%-u (e-0%,0%); Step compression-no-e; Steps 2011-yes-u; Shift diff incr-no-e; Comp accrual incr-no-e; Clothing-\$625to\$700-u; Cell phone language-no-e; Eliminate sick preservation & purchasing card-no-u. | 2010 - 0% 2011 - 0% | Deputies 0%,0% based on pattern. Sgts. due to pay equity (changed differential between Deputy & Sgts.). Increase to clothing due to market & buy American requirement. Lack of compelling reason to change contract basis for other awards. |
| FMCS | Wirtz Beverage Minnesota Beer Teamsters Local 792 | Remington, John | Termination | Warehouse work failed drug test. Union asked for 2nd chance. | Denied | No past practice even though some given 2nd chance. |
| April, 2011 | | | | | | |
| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
| 09-PN-1040 | Duluth, City of (Interest Award) Firefighters Local 101 | Fogelberg, J.C. | Interest | Union asked city to increase HCSP contribution for new ees from 1.25% to 2% - no. Other unions receive 1%. | City's Position | Internal pattern; city's distressed finances; fire already is .25% above other union's 1%. |
| 11-PN-0059 | Hennepin Healthcare System, Inc. Minnesota Nurses Association | Kircher, Andrea | Interest | Wages: 2010-0%-e (u-3%, 5%-clinic nurses put into 2nd tier in 2008). | 2010 - 0% | Internal & external patterns of 0%. |
| 10-PA-1299 | ISD 700, Hermantown Education Minnesota - Hermantown | Fogelberg, J. C | Job Description | District failed to negotiate changes to janitor job description. | Sustained | Job duties revert to previous ones until negotiated with union. |
| 11-TD-2 | ISD 911, Cambridge-Isanti Individual Grievant | Reynolds, James | Termination - School Principal | Sent to a seminar in Orlando by the district. Skipped an afternoon session & went to amusement pk w 5 teachers. | 3 day susp. | Behavior is remediable. Others received letters of reprimand. He only supervised 1 of the teachers. |
| 11-PA-0041 | Janesville, City of Electrical Workers Local 160 | O'Toole, Carol Berg | Layoff then replacement w PT | Police officer laid off due to budget, then 2 part-time officers hired. | Denied | Contract not violated. Part-time not members of union so seniority not at issue. |
| 10-PN-0925 | Lyon County (Interest Award) Law Enforcement Labor Services, Inc. | Jacobs, Jeffrey | Interest | Wages: 0%, 0%-e (u-3%, 3%); Merit pay:09-yes-u;2010-yes-e; Vac:240 hr cap-no-u; Hol. Pay: Columbus floater -u (e-2 floaters); Retiree Ins. if hired prior to 5/1/97-no-e. | 2009 - 0% 2010 - 0% | 1st Jail/Disp contract. Wages-internal & economy. Merit & Hol. pay-deputy pattern. Vac.-should be negotiated. Retiree benefit provided through policy not contract. |
| 11-PA-0414 | Metro Transit Amalgamated Transit Union Local 1005 | Gallagher, Sharon | Termination | Bus cleaner violated absentee policy with 13 absences. | Sustained | Not a true no-fault policy. Just cause used to exempt 1 absence. |
| 11-PA-0382 | Minneapolis Park Board Minneapolis Police Federation | Schiovani, Mary Jo | Termination | Police Lt. terminated for taking a bolt from I35 bridge collapse; running a business on work computer; & double dipping working extra duty assignments. | 1 day susp. | Insufficient evidence to support termination and his clear record. One day suspension for sloppy records of extra duty assignments. |
| 10-PN-0748 | Roseville, City of (Interest Award) Law Enforcement Labor Services, Inc. | Martin, William | Interest | 2 yrs.-e (u-1 yr.), Wages:1%,1%-u (e-0%,0%); Longevity:1%,1%-u (e-0,0); Ed credit:1%,1%-u (e-0%,0%). | 2010 - 1% 2011 - 1% | Duration-already in year 2. Wages-1% is modest request; below cpi. (Sgt's. 2010-2.95%). Longevity & Ed credit historically mirror wage incr. |
| FMCS | United Hospital Minnesota Nurses Association | Kapsch, Frank | Termination | Nurse accessed HIPPA records in violation of policy and law. | Denied | Nurse acknowledged she screwed up at the time, but did not self-report, which may have mitigated. |

March, 2011

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|--|-------------------|---------------------------------|---|-----------------------------|---|
| FMCS | Electrolux Home Products IAMAW District Lodge 165 | Bognanno, Mario | Holiday Pay Timelines | Need to work before & after to receive holiday pay? Union-no. Union late in filing for arbitration. | Sustained Arbitrable | ER repudiated longstanding practice but Arbitrator relied on parties history, Continuing violation, pay not awarded for incident missed by timeliness. |
| 10-PN-1600 | Hopkins, City of (Interest Award) Hopkins Police Officers Association | Lundberg, James | Interest | 2010-1% (u-Jan1%,Jul2%) (e-0%); 2011-2%-e (u-2%); Single insur. 2010-\$667-u (e-\$612), 2011-\$724-u (e-\$669) Uniform-\$800-u (e-\$850). (U-use \$50 to pay for single insurance). | 2010 - 1% 2011 - 2% | W-internal pattern argued-49ers 3% in year 3 (08-10) trumped current 0%. Single insur. (100% of high vs 100% of low plan) past trend & lack of quid pro quo. |
| 11-PA-0386 | ISD 741, Paynesville School Service Employees Local 284 | Jacobs, Jeffrey | Earned Vacation on unpaid leave | 12 mo. employee only worked 3 mo. then went on unpaid leave. Felt vac. should paid as a full time employee. | Denied | Vacation prorated, since hours worked only qualify for part time status. Discussion of past practice. |
| 11-PA-0091 | Metro Transit Amalgamated Transit Union Local1005 | Imes, Sharon | 20 day suspension | Bus driver using cell phone. 20 days and indefinite record of warning challenged. | Split | Indefinite warning removed. It is in conflict with 36 month contract limit. 10 day suspension based on other cases arbitrated. |
| 11-PA-0093 | Metro Transit Amalgamated Transit Union Local1005 | Latimer, George | Assigning Work | Transportation information center told to take customer complaints during hours customer service is closed. | Denied. | Assignment reasonable. Did not result in any loss of positions for customer service. |
| 10-PA-1646 | Metro Transit Amalgamated Transit Union Local1005 | Neigh, Charlotte | Unit work | Supervisor moved locomotive from yard to shop. | Denied | Moving equipment in the yard is not exclusively the work of mechanics. |

February, 2011

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|---|-------------------|---------------------------------|---|--------------------------|---|
| FMCS | Ameripride Services, Inc. Workers United, SEIU Local 150 | Gallagher, Thomas | Termination | Told to return to work station 2 times. 3rd time refused because his work was done & he thought others were lazy. Was helping others at another station. | Split | Insubordinate, but not grossly-1 year suspension. No prior discipline & was not told failure could result in discipline. |
| 10-PN-1602 | Cottage Grove, City of Cottage Grove Police Officers | Anderson, Richard | Interest | Wages:12/31/10*-2%-e (u-\$1/h to top pay); 1/1/11-1% & 7/1/11-1%-u (e-1% 1/1 & mrkt adjustment 7/1);drop short term disability eligibility from 20 days to 5 days-no-e. | 2010 - 2%* 2011-1%,1% | 2010 internal pattern. 2011 COLA, Union failed to meet burden of need to change ST Disability eligibility. |
| FMCS | Honeywell International, Inc. Teamsters Local 1145 | Anderson, Richard | Subcontracting | 2 millwrights laid off while millwright work was subcontracted. | Denied | Right to subcontract was not encumbered by the Grievant's layoff. |
| 11-RA-0120 | Human Development Center AFSCME Minnesota Council 5 | Remington, John | Termination | Performance issues due to data entry errors. | Sustained | Failure to establish objective performance standards. |
| 10-PA-1207 | ISD 316, Coleraine AFSCME Council 65 | Daly, Joseph | Benefit Accrual on Workers Comp | Benefits paid on part time basis due to employer only paying 1/3 of wage. | Denied | 1/3 payment proper. Mistake by bookkeeper does not establish a practice. District has no claim for repayment as a matter of equity. |

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|------------|---|---------------------|-----------------------------|--|----------------|---|
| 10-PN-1074 | ISD 625, St. Paul St. Paul Principals Association | VerPloeg, Christine | Interest | Retiree insur.. sunset for new ee hired after 1/1/96, in exchange they got a 403b. Seeking 403b for those who kept insurance. | Denied | Final Offer. Neither internal nor external comparisons support incr. budget realities and should adhere to 1995 negotiated agreement. |
| 10-PA-1498 | Hibbing Public Utilities Commission AFSCME Council 65 | Gallagher, Thomas | Filling Temporary Vacancies | Union claims seniority must govern temporary filling of higher paid position. | Denied | Contract only requires seniority for bids on permanent positions. |
| FMCS | McQuay International Sheetmetal Workers Local 480 | Imes, Sharon | Termination | Violated 4 plant rules in 12 mos. Last 2 for smoking & calling supervisor a snake (abusive language).. | Sustained | Failure to conduct an investigation denied ee due process. Didn't see smoking; "snake" is not abusive. |
| 10-PA-0868 | Metro Transit Amalgamated Transit Union Local1005 | Jacobs, Jeffrey | Termination Last Chance | Bus driver's last chance agreement limits 2 incidents in a year-he had 3. | Denied. | Unsafe driving incidents-on camera. . |
| 10-PA-0733 | Moorhead, City of Law Enforcement Labor Services, Inc. | Jacobos, Jeffrey | Tuition Reimbursement | Union challenged city's denial of tuition reimbursement. | Denied | City's right to deny course or reimbursement can include denial because of budget. |
| 10-PA-1561 | Rice County Teamsters Local 320 | Befort, Stephen | Termination | Child mental health worker arrested for domestic assault, put on 2 Return to Work Expectations Agreements, then arrested for DUI. | Denied | Return to work agreements weren't last chance agreements, but several emotional meltdowns raise questions re her capacity to perform sensitive mental health counseling functions |
| FMCS | SMDC Health System Operating Engineers Local 70 | O'Toole, Carol Berg | Interest | Interest Arbitration- keep language-u; part-time ee language-no change-u; lump sum of \$595 (exclude 5 eligible for steps or longevity?)-no-u. | Union position | Changes to contract should take place at negotiating table. Lump sum will treat every one the same. |
| 10-PA-1392 | Waite Park, City of Teamsters Local 320 | Martin, William | Continuing Contract | City changing insur. contribution from % to set \$ amount. Union tried to keep % arguing continuing contract | Denied | Insurance expressly stated 97% of 2009 cost, which city was paying. Maintaining status quo doesn't add to am |

January, 2011

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|--|--------------------|---|--|---------------|--|
| 10-PA-1616 | Alexandria, City of Law Enforcement Labor Services, Inc. | Toenges, Rolland | 3 day suspension Right to Union rep. | Off-duty officer was called by Sgt. re driving under influence. He lied about driving. Sgt. didn't notify him of rights to a Union rep before questioning. | Denied | Lying to sergeant was basis for susp. Discipline not contemplated at time of call therefore need to advise of right to Union representative. |
| 10-PN-1311 | Anoka County (Interest Award) Law Enforcement Labor Services Inc. | Miller, Richard J. | Interest | Wages: 0%-c (u-2%); Merit steps: 3%-u (c-1.5%); Pay for negotiating: yes-u (c-no). | 2010 - 0% | Wages-internal pattern; Merit step-needed to adjust internal pay gap; Neg. pay-maintains past practice. |
| 10-PN-0769 | Dakota Communications Center Law Enforcement Labor Services, Inc. | Toenges, Rolland | Interest | Steps v Pay for performance wage schedule-steps-u; OT seniority rights & right to grieve-no-(county position). Wages 0% for 10 & 11 not arbitrated. | Step system | Steps are more common in public safety. Dispatchers who had P for Performance rejected it. Steps effective 3/1/11 with no back pay. |
| 11-RA-0211 | Douglas County Hospital Operating Engineers Local 70 | Flagler, John | Supervisors doing Union's Work | Union challenged supervisor doing bargaining unit work. | Sustained | Supervisors can only be assigned in emergencies. Suprvsr. improperly removed from Unit w/o BMS ruling. |

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|------------|---|--------------------|--|--|---------------------------------------|---|
| 10-PN-0853 | Forest Lake, City of (Interest Award) Law Enforcement Labor Services, Inc. | Miller, Richard J. | Interest | Retiree insur. sunsets for ees hired after 1/1/10. Wages, health, dental, severance positions identical. Union tried to reject HCSP incrs. as insufficient quid pro quo for retiree insurance. | 2010 - 0% 2011 - 1.5% 2012 - 3% | No quid pro quo required since only effects new employees. City's position-no increase if sunset not awarded. Economy distinguishes this from 2008 Arbitration award. |
| 10-PN-0313 | Freeborn County (Interest Award) Teamsters Local 320 | Bognanno, Mario | Interest | Working out of class-\$2-u (c-2weeks in position before eligible). Health Insurance-no change-c(u-90%) | Union position Co.'s position. | Maintains intent of existing article-nullified by new Sergeant's position. Insurance-internal pattern. |
| FMCS | Great Western Recycling Operating Engineers Local 49 | Jacobs, Jeffrey | Termination | Grievant fell asleep while operating a scrap metal bailer. | 5 month susp. | Reinstated w/o backpay. Lack of notice that sleeping would result in termination. |
| 10-PN-1022 | Hennepin County (Interest Award) Hennepin County Sheriffs Supervisors | Miller, Richard J. | Interest | OT: for Cpts. & Lts., remove FLSA restrictions for Sgts.-u; Hol. premium-no-c; Comp time for Watch Cmdrs-no-c; Uniform incrs.-no-c (u-\$1,000). 2 year wage freeze-w/no 2011 steps negotiated. | OT for Cpts. & Lieutenants | Contract provided for OT in rare & unusual circumstances. Award changes to, "if obligated". FLSA reference is removed. |
| 10-PA-1365 | ISD 728, Elk River Elk River Education Association | Toenges, Rolland | 5 day suspension | Unprofessional conduct, put a candy bar in a 7th grade girls pocket and touched her buttock. | Denied | 12 students testified re. this event. Actions inappropriate whether sexual or not. |
| 11-PA-0180 | Metro Transit Amalgamated Transit Union Local1005 | Neigh, Charlotte | 20 day suspension Final Warning | Bus driver talking on a cell phone. Can warning be on indefinite length? | Denied Sustained | Safety policy calls for 20 day susp. Limited to 36 months per contract. |
| 10-PA-1475 | Minneapolis Parks & Recreation Bd Teamsters Local 320 | Bognanno, Mario | Arbitrability due to missing time lines. | Grievance denied, notice sent by e-mail. Union did not receive e-mail & filed for arbitration 3 months later. | Sustained | No follow-up letter nor fax was sent per parties practice. No timelines to move to next step if no response. |
| 11-PA-0315 | Plymouth, City of AFSCME Minnesota Council 5 | Dunn, Richard | 20 day suspension Timeliness? | Senior Engineering Tech (surveyor) performance issues i.e. errors. Union notified intent to arbitrate in April but did not file w BMS until Oct. | Denied Arbitrable | Notice, counseling and previous discipline failed. Delay caused no harm. |
| 09-PA-0940 | Princeton, City of AFSCME Council 65 | Paull, David | 3 day suspension 5 day suspension | Didn't notify suprvsr. re disabled vehicle. Used obscene language at drug test. | Writn Rpmnd Denied | Investigation took 5 months. Other members of public present. |

2012 Arbitration Awards - Minnesota B.M.S.

Summary of Arbitration Awards listed on the Bureau of Mediation Services' web site (<http://www.mn.gov/bms/arbitration/awards/>).
 "Sustained" means the grievance prevails overturning the original action. "Denied" means the original action prevails.

December, 2012

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------------------|--|--------------------|-----------------------------------|--|-------------------------------------|---|
| 12-PN-1217 | Anoka County (Interest Award) Law Enforcement Labor Services, Inc. | Miller, Richard J. | Interest | Work Release. Shoe allowance-n-e, Insurance-100% s-n-e; Wages-e (u-2, 2.75%); Merit-3%,3%-u (e-0, 0). | 2012 - 1.25% 2013 - 0% | Shoes-not all member wear uniforms. Insurance-internal benefit. Wages-intrnl. Merit-helps close gap with detention. |
| 10-PA-1003 10-PA-1009 | Coon Rapids, City of Law Enforcement Labor Services, Inc. | Vernon, Gil | 150 hr. susp. Termination | Officer failed to respond to call. Performance 1 yr. after suspension. | Denied 10 mo susp. | At fire station on Facebook. Lack of progressive discipline & notice of consequences. No back-pay. |
| 12-PN-1041 | Hennepin County (Interest Award) Hennepin Co. Sheriffs Deputies Assn | Anderson, Richard | Interest | '12-no step,\$500 lump sum-e(u-steps); 13-step+1.5%(agreed); Longevity steps; Shift & Weekend differential; Off duty work; Discipline file retention-no-e. | 2012 - \$500 2013 - 1.5% | Wages & Steps-internal pattern. Other issues lack compelling reason or quid pro quo for change. |
| VP Panel | Metro Transit Individual Grievant | Jacobs, Jeffrey | Termination - V.P. | Bus driver lost CDL for 1 year. Rules allow for a 30 day loss. | Denied | No extraordinary circumstances that would trump the rule. |
| VP Hearing | Metro Transit Individual Grievant | VerPloeg, | Termination - V.P. | Overall record of accidents and customer complaints | Denied | Veteran received extensive training, counseling & retraining. |
| 12-PA-1184 | Minnesota, State of, Department of Minnesota Nurses Association | Gallagher, Sharon | Placed on Unpaid Medical Leave | Ee took medical leave due to stressful relationship w supervisor. Upon return refused to meet w supr. Refused fitness for duty evaluation-placed on unpaid leave. | Sustained | Contract limits unpaid leave to 1 yr. Backpay awarded until new evaluation scheduled. If employee refuses, employer can take action. |
| 12-PA-1296 | Minnesota, State of Minnesota Nurses Association | Flagler, John | Termination | Nurse at St Peter security hospital failed to remove herself when presence aggravated a violent patient. | Sustained | No rules governing situation. Doctor in charge did not ask her to leave. |
| 12-PA-1304 | Mountain Iron, City of Individual Grievant | Kapsch, Francis | Benefits when Terminated? | Ee pled guilty-felony theft of city funds. Fired & denied benefits. Awarded comp personal days & retiree insurance. | Sustained | Retiree insurance requires retirement, termination = forced retirement. Awarded more comp than requested. |
| 12-PN-0656 | New Hope, City of (Interest Award) Law Enforcement Labor Services, Inc. | Gallagher, Thomas | Interest | Wages-e, (u-2.5%, 2.5%, 2.5%) New ees in Personal leave plan-no-u. Revision of Insurance MOU-e. Xmas eve premium-no-e. Shift differential-no-e | 2011 - 1% 2012 - 1% 2013 - 1% | Wages-internal pattern. Insurance MOU internal benefit. No change to other issues due to lack of quid pro quo or demonstrated need. |
| 12-PN-0434 | St. Cloud, City of (Interest Award) AFSCME Minnesota Council 65 | Kircher, Andrea | Interest | City Attrnys; '11-0%-e, '12-1%July-e (u-4.5%, 4.5%); New 4% step in '12-u; Change # of on call days & pay-no-e, | 2011 - 0% 2012 - 1% | Wages - internal pattern. New top step - raises top pay closer to external average. On call-should be negotiated. |
| 12-PN-1040 | Washington County (Interest Award) Law Enforcement Labor Services, Inc. | VerPloeg, | Interest | Deputies & Sgts. Wages-u (e-0%,0%) (u-1.5%,1.5%); Wage structure-no-u (e seeking to eliminate steps); Increase retiree insurance-no-e Increase clothing allowance-no-e; Create Specialty uniform stipend-no-e. | 2012 - 0.5% 2013 - 0.5% | Wages-u kept step system + .5%. Co. ees w/o steps got 1.5% each yr. to range. Retiree insurance-internal; Clothing-increase justified, but u asked for different amounts for dep & sgts. No internal/external support-specialty unifrm. |
| 12-PA-0752 | Wright County Wright County Deputies Association. | Befort, Stephen | Termination | Deputy shared law enforcement info with her cousin after being warned this could result in termination. | Denied | No prior discipline, but serious breach law enforcement protocol and she lied about it in the investigation. |

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| 09-PA-013 | Wright County Wright County Deputies Association | McCoy, Arthur Ray | 3 day suspension | Deputy sent to smoking complaint at a bar failed to go inside to check. Sgt responded to 2nd call found smokers & warned owner. No step 3 meeting. | Sustained | Policy limit to actions on smoking. No practical diff between Grievant's invest. & Sgt's in terms of the result. ER refused step 3 meeting. |
| | | | Timeline | | Arbitrable | |

November, 2012

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|------------|--|--------------------|------------------------|--|-------------------------------------|--|
| 12-PN-0477 | Anoka, City of (Interest Award) Law Enforcement Labor Services, Inc. | Kapsch, Frank | Interest | Wages: '11-0%-e (u-3%); '12-1% Jan, 1%Jul-e (u-3%); Shift pay-no-e (u-'11-\$15, 2012- \$25 per pay period) | 2011 - 0% 2012 - 2% | Officers: Wages-internal pattern. Unwilling to add shift pay even though sgts receive it. Discussion of how arbitrators approach interest arbitration. |
| 12-PA-0926 | Austin, City of United Auto Workers Local 867 | Jacobs, Jeffrey | Seasonal Workers | Seasonal ees worked past regular shit Union felt regular ees should have been called in on OT to finish. | Denied | Union argued past practice-none found. Contract dealt w seasonal employees. Discussion of past practice. |
| 12-PA-0401 | Carver County Minnesota Public Employees | Abelsen, James | Termination | Off-duty Deputy's domestic dispute in bar; false statement during investigation and misuse of DVS computer system. | Denied | Widespread misuse of DVS in State does not limit actions of Carver Co. Harsh treatment vs others in County justified by totality of circumstances. |
| 12-PA-0110 | Cass County AFSCME Minnesota Council 65 | Reynolds, James | Job Posting | Generalist social worker position vs specific description of job posted. | Denied | Past practice vs management rights. |
| 12-PA-1106 | Crystal, City of Law Enforcement Labor Services, Inc. | Neigh, Charlotte | Insurance Contribution | ER stopped paying into H.S.A. until new contract negotiated. Union argued continuing contract required payment. | Denied | Insur. down 16%, Contract required payment up to a max-did not restrict paying less. No language re H.S.A. |
| 12-PN-0693 | Crystal, City of (Interest Award) Law Enforcement Labor Services, Inc. | Wallin, Gerald | Interest | Wages-e (u-'12-2%, '13-2%); 2012 Insurance-e (u-keep '11 \$'s which were 16% higher-note insur cost decreased by 16%); 2013 Ins-u (Arb increased ER amounts to same % as 2012. | 2012 - 1% 2013 = 1% | Officers. Wages-internal & economy. Insurance-'12 internal pattern. '13 amounts increased to mirror 2012 ratio to cost. |
| FMCS | Deer River Health Care Center Minnesota Nurses Association | Remington, John | Termination | Exceeded scope of practice as RN by running an ultrasound on herself.. | Sustained | Did not use it on a patient. No prior discipline, no warning, no investigation. |
| 11-PN-1163 | Ely, City of (Interest Award) Law Enforcement Labor Services, Inc. Ely, City of (Amended Interest Award) | Orman, Anthony | Interest | Duration-3y-e (u-2y); Wages 2011-e (u-1%); '12-2% July-u (e-1%Mar); '13-both agreed; Pro rate vac. earning-n-u Insurance-e; HRA-e; Residency- agreed. | 2011 - 0% 2012 - 2% 2013 - 2% | Duration-recent history & internal. Wages '11-internal; '12 external; '13-agreement. Insurance & HRA-internal. Vacation-closest to current practice. |
| 13-PA-0061 | ISD 196, Rosemount-Apple Valley- Support Staff Association of ISD 196 | Jacobs, Jeffrey | Filling Positions | Senior candidate with "equal job relevant qualifications", not selected. | Split | Contract limits interviews to top 3 internal candidates-9 were interviewed. Selection overturned. Must re-post. |
| 11-TD-0010 | ISD 728, Elk River Elk River Education Association | Jacobs, Jeffrey | Oral Warning | Level of documentation on Oral's is excessive making it look more serious. | Denied | Contract does not limit amount of detail allowed. |
| 12-PN-0697 | Hennepin County (Interest Award) Minnesota Public Employees Assn | Schiavoni, Mary Jo | Interest | Wages: 0%, \$500 lump sum-e (u-3%); Steps-no-e, (u-reinstate '11 step+2012). | 2012 - \$500 | Detention Deputies. Internal pattern. |
| 12-PA-1204 | ISD 696, Ely Ely Principals Association | Orman, Anthony | Severance Payout | ER uses 210 duty days +10 holidays to calculate daily rate for severance. EE believes 210 duty day should be used. Teachers arb'd same issue Dec 2013. | Denied Sustained | Award based on past practice of the parties. Discussion on standards necessary for past practice. Arb. Frankman discounted practice. |

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|------------|--|------------------|------------------------|---|-------------------------------------|---|
| 12-PN-0681 | Lac Qui Parle County (Interest Award) AFSCME Minnesota Council 65 | Neigh, Charlotte | Interest | Duration-3y-e (u-2y);Wages-e (u-1.5%) Market adj-no-e (u-\$2,500); On-Call: u increase \$300 to \$350-no; e-change to \$2.50 per hour-no; P.T. On-Call increase-no-e; Easter premium-y-u; Life insurance increase-y-union. | 2012 - 1% 2013 - 1% 2014 - 1% | Dep&Jail/Dispatch: Duration & Wages internal pattern. On-Call - insufficient evidence for either change. Easter- Good Friday already a holiday, only a few work on Sunday. Life insurance- internal pattern. |
| 12-PN-1175 | Lino Lakes, City of Law Enforcement Labor Services, Inc. | Dunn, Richard | Interest | 2012-1% 7/1-u (e-1% 12/31); '13-1.5% -u (e-1%); Family H.S.A.-\$2500-u, (e-\$2000); '12 f ins-e; s ins-split; Opt- out amount-e. | 2012 - 1% 2013 - 1.5% | Only 1 group settled therefore no internal pattern for wages or insurance. Wages '13-external average. Single. insurance lists both 100% & \$ amount. |
| 12-PA-1336 | Metro Transit Amalgamated Transit Union Local 1005 | O'Toole, Carol | Customer Complaints | Complaints driving too close to curb, speeding and honking horn. | Sustained | People sitting on curb, legs in street prior to St. Pat's parade. Driver's actions reasonable. |
| 12-PN-0571 | Pine County (Interest Award) AFSCME Minnesota Council 65 | Kircher, Andrea | Interest | Add personal leave day-no-e; Wages- agreed; Market adjustment-no; Shift language specifying hours-no-e. | 2012 - 1.5% 2013 - 1.5% | Leave- no quid pro quo. Unreasonable to second guess job classifications. Shifts are management rights. |
| FMCS | Sara Lee Baking Company Teamsters Local 120 | Kircher, Andrea | Unused Vacation | Retiree seeking payout claims vacation is earned in previous year. | Denied | Past practice, no carryover language & ees vac amt.credited on year of annv. |
| 11-RA-0989 | SuperValu, Inc. Teamsters Local 120 | Reynolds, James | Termination | Driver on last chance agreement for falsifying record submitted wrong start time. | Denied | Contract states falsification of any record shall be grounds for discharge. |

October, 2012

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|---|-------------------|-------------------------------------|--|-----------------------------|---|
| 12-PA-0925 | Austin, City of United Auto Workers Local 867 | Toenges, Rolland | Past Practice | City repudiated practice re call- back time. | Sustained | Practice upheld since language is not clear & practice interprets it. |
| FMCS | Electrolux Home Products, Inc. IAMAW District Lodge 165 | Bognanno, Mario | Termination | EE climbed on top of machine to retrieve tool w/o performing required "lock out" safety steps. | Denied | Contract calls for termination. The act was so obviously prohibited that formalizing explicit rule unnecessary. |
| 12-PA-1220 | Hennepin County Teamsters Local 320 | Fogelberg, J.C. | Termination | Box of 22 cal. bullets found on ees cleaning cart. Also violated order by entering crime lab to clean. | 2 week susp. | EE claims he found bullets & they were on cart for 2 years. Suspension based on insubordination re crime lab. |
| 12 PA 0996 | ISD 194, Lakeville Education Minnesota - Lakeville | Reynolds, James | Travel Stipend | Assigned 2 schools, seeking travel stipend of \$5,250 per contract. | Denied | Reimbursed only if travel results in loss of prep or increase in duty day. |
| 12-PA-1031 | ISD 625, St. Paul IUOE Local 70 | Kapsch, Frank | Termination | Ee sent sexually explicit emails using district's computer. | Denied | Violation of District's email policy. |
| | | | Skipped Grievance Step | Union filed for arbitration after step 2 failing to use step 3 as required. | Sustained | Presumption favors arbitration over dismissal of grievance. |
| 12-PA-1256 | Metro Transit Amalgamated Transit Union Local 1005 | Toenges, Rolland | Final Record of Wrning+20d susp. | Bus driver failed to turn cell phone off while storing it on bus. | Final Record Warning+15d | Violation of policy, but did not talk or text on the phone which is mitigating. |
| 12-PA-0680 | Northfield, City of Law Enforcement Labor Services, Inc. | Kircher, Andrea | Salary Schedule Placement | 2 tiers for those hired before or after 2007. Can new sgt use patrol hire date? | Denied | Union attempt to negotiate change supports ER interpretation of contract. |
| 13PA0122 | St. Paul, City of Laborers Local 132 | Beens, Richard | 10 day suspension | 2 water dept. ees working in a trench without trench box end panel. Discussion re unfair labor practice. | Sustained | Ees unaware suprv. had removed panel to move box. Failed to investigate before discipline. |

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|-------------|---|-----------------|------------------|---|---------------|--|
| None listed | St. Paul, City of St. Paul Police Federation | Befort, Stephen | 1 day suspension | Squad car using lights & siren struck car that ran a stop sign, wasn't using headlights & driver was DUI. | Oral reprimnd | Officer's speed excessive (43mph). Acc. preventable in spite of others negligence. But policy calls for oral. |
|-------------|---|-----------------|------------------|---|---------------|--|

September, 2012

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|------------|---|--------------------|-------------------------------|--|--------------------------|---|
| FMCS | Associated Milk Producers, Inc. Teamsters Local 120 | Gallagher, Thomas | Termination | Violation of attendance policy. | Sustained | Long term employee, good record, having trouble adjusting to day shift. Given 3 year last chance plan by arb. |
| 12-PN-0694 | Baxter, City of (Interest Award) Law Enforcement Labor Services, Inc. | Gallagher, Thomas | Interest | Wages-0%, 0%-e (u-1%/1%, '12-2%) Increase severance-no-e. | 2011 - 0% 2012 - 0% | Wages-based on economy, no internal settlements. Sick buyback should be negotiated-internal pattern exists. |
| 12-PN-0334 | Blue Earth County (Interest Award) AFSCME Minnesota Council 65 | Miller, Richard J. | Interest | Co. Attorneys. 2012-1% Jan, 1% July 2013-1.5% Jan, 1% July-e (u-30%) | 2012 - 2% 2013 - 2.5% | Internal, external & CPI considered. Discussion on 2 tiers for Co Attorneys salaries, PELRA & M.S. \$388.18, (6). 38yrs, good record, but failed to adhere to minimum professional standards. |
| FMCS | Group Health Plan, Inc. Health Partners SEIU Healthcare Minnesota | Befort, Stephen | Termination | Surgeon's asst. told women he was trying to date, he saw her nude during surgery. | Denied | No reference to period length - history of flexibility in the schedule. |
| 12-PA-0975 | ISD 85, Springfield Springfield Education Association | Tonges, Rolland | Adding 6th Class | 6th class "Tiger Time" added to teachers schedule (no prep nor tests). | Denied | Shift pay not common in market. Wages and insurance internal - see Sergeants June 2012 arbitration. |
| 12-PN-0609 | Mound, City of (Interest Award) Law Enforcement Labor Services, Inc. | Miller, Richard J. | Interest | Shift differential-no-e; 2011-1%July-e (u-3%), 2012-1%-e (u-3%); Me too-y-u; Insurance-no change-u (e-\$ cap single) | 2011 - 1% 2012 - 1% | LCA had no expiration, but returned her to former pay after 1yr. Therefore reasonable to assume 1y expiration. Returned to work but no back pay. |
| 12-PA-1181 | Pope County Teamsters Local 320 | Beens, Richard | Termination | Last Chance Agreement in 2010. Fired for using computer for personal browsing in violation of policy. | 6 mo susp. | Untimely. The ER voluntary payment for a portion of the time did not reset the clock for a grievance. |
| 12-PA-0982 | Ramsey County AFSCME Minnesota Council 5 | Yaeger, Thomas | Working out of Classification | Case Aide worked as Social worker from 2007-2009. Did not file grievance fearing it would be used against him. | Denied | 30 years of past practice. |
| 12-PA-0729 | Red Wing, City of Teamsters Local 320 | Befort, Stephen | Callback Pay | Officers called into work 1 hour before regular shift paid at OT rate vs Callback. | Denied | Reduce benefit?-no compelling reason nor quid pro quo; Wages internal. Step compression & on-call- no compelling reason. Uniforms-rising costs. Shift diff-same as corrections. Workers comp same as county policy. |
| 12-PN-0951 | St. Louis County (Interest Award) Law Enforcement Labor Services, Inc. | Miller, Richard J. | Interest | Reduce benefits (vac,sick,etc.)for new ees-n-u; Wages-u (e-1, 1.5% if benefits reduced); Increase on-call pay-no-e; Step compression-n-e; Uniform, 50 to \$54/m & \$70 shoe voucher in 2013-u; Shift differential +\$.05/h in 2013-u. Workers comp disability duration change-u. | 2012 - 1% 2013 - 1.5% | |

August, 2012

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|------------|---|-----------------|------------------|--|-------------------------|--|
| 12-PA-0665 | Anoka County Law Enforcement Labor Services, Inc. | Crump, Harry | Written Reprimnd | Deputy failed to indicate injury or property damage on a tag. | Sustained | Never told this could lead to discipline. |
| 12-PN-0995 | Anoka County (Interest Award) Law Enforcement Labor Services, Inc. | Remington, John | Interest | Detention Dep. 2yrs-u (e-1yr); Wages 2012-1.5%-u (e-0%), 2013-0%-e (u-1.5%); Merit base pay 2012-0%-e. | 2012 -1.5% 2013 - 0% | Duration-encourage more stable relations. Wages external-lowest paid county. Merit - internal. |
| 12-PA-0927 | Austin, City of United Auto Workers Local 867 | VerPloeg, | Unit Work | Non-union employee drove Loader on Saturday. | Denied | Equipment doesn't belong to Union. Contract governs regular assignment. |

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| 12-PA-0732 | Brooklyn Center, City of Law Enforcement Labor Services, Inc. | Malamud, | 3 day suspension | Officer's 6 accidents in 18 mo.- driving 82 mph, prior to being struck by DUI. | Sustained | Speed & lack of lights or siren did not violate policy. Timeline discussion. |
| FMCS | Flint Hills Resources, LP United Steelworkers Local 662 | Gallagher, Thomas | Termination | Created hostile environment for female employee. Refused to communicate or cooperate w her. Called her names. | 11 mo. susp. | 20 yr. employee - no prior discipline. Returned to work with no back pay. |
| FMCS | Gerdau Ameristeel U.S. Inc. United Steelworkers Local 7263 | Beens, Richard | Termination | Employee with chronic diarrhea - left a mess in hallway and restroom w/o reporting it to anyone. | Denied | Violation of contract's health & safety. Received 5 days for similar incident. |
| 12-TD-0005 | ISD 300 Lacrescent-Hokah Education Minnesota | Paull, David | Termination | Special ed. teacher dragged a student by his leg & failed to provide a rest break for a student who became agitated. | Denied | 15 year teacher. No progressive discipline, but both events met statutory grounds for termination. |
| 12-PA-0566 | ISD 625, St. Paul Education Minnesota/St. Paul | Jacobs, Jeffrey | Pay for teaching an extra course. | Seeking extra pay for 7 period day vs standard 6 period day. | Sustained | District - PLC time is part of average teaching assignment - no. Teaching requires student contact & evaluation. |
| 12-PA-1112 | ISD 2170, Staples Motley Staples Motley Education Association | Befort, Stephen | 4 day suspension. | Teacher embarrassed student about sexual orientation in front of classmates. | Written Reprimand | No intent to embarrass. District failed to provide details prior to investigation. No investigation of students who had been harassing the victim. |
| ??? | Metro Transit Individual Grievant | Kircher, Andrea | Termination - V.P. | Injured on the job & physically unable to continue job. Seeking another position. | Denied | Unable to find a position where he was the most senior qualified. |
| 12-PA-0405 | Minnesota, State of, Board of Public Teamsters Local 320 | Fogelberg, J.C | Contract Duration | Steps frozen during listed yrs. '10, '11. Continuing contract language should allow for steps in '12 - no. | Denied | "All compensation. . . shall remain in effect" means the compensation without steps as specifically excluded. |
| 12-PN-0790 | Spring Lake Park (Interest Award) Law Enforcement Labor Services, Inc. | Lundberg, James | Interest | Wages: 2012-2%-e, 2013-1%-e (u-3%,3%); Uniforms: \$740 (u-2012-\$710, "13-\$720); Change uniform carryover-no-u. | 2012 - 2% 2013 - 1% | Officers' wages-internal. Uniforms-sgts. amount (more than union requested). No to ER's uniform carryover change because sgt's. language not changed. |
| 12-PA-0579 | University of Minnesota AFSCME Minnesota Council 5 | Ogata, Harley | Required v qualifications. | Contract bars requiring teaching license. But, only those with license interviewed. | Denied | No bar to adding selection criteria beyond essential qualifications. |
| 12-PN-0441 | Willmar, City of (Interest Award) Willmar, City of (Amended Award) Willmar, City of (Court Order Vacating) Law Enforcement Labor Services, Inc. | Latimer, George | Interest | Wages: '11-officers 1%, sergeants 2%; '12-officers 1%, sgts. 2%-u (u seeking 2%for officers & 3% for sgts each yr.; e- '11-0%both, '12-1%both). Insurance- fixed \$ vs % amt-no-u. Amended award-insurance correction. | 2011 - 1% 2012 - 1% | Wages - external. Addressed sgts. pay compression issue. Insurance: city's internal pattern weakened by having Amended award vacated-arbitrator exceeded authority by changing date. |

July, 2012

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|------------|---|----------------|-------------|--|--------|---|
| 11-PA-1261 | Cold Spring, City of Law Enforcement Labor Services, Inc. | Vernon, Gil | Termination | School liaison officer complained on how a principal handled situation when student brought gun to school. | Denied | Violated data practices by sharing info on investigation of a juvenile. |
| FMCS | G4S Regulated Security Solutions United Government Security Officers | Beens, Richard | Termination | Armed security guard a nuclear facility unable to pass mandatory test. | Denied | ADA raised by Union; arbitrability by ER. Unable to perform essential duties. |

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| 11-PN-0781 | Mille Lacs County (Interest Award) Law Enforcement Labor Services, Inc. | McCoy, Arthur Ray | Interest | 2011-0%-e (u-1%); 2012-1%-u(e-0%); Steps-yes-u; Raise comp accrual-no-e OT after 8 hrs-no-e; Uniforms- 11 +\$50, 12 +\$50-u; Retain 100% single insur-u; Change ER from Sheriff to Co board-no-u. | 2011 - 0% 2012 - 1% | Deputies Wages-pattern. Steps-long practice & increas'd value of experience. OT- lack of evidence. Uniforms-jailers got \$90. Insurance-long practice & some others still receive 100%. |
| 12-PA-0194 | Minnesota, State of, Board of Public Teamsters Local 320 | Befort, Stephen | Excessive | Public defenders claim high case load representation. Seeking limit of 400 cases. | Denied | No contract language. Remedy requiring representation for indigent. |
| 12-VP-0180 | Minnesota, State of, Department of Individual Grievant | Fogelberg, J.C | Termination - V.P. | Cashier at Veteran's home fired due to | Denied | Case built on circumstantial evidence. explain missing money. |
| 12-PA-0561 | Oakdale, City of Law Enforcement Labor Services Inc. | Befort, Stephen | Injured on Duty | Seeking waiver of using 5 sick days before receiving Injured on Duty coverage | Denied | Waiver is at "Employer's discretion" per contract language. |
| 12-PA-0744 | Ramsey County AFSCME Minnesota Council 5 | Fogelberg, J.C. | Termination | Food service worker at Care Center engaged in heated arguments w co-workers | 19 mo. susp. | Progressive discipline - but, supervisor failed to address issues brought to her attention. Returned to wk-susp w/o pay. |
| 12-PN-0039 12-PN-0368 | Waseca County (Interest Award) Teamsters Local 320 | VerPloeg, | Interest | 3 yrs-e; Compensation-20 stps-e; Hire expiration-e; Insurance-e; Uniform returned when employment ceases-e No changes to: FTO, Shift diff., Retiree Insurance; Work week; Maximum sick accrual; Transfer sick to Vac. Account-u. | 2012 - 1.1% 2014 - 1.7% | Compensation plan changed from 6 averages of annual step movement. Jail/Disp averages: 12-0.7%; 13-1.97% 14-1.86% (U seeking 2% + steps/year). Award based on internal patterns or lack of support for requested changes. |
| 12-PA-0607 | West Metro Education Program West Metro United Educators - | Schiavoni, Mary Jo | Paid Time Off | Grievant placed on paid Admin leave until EEOC mediation where she agreed after 3 days. Charged 3 days PTO. | Sustained | Union argued G remained on Admin leave. Contract doesn't require G to option to use PTO or unpaid leave. |
| 12-PA-0867 | Winton, City of United Food & Commercial Workers | Jacos, Jeffrey | Termination | Liquor store manager testified at unemployment hearing on behalf of ee | Split | Failure to notify City was act of disloyalty. Removed as manager |

June, 2012

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|--|-------------------|--|--|-----------------------------|---|
| 11-PN-0520 | Apple Valley, City of (Interest Award) Law Enforcement Labor Services, Inc. | VerPloeg, | Interest | Sergeants. 1/1/11-1%, 12/31/11-.25%; 1/1/12-1.25%, 7/1/12-1.25%;(u-11-3%, 2012-3%/3%). Insurance-e;\$80 HRA-u; Uniforms-\$875, \$900-u; Holidays change language-no-u; July 4, eliminate double pay-no-u. | 2011 - 1.25% 2012 - 2.5% | Wages-internal pattern. Insurance- significant change base on pattern; \$80 HRA quid pro quo for ins change (benefit expired in other contracts); Uniform allowance-same as patrol. Holiday issues-same as patrol. |
| 12 PA 0137 | ISD 282, St. Anthony-New Brighton School Service Employees Local 284 | Kircher, Andrea | Termination | Unexcused absences & lied on job application. Lack of progressive discpln? | Denied | Series of written reprimands. Last-straw discharge. |
| 12-PA-0322 | ISD 361, International Falls Education Minnesota | Frankman, Janice | In-Service Training | Contract requires a bumping meeting & in-service training. Can bumping meeting be considered in-service? - No. | Sustained | In-service training principally provides substance for professional developmnt . Training also requires Union input. |
| FMCS | J. J. Taylor Companies, Inc. Teamsters Local 792 | Jensen, Eugene | Financial relief for route changes. | Is relief for lost commissions provided for route lost by seniority bidding?-no. | Denied | Relief is provided when employer changes a route causing a loss. |

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|-------------|---|-------------------|-------------------------|---|-------------------------|---|
| 12-PA-0596 | Metro Transit Amalgamated Transit Union Local 1005 | Flagler, John | Final record of warning | 3rd accident. Another vehicle struck bus in a round-about. | Sustained | Video showed other vehicle struck bus. |
| 12-PA-0826 | Metro Transit Amalgamated Transit Union Local 1005 | Neigh, Charlotte | Verbal Warning | First responsible accident. Braked suddenly - passenger fell. | Denied. | Following to closely. Policy defines passenger falling as an accident. |
| None listed | Metro Transit Amalgamated Transit Union Local 1005 | VerPloeg, | Verbal Warning | First responsible accident. Failed to properly secure wheelchair - tipped over.. | Denied | Policy requires 4 point securement, only 2 were used. |
| 11-PA-0886 | Minnesota, State of, Department of Minnesota Nurses Association Ruling Related to Post-Award Motion | Gallagher, Thomas | Oral Contract | Nurse took voluntary demotion, was promised she would retain pay level, but pay reduced. ER gave appointment letter 2 days late. | Split | Contract doesn't allow enforcement of contracts w individuals. Remedy for late letter - pay higher pay rate until new opening occurred. |
| 12-PN-0205 | Mound, City of (Interest Award) Law Enforcement Labor Services, Inc. | Paull, David | Interest | Supervisors. 2011-1% July; 2012-1%-u (e-2011-0%, 2012-.5%); Call back-2hr min-u; Uniforms-no incr-e; Insurance-\$ cap on single-no-u; Vac. carry over-1.5 x earned, 480 hours if +10 years-e. | 2011-1% July 2012-1% | Wages-external (no intrnl agreements). Call back & Vac. carry over - internal. Uniforms-above external avg. Insurance cap not necessary due to 16% drop in premiums (may need in future). |
| 12-PA-0893 | Red Wing, City of Teamsters Local 320 | Johnson, John | Timeline | Union sent timely letter to city that they were arbitrating issue - but did not immediately request list from BMS. | Denied | Contract gives method of appeal as requesting list of arbitrators from BMS within 10 days. |
| 11PA-1099 | St. Louis County Teamsters Local 320 | Beens, Richard | Bargaining Unit Work | Supervisors were snow plowing a parking lot as a training exercise. | Denied | Union had given an intent to strike notice. Supervisors would have to fill in. |
| 12-PA-0114 | University of Minnesota Teamsters Local 320 | Crump, Harry | Bidding | Change from bidding zones w only 1 doing cleaning to teams working in area. Violation of MOU? | Denied | Legitimate bus.reason for modification of any past practice. Discussion of management rights and past practice. |

May, 2012

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|--|--------------------|---------------------------------|--|------------------------|---|
| FMCS | CHS, Inc. Teamsters Local 792 | Kircher, Andrea | Termination | Grain handler allegedly yelled at customer & used vulgar language. | Sustained | No progressive discipline, inadequate investigation. |
| FMCS | Gilleland Chevrolet Cadillac IAM Local 623 | Remington, John | Termination | Parts runner failed to report accident with company car. | Sustained | Claims he called supervisor w report. Supervisor not asked to rebut claim. |
| 11-PA-0985 | Hennepin County IUOE Local 49 | Miller, Richard J. | Remedy for OT Violation | Union seeking pay for OT lost. ER offered makeup OT. | Sustained | Makeup OT not appropriate in seniority based system. |
| 12-PA-0720 | Metro Transit Amalgamated Transit Union Local 1005 | Schiavoni, Mary Jo | Final Record of Warning | 3rd bus accident in 12 months. Hit mirror & damaged door. | Denied | If only mirror damaged not considered a responsible accident. Sustaining grievance would change policy. |
| None listed | Minneapolis, City of Police Officers Federation of | Reynolds, James | Termination | Charged with Felony domestic assault. Wife recanted-pled to misd. domestic asslt. | 30 hour susp. | Inadequate investigation. |
| 11-PA-0787 | Minnetonka, City of Teamsters Local 320 | VerPloeg, | Severance Pay | Police officer, 46yrs old, left w 23 yrs. service. Denied because not eligible for pension until age 50. | Denied | Contract language supports Union - but consistent practice supports city's position. |
| None listed | Minnesota, State of, Century College MN Association of Professional Employees | Jacobs, Jeffrey | 2 day suspension Termination | Buyer failed to catch errors in contracts. Changed date on contract. | Denied 30 day susp. | Received coaching/prior discipline. No proof he changed date, but was late and failed to catch error. |

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|------------|--|-------------------|-------------------|---|--------|---|
| 11-PN-0119 | Minnesota, State of, Depart. of Corr | Cooper, Laura | 3 day suspension. | Hostile, sarcastic w peers & suprv. | Denied | State mandate requires unlicensed |
| 11-PN-0120 | MN Association of Professional Employees | | 5 day suspension. | Unprofessional & insubordinate. | Denied | therapist have cases reviewed by |
| 11-PN-0121 | | | Termination | Unwillingness to participate in clinical supervision w/o union representative. | Denied | licensed clinical suprvs. Refusal to meet w/o union disqualifies working. |
| 12 PA 0866 | St. Louis County St. Louis County Employees | Ogata, Harley | Termination | Supervisor in Auditors office tried to sell driver's manuals made by his company to the county. | Denied | Conducted business on county time & tried to sell to county while hiding his ownership of the business. |
| FMCS | Southern Minnesota Beet Sugar Bakery, Confectionary, Tobacco | Gallagher, Thomas | Oral Warning | Unexcused absence from work due to car trouble. | Denied | Reasonable rule due to difficulty in filling a 12 hour shift and the need for continuous plant operation. |

April, 2012

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|-------------|--|-------------------|---------------------------------|--|------------------------|---|
| FMCS | Centerpoint Energy Gas Workers Union Local 340 | Jacobs, Jeffrey | Termination | Gas service tech under the influence which is absolute cause for discharge. | 8 month susp. | State law bars termination on first failed drug test. Went through rehab; reinstated w/o back pay. |
| 12-PA-0053 | Chisago County Teamsters Local 320 | Fields, Bernice | Demotion | New sheriff reorganized department eliminating the Lt rank. Does Lt retain his pay in new sergeant position - no. | Denied | Inherent management right. Pay is discretionary per policy. |
| 12-HN-0429 | Cook County North Shore Hospital Cook County Hospital and Care Center | Daly, Joseph | Interest | 2012-2%-u (e-0%), 2013-1% (u-2%, e-.5%); PTO-40 hour reduction-e | 2012 - 2% 2013 - 1% | Both wages & PTO match nurse's contract. |
| 12-PA-0072 | Crow Wing County Law Enforcement Labor Services, Inc. | Kapsch, Frank | Termination | Deputy accused of insubordination for complaining re order to remove a file cabinet from the office. | Sustained | Lack of just cause. Sheriff had personal animus & hostility towards deputy who supported his opponent. |
| 12-HA-0687 | Ely-Bloomenson Community Hospital Minnesota Nurses Association | Anderson, Richard | Layoff Seniority | Less senior RN's retained due to restriction barring bumping if position requires more than 4 weeks orientation. | Sustained | Some positions properly denied but "casual" (part-time) positions were not. |
| 12-PA-0131 | ISD 11, Anoka - Hennepin Anoka-Hennepin Education Minnesota | Gallagher, Thomas | 5 day suspension. | DCD student was held to overcome his resistance while cleaning his fingernails. | Split | Letter of deficiency Motivation was benign, no prior discipline. |
| 11-PA-1211 | ISD 2580, East Central AFSCME Minnesota Council 65 | Gallagher, Thomas | Past Practice Bumping Rights | Para lost van driving assignment, tried to bump into another van assignment. ER claimed special assignments not covered in contract. | Sustained | 12 year practice of paras driving vans based on seniority - back pay ordered. But practice repudiated in negotiations so practice is discontinued in spite of ER not getting exclusion in contract. |
| 12-PA-0595 | Metro Transit Amalgamated Transit Union Local 1005 | Beens, Richard | 20 day susp. | Bus driver talking on cell phone. | Denied | 20 day suspension for first offense is reasonable, and consistent. |
| None listed | Metro Transit Amalgamated Transit Union Local | Jacobs, Jeffrey | Termination - V.P. | Used cell phone to report mechanical problems. Stopped-no passengers. | Denied | Veteran was aware of safety policy barring use of cell phones. |
| 12-PA-0300 | Metro Transit Amalgamated Transit Union 1005 | Ogata, Harley | Driving violation | Bus driver entered crosswalk after stop light turned yellow. | Denied | May have been mitigation if driver acknowledged violation rather than claiming professional judgment call. |
| ??? | Minneapolis, City of Teamsters Local 320 | Fogelberg, J.C. | Termination | Truck driver's 2nd positive marijuana test. Union argued 6 yrs. between tests. | Denied | City's exposure to liability outweighs any other mitigating factors. |
| FMCA | Shaw/Stewart Lumber Company Teamsters Local 120 | Toenges, Rolland | Termination | Violated no fault attendance policy. | Denied | Policy has been administered in a uniform and consistent manner. |

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| 11-RA-0537 | SuperValu | McCoy, Arthur Ray | 1 day suspension | Wearing ear buds in the warehouse. | Denied | ER can establish work rules and can |
| 11-RA-0538 | Teamsters Local 120 | | Written Warning | Using cell phone & operating forklift. | Denied | jump steps in progressive discipline. |

