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<p><b>In the Matter of Grievance Arbitration</b></p> <p>Between</p> <p><b>KANSAS CITY AREA TRANSPORTATION AUTHORITY ("Authority" or "KCATA")</b></p> <p>and</p> <p><b>AMALGAMATED TRANSIT UNION, LOCAL DIVISION 1287 ("Union")</b></p>	<p>* * * * * * * * * *</p>	<p>FMCS No. 090604-02733-A Grievant: Derrick Sims Issue: Discharge</p> <p><b><u>Arbitration Board:</u></b></p> <p>Fern M. Kohler (Authority Member) William L. Wilson (Union Member) Lon Moeller (Neutral Chair)</p>
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### Preliminary Statement

A grievance arbitration hearing was held on August 13, 2009 at the Howard C. Breen Building, located at Forest and 18<sup>th</sup> Streets in Kansas City, Missouri. The Authority and Union appeared through their designated representatives and offered evidence through exhibits and the testimony of witnesses, who were subject to cross-examination. The record was closed upon the Arbitrator's receipt of the parties' post-hearing briefs.

### Appearances

#### For the Authority:

Jeffrey M. Place, Attorney and Spokesperson  
Tommie Hill, Manager of Road Supervision  
Robert J. Kohler, Director of Transportation  
Gaylord Salisbury, Manager of Safety & Instruction

#### For the Union:

Scott A. Raisher, Attorney and Spokesperson  
Derrick Sims, Grievant  
William L. Wilson, Union President

### I. Background and Facts

This case involves the Authority's decision to discharge Bus Operator Derrick Sims. Mr. Sims started working for KCATA in March 2005. He generally worked the "extra" or "vacation board" covering routes for bus operators who were sick, on vacation or otherwise absent from work. Mr. Sims' employment was terminated effective April 3, 2009.

The facts leading up to Mr. Sims' discharge are spelled out in his Formal Discipline Notice, which was issued by Manager of Road Supervision Tommie Hill and which reads in relevant part as follows:

*A meeting was held today to review my record regarding the following rule infraction:*

- *Work Rule 2.7: Eating, drinking or use of tobacco while bus is in motion (at places other than ends of the line) is prohibited. Operators may not smoke on the bus anywhere.*
- *Work Rule 5.3: Carrying or displaying a weapon on Authority property while on duty is prohibited.*
- *Policy Bulletin 43-01: Talking on cell phone while operating the bus.*
- *Bulletin: Prohibited Weapons And Materials On Or In Kansas City Area Transportation Authority Property. Issued and Posted October 9, 2003.*

*...On Thursday April 2, 2009, I received a Secret Rider Report that stated the operator of bus #S-155 was talking on his cell phone and eating potato chips while driving the bus. It also stated that the driver had a verbal altercation with a passenger at 10<sup>th</sup> & Main.*

*Bus #S-155 is equipped with a video surveillance system, and the hard drive from bus #S-155 was retrieved to investigate the report.*

*The video revealed that the secret rider report was accurate. It also revealed that during the verbal confrontation with the passenger, the operator took a knife out of his pants pocket and invited the passenger, who had deboarded the bus, to return on board the bus and settle the dispute. Other ATA passengers were literally in the middle of the described affront, while the bus operator was boldly brandishing the knife.*

*As stated in Work Rule 5.3 and Bulletin Dated October 9, 2003 above, "Carrying or displaying a weapon on Authority property while on duty is prohibited."*

*For the violations listed above, Operator Sims is discharged effective Friday, April 3, 2009 (Joint Exhibit 8).*

On April 3, 2009, the Union filed a grievance challenging Mr. Sims' discharge (Joint Exhibit 9). The grievance was processed in accordance with the contractual grievance procedure, denied by the Authority at the third step (Joint Exhibit 10) and appealed by the Union to arbitration. There are no questions of timeliness or procedural

arbitrability associated with the grievance. The grievance is now before the Arbitrator for a final and binding decision on the merits.

