

BEFORE THE ARBITRATOR

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In the Matter of the Arbitration of a Dispute Between  
**COLUMBIA COUNTY EMPLOYEES UNION LOCAL 995,  
AFSCME, AFL-CIO**

and

**COLUMBIA COUNTY (HIGHWAY DEPARTMENT)**

Case 259  
No. 66408  
MA-13517

*(Underdahl grievance)*

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**Appearances:**

**David White**, Staff Representative, AFSCME Council 40, for the labor organization.

**Joseph Ruf**, Corporation Counsel and Human Resources Director, for the municipal employer.

**ARBITRATION AWARD**

The Columbia County Employees Union Local 995, AFSCME, AFL-CIO and Columbia County are parties to a collective bargaining agreement which provides for final and binding arbitration of disputes arising thereunder. The Union made a request, in which the County concurred, for the Wisconsin Employment Relations Commission to appoint a member of its staff to hear and decide a grievance over the interpretation and application of the terms of the agreement relating to discipline. The Commission designated Stuart D. Levitan as the impartial arbitrator. Hearing in the matter was held Portage, Wisconsin, on January 18, 2007; a stenographic transcript was prepared by February 1. The parties agreed to have the arbitrator issue a bench decision, which he did, and which he extends and revises as follows:

The grievant was issued this verbal counseling (with a written record):  
“Dean failed to communicate with Steve during a shoulder maintenance operation and in turn caused a collision between the trucks.” The parties’ collective bargaining agreement empowers the employer to discipline “for just cause.”

Testimony in this case indicates the grievant was following standard operating procedures. I do not believe the employer has made a persuasive case that department employees are to stay 300 feet behind other department vehicles while they are performing shoulder maintenance. Testimony indicated that a length of about a third of that distance was more standard, and that the grievant did nothing wrong in establishing his position behind his co-worker.

Two county employees were involved in this accident. The consensus of Union witnesses was that the driver who backed into the grievant was the one who committed the infraction, which is why his discipline was not grieved.

The grievant's sworn testimony was that he didn't even have time to sound his air horn after closing his door and starting the truck. The employer has failed to establish that it had just cause to impose discipline on the grievant for the incident of May 31, 2006, and so the grievance is

**SUSTAINED**

As remedy, all records of the discipline will be expunged.

Dated at Madison, Wisconsin, this 2nd day of February, 2007.

Stuart D. Levitan /s/

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Stuart D. Levitan, Arbitrator