March, 2012

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|-------------|--|--------------------|------------------------------------|---|------------------------|--|
| 11-PA-0824 | Chisholm, City of AFSCME Minnesota Council 65 | Gallagher, Thomas | Changing shift to avoid overtime. | Ees told to report 2 hours early, then sent home 2 hrs. early so no OT earned. | Denied | Contract right to schedule. |
| 11-PN-0927 | Clearwater County (Interest Award) Teamsters Local 320 | Powers, Nancy | Interest | Insurance: eliminate \$500 d plan-no-u; change % to fixed \$ for family ins-no-u; change Union security & ee rights-no-u. Union seeking Uniform \$ rollover-no-e; change to shift premium hours-no-e. | 2011 - 0% 2012 - 0% | 0% & steps both years - ER position. (U seeking 3%, 3% + steps.) Award based on internal pattern & economy. Issues denied lacked quid pro quo or compelling need for change. |
| None listed | Jones Metal Products, Inc. Sheet Metal Workers Local 10 | Gallagher, Thomas | Termination | Steward told shop workers they didn't have to fill out a form from the supervisor. Returned to work w/o back pay. | 6 month susp. | Didn't know form was mandatory, so no intent. Should have talked to suprvr first. Long discussion of just cause. |
| 11-TD-0009 | SD 423, Hutchinson Individual Grievant | Imes, Sharon | Termination | Insubordinate & conduct unbecoming a teacher when she yelled, sworn and threatened an assistant principal. | 30 day susp. | Committed an offense that is grounds for termination, but is remediable. |
| 12-PA-0301 | Metro Transit Amalgamated Transit Union Local 1005 | Schiavoni, Mary Jo | Record of Warning | Customer claimed driver closed bus door on his arm. Warning remains on record for 3yrs - same as an accident. | Denied | Union argued not an accident - no damage nor injury. Denied due to failure to report & potential for harm. |
| 12-PA-0410 | Metropolitan Council Transit Amalgamated Transit Union Local 1005 | Jacobs, Jeffrey | Responsible Accident? | Bus driver blinded by sun hit parked bus in garage - final written warning. | Sustained | Discipline given before viewing video that provides mitigation. |
| 11-PA-0921 | MN, State of, 2nd Judicial Branch AFSCME Minnesota Council 5 | Jensen, Eugene | Termination | Sr. court clerk snotty & condescending behavior towards co-workers & clients. | Denied | Warned, counseled & prior discipline. Displayed no insight into her behavior. |
| 12-VP-0582 | Minnesota, State of Individual Grievant | Wallin, Gerald | Termination - V.P. | Security officer at Moose Lake susp'd. 7 days for inaccurate bed & sharp tool counts then failed to return to work/ | Denied | Progressive discipline. Gave no reason for failing to return to work after his suspension. |
| 12-PA-0151 | Rice-Steele County Communications Teamsters Local No. 320 | Toenges, Rolland | Longevity vs Base Wage | MOA w "me too" base wage language. Does adding longevity step to another contract = a base wage increase?-No. | Denied | Base rate is rate of pay absent any special pay or allowances. |
| 12-PA-0406 | St. Louis County AFSCME Minnesota Council 5 | Flagler, John | Annual step while on unpaid leave. | 3 months were added to the year of service step calculation due to 3 mos. unpaid child care leave. | Denied | Ee must demonstrate competence & can only be evaluated when there. |

February, 2012

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|------------|--|--------------------|------------------------------|--|-------------|--|
| FMCS | Ampco System Parking Teamsters Local 120 | Beens, | Termination | Car runner in valet parking garage did not check if keys were in car-4th offense. | Denied | Progressive discipline steps listed in contract and followed by employer. |
| FMCS | Centerpoint Energy Gas Workers Union Local 340 | Jacobs, Jeffrey | Termination | Foreman's inadequate documentation of 2 gas leaks. | 30 day susp | Not "Absolute" neglect of duty. Insuffnt. prior discipline to justify termination. |
| 11-PA-1070 | Carver County AFSCME Minnesota Council 65 | Fogelberg, J.C. | Step increases | Attorney's step movement stopped when contract impasse declared and issues were certified for arbitration. | Sustained | Continuing contract doesn't end at impasse for essential employees. See Aug 2011 Interest Arb. 10-PN-423 |
| 12-PA-0038 | Duluth Airport Authority AFSCME Minnesota Council 5 | Miller, Richard J. | Benefit while on disability. | Union seeking deferred comp while on long term disability. | Denied | Prohibited by both Federal and State laws. Only active ees can participate. |

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| 12-PA-0020 | Hastings, City of Law Enforcement Labor Services, Inc. | Kapsch Jr. Francis | Termination | Police officer seeking relationship w woman fails to remove himself from conflict of interest in arrest of ex-boyfriend | Denied | Last chance agreement for lying & bad judgment. Similar issues involved here. |
| 11-PA-0836 | ISD 11, Anoka-Hennepin Anoka-Hennepin Education Minnesota | Wallin, Gerald | Staff Meetings | Seeking compensation for 20 minutes scheduled before duty day. | Split | Meetings were reasonable & needed therefore allowed with no pay. Any training scheduled is compensable. |
| 11-PA-1093 | ISD 316, Greenway Education Minnesota - Greenway | Wallin, Gerald | Transfer while on probation. | Probationary teacher denied transfer bid due to difficulty in evaluation. | Sustained | No contract bar to transfer. |
| 12-PA-0139 | ISD 748, Sartell SEIU, Local 284 | Miller, Richard J. | School Bus Driver pay | Type III Vans replaced by Micro buses Vans paid at lower rate; union seeking regular bus rates for micro buses. | Sustained | Micro bus is a school bus, not a van. Ongoing grievance. Backpay only to date of filing grievance. |
| 12-PA-0040 | ISD 2142, St. Louis County Education Minnesota, St. Louis County | Daly, Joseph | Assignment | Teacher picked courses on "bump night" then had them denied. | Denied | Bump night is for seniority selection of bldg. Mistake of initial approval can be corrected. |
| 12-VP-0358 | Minnesota, Department of Corrections Individual Grievant | Befort, Stephen | Termination - V.P. | Convicted poss. of controlled substance; failed to notify of prior conviction; | Denied | Off-duty has a nexus with job. Also has prior discipline. |
| 11-PA-0712 | Moorhead, City of AFSCME Minnesota Council 65 | Reynolds, James | Promotion | Outside candidate selected as Crew Chief over grievant. | Denied | City utilized a reasonable selection process. |
| 12-PA-0309 | Red Wing, City of IAFF Local 2078 | Miller, Richard J. | Shift exchange policy Arbitrability | Firefighters challenged policy limiting shift exchanges if vacation available Similar incident not grieved & did not grieve policy when published. | Sustained Arbitrable | Policy added restriction not in contract. Failing to grieve is not a waiver. Premature to file before violation. |
| 11-PA-1080 | Rogers, City of Law Enforcement Labor Services, Inc. | Neigh, Charlotte | 3 day suspension | Officer entered an apartment looking for a suspect w/o a warrant. | Denied | Did not knowingly commit violation or there would be greater punishment.. |

| January, 2012 | | | | | | |
|----------------------|---|-------------------|-------------------------------------|--|---------------|---|
| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
| FMCS | Aggregate Industries Teamsters Local 120 | Jacobs, Jeffrey | Termination | Truck driver working with Last Chance Agreement failed to wear seat belt. | Denied | Last chance agreement triggered by any violation of company rules. |
| FMCS | Honeywell International Inc. Teamsters Local 1145 | Gallagher, Thomas | Clarification of Nov. 2011 Award | Union seeking return to prior job - yes When does demerit time start? | Split | Demerit time starts upon return to work - employer's position. |
| 12-HA-0050 | Immanuel St. Joseph's Hospital AFSCME Minnesota County 65 | Jacobs, Jeffrey | Termination | Storeroom clerk with history of inappropriate behavior engaged in a verbal altercation with a co-worker. | Denied | Series of minor offenses, has effect of providing evidence employee can no longer work in this setting. |
| 11-PA-0078 | Metropolitan Council, Metro Transit Div Amalgamated Transit Union Local 1005 | Kapsch, Jr. | Termination | Violation of no fault absenteeism rules 13 absences in rolling 12 month period. | Denied | Dispute over FMLA exceptions to policy. |
| 12-VP-0115 | Minnesota, Depart.of Human Services Individual Grievant | Toenges, Rolland | Termination - V.P. | Dentist's license lapsed for failure to complete continuing education credits. | Denied | Continued practicing for 2 days after license lapsed contrary to statute. |
| 11-VP-0473 | Minnesota, Depart.of Military Affairs Individual Grievant | Befort, Stephen | Termination - V.P. | Sexually inappropriate behavior with a co-worker. | Denied | Two prior reprimands in year dealing with sexually inappropriate behavior. |
| 11-PA-0786 | Princeton, City of AFCME Minnesota Council 65 | Frankman, Janice | Schedule change to eliminate OT | Employees told to take off Fri. so they could plow snow on Sunday & remain below 40 hours for the week. | Split | City can change schedule. OT pay for Sunday is covered by policy & is not in conflict with contract. |

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|------------|---|-------------------|----------------------------------|---|--------|--|
| 12-PA-0088 | Richfield, City of Law Enforcement Labor Services Inc. | Wallin, Gerald | Wrtn Reprimand Arbitrability? | Officer violated pursuit policy. Policy is precise, situation did not provide an exception. | Denied | Arbitrability - choice of remedies does not list written as eligible for arb. - but statute requires grievance process cover written - therefore arbitrable. |
| FMCS | St. Croix Electric Cooperative IBEW Local 953 | McCoy, Arthur Ray | Termination | Grievant allowed his children to operate a fork lift; he caused damage w fork lift & disabled security cameras. | Denied | 3 priors, but offense serious enough to justify termination alone. Initially lied about events. |

2013 Arbitration Awards - Minnesota B.M.S.

Summary of Arbitration Awards listed on the Bureau of Mediation Services' web site (<http://www.mn.gov/bms/arbitration/awards/>).
 "Sustained" means the grievance prevails overturning the original action. "Denied" means the original action prevails.

| December, 2013 | | | | | | |
|----------------|--|---------------------|-----------------------------------|---|---|--|
| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
| FMCS | Allina Hospitals & Clinics d/b/a/ Mercy Hospital SEIU Healthcare Minnesota | Beens, Richard | Termination | Hospital registrar violated protected health info when checking a friends record for accuracy (ee listed as her friends emergency contact). | Sustained | Legitimate business reason to access file. Detailed discussion of zero tolerance rules vs. just cause standard.. |
| 13-PN-0350 | Faribault County (Interest Award) Minnesota Public Employees | Kircher, Andrea | Interest | Jail & Dispatch. Wages:'12-1.25%-e (u-3%+3% adj),'13-0% (u-1.5%+1.5%). Insur-mandatory single participation-e. | 2012 - 1.25% 2013 - 0% | Lowest fund balance in state. Internal pattern. April arbitration award for deputies awarded same amounts. |
| 13-VP-0770 | ISD 402, Henricks(Award August) ISD 402, Henricks(Award August) ISD 403, Ivanhoe | O'Toole, Carol | Breach of Contract | Hendricks & Ivanhoe school districts had a contract to divide elementary & Secondary classes. | Ivanhoe ISD breached contract | Contract renewed every 2 yrs unless noticed by Jan 1. Ivanhoe opted out in June. Hendricks awarded \$1.2 m. |
| 14-PA-0135 | ISD 696, Ely Ely Education Association | Frankman, Janice | Severance Pay | What is daily rate of pay to calculate service? 190 days used since 1976. 180 duty dates +10 holidays? -Union no. | Sustained | Ely principal arbitrated issue Nov.2012 Arb Orman denied citing past practice Practice, unkn & unchallenged by the Union doesn't defeat contract language |
| 13-PN-0672 | Lyon County (Interest Award) Law Enforcement Labor Services, Inc. | Miller, Richard J. | Interest | Jail Sgts. Add vacation step at 7 years of 17d/yr.-u. (Current 15d until 15yrs.) | Union position | Internal pattern is egregiously below market. Max accrual not increased. |
| 14-VP-0164 | Metro Transit Individual Grievant | Bognanno, Mario | Termination - V.P. | Probationary bus driver received 9 customer complaints for running late. | Denied | Received counseling after each event. Probationary ees normally fired after 2. |
| 14-PA-0142 | Oakdale, City of Law Enforcement Labor Services, Inc. | Scoville, James | I.O.D. pay. | Officer sprained ankle in February had surgery in June. | Sustained | Treatment consistent with injury and doctors advice. |
| 13-PA-0756 | Prior Lake, City of Teamsters Local 320 | Johnson, John | Educational Incentive Pay | Was Sgts eligibility for Ed pay based on date of promotion into Sgt's Union or initial hire as an officer? - initial hire. | Sustained | Ambiguous language is less favorable to party supplying language. Similar issue diffnt results Northfield Oct '12,Kirchner.. |
| 13-RA-0533 | SuperValu, Inc. Teamsters Local 120 | VerPloeg, Christine | Termination | Warehouse worker used racial slur vs co-worker & possessed marijuana. | Denied | 2 policies call for discharge. Witnesses did not testify. Statements sufficient. |
| November, 2013 | | | | | | |
| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
| 13-PN-0584 | Aitkin County Teamsters Local 346 | Frankman, Janice | Interest | Jailer/Dispatcher wage reopener. 2013 wages-1.8% (e-0%, u-3%) Reduce # years between steps-n-e. Shift diff. from \$.20 to \$.68-u. (e-\$.20). | 2013 - 1.8% | U pattern 0%+steps; non-union merit plans received 1.8%. No rationale to compare merit&steps so 1.8% awarded Shift diff = avg of comparison group. |
| 13-PN-0704 | Forest Lake, City of (Interest Award) Law Enforcement Labor Services, Inc. | Miller, Richard J. | Interest | Officers. Change Discipline lang-n-u; Chng Med Leave-no-u; Unifrms'13-900 14-325-u (e-875,900), '15-no incr-e; Insurance-'13 no incr-e,'14,'15-reopener-u exclude new ees from 100% plan-n-u; HCSP-15m,20m, 25m-u (e-\$10m); Ed incentive-n-e; Wages-0, 1.5, 2.5-e (u-2,2,2). | 2013 - 0% 2014 - 1.5% 2015 - 2.5% | Discipline/Med leave/New ees bar from 100% plan/Ed incent-failure to show problem or offer quid pro quo. Uniforms/ HCSP-history of incrs justified awarding more than Sgts. Insur '13-pattern, '14 & . 15 deviate from pattern-only minority of unions settled. Wages-pattern. |
| 12-PA-1165 | ISD 283, St. Louis Park St. Louis Park Principals Association | Gallagher, Thomas | 10 day susp. & Transfer or demote | Principal failed to follow up complaints re teachers; invstge student misconduct; failure to communicate w staff & parents. | 3 day susp. | No prior discipline. Most performance problems due to inexperience. Transfer to Principal on Sp Assgnmt was allowed. |

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|----------------------|--|--------------------|-----------------------------------|--|------------------------|---|
| 13-PN-0704 | ISD 309, Lake of the Woods (Interest Award) AFSCME Minnesota Council 65 | Miller, Richard J. | Interest | Supervisory-1st contract. Normal work week-comb of proposals; Pay for mtgs-no-e; Inclement weather-e; Longevity-u; Vac-e; Sick-combination; Severance-from indiv contracts; Insurance-e, but ees will get their current amts; Dental-no-e. Paydays-e; Salary schedule-no award; wages 2%, 2% based on current pay. | 2013 - 2% 2014 - 2% | 1st contract. No award on salary schedule-positions too diverse-should be negotiated in future. Wages-more than amt offered to teachers due to no increases for 6 yrs. Wages, Insurance & Severance amounts from employees previous individual contracts. |
| 13-PA-1004 | ISD 2859, Glencoe-Silver Lake Education Minn.- Glencoe-Silver Lake | Jensen, Eugene | Advisor/Advisee Period limits | State mandated anti-bullying training given during expanded 4th period to Advisor/Advisee class twice a month. A/A period training limited to once/mo. | Sustained | A/A period defined by participants, not when scheduled. Teaching, despite no required prep or testing. No remedy in contract. Parties told to negotiate. |
| 13-PA-0936 | Mooheard Public Svs Commission Electrical Workers Local 1426 | Reynolds, James | In-Charge Pay | If only 2 ees, is one paid for being in charge of "2 or more employees"?-yes. | Sustained | Language doesn't say "two other employees". |
| 11-PA-0933 | North St. Paul, City of Law Enforcement Labor Services, Inc. | Yaeger, Thomas | Overtime vs. 2080 time | E would not pay OT for training since officer fell short of his 2080 hr. obligation. | Sustained | Work authorized by ER in excess of regular scheduled shift= OT per contract. |
| FMCS | Red Wing Shoe Company UFCW Local 527 | Daly, Joseph | Termination | Violated no-fault Attendance Policy by taking 1 day vacation w/o approval. | Sustained | Company allows supervisory discretion which led to unequal treatment |
| 13-PA-0880 | St. Paul, City of St. Paul Police Federation | Kircher, Andrea | Termination | Officer fired pistol in his backyard, 10 times at 2:45am while drinking w friends. | Denied | 5 yr. officer w no discipline, but violation of law, dangerous situation & lied to IA. |
| October, 2013 | | | | | | |
| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
| None listed | Aikin County AFSCME Minnesota Council 5 | Kircher, Andrea | Change FT into 2 PT positions. | Can ER convert full time position to 2 part-time positions?-Yes, mgmt. right. | Denied | Arbitrable-y-u. Need to bargain-n-e (positions vacant; PT already in contract) |
| 13-PN-0331 | Albert Lea, City of (Interest Award) Minnesota Public Employees Assn | Flagler, John | Interest | Wages: 1.75%-e (u-2%+1.5% market adjustment) | 2013 - 1.75% | Internal pattern. |
| FMCS | Allina Health d/b/a St. Francis Regional SEIU Healthcare Minnesota | McCoy, Arthur Ray | Termination | Medical records were redacted, then given to Union showing breach of contract. | Sustained | Protected union activity. |
| 12-PA-1239 | Crystal, City of Law Enforcement Labor Services, Inc. | Wallin, Gerald | 12 hr. suspension | Officer made 4 inappropriate DVS searches. 12 hrs. = 1 day. | Denied | Violation of State & Federal law. Received training prior to violations. |
| None listed | Dakota County Teamsters Local 320 | Jacobos, Jeffrey | 1 day suspension | Program service asst. failed to notify jail to prepare prisoners for transport. | Denied | Failed to follow proper procedure & there was negative impact. |
| FMCS | G4S Regulated Security Solutions United Government Security Officers | Beens, Richard | Written Reprimand | Armed guard's partner failed to "sling" rifle when she told him. Failed to coach. | Sustained | ER failed to conduct a through invest. No face-to-face opportunity to explain. |
| 12-PA-0659 | Mendota Heights, City of Law Enforcement Labor Services, Inc. | Dunn, Richard | 4 day suspension | Officer's chronic complaints on female officer violated City's harassment policy. | 2.5 day susp. | Retaliation claimed by 2nd officer not supported by evidence. |
| 13-PA-0845 | Metropolitan Council Amalgamated Transit Union Local 1005 | Orman, Anthony | Termination | Bus driver charged w criminal sexual conduct & barred from contact w children. Restriction modified allowing contact if bus is video monitored. | Sustained | ER claimed monitoring ability was overstated. But Arbitrator faulted lack of investigation over bail restrictions. Ordered return to work w back-pay. |
| FMCS | Mille Lacs Energy Cooperative Electrical Workers Local 31 | Bognanno, Mario | 401(K) Plan | Contribution not given to probationary ees. Contract says "each ee & "every" pay period. | Denied | 401(K) plan defines eligibility, and the Contract references the "plan offered by the Cooperative". |

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|------------|--|-----------------|-------------------------------------|--|---------------------------------------|---|
| 13-PA-0232 | Minnesota, State of, Board of ASFCME Minnesota Council 5 | Jacobs, Jeffrey | Termination | Spotty attendance, failing to call in sick prior to start of shift, using leave after FMLA exhausted.. | Split | Insufficient cause, can return to work upon showing she is medically able. No back pay. 16 month off considered medical leave due to her Doctor's note. |
| 13-PA-0469 | Ramsey County Teamsters Local 320 | Fields, Bernice | Lateral Transfer Contract vs Policy | ER did not like candidates for position. ER's Policy was waived; person without the minimum qualifications selected. | Sustained | CBA is the master document. Policies written to interpret & implement CBA are subordinate. Position vacated. |
| 13-PA-0846 | University of Minnesota Painters, Allied Trades Local 61 | Moeller, Lon | Voluntary Quit | Painter requested leave for surgery. ER claims he abandoned job by not filing proper forms. | Sustained | No proof he was given policy manual on long term leave requirements. As shop steward protected from lay off. |
| 13-PN-0513 | Wadena County (Interest Award) Teamsters Local 320 | Befort, Stephen | Interest | Deputies: 3yrs-e (u-1yr), '13-2%-e (u-3%+\$1.50), '14-3%-e (u-3%+\$1.50), 2015-2.5% (e-2%, u-3%). New mgmt. rights & maintenance of standards lang-n-u; Eliminate "me too"-y-e. Uniform increase-u. Insurance-e. Shift diff-change hrs.-n-e, +\$.10 to \$.50 hr.-u. POST training-n-e. | 2013 - 2% 2014 - 2% 2015 - 2.5% | Duration & wages-internal pattern; 3rd yr. 2.5%-market. Language changes-lack of compelling need. Insurance & "me too"-internal pattern. U wanted ER to pay for PIEP if ees leave Co. insurance plan - no, contrary to plan objectives. |

September, 2013

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|-------------|---|--------------------|--------------------------------|---|---------------------------------------|--|
| 13-PN-0482 | Arrowhead Regional Corrections Board Minnesota Public Employees Assn | Flagler, John | Interest | Corrections. 1.5%,1.5% (e-1%,1%; u-2%,2%). Shift diff-no incr-e (u-\$.30/h) Sick leave bank-no-e. Create Sr. Shift position-no-e. Bar using reprmd after 2y. | 2012 - 1.5% 2013 - 1.5% | Wages external avg+.5% 2012 due to prior wage freeze. Creating position-arbitrator has no authority. Reprimand language written by arbitrator. |
| 13-PN-0553 | Crow Wing County (Interest Award) Law Enforcement Labor Services, Inc. | Johnson, John | Interest | Corrections. Wages-e (u-2%,2%); Holiday hours = to shift hours-n-e; IOD language-y-u. | 2012 - 0% 2013 - 0% | Wages internal (with 4 settlmt models) Hol:2 of 5 sheriff groups have benefit didn't show need. IOD-intrnl & need. |
| 13-PN-0590 | Dakota County (Interest Award) Dakota Co. Attorney Employees Assn. | Gallagher, Thomas | Interest | General increase-2%-agree; Merit-e, Salary range-4.5%-u (e-2%). | 2013 - 2% | General & Merit-internal. 4.5%Salary range:(2.5% behind market (e at 2%)) |
| 13-PN-0305 | Eveleth, City of (Interest Award) Law Enforcement Labor Services, Inc. | Dunn, Richard | Interest | Officers: 3yr-e (u-2); Wages-e (u-3% 2.5%.2.5%); Longevity-\$10m (neither side requested this); Vac carry over to end of following yr.-u (e-April); Insur & VEBA contribution-e; Requiring note for Dr visits-no-u; Semi-annual VEBA contrb-e | 2013 - 2.5% 2014 - 2% 2015 - 2% | Duration internal pattern & eliminates whipsaw bargaining. Wages VEBA and insurance-internal pattern. Longevity not certified or requested, but a subset of wages. U argued low pay in market if longevity considered. |
| 13-PA-0536 | Hopkins, City of Hopkins Police Officers' Association | Miller, Richard J. | 1 day suspension | Insubordinate by viewing Dept video security to see what Chief was doing re IA on another officer & telling others. | Wrtn reprmd | No prior discipline. Infraction similar to another officer who received reprimand. |
| 13-PA-0562 | ISD 316, Greenway AFSCME Minnesota Council 65 | Paull, David | O.T. Pay | ER changed calculating OT based on hours paid (vac etc.) to FLSA standard. | Sustained | Binding past practice. "Mutuality" and not "knowledge," is what is required |
| 13-PA-0605 | Inver Grove Heights, City of AFSCME Minnesota Council 5 | Bognanno, Mario | Lay-Off | Senior building inspector laid off; "relative ability" seniority clause. | Denied | Inferior work performance undermined better technical knowledge. |
| 12-PA-1055 | Lakeville, City of Minnesota Public Employees | Kapsch, Frank | O.T. on Holiday | Officer called in for Holiday, paid OT + Holiday pay. Seeking OT on Hol. Pay. | Denied | No contract language re: holiday premium & 20 years past practice. |
| IT-11-02 | Minnesota State Colleges and Minnesota State College Faculty | Jensen, Eugene | Layoff Job reclassification | Laid off from teaching Computer Tech - not hired to teach Computer Science. | Denied | ER has credentialing authority. EE did not have qualifications for new position. |
| None listed | Minnesota, State of, Department of Minnesota Conservation Officers | Fogelberg, J.C. | Demotion | DNR pilot falsified bird collar telemetry locations. | Wrtn Reprmd | Was careless in performance of duties deliberate falsification not established. |

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| 13-PA-0776 | Minnesota, State of, Board of Public Teamsters Local 320 | Jacobs, Jeffrey | Termination | Public defender representing family. Violation of ethics & direct orders. | 7 mo susp. | Returned to work - no back pay. Mitigation - 13 yrs. service, no discipline. |
| 13-PA-0594 13-PA-0550 | North St. Paul, City of Law Enforcement Labor Services, Inc. | Jacobs, Jeffrey | Demotion 18 day suspension | Sgt said he was going AWOL & left a few minutes before end of shift. | Sustained Wrtn warning | AWOL comment was a joke. 6 times left early no intent (clocks not in sync) |
| 13-PN-0068 | Owatonna, City of (Interest Award) Teamsters Local 320 | Befort, Stephen | Interest | Officers. 2yrs-e (u-3y); '12-1%; '13-Jan 1%, July 0.5% (e-0%, u-3% both yrs.). Grievance mediation step-n-u; Allow for 12h shift-n-u; Call back/court 2 to 4h-n-e; FLSA OT-n-u; Comp time-n; Seniority vac-no-u; Holiday-same as Sgts; Insur-e Uniform-n-e;Shift pay-n-e;Wrk comp-n-u | 2012 - 1% 2013 - 1.5% | Internal pattern. Lack of compelling reasons for proposed changes. Allowing for 12h shift puts 10h at risk. Comp time-both seeking change-no change, Holiday-sgts benefit awarded even though neither side proposed it. |
| 13-PA-0706 | Pequot Lakes, City of Teamsters Local 346 | Fogelberg, J.C. | 15 day suspension | Officer turned off squad recordings; no permission for ride along; and Facebook posting denigrating the president. | 10 days | Common sense does not need to be codified in a policy to find misconduct. Suspension reduced due to Dept.errors. |
| 13-PA-0824 | Ramsey County AFSCME Minnesota Council 5 | Anderson, Richard | 40 hr. suspension | Welfare worker refused order to remove child from unlicensed foster home as ordrd by suprv. Judge later barred removal. | Sustained | Refusal to remove child insubordinate but protected activity due to fear for child's safety. |
| FMCS | Sappi-Cloquet LLC United Steelworkers Local 11-63 | Daly, Joseph | Lunch break | Ees have been paid for working .5 hr. unpaid lunch 34% of time. | Sustained | ER ordered to insure ees given .5 hr. unpaid lunch. |

August, 2013

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|---|-------------------|------------------------------------|--|-------------------------------|---|
| ??? | Kemp's, LLC Teamsters Local 160 | Befort, Stephen | Termination | Lab tech failed to reject milk that tested positive for antibiotics. | Denied | 24 yrs. service, no prior discipline, but act threatened public safety. |
| FMCS | Liberty Carton Company Teamstres Local 970 | Gallagher, Thomas | Absences | No-fault attendance policy. Charged 8 hrs for not working mandatory OT on weekend | Denied | Approved vac for Fri. exempt EEs from weekend off. Same day vac controlled by EE doesn't trump mandatory OT. |
| 13-PA 0789 | Metro Transit Amalgamated Transit Union Local 1005 | Bognanno, Mario | 2 day susp. & Final Warning | Intoxicated female standing over and screaming at driver was pushed away. | Verbal Wrng | ER did not prove unnecessary force. Driver could have given pass more info. |
| 13-PA-0639 | Metro Transit Amalgamated Transit Union Local 1005 | Neigh, Charlotte | Termination | 4 responsible accidents & lack of improvement after retraining. | Denied | Action reasonable despite Union claim accidents were minor & the standard was unilaterally imposed. |
| FMCS | Ohly Americas Teamsters Local 471 | Flagler, John | Cell Phone Ban | Union challenged banning cell phones from lockers and break areas. | Sustained | Ban is unreasonable. Contract provides for reasonable use on breaks. |
| 13-PN-0496 | Pine County (Interest Award) Teamsters Local 320 | Miller, Richard J | Interest | Deputies. Wages-reached agreement. Uniform:'12-\$725-u (+\$25), '13-\$750-u. Shift diff- update dates-y-u (e-not certified). \$200 bi-weekly Travel Stipend n-e; | 2012 - 1.5% 2013 - 1.5% | Uniform-external comparisons & a new uniforms. Shift diff-same benefit, but dates changed (ER-properly certified?) Travel stipend-compensation for losing take home cars-no justification provided. |
| 13-PA-0152 | Rochester, City of Operating Engineers, Local 49 | Jacobs, Jeffrey | Pay-Temp wrkrs who are Pub ees. | Back pay due re April 2013 arb award. CBA wages for seasonal/temp, part-time or students if considered public ees. | Back pay-date of grievance | Award based on CBA grievance limits not PELRA nor Statutes. Discussion of student exemption as public ee. |
| 13-PA-0699 | Wright County Wright County Assistant County | Anderson, Richard | Reclassification Adjustments | Contract silent on County Attorneys reclassification adjustment date Union seeking Jan 1st in each of contracts 3 yrs. | Denied | Tentative agreement listed July 1st. ER did not put date in contract. Intent of parties clear. |

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| FMCS | Xcel Energy, Inc. Electrical Workers Local 953 | Toenges, Rolland | Rest Time | 8hrs rest time paid if 2 call outs 8.5 h before scheduled shift. Is scheduled early start OT a call out? - No. | Denied | Unscheduled call outs & pre-scheduled early reports are not the same so a common meaning is not applicable. |
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July, 2013

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|-------------|---|--------------------|--------------------------------------|---|-------------------------------------|--|
| FMCS | 3M Company United Steelworkers Local 11-00418 | Imes, Sharon | Termination | Electrical working under a last chance agreement wired a machine improperly. | Denied | No prints nor engineer available. Like on like wiring but should have caught initial wiring was wrong. |
| FMCS | Allina Health, d/b/a Saint Francis Minnesota Nurses Association | Jensen, Eugene | Termination | HIPA violation. Nurse accessed & disclosed a minor patient's test results. | Denied | Excellent ee, no prior discipline, yet w clear rules ee didn't admit wrongdoing. |
| 13-PA-0107 | Austin, City of Law Enforcement Labor Services, Inc. | Jensen, Eugene | Oral Reprimand | Officer did not grieve in 2010. Prepared letter asking for review/removal in 2012. | Denied | Letter did not extend timeline, nor was it binding on anyone. |
| 13-PA-0665 | ISD 347, Willmar Education Minnesota - Willmar | Ogata, Harley | Teaching load for part-time Teachers | U-testing & progress monitoring part of teaching load vs general duty time. | Sustained | "Teaching time" are required duties vs "general duty" availability standard. |
| 13-PA-0418 | Maplewood, City of Law Enforcement Labor Services, Inc. | Daly, Joseph | Termination | Officer sexually harassed 19 yr. old crime victim, while seeking to date her. | Denied | 10 yr. w no prior discipline, but may move to immediate termination when behavior is egregious. |
| 12-PA-0286 | Mendota Heights, City of Law Enforcement Labor Services, Inc. | Kapsch, Frank | 1 day suspension | Officer failed to fill out a traffic log. He was confused if it applied to "dog watch". | Denied | Insubordination - 2 priors in past yr. His responsibility to seek clarification. |
| 13-PA-0713 | Metro Transit Amalgamated Transit Union Local 1005 | Powers, Nancy | Written Warning | Red signal overrun. Train entered cross-walk on red, but stopped immediately. | Denied | U argued temporary inattention - no one injured. ER consistent in applying discipl. |
| None listed | Minnesota State Colleges and Minnesota State College Faculty | Wallin, Gerald | Sabbatical Leave | Chief Admn officer rejected plan "to observe basketball related activities" for his 2 credit coaching basketball class. | Sustained | His Dean approved plan, Same plan approved in 2005. Elimination of BB team in 2009 not relevant. |
| ??? | Minnesota, State of, Department of Minnesota Association of Professional | Fogelberg, J.C | Termination | Security casewkr violated boundaries with prisoners. | 6 mo susp. | 10 yrs. good work history provided mitigation. |
| 13-PA-0022 | Roseville, City of Law Enforcement Labor Services, Inc. | Schiavoni, Mary Jo | Education Pay Timeliness | Officer with BA & JD degree credited w only 56.24 quarter credits. A 1.33 vs. 1.5 semester conversion formula used. | Sustained | Timeliness - firm action not notice triggers grievance. Job related criteria too restrictive. 30 semester c=45 (1.5x). |
| 12-PN-0813 | Washington County (Interest Award) Minnesota Public Employees | Miller, Richard J. | Interest | Jail/Dispatch. Wages-e (u-.5%,.5%). Salary range:'12-1.5%,'13-1.5%-e (u-3%, 3%). Sgts at least 4% above any supervised ee-n-e. Change Shift pay amount & requirement-no-e. Unifrm \$425 to \$530-u Damaged unifrm reimbmsnt grievable-u. Allow Hol. pyramiding-n-e. | 2012 - 0% 2013 - 0% | Unsustainable to use fund balance to pay for operating expenses. Wages deviate from Dep arb of 12/28/12, but follow internal pattern. (Dep. on steps vs salary ranges for jail/dispatchers). Unfrm amnt historical ratio w Dep amnt. (No increase to Deputies in arbitration.) |
| 12-PN-0878 | Winona County (Interest Award) AFSMCE Minnesota Council 65 (Assistant County Attorneys) | Paull, David | Interest | Wages:'11-0%-e,'12-Jan1%, July1%-e, 13-Jan1%, July1%, Oct1%-e. Add steps-n-e. Insurance: 95%, 85%f-n-u. Discpl hearing representation lang-n-e. Provide legal counsel to defend ee-n-e. Attempt to amend wage position-n-e | 2011 - 0% 2012 - 2% 2013 - 3% | Wages:internal settlemnts & economy. Insur: internal pattern doesn't fit group profile (all on single at 100% so no need to subsidize families). Language items-no compelling reason for change. Final positions may not be amended except by written mutual consent. |

June, 2013

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|-------|--|-----------------|-------------|---|-----------|--|
| FMCS | Allina Hospitals and Clinics - United SEIU Healthcare Minnesota | Jacobs, Jeffrey | Termination | Care asst. filled out her prescription so she restricted pain pill. | Sustained | Dr. failed to fill out prescription. He told grievant her no refills. Dr. not disciplined. |

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|-------------|--|--------------------|----------------------------|---|-------------------------------------|--|
| FMCS | Centerpoint Energy Gas Workers Union Local 340 | Kapsch, Francis | Work Schedule | Crew scheduled to work Tuesday through Saturday. | Denied | Mgmt. right to establish which days of week constitute regular workweek. Hours of shifts have been negotiated. |
| 13-PN-0284 | Dakota County (Interest Award) Law Enforcement Labor Services, Inc. | Befort, Stephen | Interest | Deputies. Wages-e (u'12-2%+5% at control point, '13-2%). Merit Matrix: 12-0%; '13 base% +lump sum%-e. | 2012 - 0% 2013 - 1% | Internal pattern. 73% fund balance not a factor. 2 patterns based on level of insurance coverage. Discussion of Arbitration considerations. |
| 11-PA-0351 | Dakota County Law Enforcement Labor Services, Inc. | Fogelberg, J.C. | Written Reprimnd | Deputy didn't immediately respond to Sergeant's call on suspicious parties. | Denied | U claimed Sgt used Code 5 vs 6. Ee failed to be proactive to Sgt's 3 calls. |
| 13-PA-0662 | Duluth, City of AFSCME Minnesota Council 5 | Miller, Richard J. | Overtime Pay | Veteran placed on administrative leave due to fitness for duty issues seeking OT pay that could have been earned. | Split | No OT for time ruled unfit for duty, but OT ordered for time leading up to exam & time between fitness & return to wrk. |
| 13-PA-0415 | ISD 38, Red Lake Education Minnesota - Red Lake 2007 | Latimer, George | Basic Day | 1/2 hour added to teacher's work day. Is duty free lunch included in 7h 15m day? | Sustained | Past practice of 7h15m day w lunch. Reinstall old "day"-no monetary award. |
| 13-PA-0438 | ISD 93, Carlton Carlton Education Association | Yaeger, Thomas | Early Retirement Incentive | Teacher on unpaid medical leave for 10 years denied severance. Both sides had timeliness challenges. | Sustained | Ee only worked part of her last year. but "'75% of their base salary" refers to schedule, not actual earnings. |
| 13-PA-0721 | ISD 709, Duluth AFSCME Minnesota Council 5 | Gallagher, Sharon | Termination | Failed to disclose former name & convictions on job application. | Denied | Contract list this as just cause which trumps 9 years of exemplary service. |
| 13-TD-0002 | ISD 6049, River Bend Ed District Individual Grievant | Befort, Stephen | Termination | Psychologist failed to complete sp. ed. reports within 30 day deadline & falsified. reports & billings. | 20 day susp | Failed to prove fraudulent intent, so statute requires teacher to receive a warning & chance to correct behavior. |
| 13-PA-0638 | Metro Transit Amalgamated Transit Union Local 1005 | Fogelberg, J.C | Class A Warning | Suprvs told train driver to detour, that switches were lined. New suprvs came failed to stop for the switch. | Class B Warning | Driver has responsibility to check each switch, but penalty excessive since yard switches was not disciplined. |
| None listed | Minnesota, State of, Department of Minnesota Association of Professional | Imes, Sharon | Termination | Falsely reported time worked and | 30 day susp | Exempt ee told by suprv to enter 8 hrs. indicate which part of the policy was |
| 13-PA-0472 | Ramsey County Teamsters Local 320 | O'Toole Carol | Termination | Corrections Sgt. falsified time record, violated off-duty work policy & used sick time so he could coach hockey. | Denied | Lack of prior discipline & failure to write up counseling were overcome by transgressions that are so serious. |
| 13-PA-0556 | Saint Cloud, City of Law Enforcement Labor Services, Inc. | Lundberg, James | Denying Vacation | 2 officers vac requests denied. Chief limited vac to 2 weeks to control OT. | Sustained | Contract doesn't support vac denial. Practice defined appropriate denials. |
| 12-PN-1088 | Stillwater, City of (Interest Award) Law Enforcement Labor Services, Inc. | Powers, Nancy | Interest | Sgts: Duration-3yrs-e (u-2y); Wages-12-0%-e (u-3%), '13-14-parties agree; Insur-50% inc v \$-u; Vac cash out-n-e; Add FI Hol-n-e; Comp time-n-e; Court time-3 hr.-u; Seniority bidding-n-e. | 2012 - 0% 2013 - 2% 2014 - 2% | May Arb- officers 0%, 3%, 3%. Sgts agreed to pattern '13-2%, '14-2% but wanted 2% in '12 for 6% officer's total. Court time 3hrs=officers. U insurance position closest to current language. |
| 12-PN-1205 | Traverse County (Interest Award) Law Enforcement Labor Services, Inc. | Scoville, James | Interest | Deputies wages: '12-1%-e (u-6.2%) | 2012 - 1% | Internal pattern. Insurance used by ER for external compensation comparison. |

May, 2013

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|--|-------------------|--------------|--|------------------------|--|
| 13-PA-0248 | Dakota County Human Services Supervisors Assn | Jacobs, Jeffrey | Termination | Probation officer's husband had grow and sell operation on her property. | Denied | Serious misconduct & clear showing of nexus to work activity. |
| 13-PN-0089 | Dakota County (Interest Award) Law Enforcement Labor Services, Inc. | Johnson, John | Interest | Sergeants. Wages-e (u'12-2%+5% at control point, '13-2%). Merit Matrix: | 2012 - 0% 2013 - 1% | Internal pattern. There are 2 patterns based on level of Insurance coverage. |

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| | | | | 12-0%; '13 base% +lump sum%-e. | | County has 73.64% fund balance. |
| 13-PA-0040 13-PA-0651 | Goodhue County Law Enforcement Labor Services, Inc. | O'Toole, Carol | Injury on duty | Workers comp paid 2/3 salary w 1/3 deducted from sick leave if ee desired. Ee requested full pay w/o deduction. | Denied | Contract ambiguous. 25 years of past practice. |
| 13-PA-0428 | Hennepin County Medical Center Hennepin Co. Assn-Paramedics & | Beens, Richard | Overtime | EMT signed up for OT to work Twins game, but position given to EMT as a regular assignment for the day. | Denied | ER has right to determine need for OT and has right to change schedules to avoid OT. |
| 12 PN 1309 13-PA- 0463 | ISD 485, Royalton (Interest Award) Royalton Federation of Teachers ISD 748, Sartell-St. Stephen School Service Employees Local 284 | Latimer, George Remington, John | Interest Senior Qualified Selection | Wages-u, (e '12-0%,'13-0%). Mediated. agreement of 0%, 2% rejected by ER. External candidate selected for Admin Assistant over 3 internal candidates. | 2012 - 1% 2013 - 1% Sustained | Retaining standing in comparison group outweighed ability to pay. "Senior qualified" = sufficient ability. ER prohibited from comparing relative abilities of qualified applicants. |
| None listed | Maple Grove, City of Veteran's Preference | Befort, Stephen | Termination - V.P. | P.T. firefighter refused to participate in performance improvemnt plan. Fired 2nd time for offensive & threatening emails. | Denied | Performance problems & refusal to accept plan make firing reasonable. Still on payroll when fired 2nd time. |
| 13-PA-0511 | Metro Transit Amalgamated Transit Union Local 1005 | Jacobs, Jeffrey | Termination | Driver told female student to leave bus, she pushed him out of bus-he slapped back of her head. | 6 month susp. | Similar cases did not result in firing. Returned w no back pay & 3 yr. final notice of warning. |
| 13-RA-0075 | Minnesota Association of Professional Office and Professional Employees | Beens, Richard | Termination | BA obtained & forwarded confidential letter of her ER, relating to negotiations, to her union steward. | Denied | Rules on untrustworthiness & conflict of interest need not be promulgated |
| None listed | Minnesota State Colleges and Inter-Faculty Organization | Gallagher, Thomas | Overload Assignment | Teacher denied overload assignment due to budget concerns. Adjunct teacher hired at lower rate. | Sustained | Contract has "offer-overload-unless" requirement. Budget not a consideration. Earnings + punitive amount for loss of pension benefit awarded. |
| 12-VP-1300 | Minnetrista, City of Individual Grievant | Kapsch, Frank | Termination - V.P. | Water Treatment Op - 8 yrs. service. | Denied | G sent resignation letter in lieu of brief. |
| 13-PA-0226 | Scott County Law Enforcement Labor Services, Inc. | Beens, Richard | Out of Title Pay | In absence of a Sgt, should Sr. Deputy receive deputy-in-charge pay? - no. | Denied | Contract requires deputy be assigned. |
| 13-PN-0018 | Stillwater, City of (Interest Award) Law Enforcement Labor Services, Inc. | Anderson, Richard | Interest | Wages: '12-0%-e (u-3%), '13 & '14-u (e-2%, 2%). Insurance '13-e;'14-reopener.. Limit single to cost of base plan-no-u. | 2012 - 0% 2013 - 3% 2014 - 3% | Wages-external-lost ranking since 2006 & only 1 intrnl settlement. Ins- amt intrnl pattern. Must neg Single ins. |
| 12-PN-0968 | Wright County (Interest Award) Wright County Deputies Association | Befort, Stephen | Interest | Wages-e (u-3%,3%,3%); Steps on anniv vs Jan 1-no-e; Longevity pay-n-e; On call \$30 to \$50-y-u; Court Time 3 hours-no-e; Uniform \$650,\$675,\$700-e (u-\$70-,\$750,\$800); Increase Vac-no-e; change Vac/Sick use-n-u; Def of child-y-e; Incr Severance-n-e; Funeral Leave-u; Change Floating Holiday-no-u. | 2012 - 0% 2013 - 0% 2014 - 1% | Wages internal - did not change comparison group. Longevity-e, On Call-u, Uniform-e, Vac-e, Def of Child-e Severance-e, all based on internal pattern. Remaining issues failed for lack of compelling reason to change. |

April, 2013

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|------------|---|-----------------|-------------|--|--------|---|
| FMCS | Allina Medical Transportation IAEP Local 167 | Befort, Stephen | Termination | Ambulance driver failed to respond to code 3 with lights and siren. | Denied | Expeditious response is essence of driver's job. |
| 13-PA-0661 | Duluth, City of AFSCME Minnesota Council 5 | Johnson, John | Demotion | Sr Engineering Tech-5d susp&demotd. Grievance timeline missed but City didn't present demotion to Civil Service Board. | Denied | Only non-displn demotions go to Civil Service. Contract grievance v Civil Service discussed. No contract bar to |

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| 12-PN-1086 | Faribault County (Interest Award) Law Enforcement Labor Services, Inc. | Toenges, Rolland | Interest | Can city take Vac to correct overpaying? Wages:'12-1.25%,'13-0%-e (u-2.5%, 2.5%). Insurance - e. | 2012 - 1.25% 2013 - 0% | recovering overpayment from vac time. Internal pattern, overall economy & fund balance of only 23%. |
| 13-PA-0575 | Hennepin County AFSCME Minnesota Council 5 | Beens, Richard | Termination | Senior Social worker's errors & failure to complete cases. | Denied | 6 years substandard performance in spite of counseling, training & discipline. |
| FMCS | Lutheran Care Center United Steelworkers Local 9230 | Daly, Joseph | Termination | Nursing assistant yelling and swearing in presence of residents. | Denied | Just cause to skip progressive steps for her unprofessional behavior. |
| 12 PN 1191 | McLeod County (Interest Award) Law Enforcement Labor Services, Inc. | O'Toole, Carol | Interest | Wages-e; Range movement '12-1.5% '13-1.75%-u; Top lump sum \$.30,\$.40. | 2012 - 0% 2013 - 0% | Sgt wages-internal pattern. Range movement equal to deputies. |
| 13-PA-0462 | Metro Transit Amalgamated Transit Union Local 1005 | Jacobs, Jeffrey | Class A warning | LRT operator failed to enter pre-trip data (B violation) then went through a resulting red signal by 18 inches. | Denied | It does not matter by how much the signal was violated nor if there was actual damage. |
| 13 PA 0460 | Metro Transit Amalgamated Transit Union Local 1005 | Kircher, Andrea | 20 day suspension | Driver violated cell phone safety policy by falling to turn off & having Bluetooth device in pocket. | 2 day susp. | 17 yrs. service & phone was not being used. Suspension reduce and final record of warning removed. |
| 13-PA-0152 | Rochester, City of Operating Engineers Local 49 | Jacobs, Jeffrey | Part Time/ Seasonal pay | City failed to pay Union rates. Cited 40 yrs. of past practice where Park Board set pay rate for seasonal ees. See August 2013 award for remedy. | Sustained | Contract denies benefits for part timers but not wages. Discussion of past practice; Ramsey Co v AFSME, 1981 Supreme Ct case & doctrine of latches. |
| 13-PA-0405 13-PA-0406 | Waseca County Teamsters Local 320 | Jacobs, Jeffrey | Pay grievances | Wage calculations to implement a a revised salary range. | Sustained | Award based on Commissioners resolution of similar claim. |

March, 2013

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|------------|---|---------------------|------------------------|--|--------------|--|
| FMCS | Allina Hospitals and Clinics - United Hospital SEIU Healthcare Minnesota | Jacobs, Jeffrey | Termination | Asked to stock "block cart" by a co- worker, Similar discipline in '04, '05 & '11. | Denied | Negotiated LOU allows ER to use repeated amount of time between incidents. |
| 12-PA-1103 | Blaine, City of Law Enforcement Labor Services, Inc. | Bognanno, Mario | 4 day suspension | Failure to follow procedure re towing a trailer suspected of being stolen. | Split | Suspension stands. 2 charges not proven & references removed from file. |
| 13-VP-0153 | Brooklyn Park, City of Individual Grievant | Paull, David | Termination - V.P. | Probationary off. continued teaching. despite bar to off-duty wk while training. | 3 day susp. | Failure to timely enforce led to belief actions were acceptable. |
| 13-PA-0118 | Clay County Law Enforcement Labor Services, Inc. | Lundberg, James | Termination | Eden Prairie PD reported K9 deputy drunk at motel pool late night party. And failing to self report. | Sustained | Wrong deputy identified. Rule and orders given during investigation lacked clarity. |
| 12-PA-1169 | Dakota Communications Center Law Enforcement Labor Services, Inc. | Dunn, Richard | 3 day suspension | Dispatched officer to check welfare vs. sending medics for childbirth call. | 2 day susp. | Significant recent disciplinary history but performance rating is satisfactory. |
| 12-PA-1279 | Mendota Heights, City of Law Enforcement Labor Services, Inc. | Ogata, Harley | 1 day suspension | Officer called to assist driver who was stuck. Failed to de-escalate situation. | Wrtn reprimd | Lack of progressive discipline. Prior reprimand 12 yrs. old therefore stale. ER's process errors didn't harm ee. Phrase describes type of work, not amount. No full time ees laid off. |
| FMCS | Red Wing Shoe Company United Food & Commercial Workers | VerPloeg, Christine | Part-time employees | PT & temps hired "to meet production demands" when there was no such need. | Denied | |

February, 2013

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|-------|---|------------------|------------|--|-----------|--|
| AAA | ADT Security Services, Inc. IBEW Local 110 | Malamud,Sherwood | Travel Pay | 1st hr. of commute time from home is not paid. Should 1st hr. commute from hotel to work site be deducted? - No. | Sustained | Nothing to suggest "home" is a term of art vs the dictionary definition."Home of record" is address on file w company. |

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|------------|--|--------------------|-----------------------------|--|-----------------------------|--|
| 11-PA 1013 | Austin, City of Austin Employees' Association | Jacobs, Jeffrey | Vacation Eligibility | Conflicting language--vacation credited on anniversary date or January 1st? | Sustained | Language added later is precedence where there is an inconsistency. |
| 12-PN-0906 | Brooklyn Center, City of (Interest Law Enforcement Labor Services, Inc. | Gallagher, Thomas | Interest | Wages ('12&'13 u-2%+.05%;e-!%,1%) Longevity-add \$20 to 16yr step-u; Det. pay \$35/m-u; On call-no change-e; Insurance-contribution reduced-e | 2012 - 2% 2013 - 2% | Wages-2% internal pattern. Longevity external comparison. Detective incrs external. Insurance-internal & rate dropped by 17% to 20%. |
| 13-PA-0417 | Duluth, City of AFSCME Minnesota Council 5 | Jacobs, Jeffrey | Long Term Disability | Placed on LTD w/o ees request and before 120 sick days exhausted. | Sustained | 120 sick days per year guaranteed by contract. |
| 12-PN-0906 | Hennepin County (Interest Award) Hennepin County Professional Social | Latimer, George | Interest | '12-no step,\$500 lump sum-e(u-steps + 5%);'13-step+1.5%-e (u-steps+5%); on | 2012 - \$500 2013 - 1.5% | Wages-expanded duties didn't require large wage increase- internal pattern. |
| 13-PA-0197 | ISD 197, West St. Paul SEIU Local 284 | Ogata, Harley | Termination - V.P. | Failed to stop 2 kindergarten girls from sexually assaulting a 1st grader. | Denied | May not have seen assault but failed to control unruly behavior on bus. |
| 13 PA 0081 | ISD 740, Melrose Operating Engineers Local 70 | Remington, John | Bargaining Unit Work | Supervisors doing custodial work. 50% - no; 2.75 hours/day - okay. | Split | Can assign Unit work if less than 14 hours per week or 2.75 hours per day. |
| 12-PA-0817 | ISD 2142, St. Louis County Education Minnesota - St. Louis County | Gallagher, Sharon | Q comp/continuing Contract. | Refusal to pay earned Q Comp until new contract negotiated. | Denied | Historically haven't paid steps before new contract. Q comp MOU expired. |
| 13-PA-0097 | Ramsey County AFSCME Minnesota Council t | O'Toole, Carol | Reduction of Hours | Hours reduced at Lake Owasso Residence due to budget cuts. | Denied | Reduction in hours based on seniority. Intermittent employees released. |
| 13-PA-0267 | Starbuck, City of AFSCME Minnesota Council 5 | Miller, Richard J. | Termination | Clerk/Treasurer's conflict with council over communication, budget/finance insubordination & attitude. | 20 day susp. | Terminated after only 2 reprimands. Nothing so serious to eliminate need for progressive discipline |
| 12-PA-1280 | Welcome, City of Electrical Workers Local 160 | Daly, Joseph | Bargaining Unit Work | City wants to hire Pub Works Director who would do bargaining unit work | Sustained | Can hire lead worker or foreman but a supervisor can't do unit work. |

January, 2013

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|---|---------------------|--------------------------------|--|-----------------------------|--|
| 12-PN-0380 | Carver County Teamsters Local 320 | VerPloeg, Christine | Interest Detention/Dispatch | '12-July 1% to min, .5% to max-e; '13-Jul 1.75%min,1.25%max-e (u-4%,4%); Step-no-e (u-4.5%); Market adjustment for dispatch-no-e (u-7%); Severance increase-yes-u; Uniform & Shift diff increases-no-e. | 2012 - 0.5% 2013 - 1.25% | Wages-internal. Steps-negotiated away in 2009. Dispatch mrkt. adjstmt did not include longevity comparison. Severance-internal. Uniform & shift differential-internal. |
| 12-PA-1219 | Duluth, City of AFSCME Minnesota Council 5 | Befort, Stephen | 5 day suspension | Gross insubordination for failing to cooperate in fitness for duty exam. | Denied | A severe breach of discipline did not require progressive discipline. |
| 12-PN-1005 | Glencoe, City of (Interest) Glencoe Federation of Police | Lundberg, James | Interest | Officers. 2012-2%-u (e-2%if HSA is same as other ee's). H.S.A.\$2,040-u (e-\$1610). | 2012 - 2% | Wages pattern. H.S.A. set at 68% in current contract. ER failed to establish need for change, thus \$2,040. |
| None listed | Minneapolis, City of Operating Engineers Local 70 | Imes, Sharon | Pay rate for temp assignments. | Should temp assigned ees receive as wages the amount the exclusive rep negotiated for their union pension fund? | Sustained | Although Local 363 agreed to reduce wage rate by amount City forwards to union pension fund it didn't negotiate reduced wage rate. |
| 12-PA-0324 | Oakdale, City of Law Enforcement Labor Services, Inc. | Latimer, George | O.T. Distribution | Contract requires OT be equitable. OT offered to highest vs lowest earner. | Denied | Triple homicide - case falls outside normal circumstances. |

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|-------------|---|-------------------|---------------------|--|----------------|---|
| 12-PA-0355 | Three Rivers Park District Law Enforcement Labor Services, Inc. | O'Toole, Carol | Demotion | New sergeant left area w/o notifying dispatch. Met w Champlin officer to obtain info on purchasing steroids. | Denied | Lack of judgment needed of sergeant. Claimed only doing research-should have used internet. |
| None listed | Twin City Hospital Workers Pension Fund, Union Tr Twin City Hospital Workers Pension Fund, | Gallagher, Thomas | Increase disability | Pension trustees at impasse. Union proposal to increase benefit. | Union position | Benefit last increased in 1985. Union increase. |

2014 Arbitration Awards - Minnesota B.M.S.

Summary of Arbitration Awards listed on the Bureau of Mediation Services' web site (<http://www.mn.gov/bms/arbitration/awards/>).

