

# 2009 Arbitration Awards - Minnesota B.M.S.

September 16, 2013

Summary of Arbitration Awards listed on the Bureau of Mediation Services' web site (<http://www.mn.gov/admin/bms/arbitration/awards/>).

"Sustained" means the grievance prevails overturning the original action. "Denied" means the original action prevails.

## December, 2009

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
FMCS	<a href="#">CUB Foods</a> United Food & Commercial Wrkrs 789	Daly, Joseph	Unit Work	Store manager cut meat. Contract clauses are in conflict.	Sustained	Specific vs. general language.
09-PA-0945	<a href="#">Dakota County</a> Teamsters Local 160	Jacobs, Jeffrey	Termination	Created hostile work environment.	Sustained	Lack of notice. Discrepancy of witness statements.
???	<a href="#">Hennepin County</a> Hennepin Cty Sheriffs Deputies Assn	Befort, Stephen	Premium Pay	6/3 schedule required 1.5% premium. Schedule changed - premium ended.	Denied	Contract language specified 6/3.
09-PA-1051	<a href="#">Hennepin County Medical Center</a> Hennepin County Assn of Paramedics	Gallagher, Thomas	5 day susp.	Paramedic referred to patient as a crazy bitch.	3 day susp.	Based on similar discp. Admin pay does not have to include premium.
FMCS	<a href="#">Honeywell</a> Teamsters Local 1145	Jacobs, Jeffrey	Termination	Unexcused absences.	Denied	No fault policy in contract that calls for termination after 60 hours.
???	<a href="#">Minneapolis, City of</a> Minneapolis	Reynolds, James	Termination	Domestic abuse - wife obtained restraining order against police officer	Denied	Sustained pattern of abuse toward women in his life.
FMCS	<a href="#">US Dept of Justice, Federal Bureau of Prisons, Waseca Correctional Facility</a> Council of Prisons, American Fed. of Government Employees Local 801	Daly, Joseph	Assignment of OT; Detail needed in Grievance	OT in prison factory denied to Union in spite of past practice. Employer challenged lack of detail.	Denied Denied	Based on qualifications. Article violated and basic nature is sufficient information.
09-PA-0178	<a href="#">Winona, City of</a> Law Enforcement Labor Services, Inc.	Fields, Bernice	Shift Differential	Should officers called in to work shift receive differential + overtime.	Sustained	Contract does not bar payment.
09-PA-0933	<a href="#">Wright County</a> AFSCME Minnesota Council 65	Jacobs, Jeffrey	Probationary Employee?	County argued 6 mo probation = 1 yr for part-time per past practice.	Sustained	Practice not clearly articulated. Good discussion on past practice.

## November, 2009

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
09-PA-0991	<a href="#">Cloquet, City of</a> Teamsters Local 346	Kircher, Andrea	Termination	Police investigator started dating girlfriend of suspect he was investigating.	Sustained	Double jeopardy, he was reduced to patrol officer 16 mos. earlier.
FMCS	<a href="#">Grand Itasca Clinic and Hospital</a> Minnesota Nurses Association	Gallagher, Thomas	Termination	Nurse failed to fill out reporting off duty form and discourteous behavior.	35 days	Nurse left w/o filling form, but had talked to other nurses re patient.
09-PA-0561	<a href="#">ISD 186, Pequot Lakes</a> School Service Employees 284	Jacobs, Jeffrey	Termination	Comptr Tech hrs cut 50% & other duties added. Grievant did not report.	Denied	Grievant considered this a layoff & did not report-"do work,then grieve"

09-PA-0919	<a href="#">ISD 2860, Blue Earth</a> Blue Earth Area Education Assoc.	Anderson, Richard	Sick Leave	Teacher wished to use sick leave to be with husband in hospital.	Denied	Sick is for employee and or child.
???	<a href="#">Minneapolis, City of</a> Police Officers Federation of Minneapolis	Fogelberg, J.C.	Working out of Class	Union filed grievance on behalf of 3 members working out of class, 2 as Captains & 1 as a Deputy Chief.	Denied	Procedurally flawed. Union was the grievant. Contract states ee must grieve. Union doesn't own grievance.
07-PA-0439	<a href="#">Jordan, City of</a> Law Enforcement Labor Services, Inc.	Lundberg, James	Termination	Police officer accused of improperly touching an unlicensed female driver.	Denied	Not guilty in court. Credibility at issue. Failed to document stop.
09-RA-1128	<a href="#">People's Cooperative Power Services of Rochester</a> IBEW 949	Jensen, Eugene	Bargaining unit duties	Purchasing agent was given superv. duties and removed from the union.	Sustained	Majority of duties did not change. Duties returned to the union.
FMCS	<a href="#">Vanguard Car Rental USA, Inc.</a> Teamsters Local 926	Frankman, Janice	Termination	Hostile work environment - swearing, abusive language	Denied	Discipline does not require specific policy re abusive behavior

