

BEFORE THE ARBITRATOR

In the Matter of the Arbitration of a Dispute Between

ADAMS-FRIENDSHIP AREA SCHOOLS

and

LOCAL 2165, AFSCME, AFL-CIO

Case 42
No. 71627
MA-15179

(Golden)

Appearances:

Attorneys Michael Julka and Nicole J. Thibodeau, Boardman & Clark, 1 South Pinckney Street, Suite 410, Post Office Box 927, Madison, Wisconsin, 53701, appearing on behalf of Adams-Friendship Area Schools.

Staff Representative Bill Moberly, AFSCME Wisconsin District Council 40, 8033 Excelsior Drive, Suite "B", Madison, Wisconsin, 53717, appearing on behalf of Local 2165, AFSCME, AFL-CIO.

INTRODUCTION

Adams-Friendship Area Schools ("District") and Local 2165, AFSCME, AFL-CIO ("Union") are parties to a collective bargaining agreement ("Agreement") that provides for final and binding arbitration of disputes arising thereunder. On May 29, 2012, the District and the Union jointly filed a Request to Initiate Grievance Arbitration with the Wisconsin Employment Relations Commission ("WERC"), concerning the District's discipline of Edward Golden ("Grievant"). The filing requested that the WERC appoint the undersigned to serve as sole arbitrator in this case, and the undersigned was so appointed.

Hearing in this matter was held in Friendship, Wisconsin on October 30, 2012. The proceeding was not transcribed, but the Union stipulated to the District's request that it be allowed to record the proceeding. On January 4, 2013, the District filed initial post-hearing arguments in this matter; on January 8, 2013, the Union filed initial post-hearing arguments;

and on February 1, 2013, the District filed post-hearing reply arguments, and the Union submitted written communication indicating that it waived the opportunity to make any reply submission. On that same date, the record in this matter was closed.

Now, having considered the record as a whole, the undersigned makes and issues the following award.

ISSUE

At hearing the parties stipulated to the following statement of the issue to be heard:

Did the School District of Adams-Friendship Schools have cause to suspend Ed Golden for three days without pay in December of 2011? If not, what is the remedy?

RELEVANT CONTRACT PROVISIONS

ARTICLE VIII – DISCIPLINARY PROCEDURE

8.01 No employee will be suspended, demoted, discharged, or otherwise disciplined except for cause.

. . .

BACKGROUND

The Grievant is a member of the bargaining unit represented by the Union and covered by the Agreement between the District and the Union. He has been employed by the District as a school bus driver for 14 years. Prior to the incident that is the subject of this case, his employment record with the District had been free of any discipline.

The school bus driven by the Grievant is equipped with a camera that records the events taking place on the bus. The camera is mounted above the windshield at the front of the bus, and the perspective recorded is of the entire bus looking back. On the afternoon of December 15, 2011, the camera recorded the events on the bus during the Grievant's route as he was retrieving children from the District's schools and taking them home. The recording, a copy of which was admitted as evidence in this case, begins with approximately 6 minutes of children loading onto the bus at the District's elementary school. Among the children boarding the bus is Markus, a seven-year-old first-grader, who takes a seat a few rows back from the front on the opposite side of the driver's seat. Also Lucas, a child of the same age, boards the bus, and he sits in the row directly in front of Markus. These two students will later play a role in the event that led to the Grievant's discipline.

After boarding is completed, the bus departs. During the first 11 minutes of the ride, no event involving Markus or Lucas occurs. Both boys appear to be calm. Markus remains in his seat, albeit sometimes slouched down rather low; and Lucas remains in his seat, albeit sometimes slouched down or stretched across the 2-person width of the seat. At the end of this period of time, the bus stops at the District's middle school to retrieve children there. Here, there are about 5 more recorded minutes of children boarding the bus. Near the end of this boarding period, just before the bus departs, Markus appears in the recording to be sliding off the front of his seat a bit, looking backwards, and saying something to another child. From the driver's seat, the Grievant says, "Markus, back in your seat. I don't want to hear you". This statement immediately catches Markus' attention, and Markus faces forward and moves all the way back into his seat.

