

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 5**

KEOLIS TRANSIT SERVICES, LLC

and

AMALGAMATED TRANSIT UNION (ATU),  
LOCAL 689 A/W  
AMALGAMATED TRANSIT UNION, AFL-CIO/CLC

Cases 05-CA-274141  
05-CA-274784  
05-CA-285523  
05-CA-293513

**ORDER FURTHER CONSOLIDATING CASES,  
SECOND CONSOLIDATED COMPLAINT,  
PARTIAL COMPLIANCE SPECIFICATION AND NOTICE OF HEARING**

On October 6, 2022, an Amended Consolidated Complaint and Notice of Hearing issued in Cases 05-CA-274141, 05-CA-274784, and 05-CA-285523, alleging that Keolis Transit America or Keolis Transit Services, LLC, whose correct name is Keolis Transit Services, LLC (Respondent) had engaged in unfair labor practices that violate the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq. Pursuant to Section 102.33 of the Rules and Regulations of the National Labor Relations Board (the Board) and to avoid unnecessary costs or delay, IT IS ORDERED THAT those cases are further consolidated with Case 05-CA-293513, filed by Amalgamated Transit Union, Local 689 AFL-CIO/CLC or Amalgamated Transit Union, Local 689 a/w Amalgamated Transit Union, AFL-CIO/CLC, whose correct name is Amalgamated Transit Union (ATU), Local 689 a/w Amalgamated Transit Union, AFL-CIO/CLC (the Charging Party) which alleges that Respondent has engaged in further unfair labor practices within the meaning of the Act.

**SECOND CONSOLIDATED COMPLAINT**

This Second Consolidated Complaint and Notice of Hearing, issued pursuant to Section 10(b) of the Act and Section 102.15 of the Board’s Rules and Regulations, is based on these consolidated cases and alleges Respondent has violated the Act as described below.

1. The charges in the above cases were filed by the Charging Party, as set forth in the following table, and served upon Respondent on the dates indicated by U.S. mail:

<b>Case No.</b>	<b>Amendment</b>	<b>Date Filed</b>	<b>Date Served</b>
(a) 05-CA-274141		March 12, 2021	March 16, 2021
(b) 05-CA-274141	First Amended	March 19, 2021	March 22, 2021
(c) 05-CA-274784		March 26, 2021	March 29, 2021
(d) 05-CA-274784	First Amended	August 19, 2021	August 20, 2021
(e) 05-CA-285523		October 29, 2021	November 2, 2021
(f) 05-CA-293513		April 4, 2022	April 5, 2022

2. (a) At all material times, Respondent has been a limited liability company with an office and place of business in Leesburg, Virginia (Respondent’s facility), and has been engaged in the business of transporting passengers and providing transit services to private and governmental entities, including Loudoun County, Virginia, out of Respondent’s facility.

(b) In conducting its operations during the 12-month period ending October 31, 2022, Respondent derived gross revenues in excess of \$250,000.

(c) During the period described above in paragraph 2(b), Respondent performed services valued in excess of \$5,000 in States other than the Commonwealth of Virginia.

(d) At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

3. At all material times, the Charging Party has been a labor organization within the meaning of Section 2(5) of the Act.

4. At all material times, the following individuals have held the positions opposite their names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act:

- (a) Thaddeus Davenport - Operations Manager
- (b) Alvin Hampton - General Manager
- (c) Antonio McDaniel - Human Resources Director
- (d) Jeff Rainey - Human Resources Director
- (e) Tricia Mumford - Start-Up Manager

5. (a) The following employees of Respondent (the Unit) constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time drivers/operators, cleaners/washers, dispatchers, road supervisors, maintenance foreman, mechanics, lead mechanics, utility workers, and parts clerks employed by the Employer at its Leesburg, Virginia facility; excluding all other employees, office clericals, managers, guards and supervisors as defined by the Act.

(b) On March 17, 2022, the Board certified the Charging Party as the exclusive collective-bargaining representative of the Unit.