## October, 2009

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
10-PA-0107	<a href="#">Andover, City of</a> Teamsters Local 320	Jacobs, Jeffrey	Layoff	Street dept maintenance worker laid off instead of junior park or utility worker.	Sustained	Contract calls for title seniority, not department seniority.
09-PA-0415	<a href="#">Benton County</a> Law Enforcement Labor Services, Inc.	Befort, Stephen	Time line	Arbitrability of 1 day suspension due to exceeding time line.	Denied	Contract calls for selecting Arb. In 90 days - over 90 not arbitrable.
FMCS	<a href="#">Jefferson Lines</a> ATU Local 1498	Flagler, John	Termination	3 accidents; failed to pick up at stops tried to neg a kickback with restaurant.	Denied	Short term employee; cavalier attitude towards rules.
09-PA-1019	<a href="#">Metropolitan Council</a> Pipefitters Local 455	Jacobs, Jeffrey	Reducing Hours	Pipefitters required to take off 1 day per pay period.	Denied	No guarantee of hours. Employer can manage its budget.
09-PA-0461	<a href="#">Minnesota, State of, Moose Lake</a> AFSCME Minnesota Council 5	Jacobs, Jeffrey	5 & 7 day susp. Termination	Clerical performance issues.	Sustained	5 day susp reduced to 3; 7 day overturned; given another state job.
???	<a href="#">Minnesota, State of, Department of Natural Resources</a> Individual Grievant	Befort, Stephen	Termination	DNR employee's work as chair for a conference jointly sponsored by Union & State DNR.	Sustained	Ultimate decisions were made by her supervisors.
FMCS	<a href="#">Nilfisk-Advance, Inc.</a> IAMAW District Lodge 77	Gallagher, Thomas	Termination	Grievant stole pain pill from co-worker.	Denied	Work rules call for discharge. Not interviewing grievant not critical.
09-PA-0836	<a href="#">Oakdale, City of</a> Law Enforcement Labor Services, Inc.	Orman, Anthony	Termination	Accused of lying about improperly filled out auto theft report.	40 hr susp.	Sgts testimony questioned due to past conflicts with grievant.
10-PA-0024	<a href="#">Ramsey County</a> AFSCME Minnesota Council 5	O'Toole, Carol	Termination	Nursing assistant abused Alzheimer's patient by twisting hand & pushing.	Denied	Serious offense. A long time empl. with no previous discipline.
09-PA-0588	<a href="#">Roseau County</a> Law Enforcement Labor Services, Inc.	Yaeger, Thomas	Termination	Deputy Sergeant's excessive force, & sexual harassment.	Denied	Force not excessive, but caught in numerous lies.
09-PA-0528	<a href="#">Watsonwan County</a> AFSCME Council 65	Remington, John	Termination	Light equipment operator lost license due to 2nd DUI.	Denied	Job requires CDL.

FMCS	<a href="#">Xcel Energy</a> IBEW Locals, 23, 160, 949, 953, 1426	Anderson	Subcontracting	Meter readers in rural areas worked subcontract on piecemeal rate.	Sustained	Must hire as temporary employees and pay back pay.
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## September, 2009