After the bus departs the middle school, Markus and Lucas become more active in their seats than they had been during the earlier part of the ride, and they begin to interact with one another. Approximately two minutes into the ride, Lucas is turned around, looking over the back of his seat at Markus, and the Grievant says to him, "Lucas, what is the problem?" For the duration of the ten-minute, post-middle-school ride, both boys are in and out of sight on the camera recording. Markus appears to be slipping down periodically into the space in front of his seat. Lucas appears to do the same from time to time, but mostly he is just barely in sight on the recording because he is either slouched in his seat or lying down on it. Then, approximately 15 minutes into the video, Markus is in his seat, but sitting forward and looking at Lucas in the space between the window and the back of Lucas's seat, and the Grievant says, "Markus!" Markus responds by looking up toward the front of the bus and sitting back in his seat.

Approximately 30 seconds after the Grievant verbally reprimands Markus for the second time, the bus comes to another stop. After a number of children exit the bus, the Grievant gets up from his seat and walks a short way down the aisle to where Markus and Lucas are seated. At this point on the recording, neither boy can be seen in his seat. The Grievant first leans down toward Lucas' seat for about 5 seconds and presumably sees Lucas on or near the floor. The Grievant gives Lucas a hard stare, and his gaze appears to follow Lucas as he moves from the floor area back up into his seat, presumably because he has realized that the Grievant is standing over him. Then, the Grievant looks over the back of Lucas' seat to gain a view of Markus. Markus still cannot be seen on camera at this point. Other evidence on the record establishes that he was on the floor in front of his seat with his arms up to his shoulders under the seat in front of him. In a quick move, the Grievant reaches down over the back of Lucas' seat and picks Markus up off the floor by the back of his zipped-up coat, and places him in his seat. Once Markus is in his seat, he appears to adjust his coat a bit to pull it down from his neck. Leaning in close to Markus, the Grievant asks Markus sternly if that is what he is supposed to be doing, tells him he is supposed to be in his seat, and instructs him not to move again. When the Grievant stands upright and turns to go back to the driver's seat, he also tells Lucas to stay into his seat where he can be seen.

Later that afternoon, the District received a complaint from Markus' mother regarding this incident on the bus. The mother spoke to the Grievant's supervisor, Ed Barnes ("Barnes"), who is the District's Transportation Director. A report compiled by Barnes indicates that the mother asserted to Barnes that the Grievant "had punched her son in the back and grabbed him by the coat and choked him ... and threw him into the seat". The mother stated that she wanted the Grievant removed from her son's route. She also indicated to Barnes that she had reported the incident to the Adams County Sheriff's Department.

Barnes contacted the Grievant by telephone regarding the incident that same afternoon. Based on the explanation the Grievant provided, Barnes concluded that there was no reason to remove the Grievant from his scheduled route the next morning. Barnes asked the Grievant to deliver to him on the next day the video recording from his bus, as well as a written report regarding the incident.

As directed, the Grievant reported to Barnes after his route the next morning. The Grievant submitted to Barnes a written statement which read as follows:

On December 15, 2011, on the pm bus route, we had a saftey [*sic*] issue, with Marcus [].¹ Marcus was crawling under the seat and pulling on the legs of Lucus []. This was causing Lucas to fall out of his seat and hit his face on the back of the seat in front of him. This happened three to four times during the route. Finally at the Miller residence the driver (Edward Golden) pulled the bus to a stop and went back to the third seat where Marcus was lying on the floor, at that time, pulling on Lucus's legs. The driver then reached down and grabed [*sic*] Marcus by the back of the coat and pulled him up off the floor and put him in his seat. The driver then asked Marcus, "Is that what you are suppose [*sic*] to be doing. Marcus replied, "No, I'm not suppose [*sic*] to be doing this". The driver knows that he sould [*sic*] not touch the kids, but Marcus was told nurmerous [*sic*] times to get up in his seat and behave. The driver was afraid that Marcus would hurt Lucus by pulling on his legs. Following this statement there will be a disciplinary report on Marcus turned into the school.

The Grievant also handed over to Barnes the video recording from the day before on the bus, and Barnes and the Grievant watched the video recording together. The Grievant testified at hearing that Barnes told him, after seeing the video, that he did not see anything wrong with what the Grievant had done. Barnes testified at hearing that he did not recall saying this to the Grievant.

When the Grievant left Barnes' office after this morning meeting, no action had been taken with regard to his employment status. Later that day, however, Barnes contacted the Grievant and put him on paid administrative leave, which lasted for 5 days.

