

Law Offices of Ronald M. Johnson LLC

Ronald M. Johnson  
rmjohnson@rmjohnsonlaw.com  
301-767-5105

4990 Scarsdale Road  
Bethesda, MD 20816

302768

Ms. Cynthia T. Brown  
Chief of the Section of Administration, Office of Proceedings  
Surface Transportation Board  
395 E Street S.W.  
Washington, DC 20423

ENTERED  
Office of Proceedings  
July 23, 2021  
Part of  
Public Record

July 23, 2021

Re: Finance Docket No. 33388 (Sub-No. 102), *CSX Transportation, Inc.—Petition for Declaratory Order and Cease and Desist Order*

Dear Ms. Brown:

The purpose of this letter is to supplement the record in this matter.

CSXT recently advised the Board in its Reply, filed July 19, 2021, on the status of the Committee established pursuant to Article I, Section 11 of the New York Dock conditions. The carrier member is Jennifer E. Manz, Director, Labor Relations. The union member is General Chairperson Richard D. Lee. The appointment of the neutral chairman is stalled because SMART-TD has stopped the process of alternatively striking names from a list of seven arbitrators provided by the National Mediation Board on July 1, 2021. *See* Exhibit No. 20. Only two names remain and SMART-TD has the last strike. General Chairperson Lee refused to exercise his last strike until he received guidance from the NMB on the striking process. *See* Exhibit No. 21. Since CSXT filed its Reply, the NMB resent the same instructions to the parties by letter dated July 21, 2021. *See* Exhibit No. 23 attached hereto. CSXT then e-mailed General Chairperson Lee on July 21 requesting that he exercise his last strike by close of business that day. He refused, stating that “we will await [the STB’s] decision in the matter of Finance Docket No. 33388 (Sub No. 102) *CSX Transportation, Inc. – Petition for Declaratory Order and Cease and Desist Order* before taking further action.” A copy of their e-mail exchange is Exhibit No. 24. The union’s refusal to abide by the STB’s dispute resolution procedures and the NMB’s instructions confirms the need for the relief sought by CSXT’s Petition. The union is not going to follow the STB’s procedures until ordered to do so.

Sincerely,

/s/ Ronald M. Johnson

Ronald M. Johnson  
Attorney for CSX Transportation, Inc.

Attachments

# EXHIBIT 23



**NATIONAL MEDIATION BOARD**  
WASHINGTON, D.C. 20572

(202) 692-5000

July 21, 2021

Jennifer E. Manz  
Director-Labor Relations  
CSX Transportation, Inc.  
500 Water Street  
Jacksonville, FL 32202

Richard D. Lee  
General Chairperson  
SMART-TD  
12442 San Jose Blvd, Suite 701  
Jacksonville, FL 32223

RE: New York Dock: CSX Transportation, Inc. and SMART-Transportation Division

Dear Ms. Manz and Mr. Lee:

This is in reference to your letters dated July 16, 2021 and July 19, 2021.

Please see the attached memo regarding the procedures for selecting a neutral in New York Dock cases. The NMB has met its obligation by providing an initial list of thirty (30) qualified neutrals and a final list of seven (7) neutrals.

Please notify my office once you have selected an arbitrator.

Sincerely,

A handwritten signature in black ink that reads "Terri D. Brown". The signature is fluid and cursive, with the first letters of each name being capitalized and prominent.

Terri D. Brown  
Director, Office of Arbitration Services

Cc: Jeremy Ferguson, SMART-TD International President  
Jamie Modesitt, SMART-TD International Vice President (Board Member)  
David Wier Jr., SMART-TD International Vice President (Board Member)  
Jeff Wall, Vice-President Labor Relations, CSXT

# EXHIBIT 24

**Subject:** RE: [E] NY Dock: CSX Transportation, Inc. and SMART-Transportation Division  
**Date:** Wednesday, July 21, 2021 at 4:27:15 PM Eastern Daylight Time  
**From:** Lee, Rick D. (Internet)  
**To:** Manz, Jennifer  
**CC:** Serres, Kevin (Internet), Belew, Erik (Internet), Ciemny, Joseph (Internet)  
**Attachments:** image002.png, image003.jpg

Jenn:

I will first note that the NMB did not stipulate a timeframe for the selection of a neutral. Further, as CSX has brought this matter to the STB for clarification, we will await its decision in the matter of Finance Docket No. 33388 (Sub No. 102) *CSX Transportation, Inc. – Petition for Declaratory Order and Cease and Desist Order* before taking further action.

Thank you,

Rick Lee  
General Chairperson  
SMART-TD B&O/NMAD General Committee



---

**From:** Manz, Jennifer [mailto:Jennifer\_Manz@csx.com]  
**Sent:** Wednesday, July 21, 2021 2:54 PM  
**To:** Richard Lee <Rlee@smartgca49.org>  
**Cc:** Kevin Serres <kserres@smartgca49.org>; Erik Belew <ebelew@smartgca49.org>  
**Subject:** FW: [E] NY Dock: CSX Transportation, Inc. and SMART-Transportation Division

Hi Rick,

As follow-up to Ms. Brown's letter, please provide me with your last strike so that we may notify her office of the selected arbitrator. As you are aware the last two (2) arbitrators on the list are Sydney Moreland and Kathryn A. VanDagens.

Would appreciate having this finalized by close of business.

Thanks much.

*Jennifer Manz*  
*Director, Labor Relations*  
*500 Water St. (J455)*  
*Jacksonville, FL 32202*  
*Cell: (904) 518-0005*

## CERTIFICATE OF SERVICE

I hereby certify that on this 23<sup>rd</sup> day of July, 2021, a copy of the forgoing Letter supplementing record was served by email on the following person:

Shawn M. McKinley  
Assistant General Counsel  
SMART-TD  
Legal Dept.  
24950 Country Club Blvd., Suite 340  
North Olmsted, Ohio 44070-5333  
[smckinley@smart-union.org](mailto:smckinley@smart-union.org)

/s/ Ronald M. Johnson

Ronald M. Johnson  
Law Offices of Ronald M. Johnson LLC

Attorney for CSX Transportation, Inc.