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
09-RA-0636	<a href="#">Homeward Bound, Inc.</a> AFSCME Council 65	Anderson, Richard	Termination	Staff person at care facility caught sleeping.	Denied	Zero tolerance for sleeping. 25 fired in past.
09-PA-0165	<a href="#">ISD 191, Burnsville</a> Service Employees #284	Jacobs, Jeffrey	Seniority	Junior employee selected to work as a summer cook.	Denied	Seniority only has to be considered as one of many factors.
09-PA-0174	<a href="#">ISD 316, Coleraine</a> AFSCME Council 65	Fogelberg, J.C.	Longevity Pay	Are longevity steps compounded?	Sustained	Contract, Union testimony and negotiation notes support award.
09-PA-0527	<a href="#">ISD 861, Winona</a> Winona Education Association	Martin, William	Staff Development	Principal denied 2 of 4 teachers request for a conference	Denied	Contract & Statutory Staff Devlpmt lost to management rights.
09-PA-0006	<a href="#">Lincoln, Lyon, Murray Counties Human Services</a> AFSCME Council 65	Imes, Sharon	5 day susp. Termination	Insubordination Violated last chance agreement.	Sustained Sustained	Due process rights violated. Due process rights violated.
09-PA-1066	<a href="#">Metropolitan Council</a> Amalgamated Transit Union #1005	Befort, Steven	Termination	Last chance agreement. Driver used snow scraper to chase rider.	10 day susp	LCA covered different situation. New LCA ordered.
09-PA-0951	<a href="#">Metropolitan Council dba Metro Transit</a> Amalgamated Transit Union #1005	Anderson, Richard	Record of Warning	An accident after 3 warning is grounds for termination. Had 2 priors.	Denied	Bus spun out, while turning in a snow covered parking lot.
08-PA-0766	<a href="#">Metropolitan Council d/b/a Metro Transit</a> Law Enforcement Labor Services, Inc.	Anderson, Richard	Termination	Part-time officer missed mandatory training without an excuse.	Sustained	Suspended from 11/07 until spring 2008 training. Back pay forward.
09-PN-0698	<a href="#">Minnetonka, City of</a> <a href="#">Clarification of Award</a> Law Enforcement Labor Services, Inc.	Gallagher, Thomas	Interest	Union asked for 2009-2.75%, 2010-1%; City offered 1%, 1%.	2009 - 2.75% 2010 - 1.0%	Internal pattern.
FMCS	<a href="#">Robbinsdale Rehabilitation&amp;Care Clinic, Inc.</a> Service Employees Healthcare #113	Gallagher, Thomas	Timelines	Arbitrability in termination case challenged due to missed timelines.	Denied	Notification of steward same as notifying union.
09-PA-0748	<a href="#">Steele County</a> Law Enforcement Labor Services, Inc.	McGilligan, Dennis	Termination	Corrections deputy lied in hearings to protect a fellow deputy.	Denied	Seriousness of main charge in spite of lack of prior discipline.
FMCS	<a href="#">Upper River Services, Inc.</a> IUOE Local 49	Bognanno, Mario	Termination	Barge worker on winter layoff failed drug test & wasn't called back.	Sustained	Laid off worker is an employee & protected by MN drug statue.