"Sustained" means the grievance prevails overturning the original action. "Denied" means the original action prevails.

December, 2014

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|-------------|---|--------------------|-------------|---|---|---|
| 14-PN-1156 | Anoka County (Interest Award) Law Enforcement Labor Services, Inc. | Miller, Richard J. | Interest | Investigators. 2 yrs-e (u-3yrs). Wages: 0%, 0%-e (u-3%, 3%); Range minimum 2%, 2%-e (u-3%,3%). Merit 2%,2%-both. | 2014 - 0% 2015 - 0% | Duration-internal, Wages-intrnl&extrnl. Small groups follow rather than lead. ER's obligation to efficiently manage = financial constraint vs inability to pay. |
| 14-PN-0892 | Beltrami, County of (Interest Award) Teamsters Local 320 | Jacobs, Jeffrey | Interest | Attorneys. Wages-e (both agreed to %, step 17 vs 18 awarded - 7% difference for 3 yrs-e).Court prep time-n-e; Clothing allowance-n-e; Increase longevity-n-e. | 2014 - 1% 2015 - 2% 2016-1.5/1.5% | Wages-pattern based on implementing Springsted study. Court & clothing new benefits lacking need or quid pro quo. Longevity internal, tied to investigators. |
| 14-PA-0862 | Duluth, City of AFSCME Council 5 | Boyer, John W. | Call Out | U challenged city's right to use stand-by crews for sewer emergencies vs most senior sewer workers. Timeliness-sustained | Denied | U cited past practice, but both contract & policy changed. 3 arbitrations on same issue. See Jacobs & O'Toole-Jan. 2015. |
| 14-PN-1305 | Lakeville, City of (Interest Award) Law Enforcement Labor Services, Inc. | Anderson, | Interest | Officers. Wages 2014-2%-e (u-3%), 2015-3%-u (e-2%). | 2014 - 2% 2015 - 3% | No pattern. Sgts received 3% & 3%. Award maintains historic differential. |
| 14-PA-0810 | Minnesota Court System, Judicial AFSCME Councils 5 and 65 | Neigh, Charlotte | Termination | Senior Court clerk improperly accessed data in the DVS system. | 10 day susp. | 26 ees improperly used system-only 7 disciplined-3 terminated. ER failed to show why this ee was more egregious. |
| None listed | Minnesota, State of, Board of Minnesota Association of Professional | Befort, Stephen | Layoffs | Reorganization-2 investigators layed off. Sr. Invst. hired. Terminations in disguise? | Denied | Anticipation of likely shortage of funds & legitimate reorganization - permissible basis for layoff. No evidence of Termntrn. |
| FMCS | North Memorial Health Care SEIU Healthcare Minnesota | Fogelberg, J.C. | 3 day | Custodian & female ee were in an office w/o authorization. Not truthful in investigation. | 1 day susp. | Disparate treatment - other ee received 1 day; & credited for 25 yrs. of service. |
| 14-PA-0568 | University of Minnesota-Duluth University Education Association | Schiavoni, Mary | Promotion | Did ER apply a new criterion unknown to U for promotion to tenured professor by citing insufficient publications? | Denied | Not necessary to have an express # established to evaluate substantive & quantitative publishing record. |

November, 2014

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|------------|---|--------------------|----------|--|----------------------------|--|
| 14-PN-1086 | Anoka County Law Enforcement Labor Services, Inc. | Lundberg, James | Interest | Work Release. Uniforms-+\$50-u (e-no change); Add shoes to allowance.-no-e; Wages-1.5%, 1.5% (u-3%,3%; e-0%,0%); Merit -2%,2%-e (u-3%,3%). | 2014 - 1.5% 2015 - 1.5% | Uniform-increase based on replacement cost. Color is only shoe requirement so no additional expense. Wages-external. Merit - internal. |
| 14-PN-0203 | Blue Earth County (Interest Award) Minnesota Public Employees Assn | Miller, Richard J. | Interest | Corrections:Sick leave-Statute language w/o 160 hr limit-u; Wages-ER (u seeking 2.5%+2.5%mkd adj ea yr., drop bottom step, add 2, 3%steps to top.). Lead worker from \$2.50 to \$4/hr.-u. Shift diff \$.25-u Outside POST lic part-time employment-n-e | 2014 - 2.5% 2015 - 2.5% | Sick language-no pattern. Wages-both internal & external (discussion-Statutory salary appeal vs Arbitration). Lead pay-same as Deputies&dispatch. Shift pay-new benefit-majority of market. Part-time-management right (liability concern) |

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|--|---|-----------------|---------------------|--|------------------------|---|
| FMCS | Group Health, Inc. Office and Professional Employees | Gallagher, | FMLA | Can FMLA be charged concurrently with other contract benefits? Yes. | Denied | ER has statutory right to run FMLA concurrently & no obligation to negotiate. |
| 14VP0627 | ISD 624, White Bear Lake | Gallagher, | Summary Disposition | U declined grievance. Bus driver brought grievance as allowed in CBA. Creation of bus route, seniority selection, ADA compliance. | Granted | Bus routes a management right. Seniority not a factor if unable to perform job. ADA compliance handled by EEOC. |
| 149PA91301 | Metropolitan Council (Metro Transit) Transit Managers & Supervisors Ass. | Lundberg, James | Termination | Supervisor submitted false report re his actions prior to train derailment. Also false report at Lodermill hearing. | Denied | Dishonesty so egregious discharge is only appropriate remedy. Short term employee just off probation. |
| None listed | Minneapolis, City of Police Officers' Federation | Fogelberg, J.C. | 32 day susp. | Officer given 10day susp for DOC, 6mo. later arrested for DUI-given 32 day susp. | 10 day susp. | 32 days reduced due to 25yrs service & disparate treatment vs. other DUI's. |
| 14-PA-0978 14-PA-0989 14-PA-1054 | Ramsey County Law Enforcement Labor Services, Inc. | Bard, Stephen | Insurance - premium | Combined grievance for 3 units. 2014 insurance premium went down. U seeking 100% of savings - but is not in contract. | Denied | ER used formula for increases (75/25) to determine ees share. Reasonable & a management right if language is lacking. |
| FMCS | Ramsey Excavating Company Construction and General Laborers, | Daly, Joseph | Pre-test | ER used an isokinetic test to determine physical capability prior to hire. Union challenged that it was not negotiated. | Sustained | Union is hiring hall despite language - due to 50% requirement. U applicants are ees so testing must be negotiated. |
| 14-PN-0713 | Sherburne County (Interest Award) Law Enforcement Labor Services, Inc. | Moeller, Lon | Interest | Corrections. Remove June restriction on bidding-n-e. Travel time for call back-n-e. Training travel pay-y-u. '14-2%-e (u-12%) 15-2%-both. Change range mvmnt-n-u. Bar grievances re range movement-n-u. | 2014 - 2% 2015 - 2% | Wages-internal pattern. Travel time issues explore FLSA & Imada v City of Hercules (9th Circuit Ct). Call back-not on-call, not mandatory. Training-covered in policy. Other requests-not compelling |
| 14-PN-0549 | Sherburne County (Interest Award) Law Enforcement Labor Services, Inc. | Crump, Harry | Interest | Supervisors. 2014-2%-e (u-3%+1%July market. adjustment), 2015-2%-e (u-3%); Increase: Longevity PTO; IOD; & Insurance-no-e; rewrite insurance benefits, remove "me too" & assign benefit committee to design ACA plan & 2015 rates-y-e. | 2014 - 2% 2015 - 2% | Wages & Insurance - internal pattern. Benefit increases sought by u lacked compelling reasons or quid pro quo. ER had compelling need for changes to insurance benefit language, unlike Benton County arbitration August 2014 |
| 14-PA-0719 | University of Minnesota-Duluth Teamsters Local 320 | VerPloeg, | Posting O.T. | ER failed to post "ice making" OT. OT awarded to ee working different location. | Denied | Long time practice of verbally notifying most senior for OT. Never based on loc. |

October, 2014

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|--|-------------------|--------------|---|---------------|--|
| 14-PA-0814 | Austin, City of United Auto Workers Local 867 | Vernon, Gil | Job Vacancy | Ee was not given "Trimmer/Chipper" position . Contract allows 30d to qualify. | Denied | Ee lacked 3 yrs experience-not qualified. Could have used 30d for hazard training. |
| 14-PA-0812 | Austin, City of United Auto Workers local 867 | Vernon, Gil | Out of Title | Street worker using chainsaw seeking "Tree Trimmer" pay. | Denied | Chainsaw is not exclusive to "Trimmers" no past practice of additional pay. |

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|-------------|--|--------------------|--------------------------|---|------------------------|--|
| 14-PN-1211 | Clearwater County (Interest Award) Teamsters Local 320 | Miller, Richard J. | Interest | Communications/Corr. 2014 reopener Insurance \$838-u, (u-\$850, e-\$829). Ees in Teamster's Insurance plan. | Union's position | Contract 2013-2015. Pattern 50% incr. & full single. U plan blends single/family kept 65/35-1yr. (ER saves vs own Insur.) |
| 13-PA-0861 | Forest Lake, City of Law Enforcement Labor Services, Inc. | Jacobs, Jeffrey | O.T. for Flex | ER flexed officer's schedule to reduce overtime for training. | Denied | Contract does not limit flexing. U can't repudiate practice that's a mngmnt right. Detailed discussion on past practice. |
| 14-PA-1270 | Isanti, City of Law Enforcement Labor Services, Inc. | Paull, David S. | Tuition reimbursement | Officer requested approval for an entire college degree program. Denied based on budget concerns (cost \$20,000). | Sustained | Despite language requiring approval to be eligible for reimbursement, denial based on budget violates contract. |
| 14-PA-1159 | ISD 709, Duluth Firemen & Oilers Local 956 | Toenges, Rolland | MOA impact Contract | EE's promotion rescinded due to Union challenge. MOA returned ee to position as bus driver w guarantee of 8 hr days. Seeking snow day pay based on 8hr. guarantee. | Denied | Bus drivers are not paid for not working bad weather days. Request inconsistent with contract. |
| 14-PA-1165 | Metro Transit Amalgamated Transit Union Local 1005 | Krueger, Dennis | OT and Unit | Light rail mechanic working OT did cleaner's work. | Sustained | Employees can work "down" during their regular shift but contract governs OT |
| None listed | Minneapolis, City of Electrical Workers Local 292 | Bognanno, Mario | Timeliness | Arbitrability regarding 2 termination grievances filed after contracts 21 day timeline when City continued meeting. | Denied | U argued "equitable relief" & "collateral estoppel"- no. Exploring merits is not a waiver of an untimely grievance. |
| 14-PA-0239 | Minnesota, State of, Perpich Center for State Residential Schools Education | Imes, Sharon | 3 day | Teacher failed to update students online academic progress report. | 1 day susp. | Updates required under Section 504. Prior oral and written reprimands. |
| 14-PN-0525 | Minnesota, State of, Unit 1 (Interest Minnesota Law Enforcement | Schiavoni, Mary | Interest | Troopers/BCA/DNR. Wages-e (u-delay 3% until 5th pay period each yr.+2% 25th pay period 2015) | 2014 - 3% 2015 - 3% | Internal equity, public policy & other economic factors. U proposal cheaper 1st 2 yrs. But adds \$2 million rollup cost. |
| FMCS | Northern States Power Company d/b/a Electrical Workers Local 949 | Fogelberg, J.C. | Termination | EE at nuclear plant fired after discovery he lied on job application re drug use. Tried to introduce new charge at hearing re military record. | Sustained | Question was vague; EE admitted trying marijuana, but did not "use" it. "After- acquired evidence" can be used, but it was also failed due to a vague question. |
| 15-PA-0036 | Sherburne County Minnesota Public Employees Assn | Miller, Richard J. | Termination | Corrections officer ate a snack cake while stocking a vending machine. | Denied | Even a small theft by a long-term good ee constitutes just cause for termination. |
| FMCS | Twin Cities Public Television Broadcast Employees Local 57411 | Fogelberg, J.C. | Seniority | Contrct requires hiring frm seniority pool if qualified. Grievant did the work before. | Denied | Special circumstance exception. EE lacked personal skills for assignment. |

September, 2014

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|---|--------------------|---------------------------|---|---|--|
| 13-PA-0712 | Breezy Point, City of Law Enforcement Labor Services, Inc. | Schiavoni, Mary | Holidays Timelines | ER changed schedule so they did not need to pay for Holidays not worked - based on scheduling authority language. U waited 1yr after filing for arbitration before selecting an arbitrator. | Sustained Sustained | Authority granted under one provision cannot be used to undermine another. Arbitrator Wallin, St. Francis, June 2010 ruled differently. No time restriction in contract. |
| 14-PN-0820 | Crystal, City of (Interest Award) Law Enforcement Labor Services, Inc. | Johnson, John | Interest | Officers. Wages 2014-2%-e (u-3%); 2015-2.5% (e-2%, u-3%). 2014 Market Adjustment of 2%-n-e. | 2014 - 2% 2015 - 2.5% | 2014 internal with only 1 settlement. For 2015 external (note: city did budget 2.5% for 2015.) |
| 14-PN-0643 | Golden Valley, City of (Interest Award) Law Enforcement Labor Services, Inc. | Toenges, Rolland | Interest | Sergeants. '14-2.5%-e (u-2.5%+4% adjustment) '15-2.5%-both. Court 6 hr. minimum-n-e, Call in to wrk Hol 2x-no-e | 2014 - 2.5% 2015 - 2.5% | Wages-internal pattern. Sgts seeking 4% mrkt adjustment officers received - study didn't warrant one. Negotiate other items. |
| 14-PN-0534 | Hibbing, City of Minnesota Association of Professional | Miller, Richard J. | Interest | '14-\$.80/hr-u (e-1.5%); '15-2%+\$.30-u (e-1.5%); '16-2.25%+\$.30-u (e-1.75%). Longevity bonus for all in 2014 of 1%-u. Insurance & VEBA-positions the same. Increase Severance & Layoff notice-no-e; Police & Fire Chief Uniforms-n-e. | 2014 - \$.80/hr 15-2%+\$.30/h 16-2.25%+.30 | Historical relationship w AFSCME. MAPE=9.63% vs AFSCME 10.57%. Severance-1 part of request differed from AFSCME + expense. Layoff currently is same as AFSCME. Uniforms-no requirement to wear them. |
| 14-PA-1354 | ISD 278, Orono School Service Employees Local 284 | O'Toole, Carol | Timeliness | Union missed time line. ER denied grievance but had a settlement discussion. | Denied | Settlement discussion was not a waiver of time line but a good faith effort by ER. |
| 14-PA-0957 | ISD 485, Royalton Royalton Federation of Teachers | Befort, Stephen | 5 day | Teacher scheduled vacation trip on a day of parent-teacher meetings. | Denied | U claimed discipline was too severe but ee told she would get 5 days if absent. |
| FMCS | 3M Company United Steelworkers Local 11-418 | Gallagher, | 3 day | Violation of absence policy that counts sick usage as an occurrence. Practice changed to resolve grievance w Local 70. | Denied | 29 yr practice. Local 70 doesn't have manufacturing ees whose attendance is more critical. Any change must be neg. |

August, 2014

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------------------|---|-------------------|----------------------|--|---------------------------|---|
| 14-PN-0711 | Benton County Law Enforcement Labor Services, Inc. | Gordon, Paul | Interest | Deputies: 2yrs-u (e-3y); '14-1%-e (u-3%) 15-1%Jan+.25%July-e (u-3%); Incr Shift Diff-n-e; Change OT-n-u; Change Hol. for p.t.& premium pay-n-u; Incr Vac bank-n-e; ACA insurance reopener-n-u. | 2014 - 1% 2015 - 1.25% | Duration-ER offered no incentive for extra yr. Wages-intrnl pattern/pay equity. compliance. All other items failed due to lack of compelling reason or quid pro quo necessary for a change. |
| 13-PA-0560 14-PA-0313 | Blaine, City of Law Enforcement Labor Services, Inc. | Anderson, | Promotion Role of | Officer who scored highest for sgt. & w seniority passed over 2 separate times. | Denied | Seniority only trumps equal qualifications Those selected - leadership experience. |

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| 14-PN-0367 | McLeod County (Interest Award) Minnesota Public Employees Assn. | Johnson, John | Interest | Deputies. 3yrs-e (u-2yrs); retro pay to current ees only-e; COLA-0% each yr-e (u-2%/yr.); Range-2%+\$0.20/hr ea yr-e (u-3%/yr.); 3% for BA-n-e; Incr Invst pay-no-e; ERU, Trainer, & Longevity pay-n-e; Major Hol 2Xpay-n-e, Tuition reimbrs-n-e FLSA OT-n-u; Sick tied to FMLA-n-u. | 2014- 2%+.20 2015- 2%+.20 2016- 2%+.20 | Wages - internal pattern. All other items lack either a compelling reason for the change or any offer of a quid pro quo. |
| 13-PA-0933 | Met Council Teamsters Local 320 | Jacobs, Jeffrey | K-9 Selection | E-assignments not restricted by contract. U-transfers are governed by seniority. | Denied | Transfer, but, seniority clause modified by - only "if skills are equal". Also did not meet 50 mile requirement. |
| 14-PA-0436 | Oakdale, City of Law Enforcement Labor Services, Inc. | Reynolds, James | Shift bidding | Er held back 3 shifts from bid to train new officers. Violation of seniority bid?-no | Denied | Different than Sauk Rapids (Jan 2014). Bid seniority restricted to after 18 mo. |
| FMSC | Rock-Tenn CP LLC United Steelworkers Local 1259 | Gallagher, | Seniority | Seniority if qualifications equal. Union challenged experience not obtained at this plant. | Denied | Allowing ee 20 days to qualify for a position doesn't trump selection criteria. |
| FMCS | Xcel Energy, Inc. Electrical Workers local 949 | Daly, Joseph | Termination | Ee caught with Dremel grinding wheels in his lunch box. | Sustained | ER did not show clear & convincing evidence the intent to steal. |

July, 2014

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|--|-------------------|------------------------------|--|------------------------|--|
| 14-PN-0551 | Benton County (Interest Award) Teamsters Local 320 | Jacobs, Jeffrey | Interest | Dep/Sgts/Lts, 2014-16. Agreed to wage & insurance pattern at hearing(% unk.) Mkt adj.-n-e; OT, Hol., Unifrm changes-n-u; Affordable Care Act compliance-y-u. | | Market adj.-insufficient evidence. OT, Hol., Uniform changes-lack compelling need or quid pro quo for changes. ACA language guarantees no reduction. |
| 14-PA-0351 | Hennepin County AFSCME Minnesota Council 5 | Kapsch, Francis | 3 day | Family Court Mediator/Evaluator on performance plan-unsatisfactory reports. | Denied | Prior 1 day suspension. Documented failures in performance plan. |
| 14-PA-0946 | ISD 271, Bloomington Bloomington Federation of Teachers | Jensen, Eugene | Pay for added duties | Pre-school teachers requested pay for assessment reporting & attending PLCs. | Sustained | ER claimed prior approval necessary to pay for extra hrs. Requirement to do work in essence is approval. |
| 14-PA-0315 | ISD 550, Underwood Underwood Education Association | Gallagher, | Placement on Salary | New teacher hired at step 13. Contract sets maximum level at step 6. U seeking declaratory award re meaning of contract. | Renegotiate language. | ER claims limit only applies to ees with less than 6 yrs. outside experience. Insufficient evidence-must renegotiate. |
| 14-PA-0720 | ISD 695, Chisholm Education Minnesota - Chisholm | Lundberg, James | Sick Leave Out | Did ee give 60 day notice of retirement to qualify for sick leave buy out - yes | Sustained | Notice must be in writing - email ok. Intent to retire without specific date ok. |
| FMCS | Joiners Apprenticeship and OPEIU Local 12 | Daly, Joseph | Termination | Office manager lied, failed to cooperate & asked subordinate to cover for her.re invest. | Sustained | 29 yrs no discipline. "Case of leaping to conclusions too soon." |
| None listed | Minneapolis, City of Teamsters Local 320 | Lundberg, James | Timeliness Shift Duration | U-clock starts when change takes place. 911 supervisors' shifts changed 10 hrs. to 8 hours. Contract lists 10 or 8.25hr shifts. | Sustained Sustained | ER claimed time starts upon notice. ER can modify work day configurations (24hr periods) but not length of shifts. |

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| 14-PN-0399 | Minnesota, State of (Interest Award) Minnesota Nurses Association | Fogelberg, J. C. | Interest | Add 4% top & eliminate one step each yr-n-e; Increase shift diff-n-e; \$1,500/yr training-n-e. Wages not arbitrated-3%, 3% internal pattern negotiated. | State's Position | Market adjust-can't compare to hospital nurses. Shift diff-internal pattern (already \$.05 higher than others). Training-free training available-no compelling reason. |
| 14-PN-0356 | Pioneerland Library System (Interest AFSCME Minnesota Council 65 | Jacobs, Jeffrey | Interest | Wages: U seeking 2%+steps each yr. E-1%,no steps-offered 2% if no steps-e Add Floating Holiday-n-e. | 2014 - 2% 2015 - 2% | Wages-ER offer at hearing. Exceeds pattern of non-union. Floating Hol.-no compelling reason nor quid pro quo. |
| 14-PN-0040 | St. Paul, City of (Interest Award) St. Paul Police Federation | Fogelberg, J.C. | Interest | '13 April-1%, Oct.-0.5%-e (u-3% split); '14 April-2%-e (u-3.6% split); '15 Apr.-2.75%-(e-2% Apr.) (u-4.1% Jun/Dec) | 2013 - 1.5% 2014 - 2.0% 2015 - 2.75% | '13,'14-pattern.'15 exceeds pattern+.75%. Over 20y only 2 P.D. contracts reflected internal pattern. Used Mpls. comparison. |

June, 2014

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|-------------|---|-----------------|------------------------------|---|------------------------|---|
| 14-PN-0563 | Canby, City of Law Enforcement Labor Services, Inc. | Imes, Sharon | Interest | Wages 2014-2%-u (e-1.5%), '15-2%-u (e-1.5%). Limit comp accrual to 120hrs. -n-u; VEBA-n-e (u: s-1,000, f-2,000) | 2014 - 2% 2015 - 2% | Wages-internal pattern. Comp-no limit in contract. VEBA negotiated out of contract. Changes require quid pro quo. |
| 14-PA-0717 | Hennepin County AFSCME Minnesota Council 5 | Kircher, Andrea | Training Time Termination | Seeking return of Vac used to attend training session. Fraud investigator insubordinate & un-cooperative. Co Attorney refused to accept his cases. | Denied Denied | Training was denied as not relevant so ER not obligated to pay. 15 yr ee, with only prior written rprmd & 1 day suspension, but yrs of counseling & intimidating behavior provide cause. |
| 08-PN-0752 | ISD 100, Wrenshall Education Minnesota | VerPloeg, | Health | Should district pay balance of family insurance when spouse works for district? | Sustained | Contract calls for up to \$1,130 per ee per month for family coverage. |
| 14-PA-0454 | ISD 199, Inver Grove Heights Education Minnesota Inver Grove | Befort, Stephen | Flexible Work | Middle school start 10m before arrival. Elementary end time. | Denied Sustained | Bus arrival or class start? - Bus arrival. No change from longtime practice. |
| 14-PA-0684 | ISD 696, Ely AFSCME Minnesota Council 65 | Anderson, | Termination | Custodian casually touched and made comments to female teachers which made them uncomfortable. | 90 day susp. | Violated sexual harassment policy. 26 yr. ee - 10 yrs. since last discipline. Showed remorse. |
| FMCS | Jefferson Lines Amalgamated Transit Workers 1498 | Beens, Richard | Timelines Bumping | Ee bumped from route - "board" drivers did route for 2 weeks till sr. driver started. Manager refused to meet with ee. | Split | Bumped driver should have kept route until senior actually took it over. ER, not Union violated timeline. |
| None listed | Minnesota, Dept. of Veteran's Affairs Rick Moore - Veteran | Jacobs, Jeffrey | Termination - | Veteran threatened bodily harm & death to a supervisor. | Denied | Contrary to norms of modern American workplace & cannot be tolerated. |
| None listed | Minnesota State Colleges & Minnesota State College Faculty | Kircher, Andrea | Hiring practice | Contract requires that 70% of staff be "unlimited full time faculty". | Sustained | Upgrade 68 positions. Difficult balance teachers/funding doesn't trump contract. |
| 13-PA-1022 | Ramsey County Teamsters Local 320 | Bognanno, Mario | 3 day | Correctional Officer failed to respond to Code 1 because his shift was ending. | 1 day susp. | Reduced to 1 day - lack of progressive discipl. Removed as FTO and acting LT. |

May, 2014

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|------------|--|-----------------|-------|--|--------|--|
| 14-PA-0303 | McLeod County AFSCME Minnesota Council 65 | Jacobs, Jeffrey | Job | ER failed to implement grade increases consultant recommended for 3 positions. | Denied | Increases are subject to board approval. Notice given to Union during negotiations |

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|------------------------------------|---|-------------------|-----------------------------|--|--------------------------|---|
| 14-PA-0562 | Metro Transit Amalgamated Transit Union 1005 | Gallagher, | Unit Work | Supervisors removed pea gravel from light rail track for safety reasons. | Denied | Past practice. No clear contract language |
| April, 2014 | | | | | | |
| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
| 13-PA-0148 13-PA-0581 | Blaine, City of (See Court Order) Law Enforcement Labor Services, Inc. | Crump, Harry | Written 4 day | On-call detective worked OT traffic detail w/o obtaining fill-in for on-call. Grievance on written rprmd contained lies by grievant. | Denied | Making false statements is stigmatizing so clear and convincing burden of proof was applied and met. |
| Blaine, City of (Court of Appeals) | | Court of Appeals | Public Policy Grievances | Union challenged Harry Crump's award in District Court - award confirmed. Court of Appeals affirmed District Court. | Affirmed | U-claims discipline re alledged lies in grievance petition conflicts w PELRA's public policy re grievance arbitration-no. |
| 13-PA-0898 | ISD 22, Detroit Lakes Education MN, Detroit Lakes ESP | Befort, Stephen | Arbitrability | Can at-will para's termination be grieved if no contract in place? | Sustained | BMS grievance procedure governs. Detailed analysis of BMS rules. |
| 14-PA-0132 | ISD 316, Greenway Education Minnesota, Greenway | VerPloeg, | Unilateral re-assignment | To fill a vacancy 3 teachers moved w/o posting. ER-position=area of licensure (elementary ed.). U=current assignment. | Sustained | Position is unique to a person. District's interpretation would nullify Emergency Transfer language. |
| 14-PA-0914 | ISD 706, Virginia Virginia Education Association | Boldt, Charles | Right to alter school | Does district have unfettered right to add days due to emergency closing? - no. | Sustained | Can add student days if they fall below 175, but contract controls in-service days |
| None listed | Minnesota State Colleges & | Wallin, Gerald | Reassignment 20 day | Coach moved to non-coaching duties. Videos of his children bathing; cell phone personal use; children in locker room. | Not allowed Sustained | Impermissible discipl.& violation of CBA Pictures not sexual in nature; State policy on cell phones allows for reasonable use; |
| | | | Termination | Above issues & pornography on deptmen computers at office & home. | Oral reprimand | no proof of children in locker room. Porno on computer linked to assistants & prior users. Oral for allowing wife to use cmpr. |
| 14-PA-0147 | University of Minnesota ASFCME Minnesota Council 5 | Jacobs, Jeffrey | Termination | Fraudulently claimed she was married to obtain health insurance coverage. | 11 months | U offered amnesty program where 590 in similar situation not fired. Good work record. |

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| March, 2014 | | | | | | |
| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
| 12-PA-0846 | Hennepin County Minnesota Public Employees Assn | Crump, Harry | Attendance | Can ER unilaterally establish sick policy defining habitual & inappropriate use? | Denied | Mgmt. has right to adopt reasonable rules. 4 criteria for sick policy discussed. |
| 13-PA-0531 13-PA-0532 | Isanti County Law Enforcement Labor Services, Inc. | Jacobs, Jeffrey | Holiday pay | Officer on IOD did not receive Holiday pay. | Denied | Past Practice. |
| 13-PA-0957 | Minnesota, State of Minn. Gov. Engineers Council | Beens, Richard | Safety | \$125 boot allowance vs requirement to provide protective equipment or clothing. | Denied | Boot allowance limits requirement to provide based on 25yrs past practice. |

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|------------|--|-----------------|------------------------------|--|--|--|
| 13-VP-0772 | Minnesota, State of, Department of Individual Grievant | Jacobs, Jeffrey | Probationary & Trial periods | EE didn't pass probation; had right to a vacancy in her old class. Offered job 200m from home - refusal considered resignation. | Denied | Job same class despite some differences Offer & time to decide were reasonable. Refusal = resignation even w/o language. |
| 13-PA-0825 | Sherburne County Teamsters Local 320 | Latimer, George | 1 day | Sgt. failed to pass along info at end of shift that prisoner threatened a guard. | Denied | No specific policy & report was made the following morning-but safety requires immediate reporting even w/o policy. |
| 13-PN-0299 | Sibley County Minnesota Public Employees Assn | Befort, Stephen | Interest | Deputies/Jail/Dispatch/Investigators. Wages-e (u-same general incr plus 3% merit each yr.). Comp time & accrual-no change-e; OT change for invstgrs-n-e. | 2012 - \$.40 2013 - 2% 2014 - 3% | Wages-internal pattern. Comp time - no compelling need for change (already a leader in comparison group). OT-no compelling reason. |
| AAA | Xcel Energy, Inc. Electrical Workers Local 23 | Daly, Joseph | Vacation | Does vacation accrue during a long term suspension? | Denied | Terminated employees returned to job by arbitrator with no back pay or benefits. |

February, 2014

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|---|--------------------|---------------------------|--|-----------------------------|--|
| 14-PA-0595 | Duluth, City of AFSCME Minnesota Council 5 | Befort, Stephen | Terminating Practice | EE called in on stand-by denied pay for travel time which had been the practice. | Denied | ER gave notice practice would cease after new contract. |
| 13-PN-0286 | Freeborn County (Interest Award) Minnesota Public Employees Assn. | Lundberg, James | Interest | Deputies. Wages-e (u '13-2%, '14-2.5%); Uniforms-no chng-e (u-+\$50); Shift pay-no change-e (u-+\$.25 hr.). | 2013 - 1.75% 2014 - 2.0% | Wages-pattern. Unfrm allowance-same as sgt's & others in region. Shift pay-same as sgt's and all others in county. |
| 14-PA-0181 | ISD 625, St. Paul Professional Employees Association | Remington, John | Termination | Architect promoted to Arch II & placed on probation. Probation extended - he did not pass probation, but no Arch I opening to return to, so he was laid off. | Sustained | Ruled a termination w/o cause. ER failed to provide required 4 mo. progress reports therefore probation was not a fair test. |
| 14-PA-0212 | Metro Transit Amalgamated Transit Union Local 1005 | Jacobs, Jeffrey | Termination | Rail operator asked for days off to help her son, was denied, then took FMLA off. | Denied | Clean record but falsification of FMLA is considered a dischargeable offense. |
| 14-PA-0316 | Metro Transit Amalgamated Transit Union Local 1005 | Krueger, Dennis | Termination | Violated no fault absentee policy - 13 in rolling 12 mos. 35 in 3 years. | Denied | Counseled 21 times in 3 yrs. |
| 14-PA-0092 | Metro Transit Amalgamated Transit Union Local 1005 | Neigh, Charlotte | Removing non-disciplinary | Critical memo placed in file but with no rule or policy violation cited nor w any plan or suggestion for improvement. | Sustained | Union did not seek to bar non-discipline memos, but this memo was unfair & erroneous. |
| 13-PA-0094 | Minnesota, State of MN Government Engineers Council | Gallagher, | Layoff vs | Was the State shutdown due to budget impasse a improper lockout? | Denied | Lockout is used to gain negotiating advantage. Layoff due to lack of funds. |
| 13-PA-0702 | Roseau County Law Enforcement Labor Services, Inc. | Miller, Richard J. | Past Practice | Assignment of OT. Work assigned to non-bargaining unit officer. | Split | Clear contract language. Change causing grievance wasn't dealt w in new contract. Unit work limited to members. |

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| 14-PA-0219 | St. Paul, City of St. Paul Police Federation | Ogata, Harley | Termination | Officer used excessive force when he sprayed ASR into suspects ear & filing an incomplete report. | 1 day susp. | Civilian Review board recommended 10 day susp. for intentionally spraying into ear, but neither city, nor video proved charge. Suspended for report. |
| 13-PN-0840 | Wilkin County (Interest Award) Minnesota Public Employees Assn. | Neigh, Charlotte | Interest | Jailer/Dispatcher. Change comparison group-n-e. Wages-2%-e (u-3%+\$1); Incr. OT accrual 40hr. to 80hr.-n-e; Uniform change "provide" to cash system-n-e; Shift pay + .25 to \$1 hr. - u. FTO pay-n-e. | 2014 - 2% | Wages-internal & external. Shift pay increase based on comp group average, No compelling reasons provided for any of the other proposals |

January, 2014

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|--|--------------------|---------------------------------|---|-------------------------------------|---|
| 13-PA-0659 | Crosby, City of | Remington, John | Demotion | Sgt. serving as officer's union steward | Denied | Demoted. Negligent in duties as suprv. |
| 13-PA-0660 | Teamsters Local 346 | | Termination | lied about his duties & revised his job description in negotiations. | Sustained | Returned to work. Comments made in bargaining are protected. |
| FMCS | Faribault Allina Medical Clinic AFSCME Minnesota Council 65 | Gallagher, | Travel to | Travel time compensation for training in the twin cities. | Denied | Neither contract nor FLSA require pay. Suprv who paid in past not authorized. |
| 14-PA-0099 | ISD 12, Centennial Minnesota School Employees Assn | Befort, Stephen | Restructuring Position. | SEIU & Paraprofessional's challenge changes made w/o negotiating. | Denied. | Work not transferred out of unit. Change de minimus. In good faith-due to budget. |
| 14-PA-0111 | ISD 194, Lakeville | Miller, Richard J. | Teacher Assignments | Assignments changed from prior year. 1 due to complaints; 1 to balance work. | Sustained | Despite good reasons for assignments, they did not meet contract requirements. |
| 14-PA-0112 | Education Minnesota Lakeville | | | | | |
| 13-PN-0783 | Isanti County (Interest Award) Law Enforcement Labor Services, Inc. | Miller, Richard J | Interest | Deputies: Duration-3y-e (u-2y); '13-1.5% Apr.&1.5%Jul.-e (u-1%Jan.,1%Jul.); '14-2%Jan.-e (u-1%Jan.,1%Jul.); '15-1%-e (u-2%); Insurance - e. (effective March '14 vs July 2013-u). Cell phone-no change-u. | 2013 - 3% 2014 - 2% 2015 - 1% | Duration-internal pattern. Wages & insr.- pattern. U tried to back load wages so insurance wouldn't change. Cell phone policy -no quid pro quo offered. |
| 14-PA-0103 | International Falls, City of Law Enforcement labor Services, Inc. | Ogata, Harley | 1 day | Jailer failed to make timely prisoner checks as required by statute & policy. | Denied | No prior discipline but 4 memos re failed checks serve as proper notice |
| 13-PN-0782 | Lino Lakes, City of (Interest Award) Law Enforcement Labor Services, Inc. | Miller, Richard J. | Interest | Sergeants. 2014-2%-e (u-2.5%). Insurance-u (full single vs. 90%; H.S.A. \$1,000/2,500 vs.\$750/\$1,500. | 2014 - 2% | Wages internal pattern. Insurance, ER has burden to show change is necessary & reasonable to reduce benefit. |
| 14-PA-0194 | Metro Transit Amalgamated Transit Union Local 1005 | Lundberg, James | Accident | Written warning, Pedestrian on Nicollet mall walked into side of bus. | Denied | Driver did not leave himself an "out", Should have anticipated situation. |
| 13-PA-0502 | Oakdale, City of Law Enforcement Labor Services, Inc. | Beens, Richard | Overtime | OT assigned, ignoring requirement to equally distribute OT. | Denied | Special assignment exception. |
| 13-PA-0748 | Sauk Rapids, City of Law Enforcement Labor Services, Inc. | Reynolds, James | Assigning Shift for Training | Can city deny bid to afternoon shift so it can be used to train probationary officer?-no. Can officers bid for regular days off? | Sustained Denied | Shift slots are reserved for School Resource officers & sgts. but no justification given for training. See Oakdale (Aug. '14) - different ruling. |
| 14-PA-0071 | Todd County Law Enforcement Labor Services, Inc. | Toenges, Rolland | Termination | 4 accidents in 4 mo. 33 over 17yrs. Prior reprimands but only a 1 day susp. | Denied | Rules regarding driving are reasonably related to mission of Sheriff's Office. |

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|------------|--|-----------------|----------|--|------------------------|---|
| 13-PN-0781 | Wilkin County (Interest Award) Minnesota Public Employees Assn. | Latimer, George | Interest | Deputies.'13-3%-e (u-3%+\$2), '14-2% e (u-3%+\$2); Chief Dep incr \$1/h-no-e; Comp accrual 40h to 80h-no-e; change uniforms from draw to cash-no-e; shift diff from \$.85 to \$1-y-u; FTO pay-n-e; SWAT premium-no-e, | 2013 - 3% 2014 - 2% | Wages - internal pattern. Shift diff raised to level comparable with surrounding counties. No compelling reason to award any other requests. |
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2015 Arbitration Awards - Minnesota B.M.S.

Summary of Summary of Arbitration Awards listed on the Bureau of Mediation Services' web site (<http://www.mn.gov/bms/arbitration/awards/>).
 "Sustained" means the grievance prevails overturning the original action. "Denied" means the original action prevails.

| December, 2015 | | | | | | |
|----------------|--|--------------------|--|--|------------------------------|--|
| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
| 15-PN-0326 | Freeborn County (Interest Award) Teamsters Local 320 | Miller, Richard J. | Interest | Dispatchers-taken over by County-1st contract. Step placement-e; wages-b; step movement-e (u objected to listing part-time); OT over 40hrs-e (u-in excess of shift); OT by seniority-n-e; 120 hrs. comp time-u; working alone pay-u; call back-n-e; shift diff hrs-e; Vac/sick transition balance-n-e; vac accrual-e; holiday pay-u Severance to count city time-n-e; life ins-u | 2015 - 2.25% 2016 - 2.25% | Wages-both parties agreed to pattern. Other awards based on existing Sheriff's Dept. contract patterns. Wrking alone pay-no one else in county familiar with city's system-no one to give breaks. Transition denied because city bought out benefits. Part-time definition-e; definitions of OT, scheduled shift, and breaks-n-e. |
| 16-PA-0010 | ISD 706, Virginia Virginia Education Association | Scoville, James | Health Insurance Contribution Arbitrability | If teachers are married to each other, ER pays 1 contribution towards family policy. U seeking 2 contributions. Practice in place 26 years. | Denied Arbitrable | Consistent w common business practice not inconsistent w contract-past practice stands. "Continuing violation doctrine". |
| 15-PA-0870 | ISD 728, Elk River AFSCME Council 5 | Jacobs, Jeffrey | Insurance premium HSA,HRA accounts | Federal ERRP program allowed ER to pay \$33/mo towards insurance. Barred from paying into HSA, HRA accounts?-no. | Sustained | Contract calls for reduction of premium, didn't exclude HSA,HRA. Not paid into accounts but on ee's check. |
| 15-PA-0559 | ISD 625, St. Paul AFSCME Council 5 | Kapsch, Frank | Bumping rights | Supervisor in another union was laid off & bumped an AFSCME ee from the position supervisor previously held. | Sustained | ER used civil service leave of absense rules to justify move. Specific contract language trumps civil service rules. |
| None listed | Minneapolis, City of Police Officers Federation of Mpls. | Befort, Stephen | Administrative Leave | Failure to return officers to duty beyond the duration listed in the contract. | Sustained | Unlimited administrative leave not allowed in the contract. |
| None listed | Minneapolis, City of Police Officers Federation of Mpls. | Jacobs, Jeffrey | 10 hr. suspension | Officer using red light, but no siren in violation of policy, when hit by another car. 2nd accident calls for up to 10 hrs. | Written Rprmd | Disciplinary panel recommended a written reprimand, but increased by a deputy chief. Mitigation reduced penalty. |
| AAA | Xcel Energy, Inc. Electrical Workers, Local 23 | Daly, Joseph | Termination | Foreman failed to follow safety rules & meet expectations while on DML & was dishonest during investigation. | Sustained | 34 yr. ee requires clear & convincing evidence. ER failed to provide any evidence of wrongdoing. |
| November, 2015 | | | | | | |
| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
| FMCS | Bay State Milling Company, Winona Bakery Workers Local 113G | O'Toole, Carol | Pay for lower classification wk. Timeliness | OT on weekends doing clean up work was paid at the "utility" rate vs normal rate. Did grievance meet contract rules? | Sustained Timely | Weekend work did not entail layoff and bumping into a lower classification Issue not raised until the hearing. |
| 15-PA-0509 | ISD 200, Hastings Teamsters Local 320 | Abelsen, James | Termination | Night custodian suspected of smoking marijuana at work. | 10 day susp. | Unfair & unjust. Long term ee. Drug policy favors progressive discipline, not zero tolerance. |
| None listed | Minneapolis, City of-Convention Cntr. Teamsters Local 320 | Bognanno, Mario | Termination | Careless handling of a moveable panel resulted in over \$2,000 damage. | 1 month susp. | Long term ee, no priors. No backpay awarded. Ee must conduct reasonable job search to mitigate damages. |
| 15-PA-0483 | Newport, City of Law Enforcement Labor Services, Inc. | O'Donnell, John | 10 day suspension | Video of Officer going into City Admin. locked office w custodian who resigned. U challenged use of surveillance camera. | 5 day susp. | 5 day suspension given in a similar incident. MN Court of Appeals ruled - Exclusionary Rule limited to terminations. |

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|------|------------------------------------|-------------------|-------------|--|-----------|---|
| FMCS | SuperValu, Inc. UFSC Local 1189 | McCoy, Arthur Ray | Termination | Falsifying meat slicer cleaning logs. She retroactively filled in log when told to make sure they were complete. | Sustained | Investigation flawed. Key witnesses not summoned to testify. No evidence data filled in was wrong nor clear policy. |
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September, 2015

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|------------|--|------------------|---------------|---|--------------|--|
| 14-PA-0986 | Carver County MN Public Employees Association | Jacobs, Jeffrey | Holiday Pay | Deputies seeking 4 hrs. holiday pay when not working as provided in expired MOU, but contrary to new contract. Can ER change schedule? - Yes. | Split | ER paid for 11 months in error - didn't create a practice, but couldn't correct error until new year. Reduce schedule on Hol. - mngmt right. |
| 15-PA-0436 | Lakeville, City of Law Enforcement Labor Services, Inc. | Toenges, Rolland | Termination | Officer released active investigative info to media without authorization. | Denied | Violated state law & clear Dept. policy. Destroyed trust w other agencies. |
| 15-PA-0798 | ISD 94, Cloquet Education Minnesota Cloquet | Lundberg, James | Lane Change | Masters from St. Scholastica on-line program denied due to courses for licensure which were already required. | Sustained | The school is an accredited institution. Superintendent's discretion is limited. |
| | | | Arbitrability | Lane changes denied for 5 yrs., but newest grievances met timelines. | Sustained | Denials not negotiated with union, viewed as individual agreements. |
| 15-PA-0740 | St. Paul, City of Tri-Council, Teamsters 120 | Crump, Harry | Termination | Street Maintenance truck driver under a Last Chance Agreement for accidents hit 4 cars with snow plow. | Denied | 25 yr. ee. Union argued procedural error in accident review process, but process was fundamentally fair. |
| 15-PA-0538 | Wright County Wright County Deputies Association | Fogelberg, J.C. | Termination | Female deputy fired for associating w convicted felon & lying during IA investign. | 60 day susp. | Excellent work record. Policy is vague. Lesser penalty in similar cases. 60 days for being "less than forthright" during IA. |

August, 2015

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|------------|---|------------------|-------------------------------------|---|-----------|---|
| 15-PA-0799 | Carlton County Teamsters Local 346 | Neigh, Charlotte | Medical Insurance for part-time ees | U unaware P.T. ees didn't receive insur. until ER offered MOU for insur. at same pro-rata level as other unions. U seeking full coverage. | Sustained | Contract lists part-time rate for other benefits, but no part-time limitation for insurance. Practice of never paying benefit doesn't trump language. |
| 15-PA-0589 | Clay County Law Enforcement Labor Services, Inc. | Beens, Richard | K-9 assignment | Deputy with prior K-9 experience & seniority denied position. | Denied | Assignment, not a promotion. Seniority plays not role. Not arbitrable. |
| 15-PA-0692 | Cook County Law Enforcement Labor Services, Inc. | Abelsen, James | Unit Seniority when not in Unit. | Appointed chief deputies given credit for time outside U. U opposed. ER-MN stat. 3.088 protects elected officials seniority. | Denied | Contract-"Continuous service record" with Co. not bargaining unit. Statute does not apply (appointed not elected). |

July, 2015

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|------------|---|-----------------|--------------------|--|-----------|---|
| 15-PA-0386 | ISD 314, Braham Braham Education Association | Lundberg, James | Lane Change | Can credits earned before a Master's degree be applied to lane changes beyond Master's - yes. | Sustained | Contract does not specify the order in which credits are earned. |
| 15-PA-0666 | ISD 914, Ulen Ulen-Hitterdal Education Association | Orman, Anthony | Denial of Master's | Approval for Masters in Educational Leadership degree denied to math teacher. | Denied. | Contractual requirement that advanced degree be germane to assignment. |
| FMCS | Kemp's LLC Teamsters Local 160 | Daly, Joseph | Past Practice | Does a shift starting at 11:00pm count for day it starts or day where majority of hours are worked? Suprv overrode pay | Sustained | OT implications. Practice in place for 2 yrs. before discovered-no other ees treated this way, but company is |

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| | | | | system to credit day majority of hrs worked. | | responsible for acts of its agents. |
| FMCS | People's Energy Cooperative IBEW Local 949 | Befort, Stephen | Unilateral Changes | Restructuring due to expanded territory. Was it an unfair labor practice telling temp workers they might not be hired if plan not approved?-no not a promise nor threat. | Split | Can't use residency as qualification for promotion to evade contract language. Standby territories allowed if don't skew OT.- challenge not foreclosed. |
| 15-PA-0088 | St. Cloud, City of Law Enforcement Labor Services, Inc. | Beens, Richard | 2 day suspension | Officer improperly handled a robbery. Didn't notify suprv., or forward for invest. | Denied | Proper progressive discipline. 2 prior written reprimands. |
| 15-PA-0148 | Wright County Teamsters Local 320 | Jacobs, Jeffrey | Termination | Correction's Sgt fraternizing w inmate within 1 yr of release & using cell phone in jail both in violation of policies. | Written Reprimand | 1 yr. fraternization bar does not apply if friendship predated incarceration. Cell phone was 1st discipline- written reprmd. |
| June, 2015 | | | | | | |
| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
| 15-PN-0251 | Brooklyn Park, City of AFSCME Minnesota Council 5 | Befort, Stephen | Interest | 1st contract P.T. FF. 2 yrs.-u (e-1yr); Wages-u (e seeking steps based on hrs vs yrs.); U & ER Security-u; Out of class pay-u; Certifications-u; Seniority-e; Call Back-e; Hol.-e; Residency-e; Discipline and Work Schedules-split. | 2016 - 2.5% | Wages same as full time. ER seeking steps based on hrs. vs yrs.-awarded yrs., but longer than u request. U seeking Insurance, Severance, Sick, IOD, Light Duty, Jury Duty & Bereavement-awarded if ees work 20 hrs/wk. (ER policy). |
| 14-PN-0350 | Carlton County (Interest Award) Law Enforcement Labor Services, Inc. | Miller, Richard J. | Interest | Sheriff's Supervisory - 1st contract. Wages:'13-1.75%-e(u-4%),'14-2.25%-e(u-4%), '15-4%-e&u agreed. | 2013 - 1.75% 2014 - 2.25% 2015 - 4.0% | Wages internal pattern. U seeking to increase differential (5.28%) v deputies. ER conducting mrkt study-"wait for study". |
| 15-PA-0457 | ISD 196, Rosemount, Apple Valley, Eagan Support Staff Association of ISD 196 | Roberts, Andrew | 5 day suspension | Custodian brought dog to work. Confronted co-worker who reported her. Took sick day when scheduled to meet suprvr. | 1 day susp. | No clear rule about dogs in school. Went to clinic on sick day. 1 day for retaliating against co-worker. |
| 15-PA-0435 | ISD 278, Orono School Service Employees Local 284 | Daly, Joseph | Qualifications vs Seniority Timeliness | Maintenance Tech position given to external applicant. Did timeline start when denied position? | Denied Sustained | Not qualified. Mngmt has right "to define the job duties required". Started once position filled. |
| 15-PA-0170 | Mille Lacs County AFSCME Minnesota Council 65 | Befort, Stephen | Unpaid Leave while campaigning | Asst. Co. Attorney placed on unpaid leave while a candidate for Co Attorney. Personnel Board found a conflict of interest. | Denied | U argument is an attack on PBA/Co Board hearing process. Should have appealed to MN Court of Appeals. |
| 14-PA-0808 | MN Judicial Branch, Third District AFSCME Minnesota Council 65 | Ogata, Harley | Termination | Court clerk made 1,400 inappropriate DVS look ups. Only 2 of 26 ees had no look ups. 8 disciplined-3 highest abusers terminated. | 15 day susp. | Discipline intended to be corrective, not punitive. Only 1 violation after memo re policy. Arb.Neigh reduced 1 termination to 10 day suspension, see Dec. 2014. |
| FMCS | North Memorial Medical Center Minnesota Nurses Association | Befort, Stephen | Attendance Policy | ER unilaterally adopted new attendance guidelines regarding use of sick leave. | Sustained | Contract bars discipline based solely on number of days used. |
| 15-PA-0343 | Spirit Mountain Recreation Authority AFSCME Minnesota Council 5 | Abelsen, James | Recall from Layoff | Recalled ees paid at rate of position they were filling vs their regular rate. | Denied | Contract calls for pay in job range close to regular pay. New position only 1 rate. |
| May, 2015 | | | | | | |
| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
| 15-PA-0009 | ISD 152, Moorhead Education Moorhead | Gordon, Paul | Tentative Agreement | Signed TA not placed into CBA. Union failed to review draft contract. | Denied | A TA does not become part of the CBA unless it is adopted into the CBA itself. |
| None listed | Metropolitan Airports Commission Individual Grievant - V.P. | Kapsch, Frank | Termination - V.P. | Sgt engaged in inappropriate relations w female subordinate. Continued texting when asked to stop & lied during investigation. | 1yr. Demotion | Investigation incomplete and flawed. 525 texts between parties before she asked him to stop texting. |