¹ The boys' names are sometimes misspelled, but the Grievant is referring here to the same two students already discussed. The empty brackets refer to places where the students' last names have been redacted.

In relation to this incident, the Grievant also filed a disciplinary “referral” with the District’s elementary school principal, Garrett Gould (“Gould”). Such a referral is supposed to be filed by a District bus driver who has a disciplinary incident on the bus. The referral filed by the Grievant indicated that Markus had been engaging in excessive mischief and not following directions on the bus. After receiving the referral, Gould interviewed both Markus and Lucas regarding the incident on the bus. Notes of the interview and Gould’s testimony suggest that Markus had been down on the floor of the bus either rolling a toy around or trying to retrieve the toy that he had dropped, and he also was also grabbing at Lucas’ feet.

Barnes informed the District’s superintendent, Steven LaVallee (“LaVallee”) of the incident involving the Grievant two days after it occurred. At that time, Barnes also told LaVallee that the matter had been reported to the County Sheriff’s Department and that the investigating officer had requested a copy of the bus video. LaVallee indicated to Barnes that the District would have to conduct its own investigation into the matter. The record indicates that the investigation was carried out in a manner that was consistent with the District’s normal practice. LaVallee directed Barnes, as the Grievant’s immediate supervisor, to conduct the investigation. In addition to meeting with the Grievant, watching the video, and speaking with Markus’ mother, Barnes also reviewed notes of interviews of students that had been carried out by the Sheriff’s Deputy, by Gould, and by the Grievant’s union steward.

On December 28, 2011, Barnes submitted an investigative report to LaVallee. The report acknowledged that Markus had been misbehaving by crawling under a seat and harassing Lucas on the bus, but concluded that the Grievant should not have used physical force to reprimand the student. Barnes recommended a 5-day suspension for the Grievant. In addition to reviewing Barnes’ investigative report, LaVallee also watched the video recording of the incident, attended a meeting regarding the incident with the Adams County Sheriff, the Adams County District Attorney, and Markus’ mother,² and met on December 28 with the Grievant and his union representative to discuss the incident.

Ultimately, LaVallee decided to suspend the Grievant for 3 days instead of the 5 Barnes had recommended. The letter imposing this discipline was provided to the Grievant on December 28, 2011, the same day LaVallee had received the investigative report from Barnes and the same day LaVallee met with the Grievant and his union representative to discuss the incident.

The disciplinary letter indicated that the District’s Bus Driver Handbook states that “[n]o corporal punishment is permitted by bus drivers”. The record shows that the Grievant had received the Handbook for the 2011-2012 school year. The disciplinary letter also

² The Adams County District Attorney decided, based on the Sheriff’s Department investigation, that criminal charges would not be pursued against the Grievant. The record shows that Markus’ mother also filed complaints against the District in small claims court and circuit court, but both were ultimately withdrawn.

indicated that District Policy 5630 prohibits the use of physical punishment for disciplinary purposes. That Policy reads in its entirety as follows:

5630 – CORPORAL PUNISHMENT

While recognizing that students may require disciplinary action in various forms, the Adams-Friendship Board of Education does not condone the use of unreasonable force and fear or profane or demeaning language as an appropriate procedure in student discipline.

Professional staff should not find it necessary to resort to physical force or violence to compel obedience. If all other means fail, staff members may always resort to the removal of the student from the classroom or school through suspension, expulsion, or other disciplinary intervention.

Professional staff as well as support staff, within the scope of their employment, may use and apply reasonable and necessary force to:

- A. Quell a disturbance threatening physical injury to self or others;
- B. Obtain possession of weapons or other dangerous objects upon or within the control of the student;
- C. The purpose of self-defense or the defense of others;
- D. For the protection of property;
- E. To remove a disruptive student from school premises, a school-related activity, or a District vehicle;
- F. To prevent a student from inflicting harm on himself/herself;
- G. To protect the safety of others.

In addition, staff members may use or apply incidental, minor, or reasonable physical contact designed to maintain order and control with the scope of employment.

In accordance with State law, corporal punishment shall not be permitted. If any staff member, full-time, part-time or substitute intentionally inflicts, or causes to be inflicted, physical pain by hitting, paddling, spanking, slapping, forcing prolonged maintenance of physically-painful positions, or makes use of any other kind of physical force as a means of disciplining a student, s/he may be subject to discipline up to and including discharge by this Board and possibly criminal assault charges as well. This prohibition applies as well to volunteers and those with whom the District contracts for services.