## August, 2009

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
08-PA-1183	<a href="#">Benton County</a> AFSCME Council 65	Jacobs, Jeffrey	Work Schedule	Employer changed schedule raising issues of flexing, vacation & seniority.	Denied	Management rights.
09-PN-0540	<a href="#">Crookston, City of</a> Law Enforcement Labor Services, Inc.	McGilligan, Dennis	Interest	Only issue, wages for 2009. Union asked for 4%, City offered 0%.	2009 - 2.75%	Internal pattern. City wanted to deviate from pattern due to economy.
FMCS	<a href="#">Hertz Corporation</a> Teamsters Local 974	Daly, Joseph	Termination	Employee left work early without seeking management approval	Denied	Testimony deemed untruthful. Poor work record.
FMCS	<a href="#">Honeywell, Inc.</a> Teamsters Local 1145	Daly, Joseph	Termination	Falsifying time clock records. Punching in then leaving work.	2 yr. susp.	Lack of progressive discipline & personal crisis.
09-TL-12	<a href="#">ISD 191, Burnsville</a> Individual Grievant	VerPloeg, Christine	Termination	Principal had kindergarten child who plugged toilet, remove paper towels.	15 day susp.	Remediability standard.
09-PA-0214	<a href="#">ISD 656, Faribault (Award)</a>	Paul, David	Job Consolidation	Union clerical duties moved to a confidential employee.	Sustained	Majority of duties were clerical.
Dist. Ct.	<a href="#">District Court Decision</a>	3rd Judicial District	Vacating Award	School District asked court to overturn arbitration.	Sustained	Not a grievance-no ee injured. Not arbitrable-management right.
Appeals Ct.	<a href="#">Court of Appeals Decision (Upholding Vacating of Award)</a> Operating Engineers Local 70	Court of Appeals	Arbitrator exceeded Power	District Ct vacated award. Union appealed. Appeal affirmed Dist Ct.	Denied	Reorganization vs sub-contracting. An inherent management right.
09-TD-14	<a href="#">ISD 742, St. Cloud</a> Individual Grievant	VerPloeg, Christine	Termination	Abuse of sick leave and falsifying duty day hours.	Denied	Violations sufficiently serious as not to require progressive discipline.
09-PA-0844	<a href="#">Metro Transit</a> Amalgamated Transit Union Local 1005	Toenges, Rolland	20 day susp.	Bus driver at layover stop refused to let passengers on - below 0 temp.	10 day susp.	20 days excessive compared to other passenger boarding incidents.
???	<a href="#">Minnesota State Colleges &amp; Universities</a> MN Colleges Faculty Association	Befort, Steve	Layoffs	Layoff of 3 cosmetology teachers. Laid-off, hired as temporary, then LO	Sustained	Manipulation of contract language.
???	<a href="#">Minnesota, State of, Department of Military Affairs</a> AFSCME Minnesota Council 5	Miller, Richard	Termination	DL required for job, lost license due to DWI.	Denied	Third DWI.
09-PA-0801	<a href="#">Ramsey County</a> Teamsters Local 320	Jacobs, Jeffrey	Assigning OT	Grievant not guaranteed OT would be in control room per 2007 MOA.	Sustained	County gave up its right in MOA.
09-PA-0140	<a href="#">University of Minnesota</a> AFSCME Minnesota Council 5	Miller, Richard	Termination	Released medical records to police.	Split	4 month suspension. Good work record.

## July, 2009

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
???	<a href="#">Allina Hospitals and Clinics</a> SEIU Healthcare Minnesota	Jacobs, Jeffrey	Subcontracting	Agreement allows for changes under extraordinary circumstances	Sustained	40% saving alone did not meet test loss of 17 jobs was key factor.
08-PA-0247	<a href="#">Grant County</a> Teamsters Local 320	Jacobs, Jeffrey	Public employee	Employee hired as hourly with no benefits. Is she eligible for benefits?	Sustained	Met 67 day and over 14 hour standards.
09-VP-1011	<a href="#">ISD 721, New Prague</a> Individual Grievant	Frankman, Janice	Termination	Custodian put plastic glove with dog feces on teachers desk.	15 day susp.	No progressive discipline.
09-PA-0459	<a href="#">MN, Silver Bay Veterans Home</a> AFSCME Council 5	Fogelber, J.C.	Termination	Violent verbal outbursts to co-workers.	Denied	Attempts at anger counseling failed. Co-workers feared for their safety.
09-PA-0004	<a href="#">Three Rivers Parks District</a> Law Enforcement Labor Services, Inc.	Holmes, Barbara	4 day suspension	Officer drunk & had sexual activity in a horse barn after dept. training. Police Discipline Act, formal statement w/o complaint.	1 day susp.	Unable to prove sexual activity. Violation has penalty-not reversal.
FMCS	<a href="#">Xcel</a> IBEW Local 1426	Remington, John	Termination	Falsified meter readings	Denied	Long term employee, no discipline but company practice to terminate.