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|-------------|--|-----------------|--------------------|--|------------------------------------|---|
| 14-PA-1085 | Metropolitan Council Teamsters Local 320 | Jacobs, Jeffrey | 80 hr. suspension | Officer punched handcuffed prisoner who spit at him. | Denied | Excessive use of force. Prisoner's head hit concrete - ended up in hospital. |
| None listed | Minneapolis, City of Police Officer Federation of Minneapolis | Lundberg, James | Permanent Demotion | Sgt. made 2 sexually charged comments to a female officer. | 90 d demotion | Demotions have been for substandard work, not 1 case of misconduct. |
| None listed | MN State Colleges & Universities MN State College Faculty Union | Wallin, Gerald | Termination | St. Paul College carpentry instructor did not meet Sabbatical leave requirements. | Denied | Changed plan w/o approval. Did not finish course work. No prior discipline. |
| 15-HA-0560 | Regions Hospital AFSCME Minnesota Council 5 | Jacobs, Jeffrey | Termination | Medical assistant ordering drugs for the hospital, signed forms as a registered pharmacist. | Reinstated w/o backpay (7 months). | Long term employee, exceptional work record. Forms filled out at direction of her supervisor. No personal gain. |
| None listed | St. Paul, City of AFSCME Council 5 | Jacobs, Jeffrey | Termination | City code inspector used computer restricted to inspectors to influence an enforcement action on her property. | 2 day susp. | No specific rule prohibiting action. Case remained open, computer id'ed her as person entering comments-she admitted. |

April, 2015

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|-------------|--|-----------------|---------------------------------------|---|--|--|
| 15-PA-0039 | Anoka County Law Enforcement Labor Services, Inc. | Jensen, Eugene | Termination | Deputy pled to gross misdemeanor stalking of a female deputy. | Denied | Return to work would violate mission of ER to preserve the public trust. |
| 15-PA-0491 | Duluth, City of Firefighters Local 101 | Latimer, George | Unilateral change to health insurance | Insurance is self funded. ER payed ees to opt out contrary to contract thereby saving ER monthly contributions to fund. | Split | ER ordered to pay fund amount tied to fire opt outs, but not amount fund lost due to other union's opt outs. |
| 15-PN-0011 | Hennepin County (Interest Award) Hennepin Co. Sheriff's Suprv. Assn. | Crump, Harry | Interest | Wages-2014 & 2015-2.5%, 2.5%-e u-2.5% +1% to top each year); Holiday pay - n-e. | 2014 - 2.5% 2015 - 2.5% | Wages-pattern. Deputies 2.5%+1% due to double digit turnover-valid reason for exceeding pattern. No suprv get Hol pay. |
| 15-PA-0201 | Lake City, City of Law Enforcement Labor Services, Inc. | Remington, John | Overtime if using PTO | Officers denied OT due to using Paid Time Off. Does PTO = hrs. worked? | Sustained | PTO can't be considered hours worked, but is part of the normal schedule & OT in excess of normal schedule awarded. |
| None listed | MN Employment & Economic Dvlmnt. MN Association of Professional Ees | Befort, Stephen | Termination | Job Counselor did Spanish to English translations for Crystal Sugar at work. | 10 day susp. | 16 yr. ee with good work record. Only 23 emails during 2 yrs. Previous suprv. gave okay, & he wasn't paid for work. |
| None listed | Minnesota, State of, Human Services MN Assoc. of Professional Employees | Imes, Sharon | Termination | Sexual harassment. Showed sexually explicit picture to female co-worker; continued asking her to lunch after she said no; overly friendly & flirty. | 1 week susp. | Unwelcome actions did not amount to sexual harassment. Failed to consider good work record. Inappropriate use of computer & showing photo=1week susp. |
| 14-PN-0916 | Wabasha County (Interest Award) Teamsters Local 320 | Latimer, George | Interest | Deputies. Wages: '14 - 4.84% (1.5%+ 3.34% mkt adj.)-u (e-1.5%), '15 - 2%-e (u-3%), '16 - 2.5%-e (u-3%). Shift Diff \$.55-u (e-offered if receipts for uniforms); Comp bank from 120 to 150 hrs.-n-e. Court Cancel fee-n-e; IOD from 3 to 6m-n-e Increase travel food allowance-n-e; Receipts for uniform allowance-n-u. | 2014 - 4.84% 2015 - 2% 2016 - 2.5% | Wages-'14 external market, '15&'16 - internal pattern. Shift Diff.- same as jail & dispatch. Retro despite ER claim they can't compile necessary records. Comp bank-internal & external. Court cancellation fee-no compelling reason/ IOD- external average. Food & Uniform no compelling reason for change. |

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|------------|---|---------------|-------------|--|--------|--|
| 15-PA-0314 | Winona, City of Law Enforcement Labor Services, Inc. | Dunn, Richard | Termination | Police officer charged with DWI, lost his license for 60 days. | Denied | City has consistently followed policy to terminate if license is lost for 60 days. |
|------------|---|---------------|-------------|--|--------|--|

March, 2015

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|------------|--|-----------------|------------------------------------|--|----------------------------|--|
| 14-PN-1233 | Anoka County Law Enforcement Labor Services, Inc. | Laumeyer, James | Interest | Dispatchers. U-change merit pay plan to longevity plan-n-e; Wages-0%,0%-e (u-4%,4%); Merit-3%,3%-u (e-0%,2%); Shift leader 5%-u (e-3%); 3.5 hours required for shift lead pay-e (u-all hours); Seniority bidding-n-e; Paid lunch-n-e | 2014 - 0% 2015 - 0% | Radical action should be negotiated. Wages-internal pattern & mkt ranking. Merit-dire internal inequity & malfunction of merit pay re movement. Shift leader-current practice. Seniority/Lunch-efficient & effective operations favor ER position. |
| 15-RA-0298 | Cemstone Teamsters, Local 120 | Jacobs, Jeffrey | Termination | Driver swore at co-worker who told him he was supposed to call dispatch. | Denied | 2yr Last Chance Agreeemnt due to anger issues didn't allow for a lesser penalty. |
| 15-PA-0248 | Clearwater County Minnesota Nurses Association | Ogata, Harley | Step advances w/o time in grade | Nurse hired at 3 yr. pay step based on experience. U-experience should be added to service time for pay advancement. | Sustained | ER considered gap between 10yr step and 15yrs as a longevity step requiring actual service. But no contract language. |
| 15-PA-0250 | ISD 534, Stewartville Stewartville United Educators, Ed MN. | Jacobs, Jeffrey | Overload Pay Timeliness | Teachers assigned 6th class with no overload pay. Does timeline begin at notice of change or date of change? - Date of change. | Sustained Sustained | Overload awarded due to extra work and loss of prep time. Discussion why arbitrators hold date of change is event giving rise to grievance. |
| 15-PA-0362 | Sherburne County Law Enforcement Labor Services, Inc. | Ogata, Harley | Demotion | Sergeant failed to remove his firearm before entering booking area. Initially 1 day susp considered, but after looking at performance reviews he was demoted. | 1 day susp. | If performance issues were significant enough to cause a demotion, he should have been place on notice that they could lead to demotion. |

February, 2015

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|------------|---|--------------------|--------------------|---|---|--|
| 14-PN-1018 | Crow Wing County (Interest Award) Law Enforcement Labor Services, Inc. | Miller, Richard J. | Interest | Corrections. 2 yrs.-e (u-3y); Wages-0% w steps each yr-e (u-3.5%+steps per y). Those at top no step but 3.5% each yr. Longevity- n-e (u seeking new benefit). | 2014 - 0% 2015 - 0% | Duration-intrnl. Wages based on pay for performnc cost-no external wage pattern. 3.5% for those at top due to no access to step. Longevity-no compelling reason. |
| 14-PN-1127 | Crow Wing County (Interest Award) Law Enforcement Labor Services Inc. | Toenges, Rolland | Interest | Deputies. Duration-3y-u (e-2y); Wages-u (u seeking 3% each yr w steps;E-0% each year w steps). 7 of 11 units on pay for performance vs steps. | 2014 - 2.5% 2015 - 2.44% 2016 - 2.33% | Duration - already in middle of 2nd year. Wages-ER positon is major departure. Discusses performance vs steps & turnover gain. Wages=Internal cost avg. |
| 13-PA-0735 | Hennepin County Teamsters Local 320 | Johnson, John | 2 shift suspension | Juvenile Corr. Officer refused to let disruptive juvenile use bathroom facilities. | 1 shift susp. | Went to bathroom twice within 1 hr. but denied 3rd request 20m later. Discipline for failing to de-escalate situation. |
| 14-PA-0630 | Minnesota Dept. of Human Services AFSCME Minnesota Council 5 | McCoy, Arthur Ray | Termination | Human Services tech failed to notify ER that her DL was suspended. | Denied | Driving is a basic job duty. Contract requires immediate notification on limits. |
| 15-PA-0106 | Rochester, City of, Public Utilities IBOE Local 949 | Tidwell, Carol | Termination | Ee said he could kill a former lead who was retired for 5yrs. Zero tolerance policy. | Verbal Wrng | 20yrs, no priors. Disparate treatment, policy does not require termination. |

January, 2015

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|------------|--|---------------------|---------------------------------|---|--------------------------|--|
| 14-PA-1237 | Austin, City of UAW Local 867 | Biggar, David | Job Bidding | Water Maintenance Tech added to CBA. Req. Master Electrician lic. U believes lic. moves w ee - senior ee w/o lic. tried to bump. | Denied | U based grievance on answers to quest. raised during neg. ER clarified position prior to vote. No contract language. |
| 14-HN-0839 | Cook County Hospital (Interest Award) Minnesota Nurses Association | Frankman, Janice | Interest | Wages: '14-3%-u, '15-2%-u (ER wanted to reclassify nurses. Hospital nurses 1.75% each yr. all others .75% each yr.). Insurance retain 85/15 split-u (ER 80/20); Discretionary leave-n-ER; Longevity-n-ER. | 2014 - 3% 2015 - 2% | Wages-external pattern & ER's proposal required creation of new classifications. Insurance-internal pattern. Leave - no compelling reason. Longevity-should be dealt with at bargaining table. |
| 14-PA-0861 | Duluth, City of AFSCME MN Council 5 | Jacobs, Jeffrey | Call Out Overtime | U challenged city's right to use stand-by crews for sewer emergencies vs most senior sewer workers. | Denied | U cited past practice, but both contract & policy changed. 3 arbitrations on same issue. Collateral Estoppel argued by city. |
| 14-PA-0860 | Duluth City of AFSCME MN Council 5 | O'Toole, Carol Berg | Call Out Overtime | Same issue as in Boyer & Jacobs arbitrations. | Denied | Contract issues the same. Grievants have different seniority. |
| 15-PA-0058 | ISD 709, Duluth AFSCME MN Council 5 | Lundberg, James | Insurance - eligibility change. | Paras have me too Insurance language w teachers. PIEP changed eligibility from 20 to 24 hrs. Teachers accepted. | Sustained | Me too applies to coverage & premiums. Unilateral eligibility change not allowed. |
| FMCS | Mayo Clinic, d/b/a St. Mary's Hospital SEIU Healthcare Minnesota | Beens, Richard | Short Term Disability Benefit | ER unilaterally increased waiting period 10 to 40 hrs. based on "me too" language. | Denied | Clear contract language and past practice that was not grieved. |
| 13-PA-0564 | MN Department of Corrections AFSCME Council 5 | Yaeger, Thomas | 3 day suspension | Gave prisoner info on impending writs. & signed inaccurate time cards. | Denied | Transfer information raises security issues. Timecards = fraud. |
| 13-PA-0823 | | | 10 day suspension | Failed to report prisoner's threats. | | Progressive discp. Re boundary issues. |
| 14-PA-0266 | | | Termination | Showed prisoners restricted payroll data & talked re investigation when warned not to. | | Termination only 3 months after being disciplined for similar boundary issues. |
| 14-PA-0766 | Minnesota, First Judicial Branch Teamsters Local 320 | Johnson, John | Termination | Absences, tardiness, failure to provide FMLA data within 15 days; performance. ER would not have moved to terminate if FMLA was timely received. | Sustained No backpay. | Performance not mentioned in notice of Intent to discipline-so not allowed. Confusion over FMLA filing undercut ER's case which focused on FMLA. |
| FMCS | Mortenson Masonry, Inc. Bricklayers & Allied Craftworkers, Local 1 | Gallagher, Thomas | Double-breasting | Employer maintained 2 companies. 1 union & 1 non-union doing masonry work. | Sustained | Ordered to pay union wages for all work done by the non-union company. |
| FMCS | Office & Professional Empl Local 12 United Steelworkers District 11 | Jensen, Eugene | Termination | Union BA injured in off-duty accident failed to return Union equipment, or provide requested info re return after leave expired. | Denied | ER considered this abandonment of job. Ruled a termination with just cause. |
| FMCS | 3M Company United Steelworkers Local 11-418 | Bognanno, Mario | Layoffs due to Weather | Ees sent home & not given chance to bump less senior ees when natural gas curtailed to plant due to weather. | Split | 1st event-an emergency-denied. 2nd should have been planned for-sustained. Explained requirements for past practice. |

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| 14-PA-0411 | University of Minnesota AFSCME Minnesota Council 5 | McCoy, Arthur Ray | 10 day suspension | Legal secretary violated the retention policy when she destroyed a file | Denied | Prior discipline and no evidence she attempted to correct poor performance. |
| 14-PN-0683 | Winona County (Interest Award) AFSCME Council 65 | Lundberg, James | Interest | Attrnys. Add 2 3% steps-y-u;'14-1.25%-u(e-1%); '15,'16-agreed amnt; Single Insurance 5%-n-u; Grade advance language-n-e; Indemnification-n-e; Private rep for grievances-n-e | 2014 - 1.25% 2015- 1%, 1% 2016- 2%, 1% | Steps-no pattern re # of steps, low pay per pay equity & market. Wages-2 other groups received 1.25%; '15 &'16 agreed. All on Single Ins-no Fam subsidy needed. No compelling need for other issues. |

2016 Arbitration Awards - Minnesota B.M.S.

Summary of Arbitration Awards listed on the Bureau of Mediation Services' web site (<http://www.mn.gov/bms/arbitration/awards/>).

"Sustained" means

December, 2016

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|----------|---|------------------|---------------------------|---|---|--|
| FMCS | Dairy Farmers of America Teamsters Local 471 | Latimer, George | Termination | Milk plant employee exceeded allowable points in no-fault attendance policy. | Denied | 20 year ee. Mitigation re regulating medication for depression rejected due to consistent application of policy. |
| 16PN0662 | Hennepin County (Interest Award) Hennepin County Sheriff's Deputies | Befort, Stephen | Interest | Deputies. Parties agreed to wages based on pattern: '16-1.5% to steps, 2.5% to top step; '17-1.5% steps, 2.5% top step;'18 2.5% across the board. Market adjtmnt-1% across the board each year-u (e-0%). | 2016 - 3.5% 2017 - 3.5% 2018 - 3.5% | Turnover is 7.73% vs county wide norm of 4.25%. Pay is low vs 7 county area. |
| 16PN0726 | Marshall, City of (Interest) Law Enforcement Labor Services, Inc. | Ogata, Harley | Interest | Officers. Limit Arbitrator authority-n-u; Limit time of effect of Arb award-n-u; Bar class action grievances-n-u Prohibit just cause for probationary ees-n-u; Prohibit grievances for probationary ees-n-u; Increase shift pay-n-e; Remove list of uniforms provided-n-u; Eliminate severance n-u; Pay holidays v day off-n-u; Duration-3y | 2016 - 3% 2017 - 3% 2018 - 3.25% | Proposed language changes failed to offer any compelling reason for change. They are issues more suitable to give & take of bargaining. Wages - external, losing ground to market average. Duration - 1st year finished, 3years adds to stability of relationship. |
| 16PA0550 | Public Housing Agency of St. Paul AFSCME Council 5 | Bognanno, Mario | Timeliness Termination | Ee failed to report to work for 5 days w/o notice-considered a voluntary resignation. Step 4 grievance not filed within 10 days. ER refused to arbitrate due to timeliness. | Denied | U went to District Court where arbitration was ordered to determine timeliness. Mitigation not considered - consistent application of timeliness. |
| 16PA0975 | Richfield, City of Law Enforcement Labor Services, Inc. See Court of Appeals reversal, April 2018 See Richfield, City of - Supreme Court reversal, February 2019 | Neigh, Charlotte | Termination | Officer tagged a Somali driver, told him to leave area; he returned on foot w friends, was passively resistant. Officer used coarse language, slapped driver's head & shoved him to leave area. Failed to write use of force report. | 3 day susp. | 10yr ee with one oral reprimand. Accusing group of lying, who are lying, is not basis for concluding racial bias. Use of force not unreasonable. Lack of report is basis for discipline. |
| 16PN0928 | St. Louis Park, City of Law Enforcement Labor Services, Inc. | Dunn, Richard | Interest | Sergeants.Wages '16-2.75%-u (e-2.5%) 17-2.75%-e (u-3%); Mrkt. '16-2.5%-u (e-0%), '17-2.75%-u (e-\$.20/hr.). Uniform cleaning language-y-u. | 2016 - 5.25% 2017 - 5.5% | Wages - internal pattern not compelling. Award accounts for Sgts predicted pay under pay equity & ranking in external market. Unifrms-limited to contamination. |

November, 2016

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|----------|---|---------------|----------|--|------------------------------|---|
| 16PN0461 | Anoka County (Interest Award) Law Enforcement Labor Services, Inc. | Ogata, Harley | Interest | Deputies.2 yr-u (e-1y); Wages:'16-0%-e (u-2.5%),'17-0%-e (u-2.75%); Mrkt Adj. '16-2.5%-u (e-0%, u-asking \$1.50), 2017-2.5%-u (e-0%, U withdrew request but 2.5% is approx 1/2 of \$1.50); Merit-2% & 2%-both; changes to wage schedule-n-u; Range max-'16-4.5%, '17-4.5%-u (e-0%); Change LOA on evaluations-n-u. | 2016 - 2.5% 2017 - 2.5% | 2 years for stable labor relations. Wages-0% for 2016 is the non-rep pattern. Mrkt adjtmnt-Sheriff testified 10% vacancies (9 deputies) that he is unable to fill due to wages; 2.5% market & 2% merit increases the range by 4.5% & is how it was handled for 10 years except for 2013 |
| 16PN0668 | Anoka County (Interest Award) Law Enforcement Labor Services, Inc. | Dunn, Richard | Interest | Dispatchers. 2y-u (e-1y);Wages-'16-0% e (u-2%),'17-0%-e (u-2.75%); Merit '16-2.5%-u (e-2%),'17-2.5%-u (e-2%); Market adj.-no-e(u-\$.75/h); changes to wage schedule-n-u; | Merit increase two years. | 2 years-deputies award & only 1 month left in year. Wages-internal pattern. Merit .5% more than pattern deals with "restrained progression". Market - no problm hiring.Schedule-should negotiate. |

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| 16PA0932 | Isanti, City of Law Enforcement Labor Services, Inc. | Jacobs, Jeffrey | 40 hr. suspension Fitness for Duty | Off-duty officer stopped a car for traffic offense after Lt told him to call dispatch. Self reported PTSD symptoms. Dr he selected found him unfit. 2nd Dr found him fit. City sent him back to 1st Dr who now found him fit. | 8 hour susp. Denied | Insubordination, 14 years of Service with no discipline. Union claims city guilty of delays and should have put ee back to work after 2nd Dr.'s fitness report. City's actions not barred by contract nor policy. |
| 16PA0773 | Minnesota Colleges & Universities AFSCME Council 5 | Crump, Harry | Termination | Bookstore coordinator at Fergus Falls sold books to vendor & kept the cash. | Denied | Case based on circumstantial evidence. No criminal charges but diffrent standard. of proof from criminal prosecution. |
| 16PA0850 | St. Paul, City of St. Paul Police Federation | Toenges, Rolland | Military Training Pay | MOU provides city will cover any loss of pay upon call up for active military service. Seeking pay for 106 day call up for BLOC training. | Denied | MOU excludes training - intended for active duty in Middle East & elsewhere. Contract provides for making up pay for 15 day annual training. |
| 14PA0655 | Waite Park, City of Teamsters Local 320 | Crump, Harry | 10 day suspension Arbitrability | Officer lied to county attorney that he didn't receive a court notice. Contract requires ee sign step 1, Union BA signed step 1 and it was refused. | 3 day susp. Arbitrable | 15 years with good record. 10 days not consistent with progressive discipline. Signature not a defect as to substance. No comment re 29mo. delay before Arb. |
| 16PN0950 | Winona County (Interest) AFSCME Council 65 | Jacobs, Jeffrey | Interest | County attorney's. Should ees pay 15% toward single health insurance-n | Union's Position | All other ees pay 15%. Internal pattern ignored due to 2 prior arb awards on this issue w/o a quid pro quo for the change. |

October, 2016

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|----------------------|--|----------------------|--|---|----------------------------------|--|
| 16PN0484 | Anoka County (Interest Award) Law Enforcement Labor Services, Inc. | Vernon, Gil | Interest | Work Release. 1 yr-e (u-2y); Wages-2% (e-0%, u-5%); Merit-3%-u (e-2%); new wage system-u. | 2016 - 2.0% | 9th arbitration since 1990, all over same issue-WRO vs Det Deputy pay. Creates more reasonable wage relationship. |
| 15PA0922 16PA0161 | Blaine, City of Law Enforcement Labor Services, Inc. | Beafort, Stephen | 40 hr. suspension 12 hr. suspension | Officer didn't reply truthfully when asked for his location by a supervisor. Failed to respond to 2 calls in a timely manner & failed to submit 12 call reports. | 24 hr. susp. Denied | No financial profit by sandpapering the truth. 24 hrs similar to 2 other arbs. 3 prior inattention to duty verbal reprimands. |
| 16PA0797 | Cottonwood County AFSCME Council 65, Local 578 | Yaeger, Thomas | Step Increase | Did MOA raising pay for HEO's require step on anniversary plus one on Jan.1st. | Denied | Ambiguous language between MOA & contract. Union wrote MOA language. |
| 16PN0817 | Dakota County (Interest) Teamsters Local 320 | Bognanno, Mario | Interest | Corrections. Parties agreed to wages. Scheduling for training-n-u; Uniforms '16-\$600-u (e-\$525); '17-\$550-e (u-\$600) Full cost if uniforms changed again?-n-e. Market pay adjustment-n-e. | 2016 - 2.5% 2017 - 2.5% | Wages-pattern. Scheduling-"If ain't broke, don't fix it". New uniforms for 2016. Mrkt adjustment-situation differs from other who received adjustment. Arbitrator discussed approach to cases. Statue contrary to labor relations tradition of evidentiary hearings. |
| 17PA0139 | ISD 727, Big Lake School Service Employees Local 284 | Ver Ploeg, Christine | Summary Disposition | ER pursuant to 572B.15(b) of Uniform Arb act seeking to bar U from arbitration. 1. Subcontracting right not arbitrable 2. Grievances not ripe. 3. If ripe, untimely. | Arbitrable Not ripe Timely | Court-New Ulm-based inquiry required. Parties still mediating new contract. Days refer to working days by statue. |
| 15PA0725 | MN, State of, Dept of Military Affairs AFSCME Council 5 | Jacobs, Jeffrey | Timeliness | Timeline for arbitration fell on a Sunday, the request was sent on Monday. Was grievance timely?-yes, | Sustained | Ruling relied on state laws & regulations governing computation of time. If last day is a Sat. Sun. or Holiday it isn't counted. |
| 16PA0851 | Metropolitan Council, Metro Transit Amalgamated Transit Union Local1005 | Gordon, Paul | Record of Warning | Bus driver failed to make the proper stop at a railroad crossing. | Denied | Mitigation, ie a full vs a rolling stop would block traffic, was considered but denied. |
| 16PA0941 | Metropolitan Council, Metro Transit Amalgamated Transit Union Local1005 | Neigh, Charlotte | 20 day suspension | Bus driver used his cell phone to notify dispatch that his MDT wasn't working. | Denied | 18y ee. Clear policy enforced uniformly. Could have stopped to make call. |

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|------------------------|--|-------------------|--------------------|---|----------------------------|--|
| 16PA0574 | Metropolitan Council, Metro Transit Amalgamated Transit Union Local1005 | Remington, John | Assigning work | Mechanic delivered a part to an outside vendor vs. a storekeeper delivering it. | Sustained | Requirement to "maintain the following job classifications", limits mangmt rights. |
| None listed | Minneapolis, City of Police Officers Federation of Mpls. | Befort, Stephen | Termination | Unreasonable use of force; failing to report per policy; inappropriate language. Prior discipline regarding use of force. | 40 hr. susp. | Pushed a woman twice, she fell down - force unnecessary but wasn't a take down so no report required. Language not proven. Prior discipline can't be used pending Arbitration on matter. |
| 16PA0431 | Minnesota, State of SEIU Healthcare Minnesota | Yaeger, Thomas | Union Dues | A fiscal intermediary didn't withhold Union dues when PAC's told them they hadn't signed cards. U provided info - back dues collected & sent to U. U - dues must be collected monthly; money sent back to members, asked State to pay dues. | Sustained | Fiscal intermediary not party to contract so can't be ordered to pay. Failure to collect dues monthly created a hardship on members. State ordered to pay amount of dues Union returned to members. |
| 16PA0957 | Ramsey County Law Enforcement Labor Services, Inc. | Vernon, Gil | Termination | Off-duty K9 officer was drunk and beat his dog. Pled guilty to Animal Cruelty misdemeanor. | 7 mo. Susp. | 20 year ee, no prior discipline, enrolled & completed treatment, worked for 4 1/2 months before being fired. Last chance returned with no back pay. |
| 16PA0740 | West St. Paul, City of SEIU Local 284 | Abelsen, James | Termination | School bus driver drove into fast food parking lot in violation of policy striking a parked vehicle. Prior discipline. | Denied | Common law of the business from the Steelworker Trilogy used to determine just cause. |
| September, 2016 | | | | | | |
| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
| 16PN0637 | Blaine, City of (Interest Award) Law Enforcement Labor Services, Inc. | Ogata, Harley | Interest | Officers:1 yr-e (u-2y); 2016-3%-u (e-2%); Wage schedule modification-n-e; 2nd tier wage plan-n-u; Insurance-\$70-u (e-\$30); Detective pay increase-n-e; Directed Operations Group uniforms-n-e. | 2016 - 3% | Duration-lack of data for 2nd yr. Wages-internal (e-officers received more in last contract); Changes to pay plan-rarely awarded. Insurance-no pattern-50% of increase awarded; Detective pay & D.O.G. lack compelling reasons. |
| 16PN0429 | Blue Earth County (Interest Award) MN Public Employees Association | Jacobs, Jeffrey | Interest | Jailers:2 yrs-e (u-3y); wages-both agree; Market increase-n-e; hazard pay-n-e; Change retention schedule on rprmds-n-u; Vac payout only if in good standing-n-u Boot allowance incr-y-u. Shift pay incr-y-u; Lunch break-n-e; FTO pay-n-e. | 2016 - 2.5% 2017 - 2.5% | Mrkt increase-high turnover but, reasons other than wages, few if any arbitrators have awarded mkt increases. Issues not awarded lacked compelling rational. Increases awarded to fixed \$ amounts. Discussed why Attorney's court case doesn't apply. |
| 16PA0307 | Faribault County Law Enforcement Labor Services, Inc. | Befort, Stephen | Termination | Failed to take control of pills after he encouraged civilian to trade for them at a bar. Pointed his loaded weapon at other deputies on 6 occasions. | Denied | Gun pointing is serious conduct not requiring progressive discipline. Bar incident wouldn't have led to termination. In Washington Co. 05PA0599 (Befort '05) reduced termination to 30 days for gun pointing due to ER failure to warn. |
| 16PA0721 | ISD 152, Moorhead Education MN Moorhead | Orman, Anthony | Preparation period | ER was assigning work during teacher's preparation period. U-must seek volunteers. | Sustained | Dispute over meaning of work assign. Language & past practice. |
| 16PA0280 | ISD 319, Nashwauk-Keewatin AFSCME Council 65 | Befort, Stephen | Timeliness | ER did not receive request for Arbitration within 10 days. U claimed it was sent. | Denied | No evidence the letter was sent. Even if sent didn't request arbitration as required. |

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|----------------------|---|---------------------|------------------------------|---|---------------------|--|
| 16PA0492 | ISD 2184, Luverne Luverne Education Association | Yaeger, Thomas | Lane Advancement | Teacher with 17 graduate credits hired at BA+10. Seeking BA+20 after earning 3 more credits-denied for lack of prior approval. | Sustained | After accepting 10 credits when hired, ER failed by not notifying ee the other 7 credits could not be used. |
| 15PA0729 15PA0741 | Lakes-Area Police Department Law Enforcement Labor Services, Inc. | Lundberg, James | Overtime | 2 officers seeking OT for working the annual "Karl Oskar Days" due to short notice & past practice. | Denied | No past practice. No contract violation. |
| 16PA0897 | MN Judicial Branch AFSCME Council 5 | Altman, Robert | Termination | Sr. Court Clerk hid 350 orders he hadn't completed, used Judge's approval stamp on orders not approved & fraudulently coded events in MNCIS system. | Denied | 19yrs. service, no prior discipline, but egregious nature of actions & damage to courts reputation & integrity made return impossible. |
| None listed | Minnesota Department of Corrections Middle Management Association | Lundberg, James | 10 day susp. | Lt. failed to write a report after viewing a video of a security violation that occurred in the jail five days earlier. | 1 day susp. | 35 year employee with good record. Deputy present at time of incident given written. Warden recommended 1 day. |
| 15PA0309 | MN State Colleges & Universities No Hennepin Community College AFSCME Council 5 | Biggar, David | Temporary Work during Layoff | Seasonal employee's rights to temp job during layoff denied because job started before layoff or ended after recall. | Sustained | Right to temp job begins after seasonal ee laid off - no bumping right for temp job Can't deny temp job during layoff period even if it extends beyond ee's recall. |
| FMCS | New Brighton Health & Rehabilitation UFCW Local 1189 | O'Toole, Carol Berg | Schedule Change | ER had trouble filing different shift so created a new schedule w/o Union input. | Sustained | ER claimed management right but rights were limited by Hours of Work language. |
| None listed | Port Group Homes SEIU Healthcare Local 113 | Beens, Richard | Timeliness | Filed for Arbitration 1 year after step 3. ER moved to waive mediation. | Sustained | ER provided a timeline waiver. If no letter from ER a different result warranted |
| | | | Termination | Privacy violation-counselor sought personal info from resident after warnings. | Denied | Violated policy and direct order. |
| FMCS | Zup's of Aurora UFCW Local 1189 | Remington, John | Severance Pay | Store closed, ees denied severance, because they were offered jobs at a store in a different city. | Sustained | waiver of timeline. Contract required employment if new ownership or a different store under the same contract. Neither applied. |
| | | | Seniority rights | Senior ee not offered work given junior employee because she wasn't qualified. | Sustained | Never trained as a cashier, but had cashier experience w different employer. |
| August, 2016 | | | | | | |
| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
| 16RA0598 | Cemstone Teamsters Local 120 | Jacobs, Jeffrey | Seniority | Junior drivers at Lakeland allowed to work on a rain day while senior drivers at other locations sent home. | Denied | Contract language. Past practice arguments fail. Discussion on Past Practice. |
| 16HA0805 | Douglas County Hospital IUOE, Local 70 | Befort, Stephen | Starting Pay | Personal care attendants paid above starting pay based on experience. | Denied | Start means start, but practice since 1999 rules. Can negotiate change. |
| | | | Timeliness | Untimely, been practiced since 1999. | Denied | Pay is ongoing-grievance can be filed after any pay date. Retro is not timely. |
| 16PA0754 | ISD 544, Fergus Falls Fergus Falls Education Association | Lundberg, James | Insurance Contribution | Wife wanted ER to pay her insurance benefit into her husbands family plan. | Sustained | No past practice - situation hasn't arisen. Contract language & Wrenshall case BMS 14PA0752 (June 2014). MS 363A bars marital status discrimination. |
| 16PA0697 | Itasca County Itasca County Employees Association | Biggar, David | Termination | Lt. told ee outside his chain of command to see him if she needed to talk, Used squad car for personal business. | 30 day susp. | 24 yrs. Ee with excellent record. Case involves charges & counter charges w outside agencies investigating. |
| 16PA0738 | Mahnomen, County of Law Enforcement Labor Services, Inc. | Paull, David | Termination | 4th DUI, failed to take breath test, barred from driving w/o interlock system, lied on job application, Brady-Giglio impaired. | Sustained but w LCA | 3 yr. tenure, no prior discipline. N. Dakota DUI not listed on job app was discovered after termination. Difficulty in attracting & retaining officers. |

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| None listed | Metropolitan Council Rodney Pierre - Veteran | Jacobs, Jeffrey | Termination - V.P. | Bus driver failed to pass his CDL test. | Denied | Policy allows 2 attempts to pass test. 2nd fail disqualifies employee. |
| 16PA0713 | Pennington County IUOE Local 49 | Daly, Joseph | Termination | "Last Straw" discharge - 11 priors. EE drove a seriously overloaded trailer & sarcastically asked supervisor, "is that enough dirt for you?" | Denied | Misconduct that alone is not cause for discharge is sufficient based on number of chances given in progressive discipline See ISD 282, Kircher, June 2012. |
| 16PN0659 | Three Rivers Park District (Interest) Law Enforcement Labor Services, Inc. | Daly, Joseph | Interest | Officers. Wage reopener-3%-u (e-1%). | 2016 - 3% | External comparison to Stanton 5 & 6. Internal pattern is 1%. |

July, 2016

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|-------------|--|---------------------|---|---|----------------------------|---|
| 16PN0469 | Benton County (Interest Award) Law Enforcement Labor Services, Inc. | Miller, Richard J. | Interest | Deputies: 2 yrs (u-3, e-1); 2016-1%Jan, .25%July-e (u-3%); 2017-3%-u (e-2%). Shift pay-\$.15incr to \$.75-e(u-\$1&change hours);Remove 288 hr. cap on Vac till end of yr. vs quarterly-u; Insururance-50% of increase each year-e (u-total cost of increase. FTO pay-\$1.50-u (e-.50, 1.00) | 2016 - 1.25% 2017 - 3% | Duration-lack of settlements for"18. Wages-'16 internal,'17external (\$4 below top pay of comps). Out of compliance w pay equity but ER failed to provide data & next report is 2019. Shift hrs-intrn, amt external. Vac bank will exceed pattern. Insurance pattern. FTO-market. |
| 16PA0092 | Columbia Heights, City of Law Enforcement Labor Services, Inc. | Lundberg, James | Timeliness Termination | Case bifurcated, timeline challenged first. New secretary unfamiliar w process. | Denied | Parties have never deviated on timelines. Clear contract language. |
| 16PA0266 | ISD 108, Norwood Young America Central Education Association | Beens, Richard | Timeliness Timeliness Retiree Insurance | Arbitrator selection required in 10 days. Submit info to Arbitrator within 5 days. Retired teacher told he would receive free coverage for 10 years. | Denied Denied Denied | ER's inaction constitutes a waiver. No prejudice to employer. Payroll clerk not authorized to promise benefit. Contract provides a limit. |
| None listed | Minneapolis, City of Police Officers Federation of Minneapolis | Jacobs, Jeffrey | Termination | Officer used profane language & made racist comments during an arrest. Violated new chief's code of conduct. | Denied | 24 yr ee with numerous awards. 1 prior discipline that was pending at time of arb. Chief entitled to set standards. |
| 16VP0806 | Minneapolis Public School, SSD #1 Individual Grievant | O'Toole, Carol Berg | Termination | Inappropriate communication, rude & unprofessional behavior, data violations, insubordination & inefficiency in teaching. | Denied | 10 year ee. Progressive discipline. Refused Union representation. Acted as her own counsel. |
| None listed | MN, State of, Dept. of Human Services MN Assoc. of Professional Employees | Beftor, Stephen | Termination | Supplemental Order to March 2016 award. Ee was returned to his position as Chaplain, but position was eliminated prior to his return. He was laid off and informed of other positions. | Union's position | Grievant did not persue other positions. ER free to reorganize, but original award modified from no back-pay to 40 days back-pay. See March 2016. |
| 16PN0318 | Minnesota, State of (Interest Award) MN Government Engineering Council | Wallin, Gerald | Interest | Engineers. Wages 2015-2.5% + 1% to top step-u (e-2.5%), 2016-2.5% + 1% to top step-u (e-2.5%), Move ESS from grade 7 to 8-n-e. Increase Def. comp match-n-e. | 2015 - 3.5% 2016 - 3.5% | Pattern is 2.5%. 1% added to top, MS 43A.18 Subd.8(b) requires a reasonable relationship to outside jobs. Grade incr.&Def. Comp-not compelling. |
| 16PA0859 | Red Wing, City of IAFF, Local 2078 | Jacobs, Jeffrey | 24 hour susp. & Written Reprimand | Firefighter used the stations PA and called a Captain, "a piece of shit". | Denied Ltr amended. | Violated City Policy. Common sense does not need to be codified. |

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|----------|--|-------------------|-------------------|--|----------------|---|
| 15PA0950 | University of Minnesota Teamsters Local 320 | Abelsen, James | 1 day suspension | Building/Grounds worker failed to return building keys at end of her shift. | Denied | Mitigating circumstances discounted. Clear policy & prior discipline re keys. |
| 16PA0165 | Wabasha County AFSCME Council 65 | Gallagher, Sharon | Written Reprimand | Bringing union rep per Weingarten for a non-disciplinary meeting when told it wasn't disciplinary is insubordination. No prior discipline. | Verbal warning | No prior discipline. Daugherty's 7 tests for just cause challenged by Dunsford's conclusions they are misleading in substance & distracting in application. |

June, 2016

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|----------|--|------------------|------------------------|---|--------|---|
| 16PA0021 | Anoka County Law Enforcement Labor Services, Inc. | Toenges, Rolland | Right to reduce shift. | .25 hr. early start for shift change briefing eliminated. U challenged loss of OT using "past practice" argument. | Denied | Issue of practice arises when practice is inconsistent w contract. Contract doesn't bar ER establishing work schedules. |

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|-------------|--|--------------------|----------------------------|---|---|--|
| None listed | ISD 593, Crookston Crookston Education Association | O'Donnell, John | Error in Contract Language | Retiree definition removed from contract. Teacher retired - denied benefits, due to failure to meet the retiree definition in the previous contract. ER claimed they did not agree to remove the language. Language restored to the contract by Arbitrator. | Denied | ER drafted contract, but Union told the secretary to remove language. Contract requires: "manifestation of mutual assent" & "certainty of terms". Each subsequent offer repudiates the prior offer. No agreement to remove language. |
| 15PN0916 | Ramsey County (Interest Award) Law Enforcement Labor Services, Inc. | Miller, Richard J. | Interest | Dispatch. Wages-agreed to pattern 2%, 2.5% & 2.6%. Mkt Adjustmnt. '15-0%-e (u-2.9%), '16-0%-e(u-2.9%), '17-2%+2.6% pattern-u (u seeking 2.9% ea yr.; e-0%). Call back & OT liquidation language - n-e. | 2015 - 2% 2016 - 2.5% 2017 - 4.6% | Market adjustment-follows market based awards given to Commanders & Deputies. Call back & OT liquidation-union failed to meet burden necessary for change. |

May, 2016

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|----------|---|-----------------|---------------------------------|---|--------|--|
| 15PA0671 | Blaine, City of Law Enforcement Labor Services, Inc. | Jacobs, Jeffrey | Past Practice Insurance Opt Out | City has 20 yr. practice re paying for opt outs. Union repudiated practice, seeking full pay, but did not negotiate new language. | Denied | Contract silent, paymtns rely on practice. Expansion requires new language. Discussion on Past Practice. |
| 15PA0696 | Dakota County MN Public Employees Association | Jacobs, Jeffrey | Written Reprimand | Jail Lt. failed to notify his supervisor SRT Unit was called out. Also failed to report and investigate use of force. | Denied | U claimed SRT corporal should have made use of force report - but, Lt. is responsible to see that report was written |
| AAA | Xcel Energy, Inc. IBEW Local 23 | Daly, Joseph | Temporary Vacancies | ER failed to fill 2 vacancies at its garage due to vacation & illness. U seeking OT. | Denied | Staffing is a management right. Union claimed past practice but no evidence. |

April, 2016

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|-------------|--|-----------------|--|--|-------------------------|--|
| FMCS | Boise White Paper LLC United Steelworkers Local 159 | Beens, Richard | Temp assignment below class. | EE temporarily assigned to lower job to fill in for vacations. Received regular pay. | Denied | Management right. Neither contract nor practice prohibits assignments. |
| 15PA0346 | Goodhue County Law Enforcement Labor Services, Inc. | Dunn, Richard | Injury on Duty Past Practice | Failure to pay difference between Work comp & regular pay. ER charged sick account to make up difference. | Sustained | Relied on past practice. Union repudiated practice. Discussion on practice and how to repudiate. |
| None listed | Minneapolis, City of Police Officers Federation of Mpls | Befort, Stephen | Bid Assignment Expedited arbitratio | Officers coming off admin leave not returned to previous bid assignments. ER-not return to work, but assignment. | Denied Sustained | Specific vs general contract language. Return would disrupt operations. ER interpretation is too narrow. |
| 16PA0068 | MN, State of - Crosswinds & Perpich State Residential Schools Ed Assoc. | Befort, Stephen | Pay during School Breaks | Teachers told they must use vacation to be paid for winter & spring breaks vs being allowed to work. | Sustained | Practice allowed teachers to work for additional pay and can't be unilaterally changed. Discussion on inferred practice. |

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|----------|--|-----------------|-------------------------|--|---|---|
| 15PN0673 | Ramsey County (Interest Award) Law Enforcement Labor Services, Inc. | Lundberg, James | Interest | Deputies. Wages: '15-2%, '16-2.5%, 17-2.6% - both. Market adjustment: 15-1.2\$, '16-1%, '17-1% - u (e-0%). | 2015 - 3.2% 2016 - 3.5% 2017 - 3.6% | Wages based on pattern. Market adj.- external; pay equity predicted pay; and Commander Feb 2016 award for 3.2%. |
| 16PA0351 | Rosemount, City of Law Enforcement Labor Services, Inc. | Roberts, Andy | Termination | Ee pointed his laser equipped pistol at a co-worker. Inconsistent & incomplete statement given. U challenged there was no Garrity warning or questioning. | Denied | EE provided voluntary written statement that was inaccurate. Serious misconduct does not required progressive discipline. |
| 16PA0396 | Spirit Mountain Recreation Authority AFSCME Council 5 | Jacobs, Jeffrey | 3 day suspension | Refusal to wear footwear after being told to do so & rude/unprofessional behavior toward her manager. Occurred before her shift so ee claimed she was a customer. | Denied | General obligation to observe plant rules. Swearing at supervisor was determining factor. Discussion on nexus to work place of off duty conduct. |
| 16PA0231 | Traverse County AFSCME Council 5 | Daly, Joseph | Termination | Deputy Auditor/Treasurer used postage meter without reimbursing County. | 12 mo susp. | Lack of clear & convincing evidence. Casual & lax practice re postage meter. |
| 15PA0792 | University of Minnesota MN Public Employees Association | Ogata, Harley | Vac/Comp time PRHCSP | Officer leaving for another job unable to use vac/comp time due to understaffing so money place into PRHCSP. | Denied | Clear language in MOU. EE also given opportunity to extend vacation in Nov. but refused. |

March, 2016

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|-------------|--|---------------------|-------------|--|------------------------------|---|
| 15PA0970 | Cook Hospital AFSCME Council 65 | Beens, Richard | Termination | Nursing assistant told nursing home patient he was pissed because he had to clean him. | 15 day susp. | Mistreatment of a vulnerable adult. Procedural violations at Loudermill meeting. Similar Appellate Court case. |
| 15PN0566 | Hutchinson, City of (Interest Award) MN Public Employees Association | Befort, Stephen | Interest | Police. Wages-u (u-3,3; e-2,2); Shift Differential-n-e; OT-count vac as hours worked-n-e; Language-eligible for wage increase despite discipline-u. | 2015 - 2.25% 2016 - 2.25% | Wages external average. Shift Differential & OT lacked compelling reasons for change. Language-existing practice. Discussion of Arbitration Standards. |
| None listed | MN, State of, Dept. of Human Services MN Assoc. of Professional Employees | Befort, Stephen | Termination | Chaplain at Recovery center in Brainerd Failed to cooperate with background study. | Split | U claimed confusion regarding order. Returned to work but no back pay. See Supplemental Order July 2016. |
| AAA | N.S.P. d/b/a Xcel Energy Inc. IBEW Local 160 | VerPloeg, Christine | Overtime | Work crew are comprised of Benefit & non-benefit (Union bench) ees. U feels only benefit employees should receive OT. | Sustained | Despite 30 yr practice, contract language only applies to benefit employees. |
| 16PA0124 | Ramsey County Law Enforcement Labor Services, Inc. | Anderson, Richard | Termination | Deputy arrested for DUI 3/8/14, pled on 2/13/15, given 25 day susp. on 6/19/15. Arrested for Gross Misd. DUI on 6/6/15. Terminated on 6/20/15 | 9 mo. Susp. | Delay in suspension on 1st DUI while waiting for the court case raised due process concerns on subsequent termination. Returned with no backpay. |
| 16PA0388 | St. Paul, City of International Union of Painters Council 82 | Johnson, John | Union work | Retired painter called back to train new painter on paint striping machine. Hired as a machinist so painter pension not effected. | Sustained | U seeking OT for active painter, but his current duties create time conflict. ER ordered to pay U dues during training. |

February, 2016

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|----------|---|------------------|----------|--|--------------------------|---|
| 15PN0621 | Carver County (Interest Award) AFSCME Council 65 | Neigh, Charlotte | Interest | Attorneys. PTO donation-n-e. Severance update-e; wages '15-0%, '16-2%-e (u-5%, 5%);performance pay-up to 4.25%-e (u-7%), increase after prob-u; prorating merit-n-u; add language on eligibility for merit-n-u; delete obsolete language re PFP plan-y-e. | 2015 - 0% 2016 - 2.0% | PTO donation-not fully developed, failed to show need. Severance-eliminates obsolete language, Wages&merit-pattern Remaining awards based on internal patterns. |

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|----------|--|--------------------|-------------------------------|---|---|--|
| 15PA0855 | Chaska, City of Law Enforcement Labor Services, Inc. | Miller, Richard J. | Termination | Officer used racial profiling in making traffic stops, manipulative conduct with county attorney & lied during investigation. | Denied | Giglio-impaired due to untruthful answers during Garrity. Co. will not accept his testimony in criminal cases. |
| 16PA0051 | ISD 2889, Lake Park - Audubon Education MN - Lake Park, Audubon | Latimer, George | Lane Advancement | Superintendent approved credits for lane advancement, not knowing they were professional development, not graduate level courses | Sustained | Credits were approved as required by the CBA. Note: current negotiation attempt to clarify language doesn't mean language says the opposite. |
| 15PA0631 | Metro Council Amalgamated Transit Union Local1005 | Jacobs, Jeffrey | Termination | Policy calls for termination when driver has 4 chargeable accidents in 36 months. | Denied | 13 years service doesn't mitigate. Policy valid and has been consistently applied. |
| 15PN0624 | Nobles County (Interest Award) Teamsters Local 320 | Toenges, Roland | Interest | ER implemented a new pay plan & offered the awarded wages. U seeking additional \$1.50 hr. shift pay for jail- no. Correction Officer 2 moved to Probation Officer 1 at a lower start, but a higher top. U claims it is a promotion so must start higher. | 2015 - 1% 2016 - 2.25% 2017 - 2.5%; | Internal pattern; no one else in Co. has shift pay; Miller Jan 2016 did not award shift pay to Sergeants. |
| 16PA0037 | Ramsey County Teamsters Local 320 | Abelsen, James | Voluntary Move | Not filed within 21 days. | Denied | A voluntary reduction by terms of contract and Personnel Rules. |
| 16PN0020 | Ramsey County (Interest Award) Law Enforcement Labor Services, Inc. | Lundberg, James | Interest | Commanders.'15-2%-e(u-3%),'16-2.5%-e(u-4%),'17-2.6%-e(u-5.1%), increase POST lic.pay-n-e; Mkt adj. '15-3.2% + 2% pattern-u (e-0%) | 2015 - 5.2% 2016 - 2.5% 2017 - 2.6% | Wages-internal pattern. Market adjtmnt 3.2% based on pay equity underpaymnt. Award compares cities to counties. |
| 16PA0189 | Red Wing, City of AFSCME Council 65 | Anderson, Richard | Sick Leave, non-family member | Can sick leave be used for girlfriends Doctor appointment? | Sustained | Immediate family includes "bona-fide permanent member of household". |

January, 2016

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|---|--------------------|--------------------|--|---------------|---|
| 15PN0652 | Clearwater County (Interest Award) Teamsters Local 320 | Jacobs, Jeffrey | Interest | Communication officers. ER seeking to change 65/35 split for family Insurance to the ER's 50/50 pattern. | No change | No quid pro quo nor compelling reason for change. 2 prior arbs supported the Union. (Teamsters have own ins.plan). |
| 15PN0458 | Nobles County (Interest Award) Teamsters Local 320 | Miller, Richard J. | Interest | Jail Sgts. seeking shift differential. | Not awarded. | No quid pro quo nor compelling need & no one else in county has benefit. |
| 16PA0170 | Metro Transit Amalgamated Transit Union 1005 | Bauman, Susan | Termination | Bus driver making a right turn, struck a bicycle rider. Union didn't dispute driver was responsible. | 60 day susp. | 50% of those involved in similar accidents were returned under LCA's. ER did not provide sufficient evidence showing why this was different. 9 yr. ee with previous LCA that expired more than 3 yrs. ago therefore could not be used in this case. |
| None listed | Metropolitan Council Terry Fulford - Veteran | Jacobs, Jeffrey | Termination - V.P. | Bus Driver lost his CDL as a result of a D.U.I. | Denied. | Without a CDL-Veteran is incompetent within meaning of the statute. |

2017 Arbitration Awards - Minnesota B.M.S.

Summary of Arbitration Awards listed on the Bureau of Mediation Services' web site (<http://www.mn.gov/bms/arbitration/awards/>).

"Sustained" means the grievance prevails overturning the original action. "Denied" means the original action prevails.