This prohibition applies during regular and co-curricular responsibilities and events, and whenever a staff member or volunteer is perceived to be acting as a representative of the School District.

In determining whether or not a person was acting within the exceptions noted above, if appropriate, deference may be given to reasonable, good faith judgments made by District employees or agents.

The District Administrator shall provide administrative guidelines which shall include a list of alternatives to corporal punishment.

The disciplinary letter also noted that District Administrative Guideline 5630A prohibits District staff members from hitting, striking, grabbing, punching, or inflicting other bodily pain on a student. That Administrative Guideline provides in its entirety as follows:

5630A – ALTERNATIVES TO CORPORAL PUNISHMENT

Board of Education policy defines corporal punishment as the deliberate infliction of physical pain by hitting, paddling, spanking, slapping, or any other physical force used as means of discipline. District personnel shall not threaten to inflict, inflict, or cause to be inflicted corporal punishment on any student.

Staff members shall not:

- A. Hit, strike, grab, punch, or inflict other bodily pain on a student;
- B. Restrict a student's movement by binding or tying him/her, unless specified in an I.E.P.;
- C. Deprive a student of meals, snack, rest, or necessary toilet use;
- D. Confine a student in an enclosed area such as a closet, locked room, box, or similar cubicle;
- E. Cause any of the above to occur.

Staff may, however, provide for a "time-out" area as a disciplinary procedure.

The following alternatives to the use of corporal punishment are recommended. As formerly with corporal punishment, these alternatives should also be viewed as last resort options when well-executed school and classroom management practices have not been effective. ...

The District's Administrative Guidelines also provide the following regarding the use of physical force:

5630B – USE OF PHYSICAL FORCE

District personnel may, however, use reasonable physical force upon a student necessary to maintain a safe learning environment. They may also use reasonable physical force upon a student necessary to protect:

- A. A staff member's personal safety;
- B. The safety of another staff member or visitor;
- C. The safety of the student or other students;
- D. School property from damage or destruction;
- E. Themselves and others from danger arising from a dangerous weapon or object which is in the possession of or control of a student.

These Administrative Guidelines were in place on December 15, 2011.

The record indicates that the District provides regular training to its bus drivers regarding student management and the proper use of physical force. Handouts provided to drivers in conjunction with such training have contained the following directive, in bold, large font:

**DO NOT HIT OR TOUCH A STUDENT
UNLESS PERMITTED BY REGULATION**

The most recent training session of this kind had been provided to the Grievant and other bus drivers in September of 2011. Further, newsletters circulated to District bus drivers by Barnes incorporated messages regarding the District's policies on touching students and the use of force. One such newsletter, from March of 2002, contained the following directive:

Don't touch kids.

There is seldom a need for it and parents are very sensitive to anyone touching their kids. It's like swearing, in that it is indefensible. We'll cover the occurrences that force contact by an adult (staff), in future in-service meetings. I would advise you not to touch kids unless you must defend someone innocent or endangered. In that case, be sure to write down a short account of it as soon as possible. You can add details later if asked.

Another newsletter circulated in December of 2002, contained the following:

Touching Students. Let me state this as *eloquently* as possible. Don't touch students. This is, of course, in your general interaction with compliant and non-compliant students. Any staff person has the right to reasonable force to stop a student from hurting himself and/or someone else. That someone else would include a threat to you. But it is a rare occasion on my part to see this situation. In my experience, touching, (as with yelling) eliminates any further agreeable interchange until a rest is given from the student and the driver (which is usually the next day). Avoid touching and yelling at students.

At hearing, the Grievant acknowledged that the District has a policy regarding using force with students, and he acknowledged that he has been through training regarding how to

handle students in a manner that complies with District policy. He testified that in his 14-year tenure he had never, before this occasion, used physical force with a student.