## June, 2009

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
09-PA-0638	<a href="#">Belle Plaine, City of</a> Law Enforcement Labor Services, Inc.	Paull, David	Termination	Police Sergeant pressured officer to release DUI suspect	Denied.	A number of actions brought discredit to his department.
FMCS	<a href="#">Gopher Resources</a> Teamsters Local 120	Jacobs, Jeffrey	Termination	Time card fraud.	Denied	Work rules called for termination.
09-PA-0562	<a href="#">Hennepin County</a> AFSCME Council 5, Local 34	Anderson, Richard	Termination	Computer used to view sexual images and for personal business,	Denied.	Violated policy on computer use - 24 yr employee, no discipline.
FMCS	<a href="#">Honeywell, Inc.</a> Teamsters, 1145	Befort, Stephen	Subcontracting	Subcontracted work is to be called back if an employee is laid off.	Denied	Employee accepted a lower level position therefore was not laid off.
08-PA-1115	<a href="#">Itasca County</a> Itasca County Employees Association	Jacobs, Jeffrey	5 day susp.	Land commissioner's bad relationships with employees and other agencies.	3 day susp.	Politics mitigated some charges.
09-PA-0749	<a href="#">Metropolitan Council</a> Amalgamated Transit Union Local 1005	Befort, Stephen	Termination	Bus driver wearing an earphone.	Denied	Last chance agreement.
09-PA-0845	<a href="#">Metro Transit</a> Amalgamated Transit Union Local 1005	Holmes, Barbara	Final warning	Third accident for bus driver. 4th results in termination.	Denied	No other buses had accidents.
09-PN-0267	<a href="#">Morrison County (Interest Award)</a> Law Enforcement Labor Services, Inc.	Holmes, Barbara	Interest	Union seeking 4%, County 1% FTO-no; 1yr- co. position; Co. insur.	2009-1%	Ability to pay and internal pattern.
07-PA-1084	<a href="#">Roseville, City of</a> Law Enforcement Labor Services, Inc.	Fogelberg, J. C	OT for Training	Regular schedule was changed to avoid overtime for training days.	Sustained	Contract language and practice.
09-RA-0637	<a href="#">Safe Haven Shelter for Battered Women</a> AFSCME Minnesota Council 5	McCoy, Arthur Ray	Termination	Insubordination. Failure to transport a client as requested.	Sustained	Request was bogus, intended to provoke or punish grievant.

09-PA-0027	<a href="#">Washington County</a> Law Enforcement Labor Services, Inc.	Bognanno, Mario	Unit work.	Bailiffs working after hours court-house security.	Denied.	Low on policing continuum.
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## May, 2009

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
FMCS	<a href="#">ABM Janitorial Services, Inc.</a> SEIU Local 26	Holmes, Barbara	Termination	Inappropriate sexual behavior. Is just cause needed, or was he "at will"?	Denied.	Progressive discipline requirement and listing types of misconduct amount to a just cause standard.
FMCS	<a href="#">Ambassador Press, Inc.</a> GCC/IBT Local 1B	Gallagher, Thomas	Termination	Failed to give proper notice of leave needed for surgery.	Sustained	Lack of just cause. Mgmt knew of surgery - no wrttn notice of penalty
FMCS	<a href="#">American Spirit Graphics Corporation</a> GCC/IBT Local 1M	Befort, Stephen	Bumping	Entitled to higher pay at lower spot.	Sustained	Contract & past practice
09-PA-0001	<a href="#">Arrowhead Regional Corrections</a> AFSCME, Council 5	Anderson, Richard	75 day susp.	Mistreatment of juvenile client.	Sustained	Reduced to 30 days.
09-PA-0126	<a href="#">Benton County</a> AFSCME Council 65	Imes, Sharon	Longevity	Eligible at start or completion of year?	Denied.	Past practice.
FMCS	<a href="#">Federal Bureau of Prisons-Waseca</a> American Fed of Gov't Empls 801	Holmes, Barbara	Pay for Union Training seminar	Training for Union finance officer - for internal union or mutual benefit?	Sustained	Mutual benefit. How to file IRS & DOL reports.
09-PA-0428	<a href="#">ISD 241, Albert Lea</a> Albert Lea Education Minnesota	Jensen, Eugene	Matching Contributions	Statute on 403b max contributions increased - contract sites statute.	Sustained	Contract language does not list a maximum amount.
09-PA-0495	<a href="#">ISD 700, Hermantown</a> Education Minnesota Hermantown	Lundberg, James	Out of Title Pay	Janitor job descp changed to include maintenance duties.	Sustained	Change in duties and pay must be negotiated.
08-PA-1360	<a href="#">ISD 2364, Belgrade, Brooten, Elrosa</a> AFSCME, Council 65	Holmes, Barbara	Termination	School bus driver accident.	Denied.	Severity of accident
09-PA-0709	<a href="#">Moorhead Public Service Commission</a> IBEW Local 1426	Jacobs, Jeffrey	Termination	Meter reader for non performance	Letter of reprimand.	Due to procedural errors
09-PA-0086	<a href="#">Ramsey County</a> AFSCME Council 5	Holmes, Barbara	Termination	Boiler operator doing part time work on county time.	Denied.	Phone calls, emails and meetings amount to theft-only 3 yrs.service.