December, 2017

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|----------|--|-----------------|-------------------|---|---|---|
| 17PA0928 | <u>ISD 88, New Ulm</u> New Ulm Education Association | Latimer, George | Staff Meeting Pay | Teachers asked to attend meeting to plan kindergarten registration. Meeting 3:00 to 4:00, basic school day ends 3:30pm. | Denied | No clear practice, but contract allows for reasonable participation in school activities including staff meetings. |
| 17PA0999 | <u>ISD 435, Waubun-Ogema-White Earth</u> Waubun Education Association | Biggar, David | Lane Advancement | Can graduate credits earned prior to a Master's be used to advance to MA +15. | Sustained | No clear practice barring use. Argument credits weren't germane rejected-reason it wasn't brought up until arbitration. |
| 17PA0728 | <u>SSD 1, Minneapolis</u> Minneapolis Federation of Teachers | Beens, Richard | 7 day suspension | Behavior Dean failed to follow sign in/out policy;combined lunch w breaks; refused to handle student behavioral issues. | Denied | Displayed lack of sound judgement, defiance & inability to get along with co-workers. |
| 17PN0325 | <u>Wright County (Interest)</u> Teamsters Local 320 | Jacobs, Jeffrey | Interest | Sheriff's supervisors. Wages-'17,18,19-2.5%,2.5%,2.5% (parties agreed). 10% Mrkt Adjust-no-e; Retro pay-u Uniform-'17,18,19-\$800-u (e-\$700), Off duty MOU-\$ amt.=1.5% sgt rate-u. | 2017 - 2.5% 2018 - 2.5% 2019 - 2.5% | Wages-internal pattern-agreement at arb. "Few if any, interest arbitration's in recent years have awarded market adjustments. Uniform-same as deputies. Off duty listed as \$ amt. not increased since 2014. |

November, 2017

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|----------|---|----------------------|---|---|-----------|--|
| 17PA0789 | <u>Brooklyn Center, City of</u> Law Enforcement Labor Services, Inc. | Daly, Joseph | 2 day suspension | Violation of chase policy and language used to control suspect. | Denied | Language use was appropriate for the situation. Although in compliance with parts of chase policy, excessive speed warranted 2 days. |
| 17PA0653 | <u>Rice County</u> Minnesota Public Employees Assoc. | Jacobs, Jeffrey | Overtime Past Practice | Voluntary take home car policy required deputies to start 15 minutes early. Union asking for OT going back 2 yrs. per statute. | Denied | 23 yr. practice-BA did not know practice but steward did. Issues of FLSA, Unfair Labor Practice, Statute re backpay limits are outside Arbitrators authority. Good discussion of past practice. |
| 17PA0127 | <u>State of Minnesota, MSAB</u> State Residential Schools Ed Assoc. | McCoy, Arthur Ray | Creating New Pay Schedule | Music Therapist at MN Academy for the Blind moved from MAPE to Teacher contract due to legislation defining position as a teacher. W/o required license she would receive \$10,000 below current pay so ER added MAPE pay schedule into contract. | Sustained | ER errored by unilaterally placing MAPE schedule into teacher contract and for not recognizing position as a teaching position as a result of legislation. EE had academic qualifications & ER could have applied for provisional license. |
| 16PA1015 | <u>University of Minnesota</u> Teamsters, Local 320 | Finkelstein, Phillip | 10 days to return to old position? - Past Practice | Past practice for Building & Grounds workers who have 10 days to return to old position. Does practice carry over to Senior B&G positions - no. | Denied | No contract language & never applied to Senior Building & Senior Grounds positions - therefore no past practice. |

October, 2017

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|----------------------|---|-------------------|------------------|--|---------------|--|
| 16PA0912 | <u>Hennepin County</u> Hennepin County Sheriff's Deputies | Jacobs, Jeffrey | Termination | Deputy charged w stalking-acquitted; felony drug possession-Alford plea; storing gun in unsecured location with children in house. | Denied | 7 yrs., no discipline. Violations so serious normal progressive discpln inappropriate, & loss of trust warrants removal. Media attention considered an important factor. |
| 17PA0466 17PA0470 | <u>Maplewood, City of</u> Law Enforcement Labor Services, Inc. | Crump, Harry | Body-Worn Camera | U challenged policy prohibiting officers from reviewing camera video prior to providing a voluntary statement & random supervisor review of video. | Denied | U injunction denied in District Court citing inherent managerial authority. Arbitrator ruled not substantively arbitrable |

September, 2017

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|--|-------------------|--------------|--|---------------|---|
| 17PA0050 | <u>Isanti County</u> Law Enforcement Labor Services, Inc. | Neigh, Charlotte | Demotion | Made hostile & harassing calls to officer in another Dept. Failed to monitor a chase. | Denied | Failed to follow policy & procedure after repeated coaching & discipline. |
| 17PA0469 | | | Termination | Falsified a report relating to his patrol | Denied | Violated policy re required Rural Patrol falsified log and lied about it. |
| 17PA0818 | <u>Litchfield, City of</u> Teamsters Local 320 | Tidwell, Carol | Termination | Sgt. arrested for DWI. Lied to arresting officer about drinking. Lost license for 1 year. Prior alcohol problems. | Denied | Installing an ignition lock on squad would be expensive, potentially unsafe, & not operationally feasible. |
| 16PA1073 | <u>Ramsey County</u> Teamsters, Local 320 | Befort, Stephen | Termination | Probation officer at Boy's Totem Town failed to report contact with a released offender & touched a female inmate. | Denied | 25 yr ee with good record, but egregious act can overcome good work record & a general desire for progressive discipline. |

August, 2017

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|---|--------------------|----------------------|--|-------------------------------------|--|
| 17PN0560 | <u>Hennepin County (Interest)</u> Law Enforcement Labor Services, Inc. | Miller, Richard J. | Interest | Ammended award 4/2/18 - Lic. Suprv. Market. Adjustment '18-5%-u (e-0%). ER failed to provide requested data. | 2018 - 5% | ER agreed to reopen arbitration w new data showing Deputy Chief & Majors received 7.5% mrkt adj. despite n turnover |
| 17PN0560 | <u>Hennepin County (Interest)</u> Law Enforcement Labor Services, Inc. | Miller, Richard J. | Interest | Lic. Supervisors. Initial award 8/25/17. Market adjustment '16, '17, '18 - 0%-e. Wages '16-1.5%, top 2.5%; '17-1.5%, top 2.5%; '18-2.5%-agreed based on pattern. | 2016 - no 2017 - no 2018 - no | Wage pattern agreement. U seeking market adjustment of 5% over 3 yrs- No. No adjustments unless attraction/retentio issues. |
| 17PN0203 | <u>Hennepin Co. Medical Center (Interest)</u> Hennepin County Paramedics & EMT's | Befort, Stephen | Interest | Wage reopener. 2017-2% first 5 steps, 1.75% for remaining steps-e (u-3% 1st 5 steps, 2.5% remaining steps). | 2017-1.75% | Clear internal pattern & Hospital's finances are in a distressed state. |
| 17PA0866 | <u>Metropolitan Council, Metro Transit</u> Amalgamated Transit Union Local 1005 | Remington, John | Record of Counseling | Bus driver relieving another driver on an in service bus, thought the driver said something upon leaving bus. He followed him demanding to know what was said. | Split | Leaving the running bus did not constitut abandonment - he could still see bus. Confronting driver improper but record expunged due to no discipline for other e |
| 17PA0597 | <u>Metropolitan Council, Metro Transit</u> Amalgamated Transit Union Local 1005 | Tidwell, Carol | Written Warning | Bus driver received written warning for a 2nd accident within 3 years. | Denied | Responsibel accident standard - could diver have prevented accident? Yes. |

July, 2017

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|---|-------------------|------------------|---|---------------|---|
| 17PA0215 | <u>Hennepin County</u> AFSCME Council 5 | Kapsch, Frank | 3 day suspension | EE refused to give his chair to suprv. at roll call meeting. Suprv tipped over chair and took it. EE claimed he was placed in head lock & leg was lifted. Witnesses did not see the physical assault. | 1 day susp. | ER failed to establish willful lying about incident, but ee was insubordinate and failed to cooperate with co-workers. |
| 17PA0276 | <u>Hennepin Healthcare System, Inc.</u> AFSCME Council 5 | Paull, David | Termination | Hospital protection officer punched a restrained patient after he was slugged, threatened, and spat upon. | Denied | Regardless of provocation, gratuitous violence can't be tolerated. Grievant's denial of striking patient makes it less likely he could correct his error. |
| 17PA0342 | <u>Minnesota Department of Corrections</u> AFSCME Council 5 | McCoy, Arthur Ray | Termination | Corrections officer assaulted woman at a bar. Not truthful during investigation. | Denied | Found not guilty at trial. But "just cause" has a different standard. Discussion of "Clear & Convincing" standard. |
| 16PA0065 | <u>West St. Paul, City of</u> Law Enforcement Labor Services, Inc. | Crump, Harry | Overtime | Officer on vacation volunteered to work off-duty at Wal Mart (who contracts officers through the city) - seeking OT. | Denied | City policy prohibits using sick or vac. to create OT situation. Voluntary work at Wal Mart does not require FLSA OT. |

June, 2017

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|--|-------------------|------------------|---|---------------|--|
| 17PA0643 | <u>Cass County</u> AFSCME Council 65 | Daly, Joseph | Termination | Child protection worker's 2day absence due to DWI arrest. Prior verbal & written. | 10 day susp. | Progressive suspension step ignored due to ees cavalier attitude - not proven. Ees embarrassment more likely cause. |
| 17PA0510 | <u>Elk River, City of</u> Operating Engineers, Local 49 | Bognanno, Mario | Rental Uniforms | 1st contract. Uniform amount from prior policy & a new shoe allowance negotiated U didn't neg. rental option from old policy. | Denied | U-benefit is a past practice, since not specifically barred it continues. ER - zipper clause eliminates past practice. |
| 17PA0147 | <u>Metropolitan Council, Metro Transit</u> Amalgamated Transit Union Local 1005 | Roberts, Andrew | Arbitrability | Can ees be held to DOT requirements if States can opt out? -Yes. | Denied | Reasonable safety requirements are a management right - not arbitrable. |
| | | | Medical Absence | Was ER required to accommodate disability beyond 185 days of light duty? - No. Then laid off until 1yr DOT requirement met. | Denied | ER provided light duty job, then offered another job but U would not allow seniority to accrue. ER agreed to accept exception to DOT if approved by Mayo DR.- ee-no. |
| 17PA0367 | <u>Minnesota Judicial Branch - Anoka</u> AFSCME Council 65 | Laumeyer, James | 1 day suspension | Sr. Court Clerk rude & unprofessional with court staff & clients. 1 day susp. & removed from court assignment. | Denied | 17 complaints from 11 individuals. Union challenged hearsay nature of complaints. Discussion on how hearsay analyzed. |
| 17PG0261 | <u>St. Paul, City of</u> Electrical Workers, Local 110 | Jacobs, Jeffrey | Arbitrability | Assignment made to accommodate ee with medical restrictions under ADA -no contract issue. U cited bumping rights. | Sustained | ADA does not trump contract. |
| | | | Seniority | U relied on bumping language put into contract in 1976 when new Sunday shift implemented. ER-for Sunday shift only. | Sustained | App B "For all normal work weeks..., which includes Sunday..." does not eliminate coverage to shifts w/o Sun wrk. |
| 17PA0475 | <u>Sauk Rapids, City of</u> Law Enforcement Labor Services, Inc. | Tidwell, Carol | Termination | 2 complaints of unnecessary tasing & 6 times he left city in squad car to go home. | 2 day susp. | Troubling that 1st tasing & leaving the cit incidents only investigated to support termination. 2nd tasing violated policy. |

May, 2017

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|--|-------------------|-----------------------|--|--|---|
| 16PN0798 | <u>Crow Wing County (Interest Award)</u> Law Enforcement Labor Services, Inc. | Paull, David | Interest | Corrections. 3y-u (e-1y); Wages; *steps 0 0%, 0%-e (u-2.75% each yr.), if already at top 3.24% (based on average differential between steps)-u (e-0%). Add 2 steps to schedule so those moving to top in future could catch those who moved to top in a prior year-n-e | 2016 - 0%* 2017 - 0%* 2018 - 0%* | Duration-labor stability & 1st yr. passed. Wages: County has a performance pay system, a few groups still have steps & they received 0% on steps & 2% to 2.5% for those at top. Wages patterned after Miller's Feb 2015 award. New steps-n. Award only intended as a "patch". |
| None listed | Minneapolis, City Police Officers Federation of Minneapolis | Befort, Stephen | Demotion | Lt. demoted to Sgt. for untruthfulness, use of derogatory language & inability to work with interjurisdictional partners. | Denied | Insufficient evidence re derogatory language. A discussion on the weight given hearsay evidence in Arbitration. |
| 16PA0739 | <u>Moorhead, City of</u> Law Enforcement Labor Services, Inc. | Gordon, Paul | Tuition Reimbursement | Officer denied tuition reimbursement due to lack of funds. Program not funded for almost 10 yrs. Denial was arbitrary & capricious. | Denied | Issue previously arbitrated (Jacobs 2011) Language gives City right to approve or fund tuition reimbursement. Recession & hiring 24 officers valid reason to deny. |

April, 2017

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|---|--------------------|-------------------|---|------------------------|--|
| 16PN0614 | <u>Anoka County (Interest)</u> AFSCME Council 5 | Miller, Richard J. | Interest | Probation Officers-1st contract. 2 yrs (e-1yr, u-3yrs). Wages-parties agreed on merit incrs. Stewards paid to negotiate-n-e. OT over 40hrs vs 171hrs-u; OT accrual-n-e; 5% shift leader pay-y-u. Xmas eve hol-e; Transfers & shift assignments-u. PT benefits-e. Seniority-no award; Tort language-n-e; Placing policies in contract-n-e; Paid breaks-no-e; ESS differential of 5%-y-u; Payroll deduction for U PAC-n-e | 2016 - 2% 2017 - 3% | Duration-1st yr. expired, no data for 3rd Pay to negotiate-not common, requires quid pro quo. OT over 40hrs has been th practice. OT accrual stopped by ER prior to organizing. Xmas eve, U trying to add benefits for PT. Transfer & Shift language to other contracts. PT benefits-no incrs. Seniority-important issue should be neg. Tort and Policies already covered in other places. |
| 17PA0155 | <u>Metropolitan Council</u> Transit Managers and Supervisors Ass. | Malamud, Sherwood | Demotion | Suprv., off-duty, posted Facebook video that was racially charged. Seen by ees who complained to management. | Denied | Ability to perform supervisory duties was fatally compromised. Nexus to work-40 to 50 calls complaining about video. |
| 17PA0032 | <u>Minnesota Judicial Branch</u> AFSCME Council 5 | Latimer, George | Termination | 8 Senior Court Clerks terminated & 2 suspended, for using Court's electronic communication tools inappropriately for personnel conversations re court proceedings. | Denied | Certain types of ee misconduct are so offensive & harmful to the employer, that extensive warnings not required to justify termination of employment. |
| FMCS | <u>Polar Tank Trailer, LLC</u> International Assoc. Machinists & Aerospace | Hoffmeyer, Steven | Spousal Insurance | Provision added to contract after U vote requiring spouse working for another ER carry single insur. to qualify for family here. | Denied | Clearly communicated to U that insuranc was still being neg. Contract provides for same insurance as non U & managemen |
| 17PA0412 | <u>St. Paul, City of</u> St. Paul Police Federation | Miller, Richard J. | Termination | Suspect in man w gun call, failed to comply w orders. K-9 bit suspect & while on ground grievant kicked him 3 times in chest. | 30 day susp. | No policy barring kicks; K-9 officer's excessive use of force received 30days; Civilian review paned recommended 30d. |

March, 2017

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|----------|--|----------------------|-----------------------------------|--|------------|--|
| 16PA0986 | <u>Dakota County</u> Law Enforcement Labor Services, Inc. | Laumeyer, James | Special Duty Pay upon Promotion | Policy calls for 10% increase over base pay when promoted. Union seeking 10% above differential received while in a temporary assignment-citing past practice even though new language negotiated. | Sustained | Past practice controls because there wasn't discussion of intended meaning. Practices are not changed solely with appearance of new contract provisions. |
| 17PA0139 | <u>ISD 727, Big Lake</u> School Service Employees Local 284 | Ver Ploeg, Christine | Subcontracting | District refused to negotiate decision to subcontract food service (mgmt. right). Effect neg. to impasse - then implemented. | Denied | Decision to subcontract is different than bargaining the Effects. Analysis of New Ulm Supreme Crt case. |
| 17PA0140 | <u>Lac qui Parle County</u> AFSCME Council 65 | Miller, Richard J. | Arbitrability | HEO applied for HEO position in a diff. location. ER challenged arbitrability claiming management right to assign. | Arbitrable | Discussion on factors determining arbitrability. Contract language on filling positions makes this arbitrable. |
| | | | Filling Position | Junior ee selected. U claimed sr. denied because ER didn't want him to transfer. ER junior ee had better work attitude. | Denied | Modified seniority clause. Selection not arbitrary, capricious or made in bad faith. Harsh consequences of reversing hire. |
| 17PA0146 | <u>Metropolitan Council, Metro Transit</u> Amalgamated Transit Union Local 1005 | Miller, Richard J. | Record of Warning | Fellow bus driver swore & made threats grievant responded in kind. | Split | Instigator received 3y final warning which added to prior final wrng netted 5-1/2mo incr. Thus this 3y wrng reduced to 5-1/2m |
| 16PA0581 | <u>Metropolitan Council, Transit Police</u> Teamsters Local 320 | Powers, Nancy | Termination | Officer engaged in St. Paul chase w/o notifying dispatch, failed to put it in the log. 2 other code of conduct violations. Brady impaired due to IA testimony. | Denied | Brady impaired? Just cause must be determined independently. New officer who demonstrated he is unable to follow policies & takes steps to conceal acts. |
| 17PA0119 | <u>Springfield, City of</u> AFSCME Council 5 | Powers, Nancy | Parental Leave | Employee using sick/vacation for FMLA seeking additional Holiday pay on holiday. | Sustained | Contract provides, ees will receive extra days pay for each holiday. |
| 16PA0435 | <u>ISD 284, Wayzata</u> School Service Employees Local 284 | Gordon, Paul | Senior Qualified | Jr. ee selected for truck driving position over Sr. ee. Contract requires seniority if candidates are "equally qualified". | Denied | Relative ability vs sufficient ability. Jr. ee was more qualified so seniority was not in play. |
| | | | Timeliness | Violated Contract's timelines | Timely | Delay due to ER failure to provide info. |
| | | | Acquiescence | U failed to follow through on previous G, tried to change language in negotiations | Denied | Grievance are dropped for many reasons Failure to change language doesn't bar U right to challenge interpretation. |
| 17PA0115 | <u>Western Lake Superior Sanitary District</u> AFSCME Council 5 | Neigh, Charlotte | Termination-Last Chance Agreement | An arbitrator found LCA unenforceable. District Court reversed ordering rehearing with a new arbitrator. Ee was tardy in Violation of LCA & terminated. | Denied | Arbitrator limited to reviewing if employee violated terms of LCA. |
| | <u>Western Lake Superior Sanitary District</u> | District Court | Vacate Decision | Arbitrator Lundberg did not determine if e violated LCA, but ruled LCA unenforceable. | Vacated | Arbitrator exceeded scope of his authority Award vacated. |

February, 2017

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|----------|---|-----------------|--------------|---|----------------|---|
| 16PA1014 | <u>Eagan, City of</u> Law Enforcement Labor Services, Inc. | Lundberg, James | Vacation use | Officer denied vac on July 4 due to Dept. policy where all hands needed to police city festivities. | Sustained | Arbitrator did not agree all hands were necessary. Dept. must evaluate each request & justify city's need per contract. |
| | | | Comp use | Comp time denied on July 4. FLSA requires allowing use within reasonable time. | Not arbitrable | Contract is subject to laws of U.S. but does not incorporate laws into contract. |

| | | | | | | |
|----------|---|--------------------|--------------------------------------|---|-----------------------------|---|
| 16PA1093 | <u>Freeborn County</u> Minnesota Public Employee Assoc. | Roberts, Andrew | 2 day suspension 1 day suspension | Deputy failed to search prisoner who cut up back seat of squad. He blamed others. Disrespectful when confronting female deputy for failing to search. | Denied Wrtn Warning | He was deputy in charge. Didn't search even after he knew suspect had property. His supervisor authorized talking to the probationary ee regarding searches. |
| 17PA0142 | <u>Hibbing Public Utility Commission</u> AFSCME Council 65 | Frankman, Janice | Drug Testing | Random testing challenged due to law limiting random tests to safety-sensitive positions. Grievant & secretaries aren't safety-sensitive. Contract's requirement "all" are subject to random is fatal flaw. | Denied | Grievant is safety-sensitive. Discussion of requirement to make a case "class-action" which was not met. Discussion of LELS v Sherburne Co. MN Court of Appeals 2005. |
| 17PA0049 | Mendota Heights, City of Minnesota Public Employees Association | Miller, Richard J | Termination | Probationary Sgt. Improperly advised officers to conduct a search w/o a warrant. | Denied | City has sole discretion to terminate ee during the 1 year probationary period. |
| 16PA0386 | Minnesota Department of Commerce Minnesota Law Enforcement Association | Befort, Stephen | Implementing a new pay schedule | Fraud Specialist moved from range 20H to 21H due to pay equity study. Ees placed nearest to current pay. U seeking placement based on years of service. | Denied | No contract language specific to this situation. Practice w other groups does not establish practice here. Management rights prevails. |
| 16PN1094 | <u>St. Louis Park, City of (Interest Award)</u> Law Enforcement Labor Services, Inc. | Miller, Richard J. | Interest | Officers. Agree on wages. U seeking new top step 4.56% above current top - n-e. Supplmnt pay: '16-2.5%, '17-2.75%-u (e-0%, U seeking % of pay vs increase to fixed \$) | 2016 - 2.5% 2017 - 2.75% | New top step intended to match Sgts. Dec 2016 arb award - Sgts underpaid per pay equity & in market. Officers paid in both. |
| 17PA0042 | <u>Wright County</u> Wright County Deputy's Association | Crump, Harry | 1 day suspension | Deputy misjudged distance and backed into a parked semi causing \$1500 damage.. | Denied | Progressive discipline - relied on incident 7 years old. |

January, 2017

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|--|-------------------|------------------------------|---|------------------------|---|
| 17PA0025 | <u>ISD 2687 Howard Lk-Waverly-Winsted</u> School Service Employees Local 284 | Latimer, George | Subcontracting Timeliness | ER subcontracted bus service. U claims anti U animus because it will eliminate U. U filed regarding plan to sub-contract. Either not ripe or should have been filed when board first gave notice. | Denied Denied | No prohibition in contract. Valid business reason provided. All drivers rehired. Triggering event not always clear. At this point clearly ripe. Both cited Supreme Court Case New Ulm v SEIU 284 (1993). |
| 16PA0712 | <u>Sartell, City of</u> Law Enforcement Labor Services, Inc. | Gallagher, Sharon | Holidays | The city required its investigator & SRO to take the Holiday off on the Holiday, so they could not work & receive Hol premium. | Denied | Management right to schedule, trumps language that Holiday bank can be used same as Vac.bank. Bank are different. |
| 16PN0525 | <u>Metropolitan Council (Interest Award)</u> Metropolitan Council Management Ass. | Toenges, Rolland | Interest | Supervisory & Managerial. Add 2 steps-no-e; Wages: '16-2% on steps-e (u-3%), 2%performance(PGIN)-u (u-3%,e-1.5%), 1.5%pool (PZ)-both; '17-2%steps-u (u-3% e-1.25%), 2%perfrmce-u (u-3%,e-1%) 1.5%pool (PZ)-u (e-1%), Increase Annual Leave-n-e; Retiree passes-n-e; Insurance -e; Retiree insurance-same as active-both | 2016 - 2% 2017 - 2% | Compensation schedule only 3 years old. Any change should be negotiated. Wages-pattern; Leave-existing 32 days. is generous. Retiree passes-not ees therefore no authority to decide. Insurance based on pattern. |

2018 Arbitration Awards - Minnesota B.M.S.

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 "Sustained" means the grievance prevails overturning the original action. "Denied" means the original action prevails.

December, 2018

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|----------|---|--------------------|-------------|---|------------------------------|---|
| 18PA0997 | <u>Douglas County</u> Teamsters Local 320 | Jacobs, Jeffrey | Termination | DVS records clerk made unauthorized DVS inquiry in May '18. Law required 30d revocation of access. But training and Oct '18 change in law to permanent revocation (MS 171.12 s1a(b)) resulted in termination. | 8 mo. Susp. | Discipline occurred prior to Oct '18 law change. Arbitrator considered 30 days based on loss of access under existing law, but due to seriousness, returned her to work after 8 months w no back pay. |
| 18PA0986 | <u>Mower County</u> Law Enforcement Labor Services, Inc. | Anderson, Richard | Termination | Jailer sprayed special needs prisoner in cell with tear gas, failed to decontaminate or write required report. | 20 day susp. | Use of force not excessive. One second spray on floor, not into face. |
| 18PN0893 | <u>Lino Lakes, City of (Interest)</u> Law Enforcement Labor Services, Inc. | Miller, Richard J. | Interest | Sergeants. Duration & Wages parties agreed. Mrkt adjustmnt-'18-0.2%, '19-0.5% (u-1.25% & 0.5%;e-0%) Fire stipend-\$1.40 (u-\$1.50, e-\$1.34, \$1.37). | 2018 - 2.75% 2019 - 2.50% | Wages-agreed to internal pattern. Mkt Adj. keeps sgts at same positon as 2017. Fire stipend same as officers. |

November, 2018

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|----------|--|-----------------|------------------------------|--|------------------------|--|
| 18PN0648 | <u>Hennepin Healthcare Systems, Inc.</u> AFSCME Council 5 | Jacobs, Jeffrey | Interest | Add Friday to weekend differential for techs-y-u; Additional tech on-call pay-y-u; Range movement 3%-e (u-5%); Burn LPN increase-n-e; Retroactivity-y-u; MOUs to continue into new contract-y-u. MOUs-imposing an arbitrary sunset could cause an upheaval in relationship. | 2018 - 2% 2019 - 2% | Wages-parties agreed. Weekend diff- Polysomnographic tech's benefit when accreted into unit. On-call - Nuclear med techs had benefit when accreted into unit. Performance range reduced from 5% to 3%-internal pattern. Burn LPN-any wage increase should be negotiated. Retro-shouldn't penalize for exercising rights. |
| 18PA0453 | <u>Hibbing, City of</u> AFSCME Council 65 | Remington, John | Changing duties and pay rate | Sanitation Lead Worker Mechanic was promoted & some of duties went to new position. Pay reduced to Lead Worker for new ee in the position. | Sustained | City can change duties of position, but pay must be negotiated. |

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|----------|--|-----------------|------------------|--|---|---|
| 18PN0511 | <u>Houston County (Interest)</u> Law Enforcement Labor Services, Inc. | O'Donnell, John | Interest | Jailer/Dispatchers. Duration-3y-e (u-2y). Wages'18-2.75% (e-1%,u-3%),'19-2.5% (e-2%,u-3%),'20-2.25% (e-2%,u-3%). Market adj-n-e (u-1%,1%,1%). Xmas eve hol-n-e. OT if 4 wkends-n-e. Court cancelation fee-n-e. | 2018 - 2.75% 2019 - 2.5% 2020 - 2.25% | Duration-historic pattern. Wages-external. Market adjustments-should be limited to particular positions if needed. Xmas eve, OT and Court issues lacked compelling reasons. |
| 17PA0936 | <u>ISD 700. Hermantown</u> Education Minnesota - Local 1096 | Abelsen, James | Senior qualified | Library Clerk hire. Less senior ee hired. "automatically w/o interview, move most qualified senior candidate into vacancy..." but, "final selection of ees for open positions will be made by the administration." | Denied | Language is confusing & inconsistent. Statutory right to select personnel is only relinquished by clear language. Interview necessary to establish communication & interpersonal skills requirements. |
| FMCS | <u>Toro Company</u> IUE-CWA Local 1140 | Beens, Richard | Termination | Long history of disputes w supervisors. Either pushed or accidently touched supervisor during a discussion. | 5 day susp. | 5 day suspension and a 12 month last chance agreement. |

October, 2018

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|----------------------|--|--------------------|--|--|-------------------------------------|--|
| 18PA0058 | <u>Benton County</u> Law Enforcement Labor Services, Inc. | Miller, Richard J. | Termination | Failing: to generate timely reports; to file search warrants in timely manner; falsifying documents by copying Judge's signatures onto search warrants filed with the court; making untruthful statements to BCA & a superior. | 17 mo. Susp. | Attention deficit challenges & changes in his personal life. Guiltily of inefficiency vs dishonesty. No convincing argument that isolated lying incident would make him Brady Giglio-impaired. |
| 17PA1014 | <u>Brooklyn Park, City of</u> Teamsters Local 320 | Daly, Joseph | Overtime pay | 4 ees claimed OT for working voluntary open house instead of flexing schedules. | Denied | City has policy re voluntary events, which serves to clarify how contract is applied. |
| 18HN0415 | <u>Chippewa Co. Montevideo Hospital</u> SEIU Healthcare MN | Jacobs, Jeffrey | Union Dues | ER distributed STOP DEDUCTIONS forms to union members after the Janus US Supreme Court decision. | Sustained | Janus dealt with Fair Share, not regular dues. ER ordered to pay all lost dues as result of Stop cards & restart deductions. |
| 18HN0415 | <u>Chippewa Co. Montevideo Hospital</u> SEIU Healthcare MN | Jacobs, Jeffrey | Interest | Language changes re Janus-u. Wages-e (u-\$2.75 + 4%,4%); Incr shift diff \$.50 & On Call \$1.45-n-e. Union Health Plan-n-e. | '18 - ER offer 2019 - 1% | Language need, supported by grievance. Wages-ER proposal more reasonable, No support for other Union proposals, |
| 18PN0510 | <u>Houston County (Interest)</u> Law Enforcement Labor Services, Inc. | Imes, Sharon | Interest | Deputies. Duration-3y-e (u-2y); Wages: 18-3%-u (e-1%),'19-3%-u (e-2%),'20-3%-u (e-2%). Mrkt adjust.-n-e (u-2%);FTO pay-y-u. | 2018 - 3% 2019 - 3% 2020 - 3% | Duration-historic pattern. Wages-U more reasonable (CPI 2%, Markt 2.6% vs ER 1%). FTO-no need for quid pro quo there are added duties & common in market. |
| 18PA0740 19PA0061 | <u>Metro Transit</u> | Altman, Robert | Class A violation Class A violation | Train operator failed to use horn & bell as required on 2 occasions-considered serious violations. | Denied Denied | U seeking reduction to Class B violations arguing specific acts violated not listed specifically as Class A violations. |
| Not listed | <u>Minneapolis, City of</u> Minneapolis Foremen's Association | Beforet, Stephen | Unpaid leave | Foreman received a restricted DL due to a DUI. Place on 45 day unpaid leave until DL restrictions were removed. | Denied | Conduct which results in loss of license necessary for performance of normal duties is misconduct. No need to excuse or reallocate essential function. |

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|----------|--|-------------------|--------------------|--|--------|---|
| 18PA0261 | <u>Ramsey County</u> Teamsters Local 320 | McCoy, Arthur Ray | Termination | Corrections Sgt received hundreds of racists & pornographic emails; conducted outside business on his work computer; failed to get permission for off-duty work; & violated data practices by sending inmate info. | Denied | Ee deleted majority of emails unread but failure to have friend stop sending or IT block emails allowed them to accumulate on ER's server creating liability. |
| 18PA0863 | <u>Winona, City of</u> Law Enforcement Labor Services, Inc. | Daly, Joseph | I.O.D. calculation | Injury on duty language supplements workers comp up to 240 duty hours. U believes should be pro-rated. | Denied | 240 duty hrs. refers to total hrs on work comp eligible for supplement pay - not the amount of supplemental pay. |

September, 2018

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|----------|---|----------------------|-----------------------------|--|---------------------------------------|--|
| 18PA1037 | <u>ISD 197, West St. Paul Schools</u> SEIU Local 284 | Jacobs, Jeffrey | Termination | School bus driver urinated into cup on bus at end of shift & failed to use sanitary wipes to clean seat. | Split | 5 year ee, with 2 day susp. Returned to work - no back pay for 6 months he was off. Lack of progressive discipline. |
| 18PA0235 | <u>Itasca County</u> AFSCME Council 65 | Laumeyer, James | Admin. Leave Termination | Union challenged Administrative leave during investigation. Deputy accused of falsifying time sheets & pattern of deceit during investigation. | Denied Denied | Inherent management right. He accrued wages and benefits - not discipline. 16 yr. ee did not mitigate pattern of dishonesty & breach of trust. |
| 18PN0470 | <u>Lino Lakes, City of (Interest)</u> Law Enforcement Labor Services, Inc. | Ver Ploeg, Christine | Interest | Officers. Wages: 2018-2.75%-e (u-3%), '19-2.5%-e(u-3%), Fire stipend: '18-\$1.40 (e-\$1.30+2.75%; u-\$1.60), '19= to % incr. | 2018 - 2.75% 2019 - 2.5% | Wages-internal; external comparisons are problematic. Firefighter stipend - both agreed to tie to wage increase in future. |
| 18PA0656 | <u>Metropolitan Council</u> AFSCME Council 5 | Anderson, Richard | Latches Termination | Legal doctrine-unreasonable delay in seeking remedy will prevent enforcement. Purchasing agent complained re rules & increased workload-became more & more insubordinate & disrespectful to managers. | No. Denied | No time limits in contract. No evidence ER was prejudiced by delay. 16 yr. ee with good record. Repeated warnings, counseling & training failed to change behavior. |
| 17PN0517 | <u>Wabasha County (Interest)</u> Teamsters Local 320 | Jacobs, Jeffrey | Interest | Deputies. Insurance-e (u-no change). Move current ees into PTO-n-u. Wages-e (u:'17-3%, '18-3%, '19-3%). Market adjustment-n-e (u-3%). Retro pay-y-u | 2017 - 2% 2018 - 2.5% 2019 - 3% | Insurance-internal pattern. PTO-internal pattern. Wages-internal pattern. Market-no compelling evidence. Retro pay-denial would chill union's right to arbitration. |

August, 2018

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|----------|--|---------------|----------|--|-------------------------------------|---|
| 18PN0408 | <u>Anoka County (Interest)</u> Law Enforcement Labor Services, Inc. | Kapsch, Frank | Interest | Work Release ees. 3 yrs-joint agreemnt; Merit-'18/19-3%,3%-joint,'17-3%-u (e-2%) Mrkt adjust-n-e; Wages '17,'18,'19-0%-e (u-2.5%,.5%,.5%); Incrs Wage range-y-u; Add Prison Rape Elimination language-n-u; | 2017 - 0% 2018 - 0% 2019 - 0% | 2017 Merit; Wages; & Range - pattern PREA language-no demonstrated need. Market Rate Adjustment-w/o clear data, will result in adverse consequences for the integrity of the compensation system. |

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|-------------|--|----------------------|-----------------------------|--|-----------|--|
| 18PA0652 | <u>Hennepin County</u> Hennepin Co. Sheriff's Deputies Ass. | Ver Ploeg, Christine | 10 day suspension | Deputy falsely entered health & welfare checks as having taken place. | Denied. | No priors, Union argued for progressive discipline. But 10 days given in all similar circumstances. |
| 18PA0743 | <u>ISD 696, Ely School District #12</u> Ely Education Association | Jacobs, Jeffrey | VEBA Insurance Contribution | Married teachers denied \$2k VEBA to spouse who was enrolled as a dependent in husbands family plan vs being enrolled in her own plan. Benefit paid for 8 years. | Sustained | Coverage under family plan constituted enrollment based on how word used in contract & past practice. Similar to Wrenshall 08-PN-0752 (VerPloeg '14) & Fergus Falls 16-PA-0754 (Lundberg '16). |
| 19PA0130 | <u>ISD 625, St. Paul</u> St. Paul Federation of Educators | Jacobs, Jeffrey | Parenting Leave | Can mother use both both 6 week post birth recovery and 30 day "parent of newborn" benefits? - Yes. | Sustained | ER claimed benefit changed from father to parent at U request for gender neutral language-but "parent" covers birth mother. |
| None listed | <u>Minnesota, Dept. of Transportation</u> AFSCME Council 5 | Befort, Stephen | Overtime | Less senior ee called to operate a log loader. | Denied | Contract required senior qualified. Senior ee not trained to operate log loader. |
| 18RA0864 | <u>RIHM Motor Company</u> International Assoc. of Machinists & Aerospace Workers Lodge 77 | Orman, Anthony | Unpaid lunch break | ER implimented 1/2 hr unpaid lunch. Contract allows up to 1 hr unpaid lunch - but ees allowed to skip lunch in past. | Denied | U argued past practice, challenging ER right to impliment contract language, but not all eliments of binding practice met. |
| 18PA0174 | <u>University of Minnesota, Morris</u> Law Enforcement Labor Services, Inc. | Befort, Stephen | Termination | Disorderly conduct in domestic situation. Small Dept needs to work closely w other agencies - his credibility & trust destroyed. | Denied. | ER need not retain an employee whose misconduct has rendered him unable to perform the essential functions of his job. |

July, 2018

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|----------------------|--|--------------------|--------------------------------------|---|-------------|--|
| 18PA0093 | <u>Minnesota, Deptmnt Human Services</u> AFSCME Council 5 | Johnson, John W. | Termination for loss of Licensing | Client at group home jumped out window & broke ankle. Ee given 1 day susp., & license disqualified. Put on unpaid leave then terminated while appealing license. Admin Law Judge reversed license disqualification. | Split | DHS not responsible for license decision nor required to accommodate supervision requiremnt which would have allowed her to work w/o license, but must return ee to work w backpay to date of lic. reversal. |
| 18PA0660 18PA0661 | <u>Murray County</u> Law Enforcement Labor Services, Inc. | Ogata, Harley | Out of Title Pay | 2 deputies were doing the work of the Drug & General Investigator w/o receiving the premium pay. | Sustained | ER-parties did not hold title & position. But duties were commensurate with the positions & worthy of compensation. |
| 17PA0922 | <u>Ramsey County</u> Law Enforcement Labor Services, Inc. | Jacobs, Jeffrey | Demotion | Sgt. demoted for sleeping on duty & retaliating vs. deputy who reported it. | 3 day susp. | No retaliation, only investigating deputy's violations. 3 days for "nodding off". |
| 18VP0844 | <u>St. Paul, City of</u> Individual Veteran | Anderson, Richard | Termination - VP | Fire Equipment Operator had sex in fire station while on duty. | Demoted | 10 years w no prior discipline. Desperate treatment vs other serious infractions. |
| 18PN0556 | <u>Stearns County (Interest)</u> Law Enforcement Labor Services, Inc. | Miller, Richard J. | Interest | Jail/Dispatch - insurance reopener. Should singles receive +\$30/m-no-e (+\$5). | ER position | All groups in County accepted pattern of \$300 Veba, +\$30 family, +\$5 single. |

June, 2018

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|----------|---|-------------------|------------------|--|--------------|--|
| FMCS | <u>Allina Health Emergency Medical Servs</u> Paramedics | Kapsch, Frank | Termination | EMT complained partner was degrading & disrespectful. Supervisor ordered her to complete her shift. She refused. | Denied | Insubordination. None of complaints rose to level of intolerability sufficient to justify refusal. "Obey order now & grieve it later." |
| 18PA0250 | <u>Duluth City of</u> Duluth Police Union, Local 807 | Bognanno, Mario | Termination | Officer dragged drunken man who was passively resisting, about 100 feet, by the handcuffs, behind his back. | 13 mo. Susp. | 9 yrs, only minor discipline. Coaching after 2014 use of force did not work so returned w no back pay or benefits. |
| 18PA1027 | <u>Hennepin County</u> AFSCME Council 5 | Bognanno, Mario | Timeliness | 3 day suspension. Union argued the timeline began after suspension served. | Denied | Timeline began when decision to suspend was made after the Loudermill hearing. |
| 18VP0662 | <u>Hibbing Public Utilities Commission</u> AFSCME Council 65 | Foy, Terrence | Termination - VP | Falsified two doctor's notes to excuse 2 separate absences from work. | Denied | Falsification of records is extreme misconduct. |
| 18PA0530 | <u>ISD 740, Melrose</u> Melrose Federation of Teachers | McCoy, Arthur Ray | Lane Change | U grieved District denying teachers request to move 2 lanes. | Sustained | "Lane changes once every year", refers to the # of request per year, not # of lanes. |
| 17PG0951 | <u>Minneapolis Park & Recreation Board</u> AFSCME Council 5 | Befort, Stephen | Termination | Called in sick Monday, but did not notify ER of status the next 4 days=resignation. | Denied | Policy - 3 consecutive work days w/o permission-constitutes a resignation. |
| 18VP0742 | <u>Willmar Municipal Utilities</u> Individual Grievant - Veteran | Beens, Richard | Termination - VP | Director of Electrical Operations failed to submit timely reports/invoices/wrker's comp claim, harassing behavior & insubordination. | Denied | Actions had adverse financial & safety consequences. Discussion of Veteran's rights & progressive discipline. |

May, 2018

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------------|---|----------------------|--|---|----------------------------------|--|
| FMCS | <u>Boise Paper</u> Teamsters Local 346 | Befort, Stephen | 3 day Suspension | 4th violation of electronic sign off policy. Signed off the following day. | 2 day susp. | 29 yr ee, no discipln other than "sign-off". Procedural vs substantive error. 3 days is only 1 step from termination-too severe |
| 17PN0736 | <u>Crow Wing County (Interest)</u> Law Enforcement Labor Services, Inc. | Abelsen, James | Interest | Deputies & Invs. Wages-PBP system, 17,'18,'19-total base incr.6.5 to 10.35%-e (u-retain step system +2.75% each yr.). Shift bids-u, Vacation bids-u, Court cancellation-u, Xmas eve holiday-u. Insurance reopener 2019-n-e. | 2017-PBP 2018-PBP 2019-PBP | 5th arbitration in 5 yrs. re: moving from steps to Performance Based Pay. 9 of 11 units already in PBP & parties inability to resolve issue forced arbitrator to decide. Language issues were quid pro quo for change. Arb's reasoning in Int cases given. |
| 18PA0102 | <u>Metro Transit</u> Amalgamated Transit Union Local 1005 | Anderson, Richard | Record of Warning | Foreman mechanic violated rules when moving a train car in the shop. | Denied | Removed language re: throwing a tool & disrespectful comments - not proven. |
| 18PA003 18PA004 | <u>Metropolitan Council-Transit</u> Law Enforcement Labor Services, Inc. | Ver Ploeg, Christine | Written Reprimand Demotion 160 hour susp | Lt. told officers not to document time for lunch. Filed a complaint against a junior officer in retaliation for earlier testimony against grievant. | Denied | Condoned falsification of officers log. Retaliation is an extremely serious matter. No bar on 2 forms of discipline for same issue. |

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| None listed | <u>Minnesota Department of Corrections</u> AFSCME Council 5 | Befort, Stephen | Pay Above Grade | ER has difficulty attracting ees at step 1, placed them on the schedule based on experience & education-mngmnt right?-no.. | Sustained | Non-employee trainees not covered by contract. ER can determine compensation. Once hired must follow contract. |
| 17PA1027 | <u>Minneapolis Park & Recreation Board</u> AFSCME Council 5 | Kapsch, Frank | Timeliness | 2 meeting held to resolve issue prior to grievance. ER then challenged timeliness. | Denied | Both parties recognized if issue was not resolved it would be grieved. |
| | | | Adding Issue | U tried to add 2016 violation to grievance. | Denied | Grievances must be specific at time filed. Request not in original grievance. Can't be added during arbitration. |
| | | | Me Too Clause | U wants its ees hired at top step-Teamster mobile operators are hired at top step. AFSCME to receive Teamster's general increase but other benefits reduced so Total Compensation is equal. | Denied | "Me Too" - COLA is the same as general increase. Language applies even when Teamster contract ratified before AFSME |
| | | | | | Sustained | |

April, 2018

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|-------------|--|--------------------|---------------------------------------|--|-------------------------------------|---|
| 17PA0903 | <u>Hennepin County</u> AFSCME Local 552 | Crump, Harry | 1 day suspension | Probation officer received 1 day susp. for off-duty DUI, | Denied | Job related since integrity, trust & public confidence are essential for ees in justice system. Discipline consistently applied. |
| 17PN0560 | <u>Hennepin County (Interest)</u> Law Enforcement Labor Services, Inc. | Miller, Richard J. | Interest | Lic.Suprv. Ammended award 4/2/18. Market. Adjustment '18-5%-u (e-0%). ER failed to provide requested data. | 2018 - 5% | ER agreed to reopen arbitration w new data showing Deputy Chief & Majors received 7.5% mrkt adj. despite n turnover. |
| 17PN0560 | <u>Hennepin County (Interest)</u> Law Enforcement Labor Services, Inc. | Miller, Richard J. | Interest | Lic. Supervisors. Initial award 8/25/17. Market adjustment '16, '17, '18 - 0%-e. Wages '16-1.5%, top 2.5%; '17-1.5%, top 2.5%; '18-2.5%-agreed based on pattern. | 2016 - no 2017 - no 2018 - no | Wage pattern agreement. U seeking market adjustment of 5% over 3 yrs- No. No adjustments unless attraction/retention issues. |
| 18PA0064 | <u>Isanti, City of</u> Law Enforcement Labor Services, Inc. | Jacobs, Jeffrey | Timeliness | ER-grievance not filed within 21 day. | Denied | Parties met trying to resolve issue so ER had adequate notice of grievance. |
| | | | Uniform Allowance | Allowance escalator removed from new contract. U-not negotiated, sought to retain the lanugage. ER - clearly identified by strikethroughs & voted by Union. | Denied | ER clearly expressed proposed change. Unilateral mistake by U does not provide basis for reforming contract. |
| 17PA0950 | <u>Kanabec County</u> Law Enforcement Labor Services, Inc. | Remington, John | Demotion | Correction's Sgt. demoted for failure to follow policy-allowing whiskey into jail. Argued as management rights vs discipline. | Denied | Performance considered indifferent unresponsive & incompetent. |
| None listed | <u>Minnesota State Academy for the Deaf</u> MN Assoc. of Professional Employees | Imes, Sharon | Layoff | Laid off Athletic Program Administrator, made the position part-time, then gave it to a teacher. | Sustained | Position was not abolished, nor did ER meet and confer w Union as required. Grievant given part-time position. |
| None listed | <u>Minnesota State Colleges - St. Cloud</u> Inter Faculty Organization | Befort, Stephen | Claiming Rights as Adjunct Instructor | Laid off tenured faculty have claiming rights to adjunct position if they possess "sufficient ability". Grievant was not given a position. | Denied | Position required:a high level of expertise' which is not inconsistent with "sufficient ability" since courses were graduate level in a specialized area. |

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|----------------------|--|---------------------|-------------------------------|---|-------------------------|---|
| A17-1275 16PA0975 | <u>Richfield, City of - Court of Appeals</u> Law Enforcement Labor Services, Inc. | MN Court of Appeals | Public Policy | Officer failed to report use of force, had previously been disciplined, trained and counseled for failing to report use of force. 7 issues w use of force & report writing. See <u>Richfield, City of, December 2016.</u> | Arbitration Reversed | City did not argue excessive use of force, rather, that failure to report use of force after discipline & training violates public policy. Arb reversed - "where there have been prior offenses & warnings, the public-public policy exception may be invoked." |
| 18PA0372 | <u>St. Cloud, City of</u> Firefighters Local 1712 | Miller, Richard J. | Timeliness Termination | Was arbitration barred when deadline to file for is missed? Firefighter convicted of gross misd. DUI. DL, which is required for the job, was revoked for 2 years. | No 8 mo. Susp. | Attorney didn't date request so unknown how long BMS took to generate request & ER waiting until the hearing to raise the issue waives its right to challenge. Caused no harm to public image. City could've granted an interlock exemption. |

March, 2018

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|----------|--|---------------------|-----------------------|--|----------------------------|--|
| 17PN0629 | <u>Carver County (Interest)</u> Minnesota Public Employees Assoc. | Jacobs, Jeffrey | Interest | Deputies. 2yrs-e (u-3y); Uniform \$775-e (u-\$800); Salary range-start \$27.00, top \$36.52-e, (u-s \$27.37, t \$36.87; Wages '17-2%, '18-2% (u-2.5%, e-1.5%). Range movement '17-2%, '18-2%-u (e-1.5%). PFP plan-n-u (u paid slightly less as quid pro quo for not being in plan). | 2017 - 2% 2018 - 2% | Duration-no internal, few external for '19. Uniform-internal pattern; Salary range-ER position increases start by 10.3% & top by 2% (attraction concerns), police. comparisons not relevant. Wages-pattern but effective Jan.1 vs March 1. Range movement-% negotiated in last contract. |
| 17RA1004 | <u>Cemstone Products Company</u> Teamsters Local 120 | Yaeger, Thomas | Termination | Cement truck driver was using his cell phone. Lied during investigation | Denied | Safety violation of work and CDL rules; lying & 4 disciplines in 12 mo. |
| 17PA0969 | <u>Hennepin County</u> Teamsters Local 320 | Latimer, George | Reassigning Duties | Admissions unit duties performed by Juvenile corrections officers reassigned to Public Safety records clerks. Union sought to retain positions. | Denied | Dispute between Recognition clause & Management rights clause in contract. Core work of JCOs does not include the clerical functions of the Admission office. |
| 17PA0072 | <u>Hennepin County</u> Hennepin Co. Sheriff's Deputies Assoc. | Lundberg, James | Body Ornamentation | Personal appearance standards policy re tattoos. Union grieved that their request to meet & confer was denied. | Sustained | Article on work rules gives union right to meet & confer. ER must reinstate former policy until parties meet & confer. |
| 17PA0318 | <u>Hibbing, City of</u> Hibbing Police Federation | Befort, Stephen | Resignation | Officer signed resignation papers. 2 days later tried to rescind-denied. District court ordered arbitration. | Denied | U-constructive discharge-n; invalid since ee in emotional turmoil-n; Chief accepted retraction-lacked authority; City Adm-no.. |
| 17PN0870 | <u>Maplewood, City of (Interest)</u> Law Enforcement Labor Services, Inc. | O'Toole, Carol Berg | Interest | Police. City stopped practice of paying stewards for negotiations, U asked to continue practice-n-e; wages '17, '18-2.5%, 2.5% (u-2.75%, 2.75%); Retroactivity-y-u; incr. deferrred comp contribution-n-e; 2x pay on xmas & Thanksgiving-n-e; New - limit Holiday pay to 1 shift per ee-n-u; Reduce court minimum-n-u; incr uniform-n-e. | 2017 - 2.5% 2018 - 2.5% | Wages - internal pattern. Retroactivity-internal pattern. Deferred comp-u asked for AFSCME amts-no compelling reason & only 1 external w benefit. Uniform amt. is equal to Sgts. Other changes either lack compelling reason for change, or are better left to be packaged as part of negotiated settlement. |

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|----------|--|-------------------|--------------------------------|--|-------------|---|
| 17PA0941 | <u>Metro Transit</u> Amalgamated Transit Union Local 1005 | Malamud, Sherwood | Assignments | Commuter Rail car cleaners assigned to misc. shop cleaning duties when "helper" normally assigned was on vacation. | Denied | ER's priority that Cleaners clean interior & exterior of cars did not establish past practice that limits other assignments.. |
| 16PA1055 | <u>Ramsey County</u> Law Enforcement Labor Services, Inc. | Abelsen, James | 10 day suspension | Used notes while taking an exam for EMS instructor & continued using after warning. | Denied | Argument that it was an open book test refuted by instructor & classmates. |
| 17PA0253 | | | 30 day suspension | Absent for 4 hours without signing and failed to answer cell phone. | 5 day susp. | Deputy is flex time ee, but failed to get permission. Good record. 30 days is disproportional to misconduct. |
| FMCS | <u>Securitas Critical Infrastructure Serv.Inc.</u> United Security Professionals, Local 2 | Hoffmeyer, Steven | Contractor withholding access. | Guard at nuclear plant lost plant access due to off duty incident. Action required by Xcel's federal license. | Denied | U claimed discipline w/o just cause - no, 3rd party contractor denied access. Burden then on U re contract violation. |

February, 2018

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|----------|--|-----------------|----------|---|-------------|---|
| 17PN0500 | <u>Itasca County (Interest)</u> Teamsters Local 320 | Jacobs, Jeffrey | Interest | Court probation officers (non-essential). Arbitrated to sort out courts unfettered right to remove prob.officers (MN.244.19) vs PELRA. Mgmt. Rights language-u.; Grievance Procedure-u; Seniority-e (no language); Wages-u-State MAPE pay schedule, (e-use County pay scale). | Wages-union | BMS ruled County is the public employer. MN Supreme Crt in General Drivers #346 v Aitkin Co, 1982 (re Sheriffs MN 387.14) & Arrowhead Corrections v Graff, 1982 affirming holdings in "Drivers" for P.O.'s that PELRA supersedes MN 387.14 which has similar language to MN 244.19. |

January, 2018

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|----------|--|-----------------|------------------|--|-----------|--|
| 17PA0974 | <u>Anoka County</u> Law Enforcement Labor Services, Inc. | Abelsen, James | 5 day suspension | Corrections Officer involved in heated verbal argument with prisoner. | Denied | Handled situation unprofessionally. Prior discipline for similar issue. |
| | | | 1 day suspension | Retaliated against supervisor for reporting 1st incident by filing complaint on her. | Denied | Warned against retaliation. Timing & other witnesses saw no violation. |
| 17PN0576 | <u>Brooklyn Park, City of (Interest)</u> Teamsters, Local 320 | Wallin, Gerald | Interest | Sergeants. Uniform allowance-\$830-u (e-\$800). Additional pay for Sgts-n-e (U-\$1.00). | 2017 - 0% | U seeking \$1 to increase differential over officers. U claims diff is 9.6% when using FTO pay. ER shows diff.16.29% top to top. |
| 17RA0839 | <u>Super Valu Inc.</u> Teamsters, Local 120 | Remington, John | Termination | 24 yr warehouse ee failed to answer 3 calls to report to office. Then threatened supervisor. | Denied | Difficult, contentious & belligerent ee who had problems w previous female & current black supervisors. |

2019 Arbitration Awards - Minnesota B.M.S.

Summary of Arbitration Awards listed on the Bureau of Mediation Services' web site (<http://www.mn.gov/bms/arbitration/awards/>).
 "Sustained" means the grievance prevails overturning the original action. "Denied" means the original action prevails.