## II. Statement of the Stipulated Issues

Did the Authority have just cause to discharge the Grievant, Bus Operator Derrick Sims, under all the facts and circumstances? If not, what should the remedy be?

## III. Position of the Authority

The Authority emphasizes that this case is about safety – the safety of Kansas City-area pedestrians and drivers, KCATA passengers and its bus operators. Cell phone usage by bus operators is strictly prohibited by Policy Bulletin 43-01 (Joint Exhibit 13). Work Rule 5.3 of the Authority's Discipline Code states that "Carrying or displaying a weapon on Authority property while on duty is prohibited" (Joint Exhibit 2, p. 43). A first offense of Work Rule 5.3 calls for discharge. Signs reminding employees that "No Firearms or Other Weapons Allowed on this Property" are posted on Authority premises (Joint Exhibit 12). KCATA's Board of Commissioners issued a policy on October 8, 2003 concerning "Prohibited Weapons and Materials on or in Kansas City Area Transportation Authority Property," which states in relevant part:

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1. *No weapon, including firearms concealed or not, other instrument intended for use as weapon, or any object capable of inflicting serious bodily injury upon another person or property may be carried in or on any facility or vehicle of KCATA, even if a person has a permit to carry a concealed weapon, except for law enforcement personnel and KCATA security personnel as appointed authorized by KCATA. For the purposes hereof, a weapon shall include, but not be limited to, a firearm, knife, sword, or any instrument of any kind known as blackjack, billy club, club, sandbag and metal knuckles.*

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3. *Any KCATA employee who has a firearm or other weapon, including those used for recreational purposes, in his/her possession, including on his/her person, in a vehicle on an ATA parking lot, or accessible such as in lockers, toolboxes, purses, lunch or carrying bags, etc., at any time while on duty or on KCATA property, including parking lots, concealed or not, shall be discharged immediately, even if the employee has a permit to carry a concealed weapon.*
4. *Any KCATA employee, while on duty or on any KCATA property or facilities, who has in his/her possession, carries, transports, displays, uses, flourishes, or threatens another person with a weapon, radioactive material, biochemical material or other dangerous weapon, object or material which has the capability of inflicting bodily injury, shall be discharged immediately.*

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*The term "property or facilities" as used in this policy includes KCATA vehicles... (Joint Exhibit 11).*

The Board's Prohibited Weapons Policy (Joint Exhibit 11) and Policy Bulletin 43-01 (Joint Exhibit 13) are posted on bulletin boards in two areas of the trainmen's room. Bus operators are given a tour of the trainmen's room when they start working for the Authority. Mr. Sims acknowledged in his Final Examination for Student Operators that he was "responsible for knowing all of the information posted on bulletin boards" (Joint Exhibit 14, p. 6). All bus operators carry a route book. The route book reminds bus operators to "Read the Bulletin Board" (Joint Exhibit 21). As a union steward, Mr. Sims was also familiar with KCATA work rules and the bulletins/policies posted in the trainmen's room.

On April 1, 2009, a "secret rider" observed Mr. Sims eating potato chips and talking on his cell phone while driving his bus on the "Minnesota" route (Joint Exhibit 3, p. 1). Mr. Sims was also observed by the secret rider in a "verbal disagreement with a passenger" (Joint Exhibit 3, p. 2). Manager of Road Supervision Tommie Hill received the secret rider's report. Mr. Hill reviewed the video taken from the surveillance cameras on Mr. Sims' bus. Mr. Sims was observed on the video using his cell phone for two hours and ten minutes of his nearly eight hour shift, eating while on duty and lighting a cigarette on the bus (Joint Exhibit 5). His bus was running late. One passenger in the back of the bus expressed displeasure at the fact that the bus was running late and told Mr. Sims to "hurry up." Mr. Sims initially obliged, but shortly resumed checking his cell phone. The passenger again told Mr. Sims to "hurry up." As the bus neared the end of the route (the 10<sup>th</sup> and Main Transit Plaza), the passenger got up from his seat. Mr. Sims hit the air brakes on the bus, causing the bus (and the passenger) to lurch forward. The passenger glared at Mr. Sims as he left the bus and again told Mr. Sims that he needed to "hurry up." The passenger proceeded to walk away from the bus. Mr. Sims responded by yelling at the passenger. The passenger turned towards Mr. Sims and challenged him to come off of the bus. Mr. Sims angrily responded by challenging the passenger to return to the bus. As the passenger started walking back to the bus, Mr. Sims pulled a knife from his pocket, opened the blade, held it out at arm's length and gestured towards the passenger. After taking a step on to the bus, the passenger turned around and walked away.