## April, 2009

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
08-PA-1165	<a href="#">Bloomington, City of</a> Bloomington Police Federation	Befort, Stephen	Termination	3 issues: 20 day suspension, re-assignment; and termination.	Denied	5 years of progressive discipline.
FMCS	<a href="#">CUB Foods</a> UFCW Local 789	Jacobs, Jeffrey	Termination	Swearing at supervisor: being tardy over 90 times.	20 day susp.	Tardiness not basis for termination no one else heard swearing.
08-PN-0677	<a href="#">Faribault County (Interest Award)</a> Teamsters Local 320	Befort, Stephen	Interest	2008-2009; County argued against their established pattern	Union	2008-2.9%, 2009-3%.. Co. did not try to reduce others due to budget.

FMCS	<a href="#">Gilleland Chevrolet/Cadillac</a> Int'l Assn of Machinists, Dist. 165	Remington, John	Demotion	3 mechanics demoted due to lack of higher level work.	Split	Can demote, but not by 2 grades.
09-TD-3	<a href="#">ISD 111, Watertown-Mayer</a> Individual Grievant	Miller, Richard	Termination	Elementary principal having an affair with a teacher.	5 day susp.	Conduct is remediable.
09-VP-0041	<a href="#">ISD 279, Osseo</a> Individual Grievant	Lundberg, James	Termination	Threatening student	Sustained	Lack of evidence and due process.
???	<a href="#">ISD 625, St. Paul</a> AFSCME Council 5	Gallagher, Thomas	Termination	Theft by food delivery driver	Denied	Only assurance theft will not be repeated.
08-PA-0791	<a href="#">Minnesota, State of, Department of Transportation-Procedural Opinion</a> Minnesota Government Engineers	Kircher, Andrea	Arbitrability	Timelines followed?	Arbitrable	Timelines start when answer letter received.
08-PA-0791	<a href="#">Minnesota, State of, Department of Transportation-Arbitration Award</a> Minnesota Government Engineers	Kircher, Andrea	Termination	5 day susp for a # of minor issues & then refused to attend disciplinary meeting as ordered.	Denied	Insubordination. Violated work now, grieve later rule.
???	<a href="#">Tri-County Community Action, Inc.</a> AFSCME Council 65	Miller, Richard	Lay offs	Child care center forced to close due to funding. Notice of layoff timeline?	Denied	Arbitrability of class action-allowed limit by doctrine of latches-denied.
FMCS	<a href="#">U.S. Department of Justice, Federal Prison Camp – Duluth, Minnesota</a> American Federation of Govt. Empl's Local 3935, Council Prisons Local 33	Lundberg, James	Reassignment	Wife of administrator bumped secretary from position.	Sustained	Union has right under contract to negotiate terms and conditions of transfers.
???	<a href="#">WCCO</a> NABET – CWA Local 411	Lundberg, James	3 day suspension	Camerman pushing & shoving in a crowd & swearing at a coworker.	Denied	Aggressive behavior when other options available.

## March, 2009

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
08-PA-0806	<a href="#">Community Action Programs of Ramsey &amp; Washington Counties</a> AFSCME Council 5	Befort, Stephen	Termination	H&R driver hit her school bus. She did not stop on Hwy but continued to school drop area.	Sustained	No progressive discipline. No back pay awarded (off 1 yr.) due to not recognizing wrongdoing.
08-VP-1432	<a href="#">ISD 279, Osseo</a> Individual Grievant	Gallagher, Thomas	Termination	Para wrestling with EBD students.	30 day susp.	Clarification of backpay awarded.
08-PA-0954	<a href="#">ISD 2609, Erskine</a> Win-E-Mac Teachers United	Martin, William	Broken promise.	Teacher claimed hiring contract error in 2005 placed him at wrong step.	Denied.	School board, not the principal have authority to offer contract.
Veterans P.	<a href="#">Metropolitan Council</a> Individual Grievant	Jacobs, Jeffrey	Demotion V.P. Hearing	Failed to obtain required license.	Denied.	Lack of license constitutes incompetency for the position.
08-PN-1141	<a href="#">Metropolitan Council</a> Law Enforcement Labor Services, Inc.	Bognanno, Mario	Interest	2008 U 4%, E 2%; 09 U 4%, E 2.5% Insurance - E position.	2008-2% 2009-2.5%	Internal patterns. Ignored old settlements neg in better times.
FMCS	<a href="#">Owatonna Public Utilities</a> IBEW Local 949	Befort, Stephen	Unit work.	Duties split, half remained in unit, half went to another unit.	Denied.	Another position was also created, change was therefore deminimus.