December, 2019

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|----------|---|---------------------|-------------------------|---|-----------------------------|--|
| 20PA0300 | <u>Anoka County</u> Law Enforcement Labor Services, Inc. | Osthus, Marlin | 20 hr. suspension | Det.Deputy on sick leave answered call for marine unit wrked his regular days off. | Denied | Policy bars working while on sick. But reinstated to marine unit with all benefits. |
| 19PA0525 | <u>Carlton County (Interest)</u> Law Enforcement Labor Services, Inc. | Hoffmeyer, Steven | Interest | Deputies. Retiree Insur-no change-u (e sunset new ees);Shift Diff-\$1.20h-agree Wages:'19-2%, '20-2.25%-e (u-3%, 3%) Duration-2yrs-e (u-3y)-no data for 3rd yr. | 2019 - 2% 2020 - 2.25% | Retiree insur.-3 units retained benefit. Shift Diff-parties agreed. Wages-pattern for units retaining Retiree Insurance. |
| 20PA0137 | <u>Duluth, City of</u> AFSCME Council 5 | Abelsen, James | 1 day suspension | Failure to complete Operator Qual. test by deadline. 2nd violation since 2017. 1st violation written, 2nd 1day suspension. | Denied | Discussion on amending final positions. U cited practice of only looking back 1 yr. for level of discipline. Chronic tardiness |
| 19PA0876 | <u>ISD 625, St. Paul</u> Teamsters Local 320 | Orman, Anthony | Termination | Special Ed teaching assistant w L.C.A. requiring her to follow all policies, rules & procedures took video & grabbed student. | Denied | doesn't establish practice of all violations. L.C.A. negotiated in good faith. Lack of termination date but reasonably timely to |
| 19RA0753 | <u>Metropolitan Council, Metro Transit</u> | Osthus, Marlin | Record of Warning | Driver's 2nd accident. Car didn't stop to exchange info. Very minor damage | Denied | LCA. Polices were violated. Video showed driver should have waited before entering lane. Disclpn. per policy. Will remain in file for 18 vs 36 months. |
| 19RA0755 | <u>Metropolitan Council, Metro Transit</u> Amalgamated Transit Union, Local 1005 | Toenges, Rolland | Written Counseling | Mechanic failed to fully lower lift while working on a bus damaging the lift. | Split | Uniformity of application not established. Lack of evidence re discrimination. 3 day |
| 19PA0310 | <u>MN Minneapolis Veteran's Home</u> AFSCME Council 5 | Laumeyer, James | 3 day suspension | Van driver accused:racial discrimination, harassing & intimidating a female ee. | Denied | susp.for violating respectful work policy. Continuing violation every 14 days.. Policy in conflict w contract language. |
| 18PA1004 | <u>Minnesota, Dept of Natural Resources</u> MN Conservation Officers Association | O'Toole, Carol Berg | Timeliness Duty Days | Dispute over 2016 policy re duty days. Policy mandates 4 eight-hour work days each 14 day work period-Union grieved. | Arbitrable Sustained | Change must come through bargaining. |

November, 2019

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|----------|---|------------------|-------------|---|--------|---|
| 19PN0751 | <u>Champlin, City of (Interest)</u> Law Enforcement Labor Services, Inc. | Bauman, Susan | Interest | Officers. Premium pay for 3 titles-n-e; Meal allowance incr-n-e; IOD 60 to 90d-y-u; Severance-n-e;Uniform incr.-n-e;Uniform reimburse vs cash-n-e;Parenting leave-y-u FTO incr.-n-e; Officer in charge pay-n-e. | | Duration, wages & insurance negotiated. 9 benefit issues arbitrated. Union failed to show need to add or change 7 items. Increases to IOD and Parenting leave were in Sgts CBA. |
| 19PA1769 | <u>Cloquet, City of</u> Teamsters Local 346 | Toenges, Rolland | Termination | Officer Brady/Giglio impaired based on discipline from '04,'05 &'17. County Attnry will not allow him to testify so he is unable to preform one of his essential duties | Denied | 22 yrs, Sgt working as a detective. Not a discipline case - inability to perform essential duties. Only 19 officers on Dept. so desk duty not an option. |
| 19PA2464 | <u>Duluth, City of</u> AFSCME Council 5 | Jacobs, Jeffrey | Overtime | G volunteered to plow snow on vac day. ER returned vac day, paid straight time for 8 hrs. U seeking 2.5 time pay. | Denied | Contract implies hours worked during regular shift compensated at regular pay. |

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|----------------------------------|---|--------------------|---|---|---|---|
| 19PG0912 | <u>Itasca County</u> Itasca County Employee's Association | Carne, Danielle | Unilateral change: Health Insurance | ER changed Insurance options. All other groups accepted change for 2019. Assoc. fighting change based on expired '18 CBA. Is there a 3y bar to continuing contracts?-no. | Sustained | ER argued issue should be decided in interest arb for 2019 CBA. Grievance is issue of remedy. Old plans not available so ER to pay savings realized to Union. |
| 19PG0912 | Itasca County Itasca County Employee's Association | Carne, Danielle | Remedial Award | Question regarding remedy for grievance? \$129,906 29 ees, but not based on individual damages. | | Amount of savings above replaced plan, no credit given for Co. HSA contribution. |
| 19PG0912 | <u>Itasca County</u> | District Court | Vacate Awards | ER unilaterally changed insurance. Remedial damages of \$129,906 Was MOU part of contract - yes. | Vacated Vacated | "Equivalent Value" per contract language. Moot since continuing contract trumped by successor contract's effective date. *Discussion on basis to vacate awards. |
| 19PN0868 | <u>Itasca County (Interest)</u> Itasca County Employee's Association | Carne, Danielle | Interest | Supervisors. Wages '19-2.75%-e, '20-2.75%-e, '21-3%-e; Health Ins.-e; Life insurance-e. | 2019 - 2.75% 2020 - 2.75% 2021 - 3.0% | Assoc. sought to keep old insurance or have ER pay 100% of deductible. Award based on internal pattern. |
| 19PA0376 | <u>Metropolitan Council, Metro Transit</u> Amalgamated Transit Union, Local 1005 | Bolander, Kristine | Accident | Verbal warning for hitting a tree branch while parking a bus. Branches are always scrapping bus, this one cracked a window. | Denied | 30 yrs. with no accidents. No evidence that accident was unavoidable. |
| None listed | | Befort, Stephen | Termination | Used a defensive push-kick to handcuffed prisoner in back of squad. | Denied | Kick was aggressive, breaking nose, jaw & teeth. 5 prior Use of Force disciplines. |
| 19VP0696 19PA0678 19PA0737 | <u>Owatonna, City of</u> Jason Christensen - Veteran | Daly, Joseph | Termination 30 day susp. 60 day susp. | 15d (held in abeyance on prior 30d) was implemented for failure of PIP when he disobeyed orders by submitting a case to county attorney for reconsideration after being ordered not to - resulting in 60d susp. Terminated for arrest lacking probable cause, failure to advise prior to questioning & failure to turn in evidence. | Denied Denied Denied | 4yr ee w 2 oral, 4 written reprimands & 4 susp. 1st arrest that drew 30d was not grieved so only issue was PIP violation. 60d challenged since policy limits susp. to 30 & calendar days v workdays, but allows city to determine level. City's actions in termination were reasonable. |

October, 2019

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|----------|---|-------------------|-------------------------|--|---------------------------|--|
| 19PA0303 | <u>Carlton County (Interest)</u> Minnesota Public Employees Assoc. | Altman, Robert | Interest | Suprvs. Duration-2y-e (u-3y); Wages-19-2%-e(u-3%), '20-2.25%-e(u-2.5%); Retiree insur.-u; On call \$50-u(e-\$25). | 2019 - 2% 2020 - 2.25% | Duration-pattern. No sunset of retiree insur. so not given 3%, 2.5% for those accepting change. On-call = AFSCME. |
| 19PN0630 | <u>Hennepin County (Interest)</u> Hennepin County Supervisors Assoc. | Laumeyer, James | Interest | Detention Sgts. Wages 2019: 2.5% + 5.0% market adjustment-u (e-2.5% + 0%). 2.5% was county pattern. 5.0% awarded based on disparate treatment. | 2019 - 7.5% | Sgts. didn't qualify for mkt. adj. under formula. Miller's April 2018 award gave licensed suprv. Extra 5% due to Sheriff Majors & Deputy Chiefs extra 5%. |
| 19PA1577 | <u>ISD 477, Princeton</u> SEIU Local 284 | Daly, Joseph | Termination | 18 yr. food service worker didn't charge a custodian, who helped her during the summer, for 5 meals valued at \$22.50. | Denied | "De minimus" amount doesn't remove lack of trust. Long-term employment is no mitigation in this matter. |
| 19VP0740 | <u>Minneapolis, City of</u> Peter Brazeau - Veteran | Malamud, Sherwood | Termination - VP | Handcuffed suspect lying on his back kicked veteran in chest when veteran leaned over to help suspect up. Veteran punched suspect & reported use of force. | 80 hr. susp. | Violated use of force policy. Mitigation-Dec. 2016 event, but put back on duty in 2017 for 14 months as a training officer with exceeds expectations rating. |
| 19PA0162 | <u>SSD 1, Minneapolis</u> Minneapolis Federation of Teachers | Lundberg, James | Timeliness Severance | Laid off - recall rights expired in 2012. Teacher sought Wellness pay 5 years after leaving district. | Arbitrable Sustained | Date of denial in 2017 started timeline. District obligated to pay. Failure to give basis for forfeiture-due process violation. |

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|----------|--|-------------------------|---|---|-----------------------------|---|
| 19PA0162 | <u>SSD 1, Minneapolis-challenge of award</u> Minneapolis Federation of Teachers | District Court-4th J.D. | Vacate award | ER challenged as untimely-5 years after event.& grievant not covered by relevant CBA-no longer a teacher. | Denied | Arbitrator didn't exceed authority, award drew from essence of CBA. Wellness pay is a vested property right. |
| 17PA0993 | <u>Wabasha County</u> Teamsters Local 320 | Bognanno, Mario | Retirement Pay Sick Leave buyout Timeliness | If sick bank max is reached hrs. go to special sick bank. Benefit paid on sick bank. U seeking buyout for both accounts. Step 2 not timely filed. | Sustained Arbitrable | ER paid on both sick banks once in '07 but never since. '07 defined CBA, other cases are outstanding grievances. Violation is continuing in nature. |

September, 2019

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|----------|---|-----------------|------------------|--|---------|---|
| 19PA0295 | <u>Hennepin County</u> AFSCME Council 5 | Befort, Stephen | Non-selection | MAVI, an OT assignment for probation officers was put up for bid. Grievant, a current member was not selected. | Denied | Non selection wasn't disciplinary so isn't premised upon good cause. No language restricting rights to assign. |
| 19PA0557 | <u>Minnesota, Dept. of Human Services</u> AFSCME Council 5 | Been, Richard | 1 day suspension | Patient at St. Peter Hospital threw a urine soaked blanket at ee. Ee told patient to lie on floor & reflexively threw blanket near patient's head. | Denied | Employee with 9yrs & no priors, but no level of retaliation can be tolerated in Security Hospital setting. |
| 16PA0945 | <u>MN, Fergus Falls Veterans Home</u> AFSCME Council 5 | Altman, Robert | Termination | Inappropriate behavior and threatening a co-worker. | Denied. | 18 yr. ee, but 3 similar suspensions in 18 months. Not appropriate to reevaluate prior discipline dispositions. |

August, 2019

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|----------|---|-----------------|-------------------------------|---|---|--|
| 19PA0007 | <u>Anoka-Hennepin ISD 11</u> Anoka-Hennepin Education Minnesota | Carne, Danielle | Lane placement | Entry level Physical Therapist degrees were Baccalaureate's in the 80s, Master's in the 90s & since 2018 Dr.'s. Thus new ees start at higher pay vs long term ees. ER discovered credits offered to transit to Dr. were neither certified nor enough. | Sustained | ER reviewed all PT salary placements & employees placed in appropriate lanes. Arbitrator returned all PTs to Dr. level. Initial decisions to advance made by district employees who had authority to do so and signed off by superintendent. |
| 19PA0030 | <u>Carlton County</u> AFSCME Council 65 | Yaeger, Thomas | Promotion Senior Qualified | Highest score on structured interview promoted vs most senior. | Denied | Contract awards promotion to most total points. Seniority only used if equal. |
| 19PN0526 | <u>Hopkins, City of (Interest)</u> Hopkins Police Association | O'Donnell, John | Interest | Reopener health insurance 2019, 2020. U-% based on high priced plan. | U position | City's position-internal pattern % based on low priced plan. Based on high in past. |
| 19PA0296 | <u>ISD 625, St. Paul</u> AFSCME Council 5 | Foy, Terrence | Out of Class Pay | Clerk 1 paid "Out of Class" Clerk 3 pay when Clerk 3 went on leave, but was not paid years later when Clerk 3 retired. | Denied | Clerk 1's position reevaluated to Clerk2. Clerk 3's title not necessarily dispositive to the proper compensation level. |
| 19PA0669 | <u>LeSueur County</u> Teamsters Local 320 | Roberts, Andrew | Funeral Coverage | U seeking funeral coverage for step-brother since term "brother" includes stepbrothers. | Denied | Step children listed but not stepbrother. Listing specific items excludes unlisted items. |
| 19VP0756 | <u>Metropolitan Council - Metro Transit</u> Steven Melby - Veteran | Bauman, Susan | Termination - VP | 2 weeks after a LCA he was searching seats & heater grills for lost change causing damage & not work as assigned. | 30 day susp. | Didn't violate specific provisions of LCA. 12 year employee with overall good ratings and mitigating family situation. |
| 18PN0704 | <u>Metropolitan Council, Transit Police</u> Law Enforcement Labor Services, Inc. | Miller, Richard | Interest | Sgt. & Lts. Duration-3 years-e (u-2yr.); Wages:'18-2.5%, '19-2.5%, '20-2.5%-e (u-3%, 3%, 3%); Mrkt adj.'20-1% (e-0%). | 2018 - 2.5% 2019 - 2.5% 2020 - 2.5% | Duration-pattern; Wages-pattern; Market adjustment-same relationship to market that existed in 2015. |

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|----------|---|-----------------|------------------|--|-------------|---|
| 18PA0798 | <u>University of Minnesota</u> Teamsters Local 320 | Foy, Terrence | Termination | Food service worker w 6 absences in 6 month period. 10yr. ee. Unsatisfactory ratings 9 yrs. Fired Feb.11, 1015. | 4 yr. susp. | CBA removes discipline after 1 year. No record of progressive discipline. Susp. w no backpay (4 years, 9 months). |
| 15PA0956 | <u>University of Minnesota, Unit 3</u> Teamsters Local 320 | Latimer, George | Holiday Overtime | Off-Shift mechanic selected for Holiday O.T. vs more senior day shift mechanic. CBA calls for ee who normally does work. | Denied | Holiday mechanic responsible for all buildings on East Bank & No. Campus. Off-Shift ee trained on all buildings. |

July, 2019

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|----------|---|-----------------|---|--|---|---|
| 19VP0778 | <u>Hennepin County</u> John McGuiggan - Veteran | Beens, Richard | Termination - VP | Corrections officer asked an inmate, "do you have a rope...you must not be used to having one around your neck." | Denied | Racially charged inflammatory speech. 5 yr. ee with 2 similar prior disciplines. |
| 19PN0418 | <u>Hennepin County (Interest)</u> Teamsters Local 320 | Befort, Stephen | Interest | Corrections. Wages '19- 2.5%+4.9% for range maximum, '20-2%, '21-2.5%. Wage progression-3%-e(u-continue 5% steps). Voluntary PTO-y-e; Merged seniority-no-u. Increase Shift, FTO & Uniform-no-e | 2019 - 2.5% 2020 - 2.5% 2021 - 2.0% | Wages-parties agreed. Progression-13 of 15 units agreed. PTO-13 of 15 units covered. Seniority-lack of compelling need to change. Shift, FTO, Uniform-no showing of need & inconsistent w others. |
| FMCS | <u>Interplastic Corporation</u> United Steelworkers Local 11-1259 | Befort, Stephen | Mpls. Safe & Sick Leave - unilateral change to contract | ER implemented policy to comply with Mpls. Sick & Safe Leave ordinance after U refused to reopen contract. | Sustained | Parties directed to negotiate a mutually acceptable alternative resolution. |
| 19PA0836 | <u>ISD 279, Osseo</u> Education Minnesota - Osseo ESP's | Ogata, Harley | School Calendar | ESP calendar set, but \$60k shortfall forced cancelation of 11wks. Different positions offered to Union, but declined. | Sustained | Mngmt right to assign means job duties-doesn't include hours of work. ER to pay ees for 11weeks. U rejection of alternate positions didn't provide mitigation |
| 18PN0856 | <u>Mille Lacs County (Interest)</u> Teamsters Local 320 | Abelsen, James | Interest | Jail. Mrkt adjustment-n-e (u-1.25%); Hol. pay incrise-no-e (u-x2.5);Comp bank 48h (u-60h, e-40h) Shift pay- \$1 in 2019 u-\$1.50 in 2018, e-\$.75); FTO-\$1.00-u | 2018-pattern 2019-pattern | Parties agreed to internal wage pattern. Comp accrual, Shift pay & FTO are the same as deputies negotiated. Mkt adjust or Hol. would create internal disparities. |
| 19PA0395 | <u>Minneapolis Park & Recreation Board</u> Minneapolis Police Officer's Federation | Befort, Stephen | 3 day suspension | Responded to assault call Officer yelled at Somali boys, handcuffed, then finally released them w/o apology or explanation. Officer who did not yell wasn't disciplined. | Denied | Yelling escalated vs de-escalated event. Failing to explain or apologize violated code of conduct. No desperate treatmnt 2nd officer did not escalate situation. |
| 19PA0793 | <u>Minnesota Judicial Branch</u> Teamsters Local 320 | Biggar, David | Court Reporter's Transcripts. | Court reporters are statutorily required to furnish a transcript upon request. They charge per page-it is considered outside work and barred from on-duty time. | Denied | Union seeking ability to do work on-duty as allowed in Federal Courts. Outside work not governed by contract & beyond Arbitrators authority. |
| | | | Timeliness | Outside work policy enforced since 2012. | Sustained | Continuing Violation each paycheck. |
| 18PA1023 | <u>Minnesota Management and Budget</u> AFSCME Council 5 | Carne, Danielle | Termination | Behavior Modification Asst. at Dakota Crisis Home accused of maltreatment of vulnerable adult when he slapped resident while attempting to block the resident's slap. And failure to report the violation. | 1 day susp. | Witness accounts differ. Unable to prove intentional act of abuse & he was allowed to continue caring for resident for 2 mos. Discipline for reporting policy failure. |

June, 2019

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|----------|--|-----------------|-------------------|--|-----------|---|
| 19PA0481 | <u>Blaine, City of</u> Law Enforcement Labor Services, Inc. | Beens, Richard | Termination | OT is either offered or forced based on a rotating list. Ee wasn't on list possibly due to FMLA event. Peers told him to notify Sgt. but he didn't. During investigation lied re not knowing about being off the list. | Denied | 10 yr. employee with no prior discipline. Disobeyed order not to talk to anyone about the investigation and lied twice during the I.A. investigation. |
| 19PA0725 | <u>Duluth, City of</u> AFSCME Council 5 | Abelsen, James | Seniority | Traffic control OT offered to senior maintenance worker rather than to HEO who had most seniority in the division. | Sustained | Lowest paid class given work, but higher paid can do the work. CBA calls for Div. seniority, not by class. No backpay. |
| 19PA0431 | <u>St. Louis County</u> Teamsters Local 320 | Jacobs, Jeffrey | Assignment vs Bid | EE bid for excavator, assigned to grader. U believes seniority allows for a daily bid. ER claims right to assign. | Denied | U failure to negotiate language to support their position used to interpret current language, plus ER's past practice. |

May, 2019

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|----------|--|--------------------|----------|---|--|--|
| 18PN0429 | <u>Rogers, City of (Interest)</u> Teamsters Local 320 | Miller, Richard J. | Interest | Wages: 2.75% each yr.- agreed. Market adjustmnt-'18-\$.75-u (e-0%), '19,'20 -0% -e(u-\$.50, \$.50). Drug task force/School off-4.5%-u (e-0%). Shift diff-n-e(u-\$.55). Uniform-\$960-u,(e-\$900). | 2018 - 2.75% 2019 - 2.75% 2020 - 2.75% | Wages-agreed to internl pattern. Mkt Adj. same as sgts.Drug task force/School off don't receive pay in most cities-maintains consistency w sgts. No city ee receives shift differential. Uniform same as sgts. |

April, 2019

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|------------|---|--------------------|------------------|---|---|--|
| 19PA0227 | <u>Hibbing, City of</u> AFSCME Council 65 | Biggar, David | 5 day suspension | Equipment operator lowered supervisor into a trench using a backhoe. | Written Reprimand | Operator knew if was unsafe, but he was ordered by supervisor which is mitigating. |
| Not listed | <u>Minnesota, Dept. of Human Services</u> MN Association of Professional Employees | Fogelberg, J.C. | Termination | EE at St. Peter State facility took emails from file & presented them in Ct w/o permission. | 2 mo susp. | Names were redacted,so not certain it wa a data privacy violation. |
| 18PN0687 | <u>Ramsey County (Interest)</u> Law Enforcement Labor Services, Inc. | Miller, Richard J. | Interest | Sergeants. Wages-2%Jan/1% July each year (e-2.5% each yr; u-3% each yr.); Mkt adjustment-n-e (u-3% '20); Invst premium pay from \$100 to \$200/m-u (e-\$100). | 2018 - 3% 2019 - 3% 2020 - 3% | Wages-same as deputies. Mkt-ER doing a comp study; adjustmnts to Commdrs nt a Mkt adjustmnt-not given to all. Invstgtor premium-same increase as deputies. |
| 18PN1030 | <u>St. Cloud, City of (Interest)</u> Firefighters Local 1712 | Miller, Richard | Interest | Firefighters. Wages-e (u'18-2%,+5% adj. '19-2/1%,'20-3%); Uniform-'20 +\$10/m (e-'20 +\$5, u+\$15); Communications pay 1 hr./wk-u (e-no); Eliminate 1hr residency-n-e | 2018 - 2.0% 2019 - 2.5% 2020 - 3.0% | Wages-pattern, 5% adjustment for police parity offered in past as quid pro quo but rejected. Communications pay same as Captains. Residency-no reason to remov |

March, 2019

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|----------|---|----------------------|-------------|---|------------------------|--|
| 18PN0924 | <u>Brooklyn Park, City of (Interest)</u> Brooklyn Park Police Federation | Richard Anderson | Interest | Wages: 2018-2%-u (e-4% & remove COLA formula),2019-2%-u (e-2% or 0% w COLA). ER claims 66% of officers make more than pay step used in Market COLA formula. | 2018 - 2% 2019 - 2% | U 2% & 2% is less than pattern, but '18 with COLA is greater than pattern. Arb.-COLA formula fundamentally flawed. Parties to neg '19 formula-if no agrmnt, 2019 wage becomes 2.5% & Article is to be negotiated in the 2020 contract. |
| 19PA0046 | <u>University of Minnesota</u> Law Enforcement Labor Services, Inc. | Finkelstein, Phillip | Termination | Off duty officer got into confrontation w woman pedestrian who kicked his vehicle Pled to misdemeanor assault. Charge dismissed & vacated after 1 year. | 10 mo. susp. | 20 years of service, a good record, with no discipline. Returned to work with no backpay. |

February, 2019

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|----------------------|---|-------------------|---|---|-------------------------|---|
| 19PA0474 | <u>Hennepin County</u> AFSCME Council 5 | Befort, Stephen | Salary Adjustment yr. end pay period | Evaluations for range movement during all but last pay period of 2018 paid at '18 rate. Last pay period evals paid 1/6/19 based on '19 CBA vs preferred '18 CBA. | Denied | Contract language. Salary adjustment is effective the first Sunday following the pay period. |
| 19PA0345 | <u>Henn. Healthcare/Henn. Co Med Center</u> AFSCME Council 5 | Hoffmeyer, Steven | Benefit accrual on worker's comp. | Union seeking PTO accrual for time ee was on worker's comp. | Denied | Regular wrk hrs. & paid leave hrs. accrue benefits. WC considered unpaid leave. |
| FMCS | <u>Honeywell International Inc.</u> Teamsters Local 1145 | Befort, Stephen | Job Bidding | EE bid for job at different plant for essentially the same job he was doing. External candidate selected due to interview. | Denied | Interview considered part of minimum qualifications for job. |
| 18PA0865 | <u>Houston County</u> Law Enforcement Labor Services, Inc. | Roberts, Andrew | Termination | Detention/Dispatch deputy took picture of female co-worker suggesting he would use it to masturbate. Later thanked her. | Denied | Actions clearly unwanted sexual nature. Brief tenure, poor work record, & failed to correct behavior after prior coaching. |
| 19VP0457 | <u>Minneapolis Park & Recreation Board</u> Minneapolis Building Trades Council | Toenges, Rolland | Removal as a Temporary - VP | Electrician worked 6 yrs. as a temp ee. ER replaced temps with permanent ees. 1 Temp w more seniority than vet retained. | Sustained | U hiring Hall agreement temps covered by VP act. 8 vs. 6 yrs. service does not support less favorable treatment for vet. |
| 18PA1017 | <u>MN Judicial Branch, Ramsey County</u> AFSCME Council 5 | Daly, Joseph | Written Reprimand | Clerk failed to change \$3,000 bail, to no bail for shoplifting. Prisoner held for 2 months before error discovered. | Denied | U sought oral reprimand based on prog. discipline. Egregious & serious nature gives right to move past oral to written. |
| 19VP0449 | <u>Minnesota Veteran's Home</u> Raymond Ludwig - Veteran | Altman, Robert | Termination - VP | Veteran was a registered nurse, who unlocked door in secure facility allowing an at risk patient to get out. | Denied | 11 years - 3 priors involving patient care. When discovering patient, had someone else assist patient back into facility. |
| A17-1275 16PA0975 | <u>Richfield, City of - Supreme Court</u> Law Enforcement Labor Services, Inc. | MN Supreme Court | Public Policy | Officer failed to report use of force, had previously been disciplined, trained and counseled - terminated. Arb-3days. Court of Appeals reversed. Supreme Ct reversed. See <u>Richfield, City of, December 2016</u> , <u>Richfield, City of-Court of Appeals 2018</u> . | Appeals Ct. Reversed | City did not argue excessive use of force, rather, that failure to report use of force after discipline & training violates public policy. Appeals Ct. - "where there have been prior offenses&warnings,the public-policy exception may be invoked." Supreme Court-applying statute, contract &deferring to facts found by Arb-reverse. |

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|----------|---|-------------------|-------------|---|--------|--|
| 19PA0333 | <u>ISD 47, Sauk Rapids-Rice</u> SEIU Local 284 | Hoffmeyer, Steven | Termination | Custodian propped open school's exterior security doors after repeated orders not to do it. | Denied | 15yrs., history of insubordinate conduct. Argued disparate treatment, but couldn't name anyone else who propped doors. |
|----------|---|-------------------|-------------|---|--------|--|

January, 2019

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|----------|---|------------------|-----------------------------------|---|--------|--|
| 18PA0727 | <u>Duluth, City of</u> AFSCME Council 5 | Bognanno, Mario | Overtime Pay Standby/call back | 2 incidents when ees turned water main off, then 5 hrs later on-after regular hours. Both jobs posted seeking volunteers. Union asking for call back pay. | Split | No volunteers-ees on standby awarded call backpay (turning water on at medical facility non emergency since job posted) Volunteers-are scheduled not call backs. |
| 18PA0932 | <u>ISD 625, St. Paul</u> Tr-Council Local 49, Local 120, Local 363 | Toenges, Rolland | OT for Temporary Employees | OT & seniority provisions violated by scheduling temps for OT. | Denied | Insufficient evidence regarding nature of wrk. Jurisdiction issue is purview of BMS. |
| 19PA0087 | <u>Ramsey, City of</u> Law Enforcement Labor Services, Inc. | Johnson, John W. | Written Reprimand | Sergeant was discussing report writing errors at roll call identifying officer responsible. | Denied | Publicly identifying officer rather than correcting in private was harmful. |

2020 Arbitration Awards - Minnesota B.M.S.

Summary of Arbitration Awards listed on the Bureau of Mediation Services' web site (<http://www.mn.gov/bms/arbitration/awards/>).
 "Sustained" means the grievance prevails overturning the original action. "Denied" means the original action prevails.

December, 2020

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|----------|--|----------------------|----------------------|--|---|---|
| 20PA1215 | <u>ISD 625, St. Paul</u> St. Paul Federation of Educators | Finkelstein, Phillip | Bargaining Unit Work | Teaching assistnt hired for signing skills normally done by Ed.assistnts. Management right?-no. Ta eventually placed in Ea Union. | Sustained | Ta posting required ASL, historically Ea requirement - violated contract. Arbitrator unable to move Ta to Ea union. Ordered negotiations to address unjust enrichmnt. |
| 20PA2612 | <u>Hennepin County Health</u> AFSCME Council 5 | Malamud, Sherwood | 1 day suspension | Member service rep mishandled 2 calls: being rude, argumentative & putting member on indefinite hold. U claimed retaliation for Union activity & fails to follow progressive discipline. | Denied | 4yr ee, oral in 2013. Conduct & difficulty of supervising warrants skipping initial discipline steps. Retaliation was also claimed in Nov '20, Jacobs Arbitration. But calls predated the Union activity. |
| 19PA0884 | <u>MN Department of Corrections</u> AFSCME Council 5 | Beforet, Stephen | Termination | Corr. Off. failed to immediately report he was subject of criminal investigation. Told to submit report in Nov. waited until Feb. | Denied | Prior 57 day suspension for failing to report use of force - had impact of Last Chance Agreement. |
| 21PA0125 | <u>MN Department of Corrections</u> AFSCME Council 5 | Jacobs, Jeffrey | Termination | CO sprayed offender, being held on floor in the face; did celebratory dance & refused to leave scene when ordered. CO suffered back injury, concussion & ruptured ear drum from offender. | 6 months | 16yrs, 2 written. Use of chemical spray not clearly excessive. Taunting & failing to leave area grounds for discipline. Rtrn to work w no backpay upon medical ok. Discuss - just cause&reducing discipln. |
| FMCS | <u>Miner's Inc.d/b/a Super One Foods</u> UFCW Local 1189 | McCoy, A. Ray | Holiday Pay | Hol hrs paid at 1.5x, but not counted in hours worked per week for OT callculation. | Sustained | Premium paid for holidays didn't create pyramiding. All worked hrs counted. |
| FMCS | <u>3M Company</u> United Steelworkers, Local 11-75 | McCoy, A. Ray | Pandemic Pay | Ee with COVID symptoms quarantined for 7 days at ERs direction, but forced to use sick vs. Pandemic benefit. | Sustained | ER suggestion to quarantine meet all the requirements of the MOU. |
| 20PN1834 | <u>Yellow Medicine County (Interest)</u> Law Enforcement Labor Services, Inc. | Abelsen, James | Interest | Deputies: Wages-u (e- 2.5, 1.5, 1.25%) Mutual consent to mediate?-n-u. Comp Bank cap new ees at 120 v 240h?-y-e. Required to use sick for family illness-y-e Steps when no contract-n-e. Shift diff drop \$2 to \$1.40-e. Invst. pay from 1.5% to 3%-n-e. Increase Sick Severance from 288 hrs to 384 hrs.-n-e. | 2020 - 2.5% 2021 - 2.5% 2022 - 2.5% | Wages, pattern, despite economy. Either can seek mediation due value of process. Comp bank-pattern & no harm to current ees. Sick leave to be used for family ills.-pattern. Steps-pattern. Shift pay 2x mrkt & exchange for wage adjsutmnt. Invstgtr position or assignment? Requires neg. |

November, 2020

| BMS # | Arbitrator | Issue | Details | Award* | Basis/Argument | |
|----------|--|--------------------|--|--|--|--|
| 19PA0432 | <u>Hennepin Healthcare System, Inc.</u> AFSCME Co 5, Local 977 | Toenges, Rolland | Subcontracting | ER using contract workers to perform same work certified to bargaining unit. Union: CBA limits use of temporary staff workers to 6 months. ER: Contract workers not bargaining unit members or employees so not covered by the CBA & therefore not limited to 6 months of work in a calendar year. | Sustained* | Parties have agreed temporary workers' employment is not to exceed 6 months in a calendar year. ER use of staffing agency staff to continue temporary worker violates CBA if 6 month extension not mutually agreed to. |
| | *Court Later Overturned Decision | | | | | |
| FMCS | <u>Abbott Northwestern Hospital</u> SEIU Healthcare | Been, Richard | Termination | Environmental services aid, failed to respond to pages, unauthorized lunch & claimed cleaning room while on break. | Denied | 16 yr. ee. 2 verbal, a 1 written & 1 day suspension in past 3 years. Policy and rule violations. |
| 20PN1162 | <u>Douglas County (Interest)</u> Law Enforcement Labor Services, Inc. | Abelsen, James | Interest | Deputies:3y-u (e-2y); Wages:2%,2.5% 2.75%-u (e-2%,1.5%); Grade adjust-no-e; Sick severance-n-e (u-eliminate 2 tier system); Insurance reopener '21 and '22 if incrs over 4%-u (e-50/50 split). Vacation payout forfeit if terminated-n-u. | 2020 - 2% 2021 - 2.5% 2022 - 2.75% | Duration & Wages internal pattern. ER tried to break pattern due to COVID19. ER upgraded deputies & entitled to implement their formula. Severance- ER neg change 13y ago. Reopener: u accepting greater risk w 4% threshold Vacation - an earned benefit. |
| 21PA0181 | <u>Eagan, City of</u> Teamsters Local 320 | Beens, Richard | Seniority selection | Vacancies require 10 day internal prior to external. U argued qualified internal candidate should get job. | Denied | Being qualified is no guarantee for a position. Management right to select best qualified. |
| 20PA2375 | <u>Grant County</u> AFSCME Council 65 | Remington, John | Termination | H.E.O. was tardy 12 times in 8 month period- warned each time. | Denied | 3 yr. ee, clean record before written reprimand then 11 more tardies. |
| 21PA0016 | <u>Hennepin County</u> AFSCME Local 2822 | Miller, Richard J. | Written reprimand | Office specialist coached 5 times on attendance issues followed by 11 absences and 8 tardies. | Oral | Arbitrary, capricious & unduly harsh to give written reprimand when an oral warning serves the same purpose. |
| 20PA2611 | <u>Hennepin County</u> AFSCME Local 2822 | Jacobs, Jeffrey | 1 day suspension 5 day suspension | Heated exchange w caller re cab ride beyond 60 mile limit. Argued w caller re her being ready when the cab arrives for pickup. | Written 1 day susp. | 17 yr. ee, w oral reprimand. Progressive discipline calls for written on 1st offense (6 years after the oral) & 1 day for the subsequent offense. |
| 20PA1296 | <u>ISD 197, W. St. Paul-Mendota Hgths-</u> SEIU, Local 284 | O'Donnell, John | Health Insurance Premium Timeliness | ER stopped using charter bus hrs for calculating District's % of Health Insur. contribution. U failed to grieve when 1st discovered. | Union Arbitrable | ER failed to repudiate practice during negotiations. Strong presumption of arbitrability. |
| 20PA2222 | <u>Hennepin County</u> AFSCME Council 5 | Wallin, Gerald | Termination | Conducted off-duty business at work. Used ER's equipmnt, false time reporting. | 14 mo susp. | Inappropriate equipment use but failed to prove false time reporting. L.C.A. |

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|----------|--|-----------------|-------------|--|--------|---|
| 20PA1654 | <u>Metropolitan Council - Transit</u> Amalgamated Transit Union, Local 1015 | Befort, Stephen | Termination | Bus driver hit a pedestrian when pulling away from the bus stop. Distracted by talking on headset while driving. | Denied | 6 y. ee, 1 prior. Hitting pedestrian almost always results in termination. Headset, prior discipline & short tenure considered. |
|----------|--|-----------------|-------------|--|--------|---|

October, 2020

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|--|-------------------|--------------------------------|---|---------------|---|
| 20PA1575 | <u>Columbia Heights, City of</u> Law Enforcement Labor Services, Inc. | Altman, Robert | Termination | Officer's untruthfulness, inaccuracy in report re a chase & turning off camera. | Denied | Brady impaired (prior incident). Camera requirement tantamount to LCA. |
| FMCS | <u>Fairview Southdale Hospital</u> SEIU Healthcare Minnesota | Kapsch, Frank | Consolidation Plan | Nurse's aides work changed due to loss of same day surgeries when a competitor's surgery center opened. | Denied | Hire letters do not constitute binding wrk assignments. No requirement for re-bids, 3 prior instances did not create practice. |
| 20PA2600 | <u>Hennepin County</u> AFSCME Council 5 | Wallin, Gerald | Call Back Pay | Medical examiner ees seeking call-back pay for virtual meetings rather than regular pay or O.T. where appropriate. | Denied | Contract states, "called to the work site". Meetings not mandatory and employees remained to home. |
| 20PA2508 | <u>Hennepin County</u> AFSCME Local 1719 | Jacobs, Jeffrey | Fitness for Duty | Corrections Officer asked to take Fitness for duty exam then placed on medical leave for two months. U seeking pay for that time since private Dr. said he was fit. | Sustained | ER has right to request fitness for duty exam. Pay only required when fit. Ee's Dr. said he was fit both in Sept and Nov. Co. Dr said he was unfit both times, but Co. put him back to work w/o explanation. Arb questioned why leave required? |
| 20PA1596 | <u>Hennepin Healthcare System, Inc.</u> International Union of Operating Engineers, | Wallin, Gerald | Me Too Clause | Me Too for '18-19 round of bargaining all contracts were for 2 yrs. A 2017 3 yr. contract had a reopener. | Denied | MOU adopted in mediation-no face to face understanding. Grieving party has burden of evidence - not met. |
| 19PA0494 | <u>ISD 625, St. Paul</u> Teamsters Local 320 | Foy, Terrance | 5 day suspension | School bus driver rear ended a car resulting in injuries. Drinking coffee in violation of policy. | Denied | 11 yrs, no priors, 5-10 day suspension called for in policy |
| 20VP2373 | <u>Metropolitan Council, Transit police</u> Geoffrey Wyatt - Veteran | Lundberg, James | Termination - VP | Sgt. allowed a drunk man, who called about being suicidal, lay on rail tracks. A citizen talked the man off tracks. | Denied | Neglected duty to protect citizen; discredit to Dept & failed to properly supervise subordinate. |
| Non listed | <u>Metropolitan Council, Transit police</u> Law Enforcement Labor Services, Inc. | Befort, Stephen | Demotion & 160 hour Suspension | Lt. made disparaging LGBTQ comments, showed bias vs female & lesbian officers. Demoted to sergeant suspended 160 hours. | Denied | Supervisor showed pattern of unequal treatment which impairs morale. Serious misconduct doesn't require progressive discipline. Discl.consistent w prior case. |

September, 2020

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|---|-------------------|---------------|--|---------------|--|
| 20PA1167 | <u>Hennepin County</u> International Union of Operating Engineers, | Jacobs, Jeffrey | Workers Comp. | Union seeking to use vac. rather than sick leave to supplement workers comp. | Sustained | Workers comp language is more specific & trumps vacation language. |

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|----------|---|-----------------|----------------|---|--------------|--|
| 20PA1148 | <u>Hopkins, City of</u> Hopkins Police Officer's Federation | Foy, Terrence | Oral Reprimand | Out-of-city chase contrary to policy. U-prior chase resulted in officers counseled. | Denied. | Oral is reasonable. Prior chase was low speed & officers ended it on their own. |
| 20PA2475 | <u>ISD 690, Warroad</u> MN School Employees Association | Daly, Joseph | Union work | Booster club paid charter company to transport H.S. teams to events. Union bus drivers claim it was their work. | Denied | No requirement for District to provide transportation to sporting events - not subcontracting when boosters pay. |
| 20PA1020 | <u>Metropolitan Council - Transit</u> Amalgamated Transit Union, Local | Befort, Stephen | Termination | Driver caused train door to close on customer's hand & failed to report it. | 20 day susp. | ER maintained act was intentional, driver lied. Misconduct but intent/lie not proven. |
| FMCS | <u>3M Cottage Grove</u> United Steel Workers, Local 418 | Befort, Stephen | Termination | Factory worker fell asleep tending a tape machine - a level 3 violation. | Denied | 5 yr. employee with 2 priors. Policy calls for termination on 3rd violation in 3 years. |

August, 2020

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|---|-------------------|---------------------------|---|----------------------|---|
| 19VP0589 | <u>Hennepin County</u> Antoine Coleman - Veteran | Dunn, Richard | Termination - VP | Corrections suprvsr accused officer of alcohol on breath didn't report it for 4 hours. Untruthful in making the report. | Denied | 28y ee, 2, 5 day suspensions. Waiting 4 hrs. to report is a serious safety violation, and incident didn't occur as reported. |
| 20PA1353 | <u>Hennepin Healthcare System, Inc.</u> AFSCME Council 5 | Befort, Stephen | Termination | Protection officer called to eject man from hospital who had taken off clothes & resisted. Unnecessary force & lack of truthfulness in report. | 13 mo. susp. | Chaotic security environment, lack of significant prior discipline & there were omissions rather than untruthfulness in his report. |
| 20PA1207 | <u>Lino Lakes, City of</u> Law Enforcement Labor Services, Inc. | Remington, John | Termination | Officer cross trained as firefighter, stated he wouldn't be using F-Tac radio after resigning as firefighter. | Written reprimand | Officer sought clarification of Dept's expectations but Dept failed to provide direction or policy regarding F-Tac use. |
| None listed | <u>Minneapolis, City of</u> Police Officers Federation of Minneapolis | Fogelberg, Jay C. | Termination | 2 officers decorated 4th district's xmas tree using racially derogatory items contrary to Dept's core values. Pictures appeared on social media. | 320 hr. susp. | 20 yrs, no discipline, good service ratings no demonstrated bias. Call for termination occurred before investigation. Similar incidents received less punishment. |
| None listed | <u>MN State Colleges & Universities</u> <u>MN State Comm. & Technical College</u> <u>Minnesota Management & Budget</u> MN Assoc. of Professional Employees | Jacobs, Jeffrey | Work Schedule | Schedules were temporarily flexed to avoid OT for night meetings or events. Contract requires 14 day notice for permanent schedule change. | Denied | Management right to schedule. Flexing was temporary - U tried to obtain 14 day notice for temporary changes but was unsuccessful in negotiations. |
| 19PA0402 | <u>St. Paul, City of</u> Teamsters Local 320 | Carne, Danielle | Timeliness 1 day susp. | U took 57 days vs 7 days to file step 2. Street Service Worker threatened co-worker, "snitches get stiches". | Arbitrable Denied | Lax with deadlines & ees medical situation. 12y ee, prior written reprimand. Policy prohibits threats. |
| 20VP1419 | <u>Wyoming, City of</u> Anthony Zerwas -Veteran (LELS) | McCoy, A. Ray | Termination - VP | Officer did a forceful rear takedown of a handcuffed prisoner in the jail sally port, due to prisoner "jerking away" but video only showed a slight turn. | Denied | 4y ee, received discipline 3 mos earlier - a chase where he violated policy. Used U.S. Supreme Court Graham vs Connor for appropriate use of force determination. |

July, 2020

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|--|-------------------|------------------|--|---------------|---|
| 20PA1018 | <u>Metropolitan Council, Transit</u> Amalgamated Transit Union, Local | Gallagher, Sharon | Termination | Bus driver's 4th accident in 3 yr period called for termination under the contract. | Denied | Know problem with bus access panel flying open was not mitigating. |
| 20VP2354 | <u>Metropolitan Council, Transit</u> Jeanette Patrin - Veteran | Altman, Robert | Termination - VP | Bus driver had 3 accidents, a red light violation, was disrespectful to supervisor & 2 cell phone violations. | Denied | Totaled 4 debits under the discipline system which calls for termination. |
| 20PA1017 | <u>Metropolitan Council, Transit</u> Amalgamated Transit Union, Local | Roberts, Andrew | Termination | Passenger on bus w/o paying, acted weird, said creepy things to female driver resulting in driver attacking passenger. | Denied | Fighting with customer, leaving seat w/o authorization, abusive or obscene language are each grounds for discharge. |

June, 2020

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|--|-------------------|------------------|--|---------------|--|
| 20PA0311 | <u>Hennepin County</u> AFSCME Council 5 | Befort, Stephen | Back pay | Position reallocated with back pay to 12/1/18. U seeking back pay to 2014. | Denied | U seeking remedy going back 5 years. Continuing violation allows grievance but remedy limited to 21 days. |
| | | | Timeliness | ER- untimely barred by 21 day timeline. | Arbitrable | |
| 20VP1572 | <u>Metropolitan Council, Transit</u> Michael Anderson - Veteran | Daly, Joseph | Termination - VP | Head stock keeper spent extensive time on internet, long lunches & lied during investigation. | 30 hours | 26 years service. No similar infractions. Mitigating health issues. Ordered to make hourly work record for 1 year. |
| None listed | <u>St. Paul, City of</u> St. Paul Police Federation | Bognanno, Mario | Termination | One of 5 officers fired due to actions at a bar disturbance. Failed to stop assaults, assist injured parties or investigate. | Denied | Several false statements, repeatedly failing to act while laughing & making disrespectful comments about patrons. |

May, 2020

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|--|---------------------|------------------------------|---|---------------|---|
| FMCS | <u>Dairy Farmers of America</u> Teamsters Local 471 | O'Toole, Carol Berg | Termination | Ee claimed he heard a racist comment. Supervisor didn't consider it racist. Ee yelled Filipinos weren't held accountable. | Denied | 3 priors, including a final warning re code of conduct violations for using ethnic, derogatory or racist language. |
| 20PA0882 | <u>Plymouth, City of</u> Law Enforcement Labor Services, Inc. | Foy Terrance | Demotion 5 day suspension | Sgt. engaged in inappropriate conduct in a Mankato strip club during a police sponsored conference. | 5 day susp. | Conduct warranted discipline, but demotion too severe. |
| 20PA0441 | <u>Wright County</u> Minnesota Public Employees Assoc. | Beens, Richard | Termination | 5 bags of marijuana recovered only 4 turned in; no suprv. present while counting money, as required - \$200 missing. | 2 mo. susp. | Violated policies/procedures re property. Insufficient missing money investigation. No one from cleaning crew questioned. |

April, 2020

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|--|-------------------|-------------------------------|--|-------------------------|---|
| 20PA0938 | <u>Brooklyn Park, City of</u> Brooklyn Park Police Federation | Yaeger, Thomas | Continuing Contract Insurance | CBA open. U seeking full benefit due to savings of moving to PIEP using continuing contract statute. CBA calls for only 60/40 split unless savings due to level of benefits or plan design change. | City violated Agreement | Essential ees covered by Contract in Effect Statue. Plan design changed. Arbitrator retained jurisdiction for purpose of remedy which is to be based on a negotiated settlement |
| 20PA0252 | <u>Ramsey County</u> Law Enforcement Labor Services, Inc. | Kapsch, Frank | Assigning Temp. Deputies | Temporary deputy hired to fill a 6 month summer traffic assignment. | Denied | 30yr past practice of using temporary deputies to supplement summer staffing. |

March, 2020

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|--|-------------------|-----------------------------|---|------------------|--|
| 20RA0804 | <u>Azcon Inc.d/b/a Azcon Metals</u> Teamsters Local 346 | Daly, Joseph | Timeliness Subcontracting | Union filed grievance after deadline. Subcontractor hired to cut heavy steel. U seeking to be paid OT for all OT hrs. worked by subcontractor. | Timely Denied | Continuing violation while subs working. No bar to subcontracting in contract. No adverse impact on Union. |
| 19PA0530 | <u>Eden Prairie, City of</u> Law Enforcement Labor Services, Inc. | Daly, Joseph | Termination | Officer accused of altering search warrant submitting false report & lying under oath making him Brady/Giglio impaired and unable to perform tasks of a police officer Given written reprimand by Dept. | 17 months | Co Attorney said he can't testify so ER terminated due to inability to perform essential duties. Brady/Giglio doesn't eliminate just cause rights. Mistake due error vs deliberate lie. Retrmd no backpay. |
| 19PA0530 | <u>Eden Prairie, City of</u> Law Enforcement Labor Services, Inc. | Daly, Joseph | Just Cause | Group newly organized, no contract in place. Agreed to grievance procedure but no "just cause standard" listed. | Just Cause | Treatment as an "at will" employee w no just cause standard renders arbitration language absurd or nonsensical. |
| 19PA0530 | <u>Eden Prairie, City of</u> Law Enforcement Labor Services, Inc. | Daly, Joseph | Timeliness | Union cancelled mediation because ER refused to produce forensic evidence. U waited & filed for arbitration past deadline. | Arbitrable | Cancelling mediation was not a waiver. No final answer given after cancellation. cancellation so start of timeline unclear. |
| 20PA1178 | <u>Hennepin County</u> AFSCME Council 5 | Befort, Stephen | Health Care Premium Holiday | Holiday on premiums declared for 3 pay periods by drawing from reserves, Union asked ER to replace reserves. | Denied | ER has full discretion to determine use of plan reserves. Insurance coverage not reduced. |
| 19PA0857 | <u>Hennepin County</u> Teamsters, Local 320 | Beens, Richard | Overtime | 12 hr. shifts have 48hr and 36hr weeks. Long week results in 8 hour OT. EE tried to use vac time to still qualify for OT, but ER gave unpaid leave to save OT cost. | Denied | Management right to deny vacation. No specific contract language. |
| 19RA0934 | <u>Human Development Center</u> AFSCME Council 5 | Jacobs, Jeffrey | Termination | Case worker on Corrective Action Plan terminated for substandard performance. | Denied | Arbitrator limited to ruling if plan met contract's requirements. |

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|-------------|--|-------------------|----------------------|--|--------|---|
| 20PA1307 | <u>LeSueur County</u> | Jacobs, Jeffrey | Tentative Agreement | Summary Judgement award. Union seeking implementation of TA on Health insurance reopener not ratified by County | Denied | Without ratification - no agreement. AFSCME v City of St Paul, 533 N.W. 2nd 623 (Minn App 1995). |
| 20PA1308 | Teamsters, Local 320 | | | | | |
| FMCS | <u>St. Francis Regional Medical Center SEIU Healthcare</u> | Hoffmeyer, Steven | Termination | Surgery scheduler. Performance issues regarding accuracy in filling out forms. | Denied | Given counseling/progressive discipline for over 3 years w/o improvement. |
| None listed | <u>St. Paul, City of</u> St. Paul Police Federation | Befort, Stephen | Termination | 16 acts of misconduct while answering a fight call at a bar. Failure to act to stop assaults, assist injured parties or investigate. | Denied | 6 yr. officer w good record. But 13 of 16 allegations proven. Misconduct appears to encompass deep seated beliefs. |
| 20PA0274 | <u>Sauk Centre, City of</u> Teamsters, Local 320 | Lundberg, James | Insurance Deductible | MOU moved to PIEP & increased HSA amount 1/1/19. Due to coverage gap PIEP agreed to cover Dec '18. | Denied | U claims City promised no cost as result of change so City should cover Dec '18. deductible. No contract basis for claim. |

February, 2020

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|--|-------------------|-------------------------------------|---|---|---|
| 19PN0888 | <u>Hennepin County (Interest)</u> Henn. Co. Sheriff's Deputies Assoc. | Bauman, Susan | Interest | Deputies. Agreed to wage pattern 2.5%, 2.5%,2%. Pager pay-n-e; PTO-optional-u;Mkt adjst '19-4%-u,'20-0%-e,'21-0%-e (u '20-3.5%,'21-3%); Retroactivity-y-u; Reduce steps from 5% to 3%-e. | 2019 - 6.5% 2020 - 2.5% 2021 - 2.0% | 2019-2.5%+4%mk, based on Oct '19 & Apr '18 awards. PTO optional-based on Befort's 7/10/19 award. Pager pay-lack of comparables. Retro-likely result if neg. Steps-extensive internal pattern. |
| 20PA0864 | <u>ISD 879, Delano</u> SEIU Local 284 | Daly, Joseph | Arbitrability 15 min. Breaks | Is Arbitration barred by bringing complaint to MN Attorney General? Is a Past Practice being violated by restricting breaks based on duties? | Arbitrable Denied | AG was proposing to mediate a wage theft complaint was not a barred action. Breaks not being denied, required to be flexible using professional judgement. |
| 20VP0239 | <u>Metropolitan Council, Transit</u> Amalgamated Transit Union, Local | Remington, John | Termination - VP | Bus driver stopped when pedestrians yelled. No one claimed being hit, but complaint filed later. Victim didn't testify. | Written Warning | Video didn't show bus hitting anyone. Driver made an accident report,but failed to notify Control Center as required. |
| 19PN0861 | <u>Sherburne County (Interest)</u> Minnesota Public Employees Assoc. | Hoffmeyer, Steven | Interest | Transport/Court. Wages-both agreed. Mrket adjusmnt-n-e; Pay for perfrmnce -no-u; Retro pay-y-u; increase notice required for termination to receive benefits-n-u: Floating Holiday-n, but Xmas eve Holiday-y. | 2019 - 2.5% 2020 - 2.5% 2021 - 2.5% | Wages-agreed to pattern. Market - ER determines classification system. PFP, longer Termination notice & FL Holiday lack quid pro quo. Xmas eve Holiday - internal pattern. |
| 19PA0841 | <u>Stearns County</u> Law Enforcement Labor Services, Inc. | Roberts, Andrew | Arbitrability Timeliness | Dispatcher received 30 day suspension. U petitioned BMS for arbitration, but did not notify ER thus failing to meet timeline. | Denied | Contract requires U to notify ER. BMS is not a party to the contract. |
| 19PN0975 | <u>Steele County (Interest)</u> Teamsters, Local 320 | Laumeyer, James | Interest | Corrections Sgts. Step increases based on satisfactory performance-y-e | 2019 - 2.75% 2020 - 3.0% | Wages quid pro quo for change. All other groups accepted change. Overwhelming acceptance & inherent managemnt rights. |

| January, 2020 | | | | | | |
|---------------|---|----------------------|------------------|--|---|--|
| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
| FMCS | <u>Cargill Meat Solutions</u> United Food & Commercial Workers | Kapsch, Frank | Absences | 43 of 230 ees received absence point for failing to come to work due to major snow storm. U seeing removal of point. | Denied | No fault attendance policy. Point system eliminates potential for bias or favoritism. 75% of employees came to work. |
| 19PA0318 | <u>Crystal, City of</u> Law Enforcement Labor Services, Inc. | Finkelstein, Phillip | 1 day suspension | Officer assisting another Dept. cuffed suspect, swore at him, failed to write a report & misfiled body camera footage. | Denied | Union challenged investigation. Neither suspect nor other officers questioned. Camera footage, lack of report sufficient. |
| 19PN0919 | <u>Eden Prairie, City of (Interest)</u> Law Enforcement Labor Services, Inc. | Abelsen, James | Interest | Officer's 1st contract. Union activity-u; ER rights-u: Class action Grievances-u; OT assignment-u; Shift bidding-u; PTO in contract vs policy-u; PTO rates-e; Retro-u. | Pattern | Wages negotiated. Items awarded to Union were either in the IUOE 49 CBA or current practice. PTO rates in excess of IUOE 49 were denied. |
| 20PA0131 | <u>Golden Valley, City of</u> Law Enforcement Labor Services, Inc. | Bauman, Susan | 4 day suspension | Detective didn't know how to access lab reports; failed to follow-up CODIS matches. Failed to perform follow-up & untimely reports in 40% of cases. | 2 day susp. | City failed to prove ee put on notice re policy of 10 d follow-up since signature wasn't on page in Dept. manual. 2 of 3 charges proven. Supervision lacking. |
| 19VP1104 | <u>Minnesota Department of Corrections</u> Daniel Boegeman - Veteran | Befort, Stephen | Termination - VP | Corr. Sgt. accused of bribing offender to assault another, discussing investigation w offender, giving the finger to staff member & failing to dispose of contraband rings. | 5 day susp. | Assault allegation not proven. Other violation do not rise to level of serious misconduct. |
| FMCS | <u>Quality Pork Processors, Inc.</u> U.F.C.W. Local 9 | Befort, Stephen | Arbitrability | Grievances must be brought within 3 days but was pay practice for 17 years. | Arbitrable | Union unaware of issue until receiving paperwork from ER. Filed 3 days later. |
| | | | Paid rest period | Union claims conflict with 2 Articles over breaks for ees who don & doff protective equipment for their jobs. | Denied | Article with more specific language governs. |
| 19PN0733 | <u>Sherburne County (Interest)</u> Minnesota Public Employees Association | Lundberg, James | Interest | Corrections. Wages:'19-2.5%,'20-2.5%,'21-2.5% (agreed); retro '19-u; Adjust correct leapfrogging-n-e; Change anniversary date to Jan.1-n-e; Pay for performance-n-u; 30day notice when terminating employment-n-u; xmas eve-y-u. | 2019 - 2.5% 2020 - 2.5% 2021 - 2.5% | Wages-pattern, retro for '19 in dispute - will not sanction U for hard bargaining. Leapfrogging, anniversary date & pay for performance should be negotiated. Xmas eve holiday - internal pattern. |

2021 Arbitration Awards - Minnesota B.M.S.

Summary of Arbitration Awards listed on the Bureau of Mediation Services' web site (<http://www.mn.gov/bms/arbitration/awards/>).