Mr. Sims' actions on April 1<sup>st</sup> violated Work Rules 2.7 and 5.3, Policy Bulletin 43-01 and the Board's Prohibited Weapons Policy. He was well aware of Policy Bulletin 43-01, having been given a warning for cell phone use while driving in November 2007. Mr. Sims' extensive use of his cell phone while driving jeopardized the passengers' safety and contributed to the altercation with the passenger. His actions in bringing the knife on the bus, pulling it out of his pants pocket and using it as a weapon could have made a bad situation worse. Bus operators are trained on how to "avoid arguments" with passengers and what to do when a passenger becomes confrontational (Joint Exhibit 2, pp. 28-29; Joint Exhibit 20).<sup>1</sup>

<sup>1</sup> Mr. Sims, the Authority points out, "confirmed that he attended both a six-week new hire training program and a one-day refresher training program during his employment, both of which addressed customer relations" (Authority Brief, p. 8). The training materials used for the Customer Relations training were attached to the Authority's Post-Hearing Brief as Appendix B.

Director of Transportation Robert Kohler testified that allowing bus operators to bring weapons on the bus would send a "mixed message" and put bus operators at even greater risk of serious injury. Since 2005, an average of 16 KCATA bus operators have been assaulted each year by passengers (Joint Exhibit 15). Work Rule 5.3 prohibiting the "Carrying or displaying of a weapon on Authority property while on duty" was upheld by Arbitrator Pratte as being "reasonable" and "well known" in the Dora Hurd arbitration award (Joint Exhibit 19, p. 19).<sup>2</sup> Despite Mr. Sims' asserted contrition, "KCATA cannot reasonably rely on Grievant to meet KCATA's expectations for safe and courteous interaction with passengers and for the safe operation of its buses" (Authority Brief, p. 22).

In summary, the Authority contends that Mr. Sims' behavior on April 1<sup>st</sup> is unacceptable and cannot be justified. It submits, therefore, that Mr. Sims was discharged for just cause and asks that the grievance be denied.

#### IV. Position of the Union

The Union emphasizes that KCATA bus operators have a dangerous job. Joint Exhibit 15 demonstrates the alarming number of bus operators who have been assaulted. The Union claims that bus operators are "left out there on their own" and do the "best they can" under very challenging circumstances.

Next, the Union acknowledges that Mr. Sims violated Policy Bulletin 43-01. Under Policy Bulletin 43-01, a first offense results in a one-day suspension, a second offense a three-day suspension and a third offense discharge (Joint Exhibit 13). Mr. Sims' November 2007 warning for violating this work rule cannot, under Section 1.12 (e) of the Labor Agreement, be used "for the purpose of progressive discipline" (Joint Exhibit 1, p. 13). His admitted violation of Policy Bulletin 43-01 and his violation of Work Rule 2.7 for eating while on duty and smoking on the bus do not warrant discharge.