(c) At all material times since March 17, 2022, Respondent has recognized the Charging Party as the exclusive collective-bargaining representative of the Unit.

(d) At all material times since March 17, 2022, based on Section 9(a) of the Act, the Charging Party has been the exclusive collective-bargaining representative of the Unit.

6. About March 9 and 17, 2021, Respondent, by Alvin Hampton, by issuing employment offers, promulgated and since then has maintained the following rule:

**CONFLICTS OF INTEREST:** You agree that during the period of your employment with KTA you will devote full-time efforts to your duties. During your employment, you further agree not to (i) solely, or jointly with others, undertake or join any planning for or organization of any business activity competitive with the business activities of KTA; and (ii) directly or indirectly engage or participate in any other activities which are in conflict with the best interests of KTA. This offer, and your continued employment, is predicated on information you've provided confirming that you are not bound by any restrictive covenants or contracts with your current employer that would interfere with you accepting an offer of employment with KTA and performing the functions for which you are being hired.

7. About March 9 and March 17, 2021, Respondent, by Alvin Hampton, by issuing employment offers, promulgated and since then has maintained the following rule:

**ARBITRATION AGREEMENT:** Any controversy or claim arising out of or relating to this Agreement or the breach hereof, including any claim based upon or arising from an alleged tort, shall be settled by binding arbitration in accordance with the American Arbitration Association's National Rules for the Resolution of Employment Disputes in effect on the date of this Agreement, and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. Any remedy that would be available from a court of law or equity shall be available from the arbitrator(s). The arbitration hearing and all proceedings in connection therewith shall take place in Boston, MA and both you and the Company consent to jurisdiction in Massachusetts. The arbitration shall be commenced within ninety (90) days of the filing of a Demand for Arbitration by either party, and the award shall be rendered within thirty (30) days of the conclusion of such hearing. Notwithstanding the foregoing, the Company may seek equitable relief in court for any violation of the Provision of Trade Secrets and Confidential Information, Confidential Information Agreement, and Non-Solicitation of Employees provisions of this Agreement.

8. About March 9 and 17, 2021, Respondent, by Alvin Hampton, by issuing employment offers, promulgated and since then has maintained the following rule:

**NON-SOLICITATION OF EMPLOYEES:** You agree that for a period of twelve (12) months following the termination of your employment with KTA, you shall not directly, or indirectly by assisting others, recruit, solicit or otherwise induce any other employee of KTA with whom you became familiar as a result of your relationship with KTA to terminate their relationship with KTA.

9. About March 12, 2021, Respondent, by Tricia Mumford near her office at Respondent's facility, threatened its employees with unspecified reprisals because they attempted to discuss wages, hours, and terms and conditions of employment with Respondent.

10. About March 25, 2021, Respondent, in its memorandum entitled "Loudon County Mobilization – April 1, 2021," threatened its employees with discharge in order to discourage employee interest or participation in a strike.

11. About October 21, 2021, Respondent, by Thaddeus Davenport, in his office at Respondent's facility, interrogated its employees about their activities on behalf of the Charging Party and other employees' activities on behalf of the Charging Party.

12. (a) About March 31, 2022, Respondent imposed discretionary discipline on its Unit employee Mamdouh Kamel by suspending him.

(b) About April 6, 2022, Respondent imposed discretionary discipline on its Unit employee Mamdouh Kamel by issuing him a corrective action form for its March 31, 2022 suspension of him.

(c) The subjects set forth above in paragraphs 12(a) and 12(b) relate to wages, hours, and other terms and conditions of employment of the Unit and are mandatory subjects for the purposes of collective bargaining.

(d) Respondent engaged in the conduct described above in paragraphs 12(a) and 12(b) without prior notice to the Charging Party, and/or without affording the Charging Party an opportunity to bargain with Respondent with respect to this conduct and/or the effects of this conduct.