DISCUSSION

The record establishes that the District's policies generally prohibit the use of force with students. This policy is sufficiently pervasive that the message conveyed to bus drivers in their training and communications from the District's Transportation Director is that even touching students is generally to be avoided. The District's policies, however, do create exceptions. Policy 5630B expressly provides that reasonable physical force may be used in situations where it is necessary to maintain a safe learning environment, to protect the safety of District students, staff members, or visitors, or to prevent the destruction of District property. The Union has presented this case as one where the exceptions apply. Specifically, the Union argues that the Grievant thought Markus' behavior on the bus posed a threat to his own safety, to Lucas' safety, and even to the safety of the other children on the bus. The Grievant made the determination that physical contact with Markus was necessary to prevent injury, and the District has disciplined the Grievant without cause by second-guessing the Grievant's reasonable assessment of the situation.

The Union argues that its position in this case is consistent with the District's School Bus Driver Handbook, which provides that "Drivers are in complete charge including student discipline, while operating their bus". The Union's framing of the case is also consistent with the way the Grievant described the event involving Markus to the Adam's County Sheriff's Department, as documented in the Deputy's investigative report:

Ed went on that he felt afterwards that his actions may cause some trouble for himself, but he also stated that he felt that he was in a bad spot. He felt that if he did not do anything and []³ got hurt that he would be in trouble for that. He felt afterwards that he may be in trouble for grabbing [] and placing him back in his seat. ... Ed stated that in reflecting back, he probably should not have grabbed [] but given the situation he was in, he again did not know which way would get him in more trouble if he did not address [] and [] got hurt or if he addressed [] and get in trouble for that.

The problem with the Union's argument is that the evidence on the record here simply does not portray a series of events in which the Grievant could have perceived a safety threat that warranted the hands-on approach he took with Markus.

In the statement the Grievant submitted to the District the day following the incident with Markus, he described the incident as follows:

³ The student names are redacted from the investigative report, but they are not necessary to understand the essence of the statement.

On December 15, 2011, on the pm bus route, we had a safety issue, with Markus []. Marcus was crawling under the seat and pulling on the legs of Lucas []. This was causing Lucas to fall out of his seat and hit his face on the back of the seat in front of him. This happened three or four times during the route. ... The driver was afraid that Marcus would hurt Lucas by pulling on his legs.

In this statement, the Grievant is suggesting that he knew, based on what he saw, that Lucas repeatedly was being pulled down by the legs and as a result hitting his face several times on the seat back. That description does indeed sound like a situation where one could legitimately conclude that Lucas' safety was at risk. The evidence on the record, however, does not support this version of events. The video recording, which the Grievant acknowledged at hearing has the same perspective he had, provides no visual indication that these things were happening to Lucas. Although Lucas and Markus are up and down in their seats enough after the bus leaves the middle school that the scene has a certain Whac-A-Mole quality to it, Lucas never disappears abruptly or violently from his seat, he never can be seen or heard hitting his face or head or any other part of his body on the seat in front of him, and in periods of time when his face and expression can be seen on camera, he looks relaxed and even a little bored.

Moreover, the Grievant's reactions to the boys during the ride are not consistent with the assertion that he was observing Lucas repeatedly being pulled off his seat and hitting his face. During the entire video, the Grievant makes three verbal reprimands toward the boys. First, just before they leave the middle school, Markus is slipping toward the front of his seat, looking backwards, and talking to someone, and the Grievant tells Markus to get back in his seat and that he doesn't want to hear from him. Two minutes later, the Grievant reprimands Lucas at a point at which Lucas is looking over the back of his seat at Markus. And then about 8 minutes after that, the Grievant reprimands Markus at a moment when Markus is sitting forward in his seat and looking between the window and Lucas' seat back toward Lucas. Not one of these three verbal reprimands ever address the events the Grievant later asserted were taking place. Added together, all of these factors lead to the conclusion that the Grievant's explanation of what he saw was one he created after-the-fact to justify his hands-on approach to getting Markus back in his seat.

The other problem is that the Grievant, at hearing, repeatedly adjusted his explanation of the basis he had for concluding that a hands-on approach with Markus was appropriate. While the written statement indicates that the Grievant actually witnessed the activity he describes, on direct examination he stated that he was only assuming while driving that this activity was occurring. Then later, on cross examination, the Grievant further revised his explanation, stating that he began to make that assumption not while he was driving but after he had stopped the bus, walked over to where the boys were seated, and found Markus on the floor. These revised explanations seriously undermine the credibility of the Grievant's assertion that he believed he needed to act as he did because of an ongoing safety issue involving Lucas getting pulled off his seat and hitting his face.