The Union maintains that the propriety of Mr. Sims' discharge rests entirely on his April 1<sup>st</sup> argument with the hooded passenger. This incident, the Union contends, was "regrettable," "unfortunate" and "out of character." Mr. Sims did not understand that his knife was considered to be a "weapon." He thought a "weapon" for purposes of Work Rule 5.3 and the Board's Prohibited Weapons Policy meant a firearm. Director of Transportation Kohler testified that maintenance department employees – who are subject to Work Rule 5.3 and the Board's Prohibited Weapons Policy – carry knives as "tools." Mr. Sims added that he was aware of other KCATA bus operators and maintenance employees who carried knives. Work Rule 5.3, the Union points out, does not define "weapon." Mr. Sims brought a knife to work every day since his first day on the job with KCATA. To Mr. Sims, the pocket knife was a "tool." His knife was clipped to his belt or pants when he worked. Mr. Sims made no attempt to hide his knife.

With respect to the specific incident, the Union argues that Mr. Sims properly defused the situation with the passenger. The secret rider observed that Mr. Sims "had a verbal

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<sup>2</sup> On this point, the Authority additionally cites Arbitrator Ridle's award in the *Wan'ae Smith Discharge* case and *Metropolitan Transit Authority*, 122 LA 945 (Baroni, 2006) (Authority Brief, Appendices A and C).

disagreement" with the passenger but noted that Mr. Sims "did not respond inappropriately" (Joint Exhibit 3, p. 2). Mr. Sims testified about concerns he had when passengers boarded his bus wearing "hoodies" or masks because he could not identify them. In this case, the passenger was wearing a hoodie pulled down over his head. This passenger, Mr. Sims recalled, "had an attitude" when he boarded the bus. As the hooded passenger left his seat to leave the bus, he rushed towards Mr. Sims. Mr. Sims was operating a "one-door" bus, with the only passenger entrance/exit located at the front of the bus. He was legitimately concerned for his safety and felt intimidated by the passenger. Mr. Sims had never been in a situation in which a passenger "charged up on him" before. Mr. Sims, who is 5'4" tall, lost sight of the passenger from his seat on the bus when the passenger exited. It was night time. Mr. Sims never threatened the passenger with his knife or "brandished" the knife as the Authority claims. The passenger ultimately walked away from the bus. There is no indication that the passenger knew that Mr. Sims had a knife, that Mr. Sims "displayed" the knife to the passenger<sup>3</sup> or that Mr. Sims told the passenger that he had a knife. If anything, the video shows that Mr. Sims generally kept his knife at his side and out of sight of the passengers on his bus.

The Union notes that while Mr. Sims may have exercised bad judgment taking the knife out of his pocket, he did so for "defensive purposes." Mr. Sims had a good work record prior to his discharge. By his own account, Mr. Sims gave "110%" when he worked and liked his job. On the evening of April 1<sup>st</sup>, Mr. Sims was still mourning the loss of his great uncle who passed away on March 28<sup>th</sup> (Joint Exhibit 16). He was distracted by concerns for his wife, who he thought may have locked herself out of their house. Mr. Sims had also worked six days in a row prior to April 1<sup>st</sup>.

In conclusion, the Union submits that "the penalty of discharge was excessive, unreasonably severe, inconsistent with the Authority's stated policy of corrective discipline and contrary to the concept of just cause" (Union Brief, p. 2). It thus asks that the grievance be sustained, the discharge be set aside and that Mr. Sims be made whole for his lost wages, seniority and benefits.<sup>4</sup>

## V. Discussion and Analysis

The Authority's decision to discharge the Grievant is subject to review under the just cause standard of Section 1.12(b) of the Labor Agreement (Joint Exhibit 1, p. 12). Just cause requires that the Authority prove, by clear and convincing evidence, the charges outlined in the Formal Discipline Notice and demonstrate that discharge was the appropriate penalty.

The video clips taken from the surveillance cameras on Mr. Sims' S-155 bus on April 1<sup>st</sup> (Joint Exhibit 4) show that he (1) was looking at his cell phone (and apparently entering telephone numbers on his phone) while driving (2) ate while driving (3) lit a cigarette (while

<sup>3</sup> Since the word "displaying" is not defined in Work Rule 5.3, the Union offers a definition from Webster's Ninth New Collegiate Dictionary: "to make evident," "exhibit ostentatiously" and "put or spread before the view" (Union Brief, p. 22).