13. (a) About April 1, 2022, the Charging Party requested that Respondent bargain collectively about its March 31, 2022 suspension of Unit employee Mamdouh Kamel.

(b) Since about April 1, 2022, Respondent has failed and refused to bargain collectively about the subject set forth above in paragraph 13(a).

(c) The subject set forth above in paragraph 13(a) relates to wages, hours, and other terms and conditions of employment of the Unit and is a mandatory subject for the purposes of collective bargaining.

14. (a) Since about April 1, 2022, the Charging Party has requested in writing that Respondent furnish the Charging Party with the following information:

- (1) Any and all documents used to provide the discipline given to Mamdouh Kamel;
- (2) Any and all documents stating Mamdouh Kamel received training on the proper procedures regarding this situation; and
- (3) Any and all files regarding discipline for Mamdouh Kamel in the last 12 months.

(b) The information requested by the Charging Party, as described above in paragraph 14(a), is necessary for, and relevant to, the Charging Party's performance of its duties as the exclusive collective-bargaining representative of the Unit.

(c) Since about April 1, 2022, Respondent, by Jeff Rainey, in writing, has failed and refused to furnish the Charging Party with the information requested by it as described above in paragraph 14(a).

15. By the conduct described above in paragraphs 6 through 11, Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

16. By the conduct described above in paragraphs 12(a), 12(b), 12(d), 13(b), and 14(c), Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees in violation of Section 8(a)(1) and (5) of the Act.

17. The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

### **REMEDY**

The General Counsel seeks, as part of the remedy for the allegations in paragraphs 6 through 11, 12(a), 12(b), 12(d), 13(b), 14(c), and 15 through 17, an Order that Respondent be required to copy and mail, at its own expense, any Notice to Employees that may issue as a result of this proceeding to all current and former employees who were employed at any time since March 9, 2021.

The General Counsel further seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

### **PARTIAL COMPLIANCE SPECIFICATION**

In order to liquidate the amount owed by Respondent and to avoid unnecessary cost or delays, this partial compliance specification is issued with the Second Consolidated Complaint and alleges as follows:

18. As a result of the conduct described above in paragraph 12 of the Second Consolidated Complaint, Unit employee Mamdouh Kamel is entitled to backpay in the manner and amount computed as follows.

19. The backpay period for employee Mamdouh Kamel begins April 4, 2022, the first day of his suspension, and ends on April 6, 2022, the final day of his suspension.

20. (a) The gross backpay Mamdouh Kamel would have earned is defined as the sum of regular earnings and overtime earnings and is set forth in Exhibit 1.

(b) Regular earnings are computed by multiplying the number of regular hours Mamdouh Kamel would have worked in the backpay period by the appropriate wage rate of \$26.00 per hour.

(c) Overtime earnings are computed by multiplying the number of overtime hours Mamdouh Kamel would have worked in the backpay period by the appropriate wage rate of \$26.00 per hour and multiplying the result by one and one half (1.5).

(d) Regular hours are based on the average hours worked per week (40) by Mamdouh Kamel prior to the conduct described above in paragraph 12.

(e) Overtime hours are based on the average number of overtime hours worked per week (15) by Mamdouh Kamel prior to the conduct described above in paragraph 12.

21. Interim earnings are the wages Mamdouh Kamel received from interim employers during the backpay period. Mamdouh Kamel's interim earnings are set forth in Exhibit 1.

22. Net backpay is the difference between gross backpay and interim earnings. The net backpay due is set forth in Exhibit 1.



## **REPORT ON BACKPAY PAID TO SOCIAL SECURITY ADMINISTRATION**

23. Respondent is required to submit the appropriate documentation to the Social Security Administration so that when backpay is paid, it will be allocated to the appropriate periods.