"Sustained"

December, 2021

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|-----------------|---|--------------------|---------------------------|---|---|--|
| 21PA0967 | <u>MMB</u> SEIU Healthcare MN | Jacobs, Jeffrey W. | Wage/Dues | Successor entity did not provide wages, PTO time earned to home health care providers and did not submit union dues or political contributions deducted from checks to the Union. State being asked to make whole as they are party to CBA and oversee the funds. | Sustained in part Denied in part | The state failed to ensure the intermediate company implemented the terms of dues check off and COPE deductions. Whether the State violated the CBA with regards to payments of wages is outside the scope of arbitrators jurisdiction, but may be addressed in other forums. |
| FMCS 210809- | <u>2Mackay/Mitchell Envelope Co LLC</u> Teamsters Local 1B | Daly, Joseph L. | Mandated OT | Disagreement as to the definition of the advanced notice of overtime. Company mandating pre-shift OT, not just within first 4 hours of shifts to be extended. | Denied | No evidence CBA violated. Staffing shortages and pressures of 24/7 operations result in need for both voluntary and mandated overtime shifts. |
| 21PA2596 | <u>Chippewa County</u> AFSCME 65 | Imes, Sharon K. | New Hire Salary Placement | New hire placed at step higher than current EE's claiming same level of experience or years of service. Following placement of current staff onto new salary scale. | Sustained | ER failed to show new hire possessed greater experience than current EE's. New hire to be placed at same step as current, not step higher. |
| 21PN0853 | <u>Washington County</u> MNPEA | Foy, Terrance J. | Interest Arbitration | No General Wage Adjustment in 2021 2% + \$1000 lump sum upon effective date of award. 2% Market Adjustment to be effective 12/31/21. No range adj for 2021. Insurance contributions: y-U 1/1/21 (E-ratification) Field Training Officer Comp. y-U 1.5 hrs (E-1 hr) Clothing allowance:A -\$660(U-\$675,E-\$600) Rejected new Special Teams Equip Allowance language. Already provided. | Insurance 1/1 \$660 clothing FTO to 1.5 hrs | Internal compensation consistency upheld to maintain equity and labor peace, even if economic conditions have improved since other settlements were reached. |

November, 2021

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|----------|----------------------------------|--------------------|----------------------|---|---------------------------------|--|
| 21PN1408 | <u>Washington County</u> LELS | Miller, Richard J. | Interest Arbitration | No General Wage Adjustment in 2021 2% + \$1000 lump sum upon effective date of award. Effective 12/31/21 Salary range maximum increased by 2%. No range adjustment for 2021. Insurance contributions: y-U-1/1/21 (E ratification) Clothing allowance: y- u-\$880 (e-\$875) | Insurance 1/1 \$880 Clothing | Internal compensation consistency upheld to maintain equity and labor peace, even if economic conditions have improved since other settlements were reached. |

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|----------|---|-------------------------|----------------------|---|--------------|---|
| 21PN1527 | <u>Anoka County</u> AFSCME Council 5 | Miller, Richard J. | Interest Arbitration | Parties reached agreement during hearing of non-bargaining calculation of merit increase 3% increase to min/max, 9% increase to Probation Aide starting wage, and deleting Art 3.9. | 2% Merit Pay | Arbitrator maintained internal pattern of 2% merit increases, extended full holidays to Probation Officer Aides, but denied adding a non-certified holiday issue or granting a hazard pay bonus when no precedent with other employee groups in county. |
| 21PA0131 | <u>ISD 625</u> Teamsters 320 | Ver Ploeg, Christine D. | Training Pay | Union argued EEs entitled to 30 min pay for breakfast and registration time before mandatory training session. District information stated it was optional and not required or part of training. Union provided breakfast and was considered social time. | Denied | Per FLSA, EEs who arrived early were waiting to be engaged, which is not work time which must be compensated. The time to sign in for registration was de minimus. ER only responsible to pay for the mandatory training hours. |

October, 2021

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|----------|----------------------------------|-------------------|----------------------|--|-----------------------------------|---|
| 21PN2015 | <u>Washington County</u> LELS | Beens, Richard A. | Interest Arbitration | No General Wage Adjustment in 2021 2% + \$1000 lump sum upon effective date of award. Effective 12/31/21 Salary range maximum increased by 2%. No range adjustment for 2021. Insurance contributions: y-U-1/1/21 (E ratification) Clothing allowance: y- E- \$900 (U-\$940) Sergeants Promo Pay-y -E maintain 5% min (U- minimum of 8% increase) | Insurance 1/1 E:\$900 clothing | Internal consistency upheld to maintain equity and avoid labor unrest. Pandemic induced economic burdens best shared by all. Though not able to work from home, no reward granted for doing exactly what would be expected in ordinary times. |

September, 2021

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|----------|---|---------------------|----------------------|--|--|---|
| 21PN1092 | <u>City of Fairmont</u> LELS | Wallin, Gerald E. | Interest Arbitration | ER sought change to wage scale (3 to 10) severance scale, vacation accrual, holiday payout, comp time payout and addition of waiver language. Existing language/practices maintained (u). Call Back definition modified to exclude trainings, meetings, and special events (e). No change to sick leave usage language (u proposal rejected). Hybrid of HCSP/severance language awarded. | Wages: (e & u) 2021: 2.25% 2022: 2.75% | Arbitrator upheld language and practices maintained over lengthy bargaining history. Absent 'quid pro quo' of negotiations, no compelling argument for change even if other bargaining units have accepted them. Internal consistency does not warrant the elimination of employee choice. Union members not bound to the rights and benefits negotiated with other bargaining units. |
| FMCS | <u>UNFI</u> Teamsters 120 | Daly, Joseph L. | Termination | Employee discharged for second incident of loafing/theft of time within a month. Union argued "just cause" must be followed even if not spelled out in contract. | Denied | Employer had just cause for the discharge. Employee had knowledge of policies and prior discipline to know the consequence. |
| 21TD2674 | ISD 244 Chisago Lakes Individual (Jeremy Peterson) | Beafort, Stephen F. | Termination | District removed long-term teacher who showed racially and culturally insensitive video to a Jr High class resulting in complaints from students and parents. | 40 day unpaid suspension | Misconduct and poor decision warranted serious discipline, but not immediate discharge without warning and chance to correct behavior. |

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|----------------------|---|-------------------|-----------------------------------|---|-------------------------------|--|
| 21PN0863 | <u>Rock County</u> Teamsters 320 | Daly, Joseph L. | Interest Arbitration | 1st contract Sergeant's Unit. Internal comp/consistency w/existing Deputy CBA. Comp Time Cap:U-80 hrs, E-40 hrs. Sick Leave Cap:U-800 hrs, E-720 hrs. Shift Diff: U-2.75 nights/1.75 wkend, E:0 Language issues re:LOA, COBRA, Seniority | ER Awarded: U Awarded: | OT-schedules can't create OT Existing vacation accrual schedule Vac and Sick NOT hrs worked for OT 40 hr annual Comp time cap Sick Leave cap, Leave of Absence language COBRA lanuage, Shift Diff \$\$ & Seniority |
| 21PA2030 21PA2031 | <u>City of Duluth</u> AFSCME Council 5 | Jacobs, Jeffrey W | Layoff vs Other Job Assignment | City Attorneys office reorganized and 2 postions eliminated while two paralegal positions created. The 2 employees were layed off after not possessing the skills required for the new positions. Union felt City had obligation to offer them positions outside of the department at the same rate of pay and benefits as before classification was eliminate. | Denied | City had right to reorganize the department and create new positions. Grievants were allowed to apply for positions but were not most qualified.No other positions existed within the department into which they could bump. City not obligated to place into a position somewhere else in the City. COVID practice NOT a precedent. |

August, 2021

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|--|--------------------|------------------|--|---------------------------------------|--|
| 21PA1498 | <u>Hennepin County</u> AFSCME Council 5 | Osthus, Marlin O. | 1 Day suspension | Corrections Officer. Multiple unscheduled absences with lack of proper medical documentation. | Written Rep. | Conduct warranted discipline, but jump from oral reprimand to suspension out of line. Policy unclear and errors made in enforcement. |
| 21PA1785 | <u>ISD 2142</u> Teamsters, Local 346 | Jacobs, Jeffrey W. | Prorated Leave | District reduced most hours from 31.5 to 26, without adding definition of Full-Time. Union understood changes only would apply to health, life & dental insurance. District pro-rated sick leave, personal leave, and holidays based on actual hrs worked. | Denied Sustained | Sick Leave hour proration is supported by current contract language; Personal Leave article language provides "all" employees received 4 days per year Does not limit or clarify how accrued. |
| 21TD1486 | <u>ISD 282, St. Anthony-New Brighton</u> Individual | Beens, Richard | Termination | Teacher alleged to have contributed to culture of inappropriate behavior thru racist, homophobic, physical abuse and predatory behavior via online petition site. | Reinstated 7 day unpaid suspension | Police found no probable cause for any criminal charges. Incidents of swearing in front of students, expressing excessive anger is remediable. Memo on rumors. |
| 21TD2014 | <u>ISD 2365, Gibbon Fairfax Winthrop</u> Gibbon, Fairfax, Winthrop Ed. Assoc. | Kundrat, Frank | Termination | Licensed Speech and Language Teacher. Alleged to have used inappropriate and unauthorized carrying procedure on a young Special Ed student. | Reinstated 5 day unpaid suspension | While grievant did exhibit conduct that was unbecoming a teacher warrenting discipline, she did not wilfully neglect her teaching duties and is remediable. |
| 21PN1105 | <u>Clay County</u> Teamsters, Local 320 | Miller, Richard J. | Interest | ACAs. Market Adjustment for 2022 U: 3%, ER: 0% | ER position | Comparable data and retention evidence do not support need for adjustment. |
| 21PA1174 | <u>City of St. Paul</u> Machinists, District Lodge 77 | Kapsch, Frank Jr | Termination | Vehicle Maintenance Worker terminated re: violation of Work Place Conduct policy | Denied | ER had just cause to terminate. Threats of violence made. No ADA requested. |

July, 2021

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|----------------------------------|--|----------------------|--|--|-----------------------------------|---|
| 21VP2021 | <u>City of Red Wing</u> Veterans Preference | Finkelstein, Phillip | Termination | Roger Pohlman, Police Chief, terminated Veterans Preference rights request was challenged by City. Veteran failed to demonstrate he was not a Dept. Head. | Denied | Summary Disposition granted. As a Department Head is not covered under MN Veterans Preference Act, Minn. Stat. 197.46 |
| 21PA0014 | <u>ISD 197</u> SEIU, Local 284 | Lundberg, James | Working Out of Class Class | 2020 Summer Program had less direct supervision and broader scope of involvement for Spec Ed Para staff. E: Core Site Supervisor responsibilities not reassigned. | Denied | Entire program redesigned in 2020. Insufficient evidence Special Ed Paras performing work of Site Supervisors. |
| 21PN1151 | <u>Dakota County</u> Teamsters, Local 320 | Foy, Terrence | Interest | Correctional Deputies. | 2021-1% 2022-2% | E Lump Sum Matrix pay awarded Union proposals for new flex time, hazard pay and retention bonus rejected. |
| 20PA1893 | <u>Hennepin County</u> AFSCME Council 5 | Dunn, Richard J. | 5 Day Suspension | OSIII at Correction Workhouse submitted timecards claiming 31hrs + of time not actually worked.Discipline for misconduct violation of timecard policies and Dept's Code of Ethics Standard of Conduct | Denied | Through falsification of time reporting grievant knowingly received pay for time which she did not work. |
| 21PN0541 | <u>City of Gaylord</u> Teamsters, Local 320 | Foy, Terrence | Interest | 1st contract Licensed Police Officers. U seeking definition OT, Union Business, Legal Defense. Comp Time:u-80 hrs, e-0 FTO:u-\$3/hr, e-1 hr pay.Uniformsu-\$1000 e-\$700. Holidays: u-10+2 float. e-11.5 OT paid u-in excess normal schedule. E- after 84 hrs pay period. IOD:u 6mth e30d Shift Change: u-14 days, e-no change OnCall: u-\$3h, e-\$2h, Shift Diff:u\$1 6p-6a Duration:u-3 y, e-2 y | E Pay Scale 2021- 1.5% | No hearing. Cases submitted via briefs and exhibits. Only bargaining unit in city. No definitions added outside Quid Pro Quo negotiations. E wage scale/COLA given. Union position awarded OT pay & FTO City position awarded clothing, On Call, Severance, IOD, Duration. Union positions rejected on comp time, holiday pay out, schedule change, and shift differential. |
| 21PA0800 | <u>Metro Council</u> Machinists District Lodge 77 | Orman, Anthony | Termination | Grievant discharged for use of racial epithet towards another employee. Terminable under MCES policies and guidelines. | Denied | Grievant dismissed for cause. Credible investigation confirmed incident. |
| 21PA1025 21PA1026 21PA1027 | <u>City of Duluth</u> AFSCME Council 5 | Jacobs, Jeffrey W. | Termination Retro Termination Benefits | Grievant resigned/retired while on FMLA leave and while under investigation for possible "double dipping". Er attempted retroactively terminate back to date of FMLA leave and deny payout of benefits available to retirees. | Denied* Sustained Sustained | Grievant had right to resign/retire prior to discipline being imposed. Is entitled to benefits provided upon resigning/retiring. No two week notice required per CBA. Termination moot as had resigned prior to discipline. |

June, 2021

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|----------|--|----------------------|---|--|---------------------------------|--|
| 21PA0097 | <u>Minnesota Management and Budget</u> Minnesota Government Engineering Council | Kapsch, Frank | Step Progression Supervisory Pay | Union argued EEs did not receive the appropriate step progression and that the new requirement to enter a code in payroll to receive supervisor compensation was an attempt to avoid paying those who did not remember to enter code. ER believed it followed the CBA in awarding steps and the practice of entering code is standard and necessary for accurate record keeping. | Denied | Employer did not violated the language, terms or provisions of the labor agreement. No agreement for retroactivity in the new step progression language. Contract is silent as to the "code" issue and no previous challenges to use. EEs who forget to enter code can submit an amended timesheet and be made whole |
| 21PA0644 | <u>Hennepin Healthcare System</u> AFSCME Council 5 | Wallin, Gerald E. | Termination | Grievant terminated for violating policies on Protected Health Information (PHI) and confidentiality by not restricting viewing to information necessary to complete work and getting out of the record. | Denied | Discharge upheld. Grievant did violate the "minimum necessary rule" when accessing and viewing information within the medical record outside of what was needed to complete work assignment. |
| 21PA1259 | <u>Metropolitan Council</u> ATW Local 1005 | Wallin, Gerald E. | Discrimination in the application of physical fitness standards | Grievant removed from bus driving duties after health issue discovered. Dispute as to timeliness of grievance, ability to grieve "discrimination" in this context, and the application and provider of the fitness testing and standards applied in the ER's decision to restrict driving. | Denied | 1. The case was procedurally arbitrable 2. Allegations of discrimination are substantively arbitrable. 3. The ER did not discriminate against the grievant in applying its fitness standard or denying ability to serve as bus operator. |
| 21VP1329 | <u>Bemidji State University</u> Veterans Preference | Wallin, Gerald E. | Termination | Shawn Callagan discharged for making inappropriate and racially offensive comments to a co-worker. Multiple previous disciplines for violations of ER's policies on Respectful Workplace and Non-Discrimination. | Denied | Progressive discipline was followed and discharge was in accordance with the MN Veterans Preference Stat. 197.46 |
| FMCS | <u>Essentia Health</u> Minnesota Nurses Association | Befort, Stephen F. | Termination | Nurse ordered mediations under Dr's. name without talking to the doctor. | Denied | Serious misconduct does not require progressive discipline. |
| 21PN0736 | <u>Meeker County</u> Minnesota Public Employees Assoc. | Miller, Richard J. | Interest | Licensed Deputies. e:Sunset Sick Sever. Clothing: u:\$850/m, e:\$63/ppd On-Call: u:\$250/m, e:\$225/m | Clothing \$850 On-Call \$250 | 10 issues negotiated, 5 issues arbitrated. Sick Leave Severance Sunseted for new hires post 12/31/20 |
| 21PA0131 | <u>ISD #625, St. Paul</u> Teamsters Local 320 | Ver Ploeg, Christine | MOA premium | \$3 premium negotiated for Governor's mandated Essential Kid Care program. U seeking prem. for voluntary summer program. | Denied | Summer program voluntary vs mandated; recreational vs educational; not covered by MOA nor Governor's mandate. |
| 20PA2566 | <u>ISD #625, St. Paul</u> Teamsters Local 320 | Laumeyer, James A. | Disaster Pay | TA's seeking Quarantine/Catastrophe pay for Break week they worked in the past. | Denied | COVID didn't meet CBA definition & no guarantee of hours in CBA. |

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|----------|--|----------------------|------------------|---|------------|--|
| 19PA0398 | <u>ISD #625, St. Paul</u> Teamsters Local 320 | Ver Ploeg, Christine | Class Action | Is there a bar on filing a class action (re pay on a training day)?-No. Does FLSA claim create bar due to improper venue? No. | Arbitrable | CBA doesn't specifically bar union from filing on behalf of members. Issue is within scope of CBA. |
| 21PA1258 | <u>Metropolitan Council - Transit</u> Amalgamated Transit Union, Local 1015 | Beens, Richard | Termination | Train operator threatened to pay someone to shoot two managers. | Denied | Threats of gun violence are ... "sufficiently serious to justify immediate discharge." |
| 21VP1115 | <u>Metropolitan Council - Transit</u> Jessee Johnson - Veteran | Roberts, Andrew M. | Termination - VP | Driver gave incorrect & incomplete info re diabetes on his job application. | Denied | Falsification of records constitutes misconduct. Consistently enforced. |

May, 2021

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|---|--------------------|----------------------|---|----------------------------|---|
| 21PN0704 | <u>Crystal, City of (Interest)</u> Law Enforcement Labor Services | O'Donnell, John | Interest | Officers. Duration-2y-u; Insurance 2022 -reopener-e; Ins opt out-\$75-e (u-\$225); Wages 2%,2% (u-3%,3%; e-2%,1%) | 2021 - 2.0% 2022 - 2.0% | Duration-1st yr almost done; Reopener-need to negotiate w carrier;Opt out-internal pattern. Wages 2021- pattern. |
| 19PA0496 | <u>Hennepin County</u> AFSCME Council 65 | Hoffmeyer, Steven | Sick Leave Accrual | Corrections officers changed to 12 hr. shifts-84 hrs vs 80 hours, Seeking sick accrual for 84 hrs. | Denied | Sick accrual based on regular hrs. 4 hrs. are OT hours and not eligible for sick accrual calculation. |
| 21PA0842 | <u>ISD #194, Lakeville</u> Education Minnesota | Jacobs, Jeffrey W. | Pandemic Pay | Seeking compensation for teachers with hybrid in person & video distance learning requirements during COVID pandemic. | Denied | Not an additional class since it contains the originally assigned students & subject matter. |
| 21PA1181 | <u>ISD #649, Northfield</u> Education Minnesota | Hoffmeyer, Steven | Termination | Education assistant went golfing while claiming to work a full day. | Denied | Time theft does not require progressive discipline nor specific prohibition. |
| 21PG0974 | <u>Metropolitan Council - Transit</u> Amalgamated Transit Union, Local 1015 | Osthus, Marlin O. | Training Evaluation. | Bus driver seeking storekeeper position failed - claimed training was flawed & unfair-seeking a second chance. | Sustained | ER has inherent right to set standards, but training flawed. Lack of computer access conflicting directions, hostility. |
| 20PA2057 | <u>Metropolitan Council - Transit</u> Amalgamated Transit Union, Local 1015 | Osthus, Marlin O. | Termination | Bus driver failed to properly secure scooter that tipped during a left turn. | Denied | Policy violations led to accident. 4th acc. within 3 yrs. Calls for termination. |
| 21PA1009 | <u>Minneapolis Park & Recreation Board</u> City Employees LiUNA, Local 363 | Befort, Stephen F. | Termination | Made racially disrespectful comment, "he's one of you" to a black co-worker, | Denied | 24y ee, 4 prior suspensions including for, racially & sexually insensitive remarks. |
| 20PA0833 | <u>Minnesota Management & Budget</u> AFSCME Council 65 | Laumeyer, James A. | OT assignment | No one signed up for OT in advance, ER asked for volunteers, selected most senior. U said most junior should be forced. | | Forcing bad for moral. Contract language is permissive, not directed. ER permitted to seek volunteers a second time. |
| FMCS | <u>Morrison (Compass Group)</u> SEIU Healthcare | Daly, Joseph | Overtime | Failure to post sign-up for extra hours. thereby denying OT opportunities | Denied | ER has fixed & variable schedules. There were no extra hours to post. |

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|----------|--|-----------------|------------------------------|---|---|---|
| 20PN2562 | <u>St. Louis County (Interest)</u> Law Enforcement Labor Services | Altman, Robert | Interest | Wages-e (u+10% equal sgts-no); Retro for those separated-y-u; Retro-y-u; sick remove from OT-no-u; Elect remedies-n-u Placement on new schedule-e; remove 12hr shift formula-n-u. | 2020 - 2.0% 2021 - 2.25% 2022 - 2.25% | Wages, internal pattern. Sgts moved to another unit, reclassified as supervisors+ additional money. Retro for separated - small #, Retro-no Penalty for arbitrating. Placement-internal pattern, more money. ER didn't show need for other items. |
| 19PA2874 | <u>Willmar, City of - Municipal Utilities</u> I.B.E.W., Local 160 | Bognanno, Mario | Arbitrability Promotional | Timeline met? - no. With minimum qualifications does seniority | Denied | Original grievant not qualified, for position.. Next senior name added at step 3. New |

April, 2021

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|---|--------------------|--|---|--|--|
| FMCS | <u>Allina Health (United Hospital)</u> Minnesota Nurse's Association | Befort, Stephen F. | Termination | Nurse failed to follow dress code after 4 reprimands; violated cell phone policy; & yelled at supervisor. | Reinstated w/o back pay or benefits (12 mo susp.) | Unions claim that actions were due to safety concerns regarding Covid 19 was sufficient to mitigate termination. |
| | | | Unfair Labor Practice | Barred from talking union business in emergency room. | Denied | ER has right to policy that limits activity during working hours. |
| 21POA0935 | <u>Anoka County</u> Law Enforcement Labor Services | Gaertner, Susan | 2 day Suspension entered intersection siren, struck by car | | Denied | 15 yr. ee, 2 priors. Preventable accident. Discipline consistent with other cases |
| 20PA1427 | <u>Carver County</u> AFSCME Council 65 | Jacobs, Jeffrey W. | Termination | Child protection social worker failed to discharge duties in 5 cases - putting children at risk. | Reinstated w/o back pay or benefits | 6 yr ee, no priors. 1 case not proven, 3 w relatively minor issues. No complaints on any other cases over 6 years. |
| 20PA1286 | <u>Chisago County</u> Teamsters Local 320 | Foy, Terrence J. | Termination | Child protection aide verbally abused, coworkers and grabbed her. | Reinstated w/o back pay or benefits (10 mo susp.) | 23 yr ee, 1 reprimand. Continued to work together w/o incident for 2 weeks while investigated. Zero tolerance policy never shared w employees. |
| 21PA0843 | <u>Hennepin County</u> AFSCME Local 5 | Dunn, Richard J., | PTO | Ee was in PTO as a non-rep ee, went to Teamsters position & chose Vac/Sick plan, then went to AFSCME & wanted to retain Vac/Sick. | Denied | Contract requires PTO if ee was ever covered by that plan. Teamster contract has no effect. |
| 21PA0858 | <u>Hennepin County</u> AFSCME Council 5 | Altman, Robert | Out-of-Class Pay | Volunteers who worked as lead workers at Covid 19 housing sites should receive out-of-class pay as supervisors? | Denied | Site Lead was not comparable to work of Administrative Supervisors |
| 21PA0859 | <u>Hennepin County</u> AFSCME Council 5 | Wallin, Gerald | 5 day suspension | Disrespectful and confrontational with supervisor. U-lack of progressive discipline. | Denied | No need for multiple channels of discipline for different type of conduct. |
| 21PA0860 | <u>Hennepin County</u> AFSCME Council 5 | Miller, Richard J. | 2 day suspension | Case Management Asst. refused to give a breath test to a client due to COVID concerns - felt he deserved hazard pay. | Denied | Volunteered, trained & fitted w mask. Didn't state concerns until client arrived. No need for progressive discipline. |

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|----------|--|--------------------|-------------------------|---|----------------------------|---|
| 21PA0620 | <u>Metropolitan Airports Commission</u> International Union of Operating Engineers, | Dunn, Richard J. | Termination | Ee took a damaged ladder w/o required permission for obtaining scrap material. 2nd charge of Ethics violation for using ER's account to obtain discount & sales tax forgiveness. | Denied | 20yrs, failed to file request, he knew was required - constituted theft & supported termination. Ethics violation not proven, |
| 21PA0359 | <u>Metropolitan Council - Transit</u> Amalgamated Transit Union, Local 1015 | Malamud, Sherwood | DOT Certification | MTC's MN Occupational Health vendor didn't certify ee to drive a bus. The Mayo clinic did provide certification. U claims discrimination. | Denied | ER properly exercised discretion in selecting & relying on medical opinion of it's vendor. |
| 21PA0177 | <u>Minneapolis, City of</u> Jesse Crofton - Veteran | Miller, Richard J. | Termination - VP | Anti-Muslim articles posted to Facebook page, violated Dept's code of Ethics. Post didn't list name or police dept, Continued working 30 mos w exceeds rating before termination. | Denied | Veteran's filings for worker's comp & disability insurance, coupled with his testimony created credibility & fitness for duty issues. |
| 20PN1381 | <u>Minneapolis, City of (interest)</u> Minnesota Public Employees Assoc. | Befort, Stephen F. | Interest | Dispatchers. Wages 1%, 1.5% (u 2.25%, 2%, e 0%, 0%); longevity step-n-e; certification pay- | 2020 - 1.0% 2021 - 1.5% | Wages below pre-COVID pattern, (city deficit \$155.9m). Union didn't prove need for longevity. Cert-obsolete language. |
| 20PA1495 | <u>Minnesota, Veteran's Homes of</u> Minneapolis and Hastings AFSCME Council 5 | | Holiday Compensation | Ees sought to receive comp time for working Holidays vs cash. ER paid cash for 8 hours & comp for 4 hours premium claiming it was FLSA required | Sustained | Contract language is clear & not in . conflict with FLSA. |
| 20PA1211 | <u>Roseau County</u> Teamsters Local 320 | Beens, Richard | Job assignment | Ee applied for Drug Task Force. Deputy selected had less seniority. Was denial de-facto discipline?-no. | Denied | Assignment was a transfer, not a new hire, nor a promotion. Mngmnt right. No loss of benefits or adverse impact. |

March, 2021

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|--|-------------------|--------------|---|---------------|---|
| 20PA1350 | <u>Hennepin County</u> AFSCME Council 5 | Altman, Robert | Banked Time | Can ER require banked Hol/Comp time use, before use of Vac/PTO time? - Yes. | Denied | Spelled out in Admin Manual;supr weren't authorized to allow practice; consistent county wide; no contract bar. |

February, 2021

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|---|-------------------|-----------------------------|--|---------------|---|
| 20PA2556 | <u>Hennepin County</u> Teamsters Local 320 | Jacobs, Jeffrey | Termination | Juv detention Officer made inappropriate & transphobic comments in therapy class. Therapist felt it was "grooming behavior." | 12 mo. susp. | 8 yr. ee with written & two 2 day susp. Termination based on sexual grooming allegation - did not rise to that level. |
| 20PA2533 | <u>Minnesota Department of Corrections</u> Nathan Knutson | Beens, Richard | Termination | Asst. Warden accused of violating ethical standards & told not to talk to anyone about the case. | 1 month susp. | 20 yr. Did not violate ethical standards. Disciplined for contacting co-workers which constituted insubordination. |
| 21PA0097 | <u>Minnesota, State of</u> MN Government Engineering Council | Kapsch, Frank | Procedural Arbitrability | Union filed grievance with MMB instead of immediate suprvsrs in MPCA & MDOT. | Arbitrable | U acted reasonably & properly MPCA & MDOT told U - MMB was moving party. |

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|------------|---|-----------------|------------|--|-----------|--|
| Not listed | <u>Wilkin County</u> AFSCME Council 65 | Jacobs, Jeffrey | Leave Time | Vacation/Sick/Holiday aren't considered hours worked for OT. U seeking to allow use at straight time if 40 hrs. are worked. (i.e. rain days when working 10hr shifts.) | Sustained | New contract language bars using non-worked benefit hours to calculate O.T., but didn't change benefit usage language. |
|------------|---|-----------------|------------|--|-----------|--|

January, 2021

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|--|-------------------|-------------------------------------|---|-------------------------|---|
| FMCS | <u>Allina/Abbott Northwestern Hospital</u> SEIU Healthcare | Remington, John | Termination | Clerk refused to submit to reasonable suspicion drug test. Advised she would be terminated, changed her mind & agreed, but left before the tester returned. | Denied | Clearly stated penalty for refusing test based on reasonable suspicion. Fear of needles & possibility new medication caused symptoms not considered. |
| 20PA0907 | <u>Big Stone County</u> AFSCME Council 65 | Yaeger, Thomas | Timeliness | ER unilaterally changed ee spouses cafeteria insurance benefit. U failed to select arbitrator within 90 days. | Denied | Arbitrator must be selected withing 90 days. Parties may have talked, but no Arbitrator selected - thus not arbitrable |
| 21PA0002 | <u>Duluth, City of</u> AFSCME Council 5 | Yaeger, Thomas | Resignation/Job Abandonment | Ee w mental health issues failed to give required updates while on sick leave. ER claimed ee resigned when absent for 3 days after final deadline for update. | Sustained | ER allowing paid leave to continue past prior deadlines undermined compliance. Ee reinstated to position held on 4/8/20 on unpaid status until Dr. clears for work. |
| 21PA0090 | <u>Hennepin County</u> IUOE Local 49 | Jacobs, Jeffrey | 1 day suspension | Ee on workers comp, told not to come in to the office, kept asking until she got a different answer. At the office was told to leave and failed to do so. | Denied | 20yr ee, 1 written reprimand. Refusal to leave from office was insubordinate. Discussion of Weingarten. |
| 19PA0629 | <u>Hibbing, City of</u> AFSCME Local 791 | McCoy, A. Ray | Employer's ability to change shifts | Start time for shift changed from 7am to 3am for snow plowing. Contract "Any change change in hours of work must be made with mutual agreement." | Denied | Contract bars reducing workday to less than 8 hrs. with 20 minute paid lunch. |
| 20PA0279 | <u>Metropolitan Council - Transit</u> Amalgamated Transit Union, Local 1015 | Toenges, Rolland | OT Work Shifts | Staff shortages left 3rd shift in stockroom unfilled. U seeking OT to fill vacancies. | Denied | Management right. Superv getting parts was miniscule & didn't constitute U work. |
| FMCS | <u>Millennium Hotel</u> IUOE Local 70 | McCoy, A. Ray | Eliminating Position | ER eliminated Lead Engineer position due to lack of work & discharged ee. Building engineer positions remained. | Sustained | Right to eliminate position doesn't automatically lead to discharge. Lack of just cause to terminate. Must reassign. |
| 20PA2588 | <u>Minnesota Department of Corrections</u> AFSCME Council 5 | Jacobs, Jeffrey | Termination | Corrections officer, code of conduct viol. Directed offender outside during fire drill in Dec w/o shoes or jacket; callous disregard for well being using Learning Experience disciplinary list in a cavalier manner. | Denied | Prior oral reprimand, 2 day suspension. Coached 11 times for similar behavior re power play games to instill fear and nervousness in offenders. |
| 21PA0008 | <u>Ramsey County</u> Teamsters Local 320 | Daly, Joseph | Arbitrability Timeliness | Substantively arbitrable? No contract language on issue of job posting but U cites LMC discussions. | Arbitration Required | Hearing required for testimony on claim. Grieved late, but only 1 day after ER provided their explanation. |

2022 Arbitration Awards - Minnesota B.M.S.

Summary of Arbitration Awards listed on the Bureau of Mediation Services' web site (<http://www.mn.gov/bms/arbitration/awards/>).

"Sustained" means the grievance prevails overturning the original action. "Denied" means the original action prevails.

| December, 2022 | | | | | | |
|----------------|---|------------------------|----------------------|--|-------------|--|
| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
| 23PA0123 | <u>St. Louis County</u> Law Enforcement Labor Services | Altman, Robert | Interest Award | Union asserts the ER violated the implementation of the arbitrator's award with regards to placement of current EEs onto the new salary schedule. Were not given 2 steps required under Civil Service Rules (as with a promotion/job reclassification). ER attests that placement consistent with all other bargaining units and Civil Service Rules not addressed in interest arbitration. | Denied | Arbitrator upheld ER's implementation, as focus of award was on Internal Equity, not Civil Service Rule placement guidelines. |
| 21PA0469 | <u>Duluth Public Schools ISD 625</u> Teamsters Local 320 | Foy, Terrance J. | Sick Leave Usage | 10 month Teaching Assistant worked additional summer hours at fee-based, childcare center. Attempted to use sick leave and was denied, as is not the academic Summer School program where sick leave usage is allowed per the CBA. | Denied | The contract clearly allows for sick leave usage for those working "summer school session". Childcare center is not an academic extension of the school year. Parties are free to negotiate different language if they intend it to be considered differently in the future. |
| 23PA0177 | <u>Chisago County</u> Teamsters Local 320 | Miller-Levin, Nancy J. | Call-Out Pay | Equipment operators contacted on weekend and ordered to report for work at 10 am on Monday (scheduled holiday/day off) due to a forecasted snowstorm. EOs changed personal plans to work. At 8:30am called by supervisor and told not to come in at 10, but to stay by phone and available to work later in the day. Between 2-3p called again and told they wouldn't be working at all as snow did not arrive. ER refused to approve call-out pay because no work performed and CBA does not have provision for stand-by pay. | Sustained | ER implemented a call-out when it directed EOs to report to work on their day off. Regardless of whether work performed. CBA requires 2 hrs pay at OT rate. |
| 22PA0700 | <u>Hennepin County</u> Teamsters Local 320 | Foy, Terrence J. | Termination | Security officer manning a security checkpoint found to have taken a visitor's can of mace back to his personal locker, rather than returning the item, or logging it in and storing in the designated lost and found. Employer considers it theft, and his efforts to cover up his actions egregious. | Denied | Termination justified for serious misconduct, theft by security officer even more egregious. Public trust broken, as is confidence in having access to County buildings, offices and confidential materials. |
| November, 2022 | | | | | | |
| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
| 23PN1164 | <u>City of Bloomington</u> AFSCME Co. 5 | Yaeger, Thomas L. | Interest Arbitration | Wages 22 - U: No ATB if market adjustments done first yr. ER: 3% Wages 23 - U: 3% GWA or same as non-union, whichever is greater. ER: 3%. Union requesting Market Adjustment. ER opposed. Frontline Stipend - U: \$2000 ER: None. Union seeking change to Automobile and Travel Expense to mirror other staff with no monthly cap. | ER Awarded: | 3% general wage increase 2022. 3% general wage increase 2023. No market adjustments. Union awarded \$2000 Frontline Stipend as provided to other City employees. Also awarded the Automobile and Travel Expense language without monthly cap. |

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| 20PA0445 | <u>Metro Transit</u> ATU Local 1005 | Toenges, Rolland C. | Subcontracting | Grievance filed after outside contractor hired to perform lighting retrofit of 10,000 fixtures in 9 facilities. Employer points out no provision in CBA limits the right of contracting, and it acted in good faith for a reasonable business purpose that did not adversely impact its employees. | Denied | Exercise of ER's inherent right to contract did not violate the CBA. |
| 22PA0950 | <u>Minnesota Management and Budget</u> Minnesota Nurses Association | Altman, Robert | Terminations | 2 RNs caring for an inmate at Oak Park Heights Correction Facility with medical conditions needing round the clock care. Inmate died after further assessments not taken as his condition deteriorated. Employer terminated them for failure to comply with responsibilities outlined in their position description and comply with standards of nursing care. Union contends since Board of Nursing imposed no discipline they should be reinstated. | Denied | Board of Nursing's lack of discipline imposed on nurses or their licenses is not controlling of the ER's right to determine who remains employed. CBA requires just cause as threshold for discipline. |
| 22PA1692 | <u>Duluth Public Schools ISD 709</u> NCFO SEIU 956 | Yaeger, Thomas L. | 1. Vacancy Posting 2. Delay of Transfer 3. Posting (Promo) | Grievance filed over 1. how/where a vacancy was posted, 2. when the person selected for a lateral transfer was allowed to begin the new position in a different building, and 3. when the posting for the ensuing promotional "backfill" should have occurred. District showed past practice of delaying major disruptions in staffing until summer, as the domino effect of people switching buildings and positions can impact services during the school year | 1. Sustained 2. Denied 3. Denied | 1. The District must post vacancies per the process outlined in the CBA. 2. The District did not violate the contract by delaying the lateral transfer until the end of the school year. 3. The District did not violate the contract by not posting for a promotional opportunity during the school year. |
| 22PA0568 | <u>University of Minnesota</u> AFSCME Council 5 | Yaeger, Thomas L. | Termination | Dispatcher terminated for incidents of adjusting work schedule and coming in late without supervisory approval, and appearing to claim pay for time not worked. Union contends communication was attempted, and termination is punitive rather than corrective. | Sustained in | Progressive discipline appropriate. While termination not justified, written reprimand and 3 day unpaid suspension upheld. Arbitrator ordered employee returned to same position and made whole, less the 3 days |
| 21PA1547 | <u>MMB Department of Human Services</u> AFSCME Council 5 | Yaeger, Thomas L. | Termination | Employee at St Peter terminated for multiple policy violations and gross misconduct. Multiple incidents of disparaging, disrespectful social media posts about vulnerable adults and co-workers, threats of harm to patients, failure to report maltreatment and disclosing and misusing protected patient data. | Denied | Employer had just cause to discharge grievant for repeated incidents of egregious conduct indicating lack of respect for patients, co-workers and mission of the agency. |
| 22PA1249 | <u>Washington County</u> Teamsters 320 | Foy, Terrence J. | Assignment | Grievance filed asserting those assigned Enhanced Supervisions clients should receive the differential assignment pay for those designated as part of the Enhanced Supervision Unit Probation Officers. ER contends the cases assigned do not carry with them the job expectations of the ES Unit. | Denied | No evidence that ER paying differential to those not specifically assigned to those cases. Assertion that someone transferred out of the ESUPO continued to receive assignment differential factually incorrect. |

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| FMCS 220428- | <u>Gopher Resource, LLC</u> Teamsters Local 120 | Remington, John | Termination | 2 yr employee discharged after spray painting offensive graffiti at work site. ER pointed out 4 prior disciplinary warnings, including 3 for unsatisfactory work performance. Union argued termination was excessive discipline. | Denied | Company had sufficient cause to discharge grievant. Previous progressive discipline did not correct grievant's performance deficiencies |
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| 22PN0971 | <u>Todd County</u> Law Enforcement Labor Services, Inc. | Wallin, Gerald E. | Interest Arbitration | Comp Time: U-Status Quo, E-eliminate 100 hr max, add 80 hr carry over.HCSA Contributions:U-Status Quo, E-changes for those hired on or after 1/1/22. Wages: U-3% each yr of contract, E-2.5% each year of contract. U-Market Adjustments, E-No Market Adjustments, Task Force Pay:U-increase to \$1.75 E-Status Quo, Death Scene Investigations:U-New language and stipend for duties. E-No, and does not believe arbitrable. | | Employer position awarded on comp time, no market adjustments and status quo for task force pay. Union position awarded for Health Care Savings Plan contributions and general wage increases in 22, 23, 24. No award issued for death scene investigation language or pay. |
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October, 2022

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|----------|---|--------------------|----------------------|--|--------|--|
| 22PA1080 | <u>MMB Department of Corrections</u> MAPE | Toenges, Roland C. | Contract | Grievance filed after denial of a promotion/s to a higher classified position and a claim of retaliatory treatment for having filed a grievance. Claims failure to accept comparable qualifications and unequal treatment. ER indicates promotions not accepted due to not meeting minimum experience and training requirements. State maintains they have the managerial right to select and promote employees, and MAPE does not have standing to dictate who is selected for promotion. | Denied | Selection or non-selection of an employee for promotion in state service is an inherent managerial right established by statute and not subject to the CBA grievance procedure |
| 22PN0949 | <u>Metropolitan Airport Commission</u> Law Enforcement Labor Services, Inc., | Bauman, Susan J.M. | Interest Arbitration | Prior to arbitration, parties came to agreement on grievance procedure language, and the general wage increases for 2021 & 2022 in line with the internal settlement pattern. Union seeking market adjustments for 21 & 22, and a salary schedule modification in 21 & 22. | | No market adjustments awarded However, an additional 1% increase shall be added to the top step of the salary schedule effective 1/1/2022 |

September, 2022

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
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August, 2022

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|-------------|---|--------------------|---------------------|--|--------|--|
| FMCS 255814 | <u>Pan O Gold Baking Co</u> Teamsters, Local 289 | Befort, Stephen F. | Delivery Commission | Union claims CBA violated by compensating Route Sales Representatives a private label commission rate rather than the higher commission rate for POG branded product deliveries when delivering "clear bag" products with no label. ER position is that it is consistent with delivery-only commission, vs the branded products that can include handling returns. | Denied | CBA language ambiguous as to whether clear bag product is private label or independent product for purposes of commission. However, practice is in line with commission paid for other delivery-only work. |

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| 22PA0394 | <u>Dakota County</u> AFSCME Council 5, Local 450 | Jacobs, Jeffrey W. | On Call Pay Past Practice | Union claims ER violated CBA and past practice of providing certain probation officers with 128 hours of on-call pay per week by changing to 40 hours of on-call pay per week (and less POs placed on-call at any one time). | Denied | Past practice was not formally repudiated during the course of relevant contract negotiation. On-going grievance does not serve as notice. |
| 22PN1109 | <u>Ramsey County</u> Teamsters 320 | Jacobs, Jeffrey W. | Interest Arbitration | Holidays: ER-exchange floating holiday for Juneteenth. U - status quo. Uniform: U - \$800, \$1000, \$1000. ER - \$800 each yr. Severance: U - Modification. ER- status quo. Vacation: ER- 2.5x annual cap with 1 time spend down. U - status quo. Wages: U - 3.5% general increase each yr. ER - general increases of 1.5%, 2.25%, 2.25%. Salary Progression: ER- reduce each level by 1 yr. U - change from 20 yr to 15yr. Deferred Comp: U -increase from \$35 to \$45. ER- status quo. FTO pay:U -increase. ER- status quo. Hazard Pay - U - \$3 hr from 3/20/20. ER - none. Pandemic Pay:U-\$3000 ER - \$500 for those who worked from home/\$1000 for those reporting to work. | | Holidays: ER-exchange floating holiday for Juneteenth. Uniform: Arbitrator awarded \$875 yr1, \$900 yr2&3. Severance: ER- status quo. Vacation: ER- 2.5x annual cap with 1 time spend down. Wages: ER - general increases of 1.5%, 2.25%, 2.25%. Salary Progression: ER- reduce as proposed. Deferred Comp: ER- status quo. FTO pay: ER- status quo. Hazard Pay - ER - none. Pandemic Pay: ER - \$500/\$1000. |
| 22PN0542 | <u>City of Crystal</u> Law Enforcement Labor Sevices, Inc. | Kapsch Jr, Frank E. | Interest Arbitration | Holiday Call Pay: U-earn call back rate of 2X for Christmas, 4th of July or Thanksgiving. ER - Maintain staus quo. Health Insurance Opt Out Amount: U - \$225 ER- Maintain \$75 opt out.Market Rate Adjustments: U - 2.5% market adjustment each year of contract. ER - No market adjustment. | | Holiday Call Pay: ER position maintain status quo Health Insurance Opt Out Amount: Union's proposal of \$225. Market Adjustment: ER position. No market adjustments beyond the General Wage Increase pattern established. |
| 22PN0970 | <u>Ramsey County</u> Teamsters Local 320 | Miller, Richard J | Interest Arbitration | Holidays: ER- swap flating holiday for Juneteenth. U - status quo. Uniform Allowance:ER - \$850 each yr. U - \$875 yr1, \$900 yr2, \$925 yr3 Severance Pay: 60% cash pay out up to 1500 hrs. ER - status quo.Vacation Cap and Accrual: ER - change to 2.5x cap and one time annual spend down. U - staus quo. Health Care Savings Plan: U- Increase contribution. ER- status quo.Wages: U - 4% general increase each yr. ER - general increase pattern (1.5%, 2.25%, 2.25%) | | Holidays: ER - replace one floating holiday with Juneteenth. Uniform Allowance: U - will move to \$875 yr 1, \$900 yr 2&3. Severance Pay: ER- maintain current schedule. Vacation Cap & Accrual: ER - move to 2.5x cap w/ 1 time spend down.Health Care Savings Plan: ER - maintain stus quo. Wages:ER - 1.5% yr1, 2.25% yr2, 2.25% yr3. |

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| 22PN0998 | <u>Stearns County</u> Minnesota Public Employees Association | Miller, Richard J. | Interest Arbitration | Shift Differential:U -\$2 hr. ER-\$1.25 hr. FTO Compensation: U-1 hr OT. ER- maintain \$1. POST training Compensation: U - 1 hr OT per FTO shift. ER-\$2 hr. Schedule Change: U-OT rate if within 7 days. ER - status quo. Juneteenth: U -Add. ER - no. Clothing Allowance New Hires: U - 1st two qtrs up front. ER- receive quarterly allotment. Insurance Contribution: U-Increase contribution by premium increase each yr. ER - \$35 S/\$75 F increase each yr of contract. VEBA contribution: U-\$400. ER - \$350. VEBA Retirees: U-\$2000 ER- \$1000. IOD Pay:U-120 days worth. ER - 60 day status quo.General Wage Increase: U-5%, 4%, 4%. ER - 2% 1/1 - 2% 7/1 pattern. Canine Handler Pay: U - 1 hr OT. ER- 1/2 hr a day. SWAT/Dive Team Compensation:U-\$100 mth. ER-\$1 hr.Pandemic Pay: U-\$5000. ER - none. Hazard Pay: U- 2% base wage. ER - none. DMT/DRE Pay:U-\$200 annually. ER - none. Term of Agreement: U-1 yr. ER - 3 yrs. | | Shift Differential: Arbitrator Awarded \$1.30. FTO Compensation: ER- maintain \$1. POST training Compensation: U - 1 hr OT per FTO shift. Schedule Change: ER - status quo. Juneteenth: ER - no. Clothing Allowance New Hires: U - 1st two qtrs up front. Insurance Contribution: ER - \$35 S/\$75 F increase each yr of contract. VEBA contribution: ER - \$350. VEBA Retirees: ER- \$1000. IOD Pay: ER - status quo.General Wage Increase:ER pattern. Canine Handler Pay: U - i hr OT. SWAT/Dive Team Compensation: Increase to \$50 a month.Pandemic Pay:ER - none. Hazard Pay: ER - none. DMT/DRE Pay: ER - none. Term of Agreement: ER - 3 yrs. |
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| 22RA1479 | <u>Kowalskis Market</u> UFCW Local 663 | Beens, Richard A. | Non-Union Workers | ER employed non-union staff to man the in-store Starbuck's kiosks feeling it was a separate business not subject to CBA. Union finds these indistinguishable from other food and retail services within the stores and are covered by the CBA. | Sustained | CBA language "All work in the store will be done by bargaining unit members" is clear and unambiguous, ER is required to staff the Starbuck's kiosks within their stores with UFCW 663 Union members. |
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July, 2022

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|--|--------------------|--------------------------|--|------------------------|--|
| 22PA1351 | <u>St. Cloud Metropolitan Transit Commission</u> Teamsters Local 63B | Jacobs, Jeffrey W. | Forced Use of Leave Time | Grievant refused a forced shift assignment on her regular day off and the required use of accrued time was deducted from her vacation time. Since the grievant declined due to provide FMLA care to a parent, there was a question of if sick leave should have been deducted. Union contends no time should be lost, but other reprimand issued in its place. | Denied in Sustained in | ER did not violate the contract by requiring use of paid hours before entitled to an unpaid leave. However, sick leave should have been used. Credit vacation time back and deduct from sick. |
| 21PA0413 | <u>Carver County</u> Teamsters 120 | Altman, Robert | Suspension | Detention Deputy was issued a 168 hour suspension for violation of County policies and Sheriff's office policies following theft of food from huber lunch bags intended for inmates and violation of his paid administrative leave. | Denied | Relatively short term employee with prior discipline. Showed no recognition of serious nature of misconduct and no contrition. Violated terms of paid administrative leave by not being available to come into work if called. |
| 22PA1883 | <u>Meeker and Wright Special Education Coop.</u> Minnesota School Employees Association | Daly, Joseph L. | Contract Grievance | Union filed class action grievance alleging ER violated the collective bargaining agreement by adjusting salary step placement upward after initial hire. ER cites an error in previous service credit was corrected, and not limited by CBA. ER challenged arbitrability and timeliness. | Denied | Determined to be unarbitrable. Union did not have standing to file grievance for single employee who did not wish to file one. |

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| 22PN0993 | <u>City of Savage</u> Law Enforcement Labor Services, Inc. | Dunn, Richard J. | Interest Arbitration | Contract re-opener to meet and negotiate medical insurance contributions and H.S.A contributions. | See Decision | A 50/50 split of premiums savngs was ordered, to mirror agreement on how premium increases are to be divided. Maintained H.S.A contributions consistent with other city employees. |
| 21PA1542 | <u>MMB</u> AFSCME Council 5 | Jacobs, Jeffrey W. | Termination | Grievant terminated for violation of HIPPA and other policies by posting derogatory comments about her vulnerable adult patients and workplace on social media. | Denied | Discharge upheld. Grievant violated several . policies. Progressive discipline unlikely to correct serious egregious behaviors |
| 22POA1234 | <u>Becker County</u> Law Enforcement Labor Services, Inc. | Swanson, Stephen D. | Discharge | Sheriff Deputy discharged for violating Sheriff's Dept policies, county personnel policies, and Minnesota POST Board policies when he engaged in a | Denied | Termination upheld. In spite of positive service record, the grievant did not use his de-escalation tactics and his behavior was intentional, dangerous and totally unacceptable. Concern that a repeat would threaten safety of public. |

June, 2022

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|---------------------------|--|-------------------|--------------|---|--------------------|---|
| 22VP1474 | <u>Hennepin County</u> Veterans Preference | Kundrat, Frank J. | Termination | Carl Bodene (Veteran) discharged for repeated violation of the ER's Non-Discrimination Respectful Workplace policy. County argues he is not entitled to double recovery (working another job while collecting full salary while on appeal for VP hearing) | Denied | Employer had cause to terminate. Grievant ordered to reimburse Hennepin County for any funds he earned in excess of the salary he drew while on fully paid veterans preference appeal status from date of notice of termination to the date of this decision. |
| 22VP1564 | <u>Hennepin County</u> Veterans Preference | Remington, John | Termination | Andy Knutson (Veteran) was suspended, then discharged, for failure to submit to reasonable suspicion drug and alcohol test after serious of previous incidents and progressive discipline. | Denied | Employer had cause to terminate. |
| FMCS Case 221129-01463 | <u>Breakthru Beverage Minnesota</u> Teamsters Local 792 | Remington, John | Vacation Pay | Disagreement as to calculation of vacation pay, | Denied | No violation in the calculation of vacation pay. |
| 22PA0958 | <u>Metropolitan Council</u> ATU Local 1005 | Malamud, Sherwood | Discipline | Grievant issued Final Record of Warning and permanently demoted from Instructor to bus operator for incident where he moved the location of training without authorization or immediate disclosure. | Sustained in part. | ER did not violate CBA when imposing Final Record of Warning, but permanent demotion not just and merited. Grievant should be restored to former position if presently qualified with no backpay for the three years in demoted position. |

May, 2022

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------------------|--|-------------------|--------------------------------|--|---------------|--|
| FMCS Case 210209-0389 | <u>Allina Health/Buffalo Hospital</u> SEIU Healthcare MN/Iowa | Daly, Joseph L. | Respectful Workplace Violation | Class Action Grievance filed for alleged hostile, abusive, and disrespectful behavior from a manager in the facility. ER contends small group resistant to change and being held accountable. Challenged arbitrability as no specific incident was cited within 20 day window for filing alleged grievances. | Denied | Testimony of employees who quit prior to the filing of the grievance was not considered. Examples of statements made, tone, etc. were deemed as being "conclusions" rather than "facts". Though arbitrable as grievance brought on behalf of a few current employees, just cause was not shown by a preponderance of the evidence. |