<sup>4</sup> The Union adds "neutral arbitrators sitting with this Board have consistently reviewed and evaluated the propriety of the penalty imposed by management and, even in cases of very serious misconduct, have modified that penalty, when appropriate" (Union Brief, p. 16). In support of this argument, the Union points to grievance arbitration awards involving KCATA employees Hurd (Joint Exhibit 19), Creason, Herbst and Smith.

talking on his cell phone) before leaving the bus and (4) was talking on his cell phone while driving. A first offense violation of Policy Bulletin 43-01 for cell phone use is a one-day suspension. A first-time violation of Work Rule 2.7 for eating "while [the] bus is in motion" or smoking on the bus calls for a written warning.

Violation of Policy Bulletin 43-01 and Work Rule 2.7 would not sustain discharge given the facts of this case. Whether or not Mr. Sims' discharge was for just cause thus turns on application of the Authority's Prohibited Weapons Policy and Work Rule 5.3.

The record shows that KCATA bus operators have been spit at, "cussed out" and punched. Mr. Hill testified that bus operators are allowed to defend themselves when being assaulted by passengers. Bus operators are not given Mace or pepper spray to ward off assaults. There is a silent alarm button on KCATA buses which connects the bus operator with dispatch and the police. Mr. Hill was not sure, however, of the "specific response time" by dispatch or the police when bus operators hit the silent alarm button. Mr. Sims and Mr. Hill both testified about situations when they hit the silent alarm button on their bus and no one responded to their call.

Work Rule 5.3 prohibits all KCATA employees from "carrying" or "displaying" a "weapon" while on Authority property or while on duty. The words "carrying," "displaying" and "weapon" are not defined in Work Rule 5.3. The Board's Prohibited Weapons Policy, which was apparently issued following enactment of the Missouri concealed weapons law, defines "weapon" to include a knife. It calls for discharge when a KCATA employee, "carries, transports, displays, uses, flourishes or threatens another person with a weapon."

Although Work Rule 5.3 and the Board's Prohibited Weapons Policy apply to all KCATA employees, maintenance department employees have carried knives while on duty. Mr. Sims apparently carried a knife while on duty every day he worked for the Authority. He testified about other employees who carried knives while on KCATA property or while on duty. Mr. Sims said that he used his knife to "unjam" a fare box on his bus. Acknowledging that maintenance department employees have carried knives at work, Mr. Kohler testified about the difference between the use of a knife as a "weapon" and the use of a knife as a "tool." Mr. Kohler said that a "tool" (including the maintenance department employees' use of knives as "tools") was something used for "practical purposes."

In the 1994 *Wan'ae Smith* grievance, the Authority discharged a bus operator who pulled a knife during a physical altercation with a passenger on a KCATA bus. The passenger suffered cuts on her arm caused by the grievant's knife, cuts which needed 19 stitches to close. In upholding the grievant's discharge under the Authority's work rule that prohibited the carrying or display of a weapon on Authority property, Arbitrator Ridle noted the following:

*After much research with the law enforcement community, this arbitrator has come to the conclusion that if a pen knife such as the one used in this altercation is being used as an instrument in a non-threatening manner such as cleaning finger nails, opening bags or containers, it is considered a tool. However, when a*

*knife, regardless of size, is used in an assaulting and/or aggressive manner, it is a weapon which violates company policy (Ridle Award, p. 17).*

The Authority contends that Mr. Sims used his knife as a weapon in the argument with the passenger on April 1<sup>st</sup>. Mr. Sims denied using his knife as a weapon, "pulling" the knife on the passenger or "threatening" the passenger with the knife. The Formal Discipline Notice justifies Mr. Sims' discharge based on two facts: (1) Mr. Sims brought his knife on the bus; and (2) Mr. Sims was "boldly brandishing" his knife during the argument with the passenger. Mr. Hill maintains that Mr. Sims "pulled" a knife on the passenger. The Authority further emphasizes in its brief that Mr. Sims "was not discharged for merely carrying a knife in his pocket" and that Mr. Sims "clearly brandished the knife as a weapon" (Authority Brief, p. 18).

