

"An Injury To One Is An Injury To All"

Pennsylvania Federation

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Office of the General Chairman
Jed Dodd

September 20, 2002

To: Pennsylvania Federation Joint Protective Board

From: Jed Dodd

**Re: Boilermakers Ballot Lawsuit Settlement
Dodd, et. al. v. Fleming, et. al.**

Enclosed is the settlement agreement we reached with Grand Lodge to resolve our dispute over the Boilermakers takeover ballot. Grand Lodge has agreed to the following:

1. Using the American Arbitration Association to conduct the ballot which will greatly reduce any possibility of a fraudulent count;
2. Opponents and supporters of the takeover have the right to observe all stages of the election procedure;
3. The ballot package shall not contain any campaign material for or against the takeover. It may contain a statement that the Grand Lodge officers and/or the Merger Committee recommend a vote in favor of the merger;
4. Opponents of the takeover shall be allowed to send one mailing to all members of the BMWWE at their own expense.

The complete text of the agreement is attached for your ready reference. These procedures will ensure that the count is done fairly, that stuffing the ballot

box is prevented and that each member will have an opportunity to be exposed to an opposing view of this bad deal. This is a major victory for democracy in our Union. I would like to personally thank the other plaintiffs, Bruce Glover, the Burlington Northern System Federation, William Manning, Joe Crandley and George Davidson for their efforts in behalf of our membership. Finally, I would like to thank the efforts of our attorney, Ted Lieverman who did a fine job in our behalf in ensuring this favorable outcome.

In Solidarity,

A handwritten signature in black ink that reads "Jed Dodd". The signature is written in a cursive style with a large, sweeping initial "J".
Jed Dodd
General Chairman

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

JED DODD, et al.,	:	Civil Action
	:	
Plaintiffs	:	No. 01-1775
	:	
v.	:	Judge Ricardo M. Urbina
	:	
MAC A. FLEMING, et al.,	:	
	:	
Defendants	:	

SETTLEMENT AGREEMENT

WHEREAS, Plaintiffs Jed Dodd, William Manning, Joseph Crandley, George Davidson, Pennsylvania Federation, Brotherhood of Maintenance of Way Employes; Bruce G. Glover; and the Burlington Northern System Federation, Brotherhood of Maintenance of Way Employes have filed this instant action against Defendants Brotherhood of Maintenance of Way Employes (BMWE), President Mac Fleming, and former Secretary-Treasurer William LaRue pursuant to the Labor Management Reporting and Disclosure Act ("LMRDA"), 29 U.S.C. § 401 *et seq.*; and

WHEREAS, as stated in their Supplemental Complaint and Plaintiffs' Third Motion for Preliminary Injunction, Plaintiffs are seeking to impose certain terms and conditions upon the BMWE as to the conduct of a membership referendum by mail concerning a proposed merger of the BMWE with the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers, and Helpers ("Boilermakers"), with ballots currently scheduled to be mailed out on or about October 9, 2002 ; and

WHEREAS, the parties agree that a voluntary resolution of this dispute is in the best interests of all concerned;

NOW THEREFORE, intending to be legally bound, the parties hereby stipulate and agree as follows:

1. The BMWE will retain at its expense the American Arbitration Association

("AAA") as the independent neutral to conduct the secret ballot mail referendum. Subject to AAA's oversight and supervision, the BMWWE may contract with DeLancey Printing Company to physically print and mail the ballots.

2. Plaintiffs' counsel shall be designated as Plaintiffs' representative for the purposes of any discussions with AAA as called for by AAA's election rules as to procedures or notification of any changes in procedure. Plaintiffs' counsel may notify Defendants and AAA of any change in that designation.

3. The parties recognize the right of proponents and opponents of the merger to observe all stages of the election procedure, including the printing and mailing of ballots, pick-up from the post office, storage and count of the ballots. This also includes the right of proponents and opponents to inspect the mailing list in the BMWWE office in Southfield, Michigan, upon request, not more than once prior to the mailing of the ballots.

4. The election rules shall include a prohibition on ballot collection by any individual.

5. The ballot package shall not contain any campaign material for or against the merger. It may contain a statement that the Grand Lodge officers and/or the Merger Committee recommend a vote in favor of the merger.

6. Under the current schedule, ballot packages are currently scheduled to be mailed to members on October 9, 2002, and the count is currently scheduled to commence on November 14, 2002. Any change in those dates shall be immediately communicated to Plaintiffs' counsel.

7. Ballots shall be counted and reported by region.

8. Opponents to the merger shall be allowed to send one mailing to all members of the BMWWE at their own expense. If Opponents to the merger have their material printed by

someone other than DeLancey, then they will deliver to DeLancey the completed mailing for the purpose of affixing mailing labels and placing the pieces in the mail. Opponents to the merger shall determine when the pieces are to be mailed. Plaintiffs will be responsible for coordinating the mailing on behalf of the opponents.

9. *In consideration of the provisions of this agreement, Plaintiffs withdraw with prejudice the claims and causes of action contained in their Supplemental Complaint, filed on or about September 4, 2002, except as follows:*

a. *Plaintiffs withdraw without prejudice their claim seeking declaratory judgment on the right of System Federations and Local Lodges to spend their own treasury monies on communications to members as they see fit;*

b. *Plaintiffs withdraw without prejudice any claim stated or implied that relates to the proceedings of the BMW Grand Lodge Convention in July 2002 that do not address the referendum about the proposed merger with the Boilermakers.*

10. *Defendants withdraw without prejudice the claims and cause of action contained in their proposed Supplemental Counterclaim, seeking declaratory judgment on the issue of System Federations and Local Lodges spending their own treasury monies on communications to members which are opposed to BMW policy. Defendants agree that they will not raise this issue again in connection with the current merger referendum.*

11. *The Court shall retain jurisdiction as to any dispute as to the interpretation or enforcement of this agreement.*

12. *In reaching this agreement, Defendants do not concede or admit to any liability in this matter.*

13. *The parties agree that notwithstanding this agreement, Plaintiffs shall not be*

entitled to have any of their fees, costs or expenses paid by Defendants pursuant to any fee-shifting statute, common benefit theory, or any other theory of law, but all parties shall be responsible for their own costs and attorneys fees.

14. This is the entire agreement between the parties.

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Dated: _____

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