???	<a href="#">Twin City Hospitals</a> Minnesota Nurses Association	Gallagher, Thomas	Language vs. Practice.	Pension plan language when new benefits should be paid if reemployed.	Denied.	Language trumps practice.
08-PA-0398	<a href="#">University of Minnesota</a> AFSCME Council 5	Imes, Sharon	Oral Reprimand	Employees shouting at each other.	Sustained	Disparate treatment, one only received counseling.
09-PA-0142 0143-0146	<a href="#">University of Minnesota, Crookston</a> AFSCME Council 5	Jacobs, Jeffrey	Online Class Assignment Merit Pay	Required to consult re assignment. Meet & confer re change - no change. Merit pay not grievable. Policy used to determine merit questioned.	Denied. Denied.	Requirement to consult does not restrict management's rights. No change in criteria from past.
FMCS	<a href="#">VA Illiana Health Care System</a> Am Fed of Govmnt Employees 1963	Toenges, Rolland	Break mobility	Requirement to remain in boiler plant 15 minute breaks challenged.	Denied.	Contract allows for restriction.

## February, 2009

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
08-PA-1361	<a href="#">Benson, City of</a> AFSCME Council 65	Toenges, Rolland	Layoff	Qualified to bump less senior ees?	Denied.	Based on qualifications.
08-PN-0472	<a href="#">Blue Earth County (Interest Award)</a> Teamsters Local 320	VerPloeg, Christine	Interest	2008-2010, 2%Jan, 2%July each yr.	Union position	Internal pattern. Lead pay, shift differential and HCSP denied.
08-RA-0552	<a href="#">Brown-Wilbert</a> Teamsters Local 120	Scoville, James	Reduction of Insurance benefit	Unilateral change to deductibles and co-pays in mid-contract.	Sustained.	Minor adjustments, might be allowed-but these were major.
09-PA-0287	<a href="#">Duluth, City of</a> AFSCME Council 65	Remington, John	Right to reclaim job.	Took job in another division, did not make probation; denied old job.	Sustained.	Under city policy has 30 days to return to old job.
FMCS	<a href="#">Hertz Corporation, Minneapolis/St. Paul Airport</a> Teamsters 947	Jacoboswki, Daniel	Discharge	Time card fraud. See Befort's Jan, 2009 Hertz case-different result.	27 day susp.	Termination came after request for Union representation.
08-PA-0314	<a href="#">ISD 621, Mounds View</a> School Services Employees Local 284	Imes, Sharon	Transfers	12 custodians transferred due to budget.	Denied.	Discusses limitations of past practice.
08-PA-1284	<a href="#">ISD 2853 Lac Qui Parle</a> Education Minnesota	Fogelberg, J.C.	FMLA	Use of paid leave while on FMLA.	Sustained.	Not supported by contract, but authorized by school board.
FMCS	<a href="#">Methodist Hospital</a> SEIU Healthcare Minnesota	Jacobs, Jeffrey	Vacation accrual	Full time/part time accrual amounts pro-rated accrual or anniversary dump?	Denied.	Union issue on part-time pro-rating was sustained but results in a loss.
09-PA-0271	<a href="#">Metro Transit</a> Amalgamated Transit Union 1005	Wallin, Gerald	Termination	Transit bus driver hit female rider with ice scrapper.	Denied.	There was provocation but force used was excessive.
08-PA-1446	<a href="#">Minnesota, State of, Department of Human Services</a> AFSCME Minnesota Council 5	Malamud, Sherwood	1 day suspension	LPN made 10 transcription errors.	Denied.	Counseled and received training prior to suspension.
???	<a href="#">Minnesota State Colleges &amp; Universities</a> MN College Faculty Association	Befort, Stephen	Layoff rights	Laid off professor claimed right to teach a newly created course.	Denied.	Management and contract right to assign as overload work.