Putting these problems aside, however, it is fair to ask whether the Grievant could have seen something upon walking over to the boys' seats that legitimately caused him to conclude there was a safety threat that justified the use of force. The Grievant has indicated that he saw Markus on the floor with his arms under the seat and was concerned that Markus was going to pull Lucas off his seat. At hearing, Barnes summarized the basic use-of-force training that is given to bus drivers as providing that physical force is not necessary except in circumstances of imminent harm. Here, the bus is not moving and the Grievant already had watched Lucas crawl safely back up into his seat. Under these circumstances it is difficult to imagine that the Grievant perceived any kind of imminent threat. What seems much more likely is that the Grievant's irritation with the two students, whom he already had reprimanded three times, peaked when he saw Marcus crawling around on the floor, and he acted as he did out of that emotion rather than a genuine concern for safety. It is important to acknowledge that this conclusion has been drawn, in part, based on the Grievant's generally intemperate tone in his interactions with many of the students on the bus during much of the recorded route.

I also am not persuaded by the Union's claim that the hands-on approach was justified because the Grievant's need to keep his eye on Markus and Lucas and reprimand them repeatedly disrupted his driving and, thus, presented a more general threat to the safety of all the students on the bus. First, the Grievant never made this claim in any of his explanations for what went on. Further, there is no exception in the use of force rules that allows bus drivers to use force in cases where the need for multiple verbal reprimands has become generally distracting. The video records the Grievant verbally reprimanding lots of different students during the course of his route for lots of different activities. If the basic responsibility to observe children on the bus and verbally reprimand them when necessary justified physical force, it seems that the District's general rule against the use of force would frequently meet with exception on the bus. Yet the Grievant has asserted that he never had occasion to use physical force with a student in the 14 years leading up to this event.

The Grievant acknowledged at hearing that he had been trained in and was aware of the District's use-of-force policies and guidelines. That policy expressly states that staff members are not to "hit, strike, grab, punch, or inflict other bodily pain on a student". The Grievant's own written account states that he "reached down and *grabed* [*sic and emphasis added*] Marcus by the back of the coat and pulled him up off the floor and put him in his seat". In the absence of some justification related to one of the District's established exceptions, such as a threat to safety, this statement seems specifically to describe an act that is expressly prohibited by the District's policies. The Union acknowledges in its written arguments that what the Grievant did might be described as "grabbing", but it also points out that there was no injury to the child. The District's policy, however, does not excuse the improper use of physical force when it is determined, after the fact, that there was no injury. In a similar vein, the Union argues that it should matter that the Adams County Sheriff's Department and District Attorney concluded that the Grievant's actions were not criminal in nature. The District's policy also does not excuse the use of physical force when it is determined, after the fact, that criminal prosecution will not be sought. Furthermore, even though the District's Bus Driver Handbook does put a bus driver in charge of discipline on the bus, there is nothing in the record that indicates that

this statement works at the exclusion of, rather than in conjunction with, the District's use of force policies and guidelines.

Having found that the District had cause to discipline the Grievant, the question remains as to whether the 3-day suspension imposed was appropriate. The record refers to one other instance in which a District bus driver was disciplined for having engaged in the use of physical force with a student on the bus. In that case, the bus driver saw a student hitting someone over the head with a binder, and the driver took the binder and hit the student over the head in the same manner, so he could know how it felt. The District has justified the longer suspension imposed on the Grievant by asserting that the Grievant had alternatives to what he did with Markus and that the Grievant's actions were more forceful than that other employee's. As to the first explanation, I fail to understand how the Grievant had more alternatives than the employee who hit the student over the head with a binder. I am satisfied, however, by the District's assertion that the discipline imposed here was appropriate because of the relative forcefulness of the Grievant's actions. The letter of reprimand given to the other employee states that "it appears from the investigation that the strike on the head was not severe". Here, Barnes testified that it was not only the physical contact that resulted in the Grievant's discipline, but also the forceful nature of the contact. The video supports that description.

Based on these factors, I have concluded that the fact of the Grievant's discipline and the level of the Grievant's discipline was not an over-reaction, as suggested, on the District's part to appease an extremely upset mother. Rather, it was a disciplinary measure supported by cause and therefore justified under the Agreement.

AWARD

The grievance is DENIED.

Dated at Madison, Wisconsin, this 5th day of June, 2013.

Danielle L. Carne /s/

Danielle L. Carne, Arbitrator