24. Respondent is required to submit the W-2 reflecting backpay paid to Mamdouh Kamel.

### **SUMMARY**

25. Summarizing the facts and calculations specified above and on Exhibit 1, the obligation of the Respondent under this Compliance Specification to make Mamdouh Kamel whole for losses suffered as a result of Respondent's unlawful conduct will be discharged by payment to Mamdouh Kamel in the amount of \$975.00, less appropriate withholdings, plus interest, on the sum above which accrues until payment is made, compounded daily, and Respondent's remittance to the appropriate taxing authority of the Respondent's share of FICA contributions. The Regional Director, or his designee, reserves the right to amend any or all provisions of this Compliance Specification by inclusion of information not currently known to the Regional Director.

### **ANSWER REQUIREMENT**

RESPONDENT IS FURTHER NOTIFIED that, pursuant to Sections 102.20, 102.21, and 102.56 of the Board's Rules and Regulations, Respondent must file an answer to the above Consolidated Complaint and Partial Compliance Specification. The answer must be **received by this office on or before December 14, 2022.** Respondent also must serve a copy of the answer on each of the other parties.

The answer must be filed electronically through the Agency's website. To file electronically, go to [www.nlr.gov](http://www.nlr.gov), click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. Responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a consolidated complaint and compliance specification is not a pdf file containing the required signature, then the e-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing.

Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission.

As to all matters set forth in the Partial Compliance Specification that are within the knowledge of Respondent, including but not limited to the various factors entering into the computation of gross backpay, a general denial is not sufficient. See Section 102.56(b) of the Board's Rules and Regulations. Rather, the answer must state the basis for any disagreement with any allegations that are within the Respondent's knowledge and set forth in detail Respondent's position as to the applicable premises and furnish the appropriate supporting figures.

If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the Second Consolidated Complaint are true. If no answer is filed, or if an answer fails to deny allegations of the Partial Compliance Specification in the manner required under Section 102.56(b) of the Board's Rules and Regulations, and the failure to do so is not adequately explained, the Board may find those allegations in the Partial Compliance Specification are true and preclude Respondent from introducing any evidence controverting those allegations.

### **NOTICE OF HEARING**

PLEASE TAKE NOTICE THAT on February 27, 2023, at 10:00 a.m., at Board Hearing Room 6001, 1015 Half St. SE, Washington, D.C. 20570 and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The

procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated at Baltimore, Maryland this 23<sup>rd</sup> day of November 2022

(SEAL)

*/s/ Sean R. Marshall*

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Sean R. Marshall, Regional Director  
National Labor Relations Board, Region 5  
Bank of America Center, Tower II  
100 South Charles Street, Suite 600  
Baltimore, MD 21201

Attachments

**EXHIBIT 1**

<b>Regular Hours</b>	<b>Overtime Hours</b>	<b>Interim Earnings</b>	<b>Gross Backpay</b>	<b>Net Backpay</b>
24	9	0	\$975.00	\$975.00
			<b><u>Total Backpay Due</u></b>	<b>\$975.00</b>

UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
NOTICE

Cases 05-CA-274141  
05-CA-274784  
05-CA-285523  
05-CA-293513

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end.

An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing. However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements **will not be granted** unless good and sufficient grounds are shown **and** the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds must be set forth in **detail**;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and
- (5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

## Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. **You may be represented at this hearing by an attorney or other representative.** If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: [www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules\\_and\\_regs\\_part\\_102.pdf](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf).

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at [www.nlr.gov](http://www.nlr.gov), click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

**Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement.** The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

### I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.
- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

### II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence:** At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.

- **Exhibits:** Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each of each exhibit should be supplied to the ALJ and each party when the exhibit is offered in evidence. If a copy of any exhibit is not available when the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the ALJ before the close of hearing. If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.
- **Transcripts:** An official court reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.
- **Oral Argument:** You are entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.
- **Date for Filing Post-Hearing Brief:** Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and to will set a deadline for filing, up to 35 days.

### III. AFTER THE HEARING

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.
- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.
- **Exceptions to the ALJ's Decision:** The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting briefs, requests for oral argument before the Board, and related matters is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be provided to the parties with the order transferring the matter to the Board.