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| 22PA0882 | <u>ISD 196, Rosemount-Apple Valley-Eagan Teamsters Local 320</u> | Dunn, Richard J. | Payroll Processing | Past practice of paying for optional summer work separate from regular amounts, but on the same every other Friday pay schedule. Unilaterally changed by the District when it established different cut off dates and schedules for regular pay vs additional pay. These changes made in 2020-21 without consulting Union. District challenged arbitrability as no contract language violation cited and no specific employee was named in grievance. Argues managerial right to shift payroll process Union defended right to file on behalf of group of members as their exclusive representative. | Sustained | Timelines for payment of extra work must be retained. Future changes should be the subject of negotiations. District will make the effected employees whole for the two week period b calculating the amount deferred and adding 2% interest. |
| 21PN2575 | <u>Ramsey County Teamsters Local 320</u> | Beens, Richard A. | Interest Arbitration | Single Issue of Seperation Pay for Chief Correctional Officers unit. Union seeking the same schedule as Deputy Sheriff Commanders. ER's position is to maintain current schedule. | ER position | Internal comparison asserting CCOs equal to DSC not compelling. Minimum qualifications and job duties differ as reflected in their historical pay ranges. And in the 2 unit's separation pay. DSCs obtained through quid pro quo in lieu of market wage adjustment. No such quid pro quo with CCO Failed to achieve through multiple collective bargaining sessions, not role of Interest Arbitration to grant benefits that could not be achieved at bargaining table. |
| FMCS 200518-0633 | <u>North Shore Estates, LLC SEIU Healthcare MN</u> | Daly, Joseph L. | Termination | Long-term employee discharged for accepting gifts for her child from a vulnerable resident. ERs position is that even if gift was de minimus, she did not disclose the gift and federal laws, state laws, and ER policies are clear. Union argued a traumatic head injury impacted grievant's ability to remember signing a document saying she should not accept gifts on behalf of her family, & her long record of being a good employee should be considered. | Sustained in part | Though just cause to discipline, mitigating factors should be considered when looking at level of discipline. Grievant returned to work with no back pay. |
| 20PA0840 | <u>ISD 625, St. Paul AFSCME Council 5</u> | Befort, Stephen F. | Overtime Assignmen | Union argues the District did not properly assign overtime to distribution workers by seniority. ER supervisor had delegated OT assignment in his absence to 2 members of the bargaining unit who did make an error in one instance. Other instances outside the grievance timeline not given consideration. | Sustained in part | ER directed to comply with contract by offering overtime opportunities within the same job title in seniority order. Since unable to determine who would have accepted the OT if properly offered, no make whole remedy imposed. |

April, 2022

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|---------------------------------------|--------------------|--------------|---|---------------|---|
| 22PA0561 | <u>Ramsey County AFSCME Council 5</u> | Jacobs, Jeffrey W. | Seniority | Union asserts ER violated contract and past practice by utilizing factors other than seniority when awarding internal position bids. Practice did differ from CBA language, but no discernable pattern in how selections were being made. ER notified union it was ending past practice as part of bargaining in order to fully use the contract language using "ability and capacity" as factors when filling vacancies. These are not routine jobs and needs of clients differ as well as differences in day vs night shifts. | Denied | Evidence presented of successful repudiation of past practice and lack of evidence ER has violated any provision of labor agreement. ER maintains the managerial right to select Ees it feels would best fit into a position. |

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|---------------------|---|------------------------|---------------|---|-------------------|--|
| 22VP0607 | <u>MMB DOC</u> Veterans Preference | Befort, Stephen F. | Termination | Scott Behrends (Veteran) discharged for misconduct and violation of several DOC policies through comments and actions that made subordinates and co-workers uncomfortable. Determined that he did violate Personal Code of Conduct, the Harrassment and Discrimination Prohibited Respectful Workplace, Statewide Sexual Harrassment Prohibited, thru asking EE if pregnant, discussing porn, simulating 20 yr EE with "Fragile X Syndrome" was discharged after incident of insubordinance with manager, and using offensive language in front of other employees and customers. | Sustained in part | ER sustained in decision to remove Behrends from position of Corrections Program Director, but ER directed to reinstate his employment in Correctional Counselor position. Progressive discipline in form of demotion to non-supervisory role where previously successful appropriate. |
| FMCS 221201-0155 | <u>Kroger Company</u> UFCW Local 536 | Toenges, Rolland C. | Discharge | Mr. Witucki terminated after failure to comply with Last Chance Agreement. Union did not initiate or participate in a grievance challenging the discharge because of LCA. Private atty tried to process w/ER thru CBA but ER challenged as 1. exclusive rep not participating and 2. Wituki had waived his right to grieve his termination in his Last Chance Agreement from 2017. | Denied | ER had just cause to discipline the grievant for insubordinate behavior and offensive language. Grievant had been trained on rules, and ER showed it had consistent pattern of uniform discipline when warrented. |
| 21PA2668 | <u>Ramsey County</u> Jonathan Witucki (Individual) | Miller-Levin, Nancy J. | Arbitrability | | Not Arbitrable | An individual cannot independently process a grievance under the CBA between union and employer. Request for arbitration hearing on merits of the discharge denied |

March, 2022

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|-----------------------|-------------------|--------------|----------------|---------------|-----------------------|
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February, 2022

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|--|-------------------|------------------|--|---------------|--|
| 22PA0604 | <u>Minnesota Management and Budget</u> AFSCME Council 5 | Beens, Richard | Holiday Pay | Zoo staff previously allowed to bank holiday straight time & premium time (1.5 actual hours worked) into compensatory time bank. Violation of FLSA discovered and grievance filed when practice discontinued. | Denied | Contract language overly broad and contrary to federal law. ER put Union on notice twice it revoked consent to past practice. |
| 22HA0002 | <u>North Shore Health (Cook County)</u> SEIU Healthcare | Beens, Richard | Termination | Grievant had series of disciplinary actions for tardiness, ignoring of assigned tasks, violation of daily med check policy, patient abandonment, and falsification of records. | Denied | Employer followed progressive discipline and had cause to terminate for series of egregious policy violations. Grievant did not accept responsibility or appear to show remorse for actions/attitudes. |
| 21PA1010 | <u>ISD 625, St. Paul</u> Teamsters Local 320 | Remington, John | Quarantine Leave | Union argued absent specific language up to 10 days quarantine leave should be granted per incident. ER position is that the maximum of 10 days is per contract duration and other leave time available for use if needed. | Denied | Employer did not violate the CBA by denying grievant Quarantine/Catastrophic leave time in excess of the 10 days provided and used. |

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| 22POA0516 | <u>Minnesota Management and Budget</u> MN State Patrol Troopers Association | Gaertner, Susan | Termination | State Trooper discharged for falsifying commercial vehicle inspection reports, failure to pull vehicles with serious violations out of service and turning off squad cam video during drivers encounters creating safety risk and violation of public trust. | Denied | Despite no previous discipline history, ER had just cause to terminate for serious misconduct. |
| 20PA2458 | <u>MN Judicial Branch</u> Teamsters Local 320 | Biggar, David M. | Contract Grievance | Union filed grievance because ER will not permit judge to change court reporter's pay from one step to another on negotiated salary schedule. Further complaints that some judges hiring new reporters at higher step than current tenured reporters. | Denied | No authority for judges to modify their court reporter wage rate after the reporter has been hired. Therefore no basis to find the ER violated the CBA by refusing to allow judge to adjust wages. |

January, 2022

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|--|---------------------|--|---|----------------------|---|
| 22PA0729 | <u>Hennepin County</u> AFSCME Council 5 | Beens, Richard A. | Work Schedules | Union argued ER designee did not have the authority to close an office site impacted by power outage and possible gas leak. | Denied | ER designee authorized to close offices when determines an emergency situation exists. |
| 22PA0341 | <u>Metro Transit</u> ATU 1005 | Altman, Robert | 15 Day Suspension 10 Day Suspension | Case involved 2 disciplines and grievances related to multiple violations of Ers Cell Phone Policy. No dispute of use of phone, just level of discipline. | Denied | ERs consistent enforcement of cell phone policy justified. Grievant's reprehensible behavior during investigation did not compel a reduction in length of discipline. |
| 22PA0426 | <u>Metro Transit</u> ATU 1005 | O'Toole, Carol Berg | Termination | Operator terminated for seeking permission to work overtime verbally from dispatcher rather than seeking written authorization from Rail Control Center Staff. ER viewed as theft of time. Union argued policy unclear | Sustained | Reinstated with no back-pay. Ers lack of training, and unavailble Rail Control Center Staff led to understandable confusion on authorization process for overtime. Could have been more careful, but not theft. |
| 22PA0549 | <u>Hennepin County</u> AFSCME Council 5 | Jacobs, Jeffrey W. | Written Reprimand | Grievant issued written reprimand after multiple coaching and counseling sessions and multiple PIPS realted to lack of timely case documentation, case closure and time management. Union argued grievant was confused over expectations and possible consequences. | Denied | Employer had just cause and followed progressive discipline in dealing with on-going unaddressed performance issues. |
| 22VP0003 | <u>MMB MDVA</u> Teamsters Local 1B | Befort, Stephen F. | Termination | Recreation Program Assistant terminated for accepting wedding gift from resident in violation of Statewide Code of Ethics policy. Union argued did not solicit money, Vet was not cognitively impaired, and not clear policy applied to wedding gifts. | Sustained in part | 30 day unpaid suspension appropriate progressive discipline for error in judgement rather than intentional malfeasance. |

2023 Arbitration Awards - Minnesota B.M.S.

Summary of Arbitration Awards listed on the Bureau of Mediation Services' web site (<http://www.mn.gov/bms/arbitration/awards/>).

"Sustained" means the grievance prevails overturning the original action. "Denied" means the original action prevails.

| December, 2023 | | | | | | |
|--------------------|---|---------------------|------------------------------|--|-------------------|--|
| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
| 23PA2625 | <u>ISD 625 St Paul Public Schools</u> AFSCME Minnesota Council 5 | Beforet, Stephen F. | Demotion | Long-time EE demoted out of Student Wellness Clerk position following a series of poor performance evaluations and failure to correct via performance improvement plan. Union argued the new supervisor was seeking to remove her from the department. | Denied | ER had just cause to demote grievant for performance issues |
| 23PA2624 | <u>MMB</u> MGEC | Kundrat, Frank J. | Professional Dues | Grievance filed over failure to reimburse for MN Assoc. of Professional Development dues after concerns raised it appeared to be a part of the MN Government Engineering Council. MGEC negotiates terms and benefits of employment with MMB, so ER payment would appear to violate code of ethical conduct and questioned legitimate public purpose. | Sustained in part | MAPD is a distinct and separate entity from MGEC, and qualifies as professional organization. Dues paid by ER for MAPD membership are properly reimbursable except for that portion of dues allocated to direct reimbursement of professional licensure fees. EEs denied reimbursement made whole for portion NOT put towards professional license fees during 21-23 CBA |
| 24PA0127 | <u>Stearns County</u> AFSCME 65 | Kelly, Patrick J. | Seniority Date/Arbitrability | Grievant's salary review date was adjusted per the CBA the CBA due to an extended unpaid leave of absence. Grievance filed 5 years after the adjustment made. Union not informed of the change at the time to be able to file on Ees behalf. ER feels followed CBA, but issue is not arbitrable and should be denied due to missed timelines. | Denied | Not arbitrable, grievance timelines outlined in CBA not followed. |
| FMCS 230725-7895 | <u>Guthrie Theatre</u> Twin Cities Musicians Local 30, AFM | Beforet, Stephen F. | Bargaining Unit Work | Grievance filed after third-party non-union composer used non-union musicians, and did not fill out an incidental music agreement for a dramatic production. ER cites multiple other examples where this has occurred in the past. Union attempted to negotiate clarification into the CBA but were unsuccessful. | Denied | Past practice of ER both directly hiring musicians, or having a third-party composer hiring as a means to avoid its contract obligations, therefore no compelling reason to disturb status quo. |
| FMCS 230721-262633 | <u>Tschiggfrie Properties, LTD</u> Teamsters 120 | Daly, Joseph L. | Discharge following FMLA | Lead heavy-duty truck mechanic injured (not on the job). Light duty work was found, but need was exhausted and hours cut so went on short term disability. Took a voluntary layoff with hopes of coming back. Company assisted in filling out paperwork for 12 week unpaid leave under FMLA. He was still unable to return to the heavy-duty truck mechanic work, so was terminated. He was eligible and continued to receive long-term disability but wants to return to the light-duty work. | Denied | Termination upheld as allowed based on the Family Medical Leave Act law. |

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| 262633 | <u>Gregory Contracting, Inc.</u> Doval Construction, LLC | Toenges, Rolland C. | Performance Liability | Gregory (contractor) entered into agreement with Doval (sub-contractor) to install siding on a residence in North Branch. The siding was not installed in accordance with manufacturer's specifications, resulting in loss of warranty and appearance quality. To satisfy property owner and provide product warranties, the siding will need to be removed and replaced with new siding installed with manufacturer's specifications. | Sustained. Doval is liable for the replacement of siding improperly installed. | Gregory Contracting is awarded the cost of replacement material plus labor costs and expenses for the siding replacement and awarded attorney' fees in the amount of \$6,600.00 |
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November, 2023

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|---|-------------------|-----------------|--|---------------|--|
| 23PA2371 | <u>Hennepin County</u> AFSCME Local 2398 | Altman, Robert | Exceptional Pay | Top performing county attorney did not receive expected exceptional pay following completion of his annual performance review. Though increase supported by supervisors, HR did not receive appropriate paperwork/documentation to process. As this was being worked through, new County Attorney suspended the exceptional pay program due to budget questions and no established criteria. | Denied | Employer did not violate the contract by not implementing an Exceptional Pay increase for grievant. |
| 23PA2572 | <u>Wadena County</u> Teamsters Local 320 | Remington, John | Sick Leave Use | Class action grievance filed. Negotiated changes to the 22-24 contract at issue. Union states intent was to separate sick leave and create a separate bank of leave time for funerals. Ers position was it did not intend to create a new type of paid time off. | Sustained | Clear and concise language in the contract must prevail. ER violated contract when it required Ees to use accrued sick leave to attend funerals of immediate family members. Entitled to maximum of 5 days per incident, those who had to use sic kafter 1/14/23 shall have sick leave reimbursed. |

October, 2023

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|-------------------------|---|--------------------|--------------|---|-------------------|---|
| FMCS 230535 06451 | <u>Marsden Building Maintenance LLC</u> Service Employees Intl Union, Local 26 | Daly, Joseph L. | Termination | Short term EE issued several disciplinary actions, and placed on Performance Improvement Plan over course a few months. ER continued to receive complaints about her work, her creation of safety hazards, and hostility and insubordination when dealing with direct supervisor. | Denied | Termination was for just cause. Immediate termination based on poor past performance and insubordination upheld. No mitigating circumstances for lesser discipline. |
| 23PA2684 | <u>City of Rochester</u> AFSCME 65 | Failor, Gregory L. | Suspension | Asst clerk issued 5 day suspension without pay for on-going performance issues. Progressive discipline followed with continued concerns. Union argued minor infractions used as basis for discipline, and inconsistent work direction received from supervisor. | Sustained in Part | Suspension reduced from 5 days to 3 days without pay. ER did not address some of the performance issues at the time they occurred to allow for EE to address them. |

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| 23PA2464 | <u>Ramsey County</u> IUOE 49 | Jacobs, Jeffrey W. | Longevity Steps | Grievance filed for failure to provide longevity steps first full pay period following 1/1/23. Union asserted part of negotiated settlement. County asserted it has always granted longevity steps on anniversary date, and there was no intent to change that. | Denied | Compression of longevity steps was applied generally county-wide, with evidence that longevity steps was done on an individual's anniversary date. Plain meaning of contract language was applied. |
| 23PA1313 | <u>Chisago County</u> Teamsters, Local 320 | Abelsen, James | Vacation Request Request | Grievance filed after past practice of balancing | Denied | Miscommunication about Available for Snow vs |
| 23PA0720 | University of Minnesota Teamsters, Local 320 | Kapsch, Frank E. | Premium Pay | Grievance filed claiming delivery driver | Denied | Materials that grievant handles and transports in |
| 24PA0066 | <u>ISD 286 Booklyn Center</u> SEIU 284 | Altman, Robert | Termination | Short-term EE terminated after investigation concluded conduct was highly disruptive, interfered with student's ability to feel safe and accepted, and alienated co-workers. Union argued grievant terminated for minor performance and communication issues that could and should have been dealt with through coaching.No effort to address concerns made until the termination. | Sustained | Grievant returned to former position, not necessarily former assignment. No backpay awarded. ER did not meet burden of proof to show termination was for Just Cause, that well documented progressive discipline was followed or that egregious conduct or insubordination occurred. |
| 261832 | <u>City of Minneapolis</u> AFSCME CO 5, Local 9 | Befort, Stephen F. | Health Insurance for for P/T | Grievance filed for ER's failure to provide health insurance for part-time EE. Later determined EE had been hired into an "intermittant" position. CBA has no provision for medical coverage for part-time or intermittent EEs.Union argued past settlement agreement had effect of opening up insurance to part-timers. ER argued union . missed timelines to file grievance and grievant lack standing to file | Denied | Grievance not arbitrable on procedural grounds (failure to observe time limits for filing, and lack of standing by grievant to file). No further need to determine merits of the case. |
| 23PN1372 | <u>Steele County</u> MNPEA | Stromquist, Steven R. | Interest Arbitration | Single issue of Pay Scale and Steps considered. Union seeking to eliminate bottom 2 steps, add new step to top. Move those on 1&2 to 3, all other EEs placed on next higher step effective 1/1/23. ER position to eliminate bottom 3 steps. Move those on 1-3 to 4, Step 4 to 5, all those not effected effected receive step on anniversary as outlined in in current CBA. | Employers | ER successfully argued that proposal is strong when compared to external competition, and more importantly, to maintain internal consistency in its compensation structure. Uniform implementation of new wage schedule accepted by 91% of bargaining unit members in county |
| 23PN0934 | <u>Itasca County</u> Teamsters 320 | Lundberg, James A. | Interest Arbitration | Number of issues certified, including updated Individual Rights language, new Sick Leave language, addition of Discipline language, and general wage increases and market adjustments. ER seeking the internal GWA pattern each year and no market increase. Union seeking 3% GWA each year, and additional 3% market increase in 22 and 23. | GWA: 2022 | Arbitrator awarded updated Rights language, maintained status quo with regard to Sick Leave and Discipline language. Awarded ER's general wage adjustments to maintain internal equity. Awarded an additional 1% market adjustment each year to account for the external wage comparisons and the pressure on law enforcement market. |
| 23PN0934 | <u>Itasca County</u> (Clarification) | Lundberg, James A. | Interest Arbitration | | | No new discipline language will be added to the the collective bargaining agreement. |

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| 23PA2009 | <u>Chisago County</u> Teamsters 320 | Kundrat, Frank J. | Class Action Past | Multiple grievances filed for ERs non-negotiated change to past practice(s) of reporting to County site for paid breaks and meal breaks, advance notice and lead time for early snow removal, and when pay started in case of early start - non-emergencies (when work starts vs when contacted to come in). ER disputed arbitrability citing different timelines in expired 2022 CBA vs new 23-25 agreement. | Sustained | Arbitrator did not feel bound to timelines of CBA not in effect, so proceeded with case. Past practices upheld, absent conversation or negotiation with the Union to alter. |
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September, 2023

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|-------------------------|---|----------------------|--------------------|--|---------------|---|
| FMCS 23105- 02900 | <u>Mayo Clinic St Marys</u> SEIU Healthcare | Beens, Richard A. | Mandatory Overtime | Grievance filed on behalf of Mayo Inventory Clinic staff working during COVID pandemic who felt ER was violating the CBA terms by requiring EES to work unreasonable overtime amounts by routinely requiring them to work more than their 8 hour shifts (including an additional 8 hour double). ER states nature of pandemic emergency and turnover rates of 45-67% necessitated the extra hours of remaining EEs while in "survival mode". | Denied | Under circumstances of providing healthcare during pandemic and declared National Emergency, it is impossible to consider the worked unreasonable. In the interest patient care, neither ER or EEs had any realistic choice. It is outside the Arbitrator's authority to issue a "cease and desist" for similar OT in the future. Parties must agree to shared definitions of reasonable or unreasonable at bargaining table, not thru arbitration. |
| 23PA1827 | <u>City of Elk River</u> IUOE, Local 49 | Finklestein, Phillip | Written Reprimand | Written Reprimand issued following accident | Denied | Good employee made serious mistake and level |
| 23PA1027 | <u>City of Moorhead</u> Law Enforcement Labor Services, Inc. | Daly, Joseph L. | Holiday Pay | Grievance filed for failure to pay 2x for non-scheduled hours picked up and worked on a holiday. ER argued since EEs volunteered for open shifts prior to the shift, was "scheduled" and only eligible for 1.5X rate of pay on holiday | Sustained | Arbitrator determined "not scheduled to work" did include picking up shifts. Further, it was determined that there was a past practice of paying officers willing to work on a holiday double time. |
| 23PA1728 | <u>Hubbard County</u> Law Enforcement Labor Services, Inc. | Bauman, Susan J M | Step Progression | Union filed grievance for failure to advance Ees on their anniversary date. | Sustained | Arbitrator determined modification to step progression negotiated as part of 2022 class and comp study. ER ordered to follow step progression contained in CBA. |

August, 2023

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|--|--------------------|------------------|---|---------------|---|
| 23PA1015 | <u>City of North St. Paul</u> Teamsters Local 320 | Jacobs, Jeffrey W. | 3 Day Suspension | Grievant used city PO and vendor to order specialty bulbs for headlights. Later filed work order claiming to install on his work vehicle. Investigation showed bulbs not installed, nor do they fit, on his or any other city vehicle. Bulbs could not be located. ER issued 3 day suspension without pay alleging he took the bulbs. | Denied | While based on circumstantial evidence, the ERs conclusion is reasonable. The union's argument of supervisory conspiracy is not supported by the papertrail of parts orders, work orders, etc that tie back to the grievant. Level of discipline is appropriate as it was not a simple paperwork error. Theft typically is an egregious terminable offense. |

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| FMCS 231024-00584 | <u>Mille Lacs Health System</u> IAEP Local 107 SEIU Local 5000 | Hoffmeyer, Steven G. | PTO - OT Calculation | After negotiations for a first contract concluded, Union filed grievance when discovered Paid Time Off hours used were not counted towards overtime pay calculation. Feel "Employees will be paid PTO as hours worked" in the PTO article should apply to overtime. ER contends the language is an reflection of its broader PTO policy that does not/has never counted those hours towards OT. Throughout negotiations issue was framed as a language proposal, not an economic change to current practice. | Denied | ER did not violate the collective bargaining agreement. Union did not clearly declare its intent for overtime effect on PTO time used, nor was there any ER acknowledgment of a change. Union's arguments based on unverified assumptions, not a meeting of the minds. |
| FMCS 230508-05882 | <u>Wellman Dynamics Corporation</u> IUOE Local 234 | Toenges, Rolland C. | Discharge | X ray Technician terminated for 4th active disciplinary action, which is subject to discharge per the CBA in effect at time. Union argued change in language that was later ratified should be applied. | Denied | ER had just cause to terminate for number of active disciplines related to attendance, work process, quality and confidentiality. Discharge was in accordance with applicable CBA provisions, as contract extension agreement in place that included discipline article. |
| FMCS 230316- | <u>CenterPoint Energy</u> IBEW 949 | Before, Stephen F. | Discharge | Technician terminated after failing to detect presence of a gas line at scene of house fire. ER cited neglect of duty for failing to follow policies and training with respect to fire and gas leaks. Union argued EE relied on information given by Fire Marshall and visual inspection conducted at chaotic scene, not having been provided address or other property details in advance. Even had grievant checked electronic database, it had not been updated to show gas service line to the house vs. propane | Sustained in part | Discharge reduced to a two week suspension without pay. Grievant's error of judgement was contributed to by a number of unusual circumstances. Was an unintentional mistake versus intentional misconduct due to neglect of duty. |
| FMCS 220406- | <u>Fairview University of Minnesota</u> AFSCME Council 5 | Before, Stephen F. | Discharge | NST terminated after audit showed she had accessed a fellow employees medical chart to section outlining medical appointments and reasons for the visit. ER pointed to clear policy and federal law breaches, as well as the . irreparable damage done to the work relationship in that unit. Union argued level of discipline inappropriate and inconsistent with other similar violations. | Denied | Discharge upheld. Grievant violated ER policies and federal law by accessing co-s. worker's e- medical records without business need. Level of discipline consistent with other similar violations. |
| 23PA1094 | <u>City of International Falls</u> IAMAW W33 | Beens, Richard A. | Scheduling of Shifts | Grievance filed after Union believed practice of having night shift slot assigned to part-time, non union EMT changed in negotiations to allow for full-time union Paramedics to bump into them. ER contends it did not change existing practice or contract language, nor is it foregoing any managerial rights. | Denied | Contract language is clear and unambiguous, as is scheduling past practice. ER has managerial right to determine schedules, staffing and control for overtime. Union Paramedics cannot bump non-union pt EMTs out of shifts. There is no inherent right to overtime. |

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| 23PA1511 | <u>Chisago County</u> Teamsters Local 320 | Loconto, Michael T. | Unilateral Health Insurance Implementation | Grievance filed after ER went forward with implementation of 2023 health insurance plan changes, despite not having bargained to agreement over the changes. Union cites MN Statute violation, ER asserts that would be considered an Unfair Labor Practice that must be heard by PERB, not a contract violation to be determined by an arbitrator. | Denied | The Employer did not violate the contract when it implemented the 2023 health insurance plans covering members of the Union's five bargaining units. ER met its minimal disclosure obligations in the CBA. Arbitrator does not have the authority to issue an Award based on the claim that Minnesota Statute 471.6161 was violated. |
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| 23PA1932 | <u>Minneapolis Park and Recreation Board</u> LiUNA 363 | Jacobs, Jeffrey W. | Verbal Reprimand Reprimand | Grievant issued verbal reprimand for refusing to comply with supervisors work directive not to climb trees while trimming that day, asserting he knew better than his foreman, and not doing the ground base tasks assigned. Union argued grievant had skills and knowledge to safely climb trees and that supervisor was disparate when issuing discipline. ER points out clear case of insubordination and progressive discipline was followed. | Denied | Grievant was insubordinate when actively ignoring clear, repeated work directive from supervisor. Level of discipline was appropriate. |
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July, 2023

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|-------------------|---|---------------------|---------------------------------|---|--|---|
| 23PA0914 | <u>City of Northfield</u> IUOE Local 70 | O'Toole, Carol Berg | Bargaining Unit Work Assignment | City created non-union Horticulturist position without notice to the union. Position consisted of majority of tasks previously performed by bargaining unit member. Union had no opportunity for unit clarification or challenge of position at negotiations. | Sustained | Employers actions resulted in loss of overtime and low morale for bargaining unit members. The Employer is ordered to cease and desist from assigning bargaining unit grounds keeping work to non-unit employees. |
| 23PN0954 | <u>City of Barnesville</u> Teamsters Local 120 | Altman, Robert | Interest Arbitration | | Implemented new base wage amounts, and general wage increases of 3.5% for 23 and 24. | Arbitrator guided by market adjustment and general wage increase recommendations of consultant hired to conduct salary survey. Maintained all current classifications, regardless of incumbants in position, and maintained incentive pay to be dealt with quid pro quo in future negotiations. |
| FMCS 220829-08795 | <u>Essentia Health</u> SEIU HC | Hoffmeyer, Steven | "Me Too" Market Adjustment | ER increased salaries to non-bargaining unit Ees in common job titles and in same labor market without making adjustments to bargaining unit Ees. | Sustained | ER has violated the Market Differential article in the CBA. Union positions below the \$15 minimum wage rate should have received the same market adjustment via the same process used for non-bargaining staff. |

June, 2023

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|-----------------------|---|--------------------|------------------------------------|--|--------|---|
| FMCS 2209 29-09667 | <u>St. Paul Automobile Dealers Association</u> IAMAW No 77 | Befort, Stephen F. | Premium Pay | Different levels of allowable labor time standards in place for repair work paid for by individual customers and warranty work that is covered by the manufacturer. CBA allows for premium pay for performing warranty work that specifically excludes factory maintenance. Union claimed premium should be applied to Pre Delivery Inspections, though never discussed in negotiations for CBA. ER does not consider PDIs to be a repair, or eligible for premium. | Denied | Work preformed during the Pre-Delivery inspection are not considered a "warranty repair" and are not paid at the artificially low labor time standard. The Warranty Period begins when the vehicle is first delievered and put in use, it is warranty work performed after this time that is eligible for the CBA premium. |
| 23PA0632 | Special School District 1, Minneapolis | Jacobs, Jeffrey W. | MOA Continuity /Past Practice | MOA limiting school administration to one meeting per week with teachers (in effort to increase student contact and thus student acheivement/test scores) developed in 2015- 2017 negotiations. Did not included sunset date or continue in effect language, and was not attached as part of any future contracts. Parties agreed to its renewal via mediation in 17-19. District put union on notice in 21-23 bargaining of its intent to discontinue, and no new language or MOA renewal was negotiated. Union grieved after post strike agreement in place arguing MOA is part of on-going contract and cannot be unilaterally ended. | Denied | District sent repudiation notice a) not continue MOA and b) ending any past practice(s) related to it. There was no negotiation of new language or extension to the MOU in latest round of negotiations. It was specifically not incorporated into post-strike CBA, and union signed anyway after request to do so was denied. |
| 23PA0957 | <u>ISD 625, St Paul</u> Teamsters 320 | Kundrat, Frank J. | FMLA - Sick Leave Bank Usage | EE facing major medical issue had exhausted all paid leave, been granted unpaid FMLA leave, qualified for, requested, and was granted donated hours from established sick leave bank. SLB donations occur after 5 days in unpaid status and are paid in \$\$\$. Union argues District should consider these as hours paid to extend paid status and eligibility for active status health insurance contribution rather than unpaid/inactive COBRA coverage. | Denied | Language in the CBA and Sick Leave Donation MOU very clear. Donations paid out in cash once all other paid leave exhausted and in unpaid status for 5 days. Insurance coverage for active employees ends the month they switch to unpaid status and they are given COBRA notice for continued coverage as inactive moving forward. District provided clear and consistent communication on this. No evidence that the District erred in its adminstration of FMLA health care coverage and sick leave bank usage. Issues raised with the actual language or application of sick leave bank donations are open for negotiation during future bargaining. |

May, 2023

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|-------------------|--|--------------------|--------------------------------|--|-------------------|---|
| FMCS 230331-04818 | <u>City of Orono</u> OPEIU 12 | Jacobs, Jeffrey W. | Vacation Accrual | CBA grants those with 0 - 5 years employment 10 days vacation. ER and Union had agreement for salary placement deviation consideration for new hires. MOAs drafted showing agreed upon salary placements, but no mention of, or agreement to, alternate vacation accruals. Union grieved when discovered ER also granting new hires various levels of vacation accrual without notice or agreement from Union. ER asserted it maintained discretion to negotiate with new hire candidates not yet in the bargaining unit and that the contract set a floor, not an upper limit for accruals and City is free to negotiate upwards from those levels. | Sustained | CBA requires those with 0 - 5 years service to earn 10 days of vacation. No more, no less. Inherent inequity exists because of ERs unilateral action. Though likely fixed moving forward, those harmed should be made whole. Remedy ordered to grant aggrieved EEs 15 days vacation from the first time ER granted new hire 15 days or from their date of hire, whichever is later, until the aggrieved EEs also reach 5 years of employment with the city. |
| 23PA1682 | <u>Rice County</u> Minnesota Public Employees Association | Altman, Robert | Termination | 17 year EE terminated for theft of time, falsification of records and neglect of duties when evidence showed multiple incidents over a 5 month period of paid hours spent in break room without evidence of significant productive work performed. | Sustained in part | Grievant reinstated to position without backpay. Longterm EE with no previous disciplinary record should have been given opportunity to correct behavior via progressive discipline prior to termination. |
| 23PA0109 | <u>Rice County</u> Law Enforcement Labor Services, Inc | Osthus, Marlin O. | Leave Accrual | Grievant denied full vacation and sick accruals when receiving workers compensation payment for time missed after contracting COVID (injury on duty). Employer claimed past practice of not crediting employees in unpaid leave status or when receiving workers compensation. Contract and policy are silent to workers comp | Sustained | Employer violated the collective bargaining |
| 23PA0567 | <u>City of Medina</u> Law Enforcement Labor Services, Inc. | Paulson, Kristi | Sick Leave Severance Payout | Grievant denied sick leave payout after timing of his written notice versus previous verbal and text notifications and discussions with his supervisor occurred about his intent to leave for other employment. | Sustained | Grievant fulfilled requirement under CBA by providing required notice and leaving in good standing. Is entitled to payout of 1/3 of accumulated sick leave hours. |
| 22PA0901 | <u>Hennepin County</u> Hennepin County Deputies Association | Osthus, Marlin O. | Hiring/Assignment | Parties submitted positions, evidence and briefs to arbitrator seeking an order on whether or not the ER violated the contract, despite having resolved the issue that led to the initial grievance being filed | Sustained | The Employer violated Article 7, Section 6 of the parties' collective bargaining agreement when it hired two individuals who were not employed in the unit as deputies and when it did not perform the review and selection process set forth in Paragraph C of Section 6 of Article 7. |

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|-------------------|--|---------------------|--|--|--------------|---|
| FMCS 210922-10265 | <u>MORRISON (COMPASS GROUP)</u> SEIU Healthcare MN/IA | Toenges, Rolland C. | Premium Pay | Contract interpretation of when double time paid for shifts beyond the 6th consecutive day questioned. Grievant did not believe receiving double time (record shows she was), and was trying to include her normally scheduled days into the following week as double time. | Denied | The grievant was being paid double time for shifts picked up beyond the 6th consecutive work day that were not part of her normally scheduled days as outlined in the collective bargaining agreement. |
| 23PA0856 | <u>Metro Transit</u> ATW Local 1005 | Toenges, Rolland C. | Termination | Bus operator was discharged after 4th responsible accident in a rolling three-year period, a violation of the maximum accident policy. | Denied | Employer followed progressive discipline when enforcing long standing safety policies. |
| FMCS 21082 | <u>Mercy Hospital</u> Minnesota Nurses Association | Befort, Stephen F. | Contract Grievance Implementation of Staffing Grids | Union grieved implementation of revised staffing grids. ER asserts it followed the CBA requirements to discuss and engage in mediation prior to implementation. Was shown the ER did consider . and change positions prior to reaching impasse and implementation | Denied | While parties must bargain in good faith to reach an agreement, the employer retains the ability to break an impasse by implementing its last, best, final offer. Same premise applies and was found to be followed in this instance. |
| FMCS 2211 | <u>International Paper Company</u> United Steel Workers Local 264 | Befort, Stephen F. | Termination | Long-time EE terminated for violation of attendance policy and misconduct for failing to interactively participate in the process required under the American with Disabilities Act. Union challenged termination was without cause and in violation of CBA article allowing up to 18 months of non-work related illness or injury prior to termination. | Sustained in | Reinstated to position but not made whole (awarded backpay) for the year absent without authorization. |

April, 2023

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|--------------------------------|-------------------|---------------------|---|---------------|--|
| 23VP0129 | <u>State of Minnesota, MMB</u> | Remington, John | Veterans Preference | State Patrol officer discharged after failing to report a pursuit that ended in a crash to dispatch in a timely manner, failing to request a medical response or take an active role providing medical attention to the parties, failing to report factual information to responding officers about the pursuit, and failing to activate his body mic at the scene. Union argues lack of progressive discipline and the extreme delay in conducting the investigation and making the decision to terminate. | Denied | Employer had just cause to terminate after serious misconduct. The great authority vested in State Troopers comes with great responsibility. |

March, 2023

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|---|--------------------|--------------|--|---------------|---|
| 23PA0201 | <u>ISD 115, Cass Lake-Bena</u> Cass Lake -Bena Education Association | Jacobs, Jeffrey W. | Seniority | Teacher originally hired in 2011 left the District for a year in 2016, returning in 2017. Seniority list reflects adjusted date of service to 2017. Union argues contract states "initial date of service" should stand at 2011. District argued past practice of adjusting when staff have a break in service and return to the District. | Denied | Absent clear contract language to the contrary, when a teacher with continuing contract status leaves the District they do not carry seniority with them if they are re-hired by the District later. Would result in people achieving more seniority than those who had not had a break in service. |

259598

City of Minneapolis
Laborers Local Union #363

Remington, John

Termination

Public works EE with CDL license and prior record of testing positive for controlled substances was discharged after testing positive for alcohol via random drug and alcohol test during the work day. Union argued the result level was below the city standard cited in policy.

Denied

City had just cause to terminate the grievant

2024 Arbitration Awards - Minnesota B.M.S.

Summary of Arbitration Awards listed on the Bureau of Mediation Services' web site (<http://www.mn.gov/bms/arbitration/awards/>).
 "Sustained" means the grievance prevails overturning the original action. "Denied" means the original action prevails.

August, 2024

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|-----------|---|--------------------|-------------|---|-------------------|---|
| 24POA1094 | <u>Mower County</u> Law Enforcement Labor Services, Inc. | Hassan, Jeffrey A. | Termination | County Patrol Sergeant involved in high speed pursuit of vehicle fleeing from a City law enforcement officer. Delay in activating emergency warning lights. Fleeing vehicle crashed resulting in injuries to the two teenage occupants. Initially discharged for discrepancies in reporting and violation of multiple policies. Union points out lack of progressive discipline, grievant's previous service record and ER's treatment of other officers in like circumstances. | Sustained in part | Just cause exists for discipline, but termination, demotion, and/or written reprimand are not the appropriate discipline. Arbitrator upheld a 6 month suspension without pay, and a return to work in his supervisory role. |

July, 2024

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|---------------|--|------------------------|---|---|--------|--|
| 23PA2512 | <u>ISD 535, Rochester</u> Teamsters 320 | Kapsch, Frank E. | Sick Leave | EE's request for specific Sick/Hospitalization leave under the CBA was denied prior to surgical procedure. Was approved to use regular accrued sick leave. Grievance filed upon return from leave months later. ER challenged arbitrability on grounds of timeliness. It had clearly communicated what leave was /was not available for use prior to the surgery. | Denied | Grievance is not arbitrable. Grievant failed to move grievance forward when made aware of the ERs position prior to taking his leave. |
| 24PA1576 | <u>Hennepin County</u> AFSCME Co 5 | Miller-Levin, Nancy J. | Implementation of Healthcare Plan | County-wide healthcare labor management committee process failed to reach consensus on the benefit plan design and premium changes for following year. Contract indicates if consensus not reached the ER has sole discretion to set these. Grievance filed for failure to negotiate the impacts of these implemented changes with the union when previous plans no longer available under new plan provider. | Denied | While the original 4 tiered plan design no longer possible since former provider no longer exists, the County's ability to change from a 4 tiered plan to a 1 tiered plan is the outcome of the 2022 consensus process.No consensus was reached, therefore the ER had sole discretion and did not violate the CBA. The ERs obligation to negotiate the effects of a change made by a vendor is not an issue that was included in the original grievance or framing of the issue for arbitration. |
| FMCS 2023-537 | <u>M Health Fairview - St. John's Hospital</u> Minnesota Nurses Association | Befort, Stephen F. | Temporary Reassignment vs Arbitrability | Grievance filed after ER mandated reassignment rather than offering an absent day to account for staffing imbalances. ER challenges arbitrability as union failed to move grievance to Step 2 months beyond the timelines required in the collective bargaining agreement. | Denied | Grievance is not arbitrable. Union failed to follow time limitations outlined in grievance procedure. |

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|-------------------|---|---------------------|------------------|--|--------------|---|
| FMCS 241109-01010 | <u>Lyman Roofing</u> Teamsters 120 | Toenges, Rolland C. | Termination | Greivant terminated following progressive discipline for repeated absences and violation of the ERs Work Rules and Attendance policy. | Denied | ER had just cause to terminate under progressive discipline provisions of the contract. |
| 24PA1087 | <u>Hubbard County</u> Law Enforcement Labor Services, Inc. | Daly, Joseph L. | Out of Class Pay | Jailers acting as Team Lead paid additional \$1.50/hr for when no sergeant on duty that shift. Grievance filed by union claiming they are doing majority of sergeant duties and should received Out of Class pay vs Team Lead stipend. ER points out no one is being assigned to act as sergeant, and that the Team Lead is not supervisory. | Denied | Those functioning as Team Leads in the absence of a sergeant are being compensated correctly under the contract for the limited additional duties involved. They are not being assigned to work in the higher classification of sergeant. |
| 24PA0974 | <u>Hubbard County</u> Law Enforcement Labor Services, Inc. | Daly, Joseph L. | Out of Class Pay | Jailers acting as Team Lead paid additional \$1.50/hr for when no sergeant on duty that shift. Grievance filed by union claiming they are doing majority of sergeant duties and should received Out of Class pay vs Team Lead stipend. ER points out no one is being assigned to act as sergeant, and that the Team Lead is not supervisory. | Denied | Those functioning as Team Leads in the absence of a sergeant are being compensated correctly under the contract for the limited additional duties involved. They are not being assigned to work in the higher classification of sergeant. |
| 24PA1008 | <u>Metro Transit</u> ATU Local 1005 | Daly, Joseph L. | Termination | Long-time bus operator with previous discipline for violation of ER policies regarding deescalation and respectful interactions with passengers was terminated for engaging with aggressive passenger and using profanity. | Sustained in | Discharge reduced to a two month suspension without pay for use of profanity and taunting. Previous discipline about to fall off record, and prior trainings (absent role-playing) insufficient to prepare driver for this situation. |

June, 2024

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|----------|--|-------------------|---------------------|---|-------------------|--|
| 22VP0968 | <u>Metropolitan Council</u> Veteran | Foy, Terrance J. | Veterans Preference | EE with documented PTSD placed on PIP plan for attendance issues. Terminated prior to completion of PIP. Argues ER did not follow progressive discipline in but jumping to discharge. ER cites attendance policies in place, and the burdens created on co-workers by on-going short notice absences leading to understaffing, forced overtime, etc. | Sustained in part | Discharge reduced to 20 day suspension and EE reinstated to former position. While violation of ER attendance policies occurred, progressive discipline was not followed. EE was responsive to the Performance Improvement Plan in place. |
| 24PA0846 | <u>Kanabec County</u> City Employees Union, Local 363 | Osthus, Marlin O. | Termination | EE discharged for data breach after downloading files related to herself onto thumbdrive and taking home. ER was informed other EEs could access protected data on colleague by performing a basic search, and EE was concerned about the access to her information. ER terminated on grounds of willful violation of county policy and state law regarding data practices. | Sustained in part | EE returned to position, but with a three month loss in pay which the ER may record as a suspension. However, may not use this as part of disciplinary history in any future discipline issued to her. No evidence grievant surreptitiously accessed or read confidential data without a business need, did not share data with others and lack of security safeguards in place to limit access. |

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| 24PA0453 | <u>MNSCU</u> AFSCME Council 5 | Abelson, James | Layoff Vacancy Rights | Grievance filed after EE denied ability to "claim" a position in another state agency after electing not to bump a less senior EE and no other vacancies existed. ER denied ability to "claim" as the grievant did have options within their own employer. ER also challenged timeliness and arbitrability of grievance. | Denied | Grievance is arbitrable, but denied. No contract violation occurred. ER has contractual obligation to provide actual and anticipated vacancies in the Notice of Layoff. Internal vacancies that become available prior to the date of layoff are to be considered before right to "claim" external position. ER was within its right to inform the other state agency the grievant was not eligible to claim a position. |
| 24PA1149 | <u>Metropolitan Airports Commission</u> IAFF Local S-6 | Kelly, Patrick J. | Prior Service Credit/ Arbitrability | Union filed grievance related to denial of prior service credit adjustments for 2023. ER argues its decision to refuse to consider adjustments is not subject to the grievance process, and challenges arbitrability. | Denied | Contract language states adjustments made or denied are not subject to Article 22 (the grievance process). Grievance dismissed and found not to be arbitrable. |
| 23PN2507 | <u>Itasca County</u> Teamsters Local 320 | Foy, Terrance J. | Interest Arbitration | Union seeking to make enhancements to comp time, on-call and call out compensation. Requesting ability to be removed from county . insurance plans/pool and move to Teamsters 320 benefit plan. Seeking changes to vacation conversion, bereavement leave and sick leave severance. Seeking GWA of 3% each year of contract and market adjustments of 2% each year of contract. ER seeking language updates to comply with FMLA law, and accurately reflect health insurance plans currently provided. Offering internal pattern for wages and maintain status quo on other items. | ER position awarded. No market adjustment(s). Pattern GWA 2022:2% 2023:2% 2024:2.65% | County's position awarded in all areas. Union failed to support its requests to deviate from the established settlement pattern. In addition to maintaining pay equity and internal equity balance, there is no external comparison group, nor recruitment or retention concerns for positions that are filled through internal promotions. Number of issues sought by union should be subject of quid pro quo bargaining for a successor agreement. |
| 24PA1353 | <u>MN Guardian Ad Litem Board</u> AFSCME Council 5 | Daly, Joseph L. | Termination | EE terminated after being reported for making inappropriate comments related to client's weight, hair, culture and job status. Union argued just cause was not met to support termination of long term EE with good work history. Arbitrator noted the investigation into the allegations was lacking. | Sustained in part | EE returned to work, but with 8 month unpaid suspension. ER did not show just cause for skipping progressive discipline and choosing to terminate for policy violations, but EE did show insensitivity and implicit bias with her comments. |

May, 2024

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|---|--------------------|---------------------|--|-------------------|--|
| 24PA0817 | <u>Minnesota Management and Budget</u> AFSCME Council 5 | Kelly, Patrick | Mileage Calculation | Grievance filed regarding how the 35 mile from work location calculated. Union cites different layoff bumping options exist if calculated "as the crow flies". ER maintains has historically determined 35 miles based on road miles driven, not drawing a straight line between points. | Denied | No violation of CBA exists. ER demonstrated 50 year consistent practice of using road miles . driven to determine 35 mile factor used throughout the collective bargaining agreement. |
| 23PA1872 | <u>Minnesota Management and Budget</u> Minnesota Association of Professional Employees | Jacobs, Jeffrey W. | Termination | Grievant terminated for off-duty criminal charges. Union filed grievance arguing disparate treatment as similar infractions received lesser discipline, and that ER relied on inconsistent and incomplete police reports rather than an internal investigation. | Sustained in Part | Discharge was out of line with actual facts. Discipline reduced to a written reprimand, which is consistent with similar infractions in similar cases. Grievant reinstated and made whole. |

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| 24PA0487 | <u>University of Minnesota</u> University Education Association | Kapsch, Frank E. | Paid Parental Leave | Grievance filed after EE was denied paid parental leave after missing the "within 13 weeks after" birth requirement by one day. Union claims count should start the day after the birth, ER has history of count starting the day of the birth/adoption. | Denied | No violation of the CBA language occurred with the interpretation and application of leave time. ER has been consistent with this manner of counting for a variety of leaves. |
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April, 2024

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|--|----------------------|---|--|---------------|---|
| 23PA2644 | <u>City of Golden Valley</u> Law Enforcement Labor Services, Inc. | Paulson, Kristi J. | Severance Payout | EE denied payment of his earned vacation and severance/termination pay after ER alleged did not leave "in good standing" by giving proper notice. | Sustained | EE shall be made whole as he did what was within his control around the timing of leave request and notice of resignation. The ER lacked timely or appropriate responses which indicated an acceptance of resignation and last date of employment. |
| 24PA0438 | <u>Hennepin County</u> AFSCME Council 5 | Beens, Richard A. | Virtual Meeting Past Practice | Grievance filed alleging ER unilaterally instituted virtual meetings for "meet and confer" rather than returning to the pre-pandemic practice of meeting in person. | Denied | ER has managerial right to determine method of operation and use of technology for meet and confer (non-negotiation meetings). Contract does not require meetings to be in person, no one advantaged or disadvantaged by virtual meeting, and those traveling to be in person without ER agreement had no right to be reimbursed for travel time or expenses. |
| 24PA0166 | <u>Chisago County</u> Teamsters 320 | Paull, David S. | Harrasment | Grievance filed alleging violation of contract language and county policy occurred when union activist subjected to harrasment and offensive comments by supervisor. | Sustained | The grievant was harrassed in violation of Article 22 by Department Supervisors. The improper treatment was motivated, in whole or in part, by the Grievant's activities as a Union Steward. Ordered to cease and desist, and to post decision and award in workplace. |
| 230309-04142 | <u>Harvard Building Maintenance</u> SEIU Local 26 | Hoffmeyer, Steven G. | Submission of Dues/EE Contact Information | Grievance filed alleging how the submission of membership information and dues to the union was in violation of the contract requirements. | Sustained | The ER is to compile the required data into one spreadsheet and submit to the union on a monthly basis. |

March, 2024

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|--|--------------------|--------------|--|-------------------|--|
| 263898 | <u>City of Minneapolis</u> AFSCME Council 5 | Lundberg, James A. | Termination | Grievant terminated on grounds of 4 civil service rule violations: failure to perform at minimum standards, willful or negligent damage to city property, interference with the work of others, and violation of policies, procedures work rules after applying his own standards to property assessments rather than using the new ER assessment tool. Resulted in need for all properties to be re-assessed. Also disciplined for working unauthorized overtime. Union argued communication regarding new assessment tool unclear. | Sustained in part | No just cause existed for termination (no history of misconduct or long-standing performance issues). No clear order was given. Discipline reduced to a one day suspension for violation of the overtime policy. Reinstated and made whole with directive to employer to re-train on expectations and assessment tool upon return to work. |

February, 2024

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|---|---------------------|-----------------------------------|---|--------------------|---|
| 24PA1062 | <u>Hennepin Healthcare Services, Inc</u> AFSCME Council 5 | Peterson, Sabin S. | Differential Pay | MRT position accreted into bargaining unit in 2021. Union challenged whether these positions had been expressly designated to perform lead worker responsibilities and therefor eligible for the lead worker responsibility differential pay . previously negotiated. | Sustained in part | Issue of arbitrability sustained. Grievance itself denied on merits. These positions called "Lead" before accreted into bargaining unit, with no previous consideration given for the types of duties associated with those designated lead worker responsibilities for positions covered by CBA. No intent or understanding in 2019 to trigger lead responsibility differential. |
| 24PA0504 | <u>Hubbard County</u> Teamsters 320 | Osthus, Marlin O. | Bereavement Leave | Grievant's request to use bereavement leave following miscarriage of twins denied. Was told to use PTO or EIB for time missed as miscarriage noted as pregnancy related disability. Disagreement as to definition of child, ER argued MN Statute does not recognize miscarriage as a child since no death certificate issued. | Denied | The ER did not violate the collective bargaining agreement when denying use of bereavement leave following a miscarriage. No past practice exists, Bereavement language silent, but miscarriage included as a pregnancy related disability eligible for using other types of leaves available. |
| 23PA2304 | <u>Hennepin County</u> AFSCME Council 5 | Jacobs, Jeffrey W. | Suspension leading to Termination | Grievant with history of discipline for disrespectful and inappropriate attitude and communication was issued a suspension for similar communication with a supervisor, and subsequently terminated for forwarding sensitive, private client information to herself and union steward. | Sustained in part. | Just cause existed to issue the 1 day suspension. Termination reduced to 10 day suspension. EE returned to work with full backpay and benefits, minus the 10 days. |
| 23PA2605 | <u>Metro Transit</u> ATU Local 1005 | Toenges, Rolland C. | Termination | Grievant terminated under terms of Last Chance Agreement for failure to follow procedures and training resulting in a series of preventable accidents/incidents. | Denied | Just cause existed to terminate. Last Chance Agreement was violated by another preventable accident/incident. |
| 23PA2508 | <u>Special School District 1, Minneapolis</u> Minneapolis Principals Forum | Odonnell, John J. | Suspension | Principal given 10 day suspension for failure to follow a number of District policies and procedures, poor decision making and failure to engage her supervisor. | Denied | Just cause existed to issue suspension(s) related to actions surrounding death of a student and media interviews conducted in violation of District policies. |

January, 2024

| BMS # | Employer/Union | Arbitrator | Issue | Details | Award* | Basis/Argument |
|--------------|---|---------------------|--|---|-------------------|---|
| 23RA1084 | <u>Lunds Food Holding</u> UFCW Local 663 | Beforet, Stephen F. | 1. Arbitrability, if so 2. Retirement Contributions | Grievance filed related to contract language interpretation vs perceived past practice of vacation payouts to retirement plans. ER challenged arbitrability based on timeliness. | Sustained in part | Issued determined to be arbitrable, but denied on its merits. |
| 23PA1764 | <u>ISD 625, St. Paul</u> St. Paul Principals Association | O'Donnell, John J. | 403(B) Contributions | Disagreement as to the intent and interpretation of contract language related to 403B contributions involving a \$1000 non-matched contribution for all, and whether the employer match amount up to \$2750 includes or is in addition to, the \$1000 match | Sustained | No back-pay awarded, but moving forward Principals/Asst Principals shall be allowed to contribute and receive a District 403B match up to \$2750. The District shall also contribute \$1000 annually to each Principal/Asst Principal's 403B account. |