08-PA-0452	<a href="#">Pennington County</a> Law Enforcement Labor Services, Inc.	Scoville, James	Termination	Corrections officer threatened co-worker; insubordination	Sustained.	Grievant off work for 15 months - no back pay awarded.
08-PA-0806	<a href="#">Stearns County</a> Law Enforcement Labor Services, Inc.	Befort, Stephen	Demotion	Failure to review officers reports thus failed to supervise.	Denied.	Progressive discipline not required if nonperformance is material to job.
08-PA-1218	<a href="#">University of Minnesota</a> AFSCME Council 5	Jacobs, Jeffrey	Layoff	Junior employee laid off.	Denied.	Lay offs based on work location.
			Failure to negotiate new Classification.		Denied.	New position created - not classif.

## January, 2009

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
FMCS	<a href="#">AMPCO Parking</a> Teamsters Local 120	Befort, Stephen	Termination.	Parking lot accident that approached \$1,650 threshold for termination.	Verbal Wrning	Threshold reached by including owners rental costs.
FMCS	<a href="#">Cutler Magner Company</a> United Steelworkers 1028	Jacobs, Jeffrey	Termination.	Failed to move salt pile inside out of rain. Third incident in 9 months.	6 months	31 years of service. Problems only in past 9 months.
08-PN-0828	<a href="#">Fridley, City of (Interest Award)</a> Law Enforcement Labor Services, Inc.	Miller, Richard	Interest	Union 4%, City 2%-3%; insur-pattern; Ct standby 2 to 3 hrs-u; incr prem-no.	2008-3% 2009-3%	3% internal pattern. Sgts sought 3 hrs for standby same as officers..
FMCS	<a href="#">Hertz Corporation</a> Teamsters Local 947	Befort, Stephen	Termination.	See Jacobowski's February Hertz case - different result.	Denied.	Timecard fraud.
09-VP-0076	<a href="#">ISD 281, Robbinsdale</a> Individual Grievant	Toenges, Rolland	Termination.	School bus driver. Failure to safety checks/bad driving habits.	Denied.	Action reasonable due to safety risk inherent in his driving conduct.
08-PA-1178	<a href="#">ISD 706, Virginia</a> AFSCME Council 65	Anderson, Richard	Bad Faith Bargaining.	Monthly rate calculated incorrectly since 1980. Hourly rate negotiated.	Denied.	No indication employer was hiding ramification of change during neg.
FMCS	<a href="#">Kellogg Snacks Company</a> Teamsters Local 471	Bognanno, Mario	Termination.	Delivery driver; barred from two stores due to his attitude.	Denied.	Grievant compromised Company-customer relationship.
08-PA-1439	<a href="#">Minnesota, State of</a> AFSCME Council 5	Bard, Stephen	Termination.	Residential treatment employee who was verbally abusive w vulnerable adults.	Denied.	Welfare & safety of extremely
05-RA-0845	<a href="#">Minnesota State of, Ninth Judicial Branch</a> AFSCME Council 65	Fogelberg, J.C.	Termination.	Court clerk read confidential court file & judges notes involving her husband.	Denied.	Serious breach of code of ethics and court policy.
08-PN-0751	<a href="#">Murray County</a> Law Enforcement Labor Services, Inc.	Gallagher, Thomas	Interest	U 4%+steps; E 3% w/o steps-A 2.5% with steps; co's insurance pattern.	2008-2.5%	Arbitrator combined wages & insr. in market comparison.
FMCS	<a href="#">Red Wing Shoe Company</a> UFCW, Boot & Shoe Workers # 527	Remington, John	Pension Contrbtn.	No contribution made on vacation, holiday, OT, etc.	Sustained	Ordered to pay, back to 2007.
09-PA-0239	<a href="#">St. Paul, City of</a> Professional Employees	Befort, Stephen	Insurance.	Failure to sign up for flexible spending account to qualify for \$1,200.	Denied.	City gave adequate notice.
FMCS	<a href="#">Star Tribune Company</a> Teamsters Local 120	Gallagher, Thomas	Termination.	Light duty employee left for therapy, but did not attend, nor return to work.	Denied.	Lied re. therapy-gross misconduct not requiring progressive discipline.