To justify Mr. Sims' discharge under Work Rule 5.3 and the Prohibited Weapons Policy, there must be clear and convincing evidence that he displayed his knife and that he used his knife in the argument with the passenger as a weapon. A summary of the April 1<sup>st</sup> surveillance video from Mr. Sims' bus from the different cameras (Joint Exhibit 4) shows the following:

- After Mr. Sims pointed out a caged panther being loaded or unloaded into a truck along the route, the passenger sitting in the back of the bus says "Come on bro, we need to catch some other buses" (21:19:02). Mr. Sims responds by saying "Okay, my bad. We're already late."
- The passenger subsequently says, "Come on man, I gotta catch a bus" (21:19:54). He and Mr. Sims are then involved with an argument over whether Mr. Sims has to tell the passenger his name so that the passenger can "report him" (21:19:56 – 21:20:29). Mr. Sims tells the passenger that he only needs the bus number or bus route number – not his name – "to tell them [the road supervisor] when you get down there [the 10<sup>th</sup> and Main stop]." During this argument, Mr. Sims denies the passenger's assertion that he has a cell phone – "I ain't got a cell phone, nothin'" and "You got me mistaken for somebody else" (21:20:32 – 21:20:40).
- The passenger, who is wearing a hoodie, starts walking towards the front of the bus as the bus is moving (21:20:30). Mr. Sims sees the passenger walking up towards the front of the bus and hits the air brakes as the bus approaches the stop. As the bus comes to a stop, the passenger lurches towards the front window of the bus and looks directly at Mr. Sims (21:20:36). When he is off of the bus, the passenger tells Mr. Sims, "You need to hurry up man" (21:20:41 – 21:20:42). Mr. Sims responds, "No, no. I'm driving this" (21:20:43). The passenger says, "Yah, you do" (21:20:43). The two continue trying to talk over each other as passengers leave the bus. Mr. Sims says "Okay, that's the way it is" (21:20:49), "Don't come rushing up on me" (21:20:51) and "You done lost your mind" (21:20:52).
- The passenger challenges Mr. Sims to "get off the bus." Mr. Sims stands up out of his chair (21:20:52). He tells the passenger "Get off the bus? Fool shut up. Get off the bus" (21:20:55 – 21:21:00). Mr. Sims then says, "No you come up on and try some of that shit" (21:21:01 – 21:21:02) and "Nobody got time for all that" (21:21:03 – 21:21:05). The passenger begins to walk back towards the bus (21:21:05). Mr. Sims reaches into his pocket for his knife with his right hand (21:21:05). The passenger and Mr. Sims continue to argue over each other.



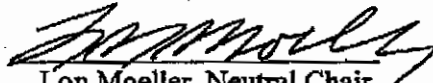
Three passengers are attempting to board the bus (21:21:05). Mr. Sims raises his knife with his right hand, pointing to the back of the bus; the knife is shoulder high (21:21:10). There is no passenger to Mr. Sims' immediate right; the passenger boarding the bus at the time is looking to her right, towards the fare box and the front window of the bus and away from Mr. Sims. He then lowers the knife to the side of his right leg (21:21:11). The passenger, who is now standing behind two other passengers, climbs to the top stair of the bus (21:21:12). He and Mr. Sims argue – there are no passengers between the two of them at the time (21:21:17). The passenger leans in towards Mr. Sims and points his finger at Mr. Sims (21:21:18 – 21:21:20). During the argument, Mr. Sims leans back and turns to his right, the knife down at his right side (21:21:14 – 21:21:20). The passenger gets off of the bus and walks away (21:21:21 – 21:21:23). Mr. Sims says (as passengers continue to board the bus) "Okay, Okay, Okay, let them step up. Every one hold on. It's cool, yah" (21:21:20 – 21:21:26). He puts the knife in his pocket, says, "If you swing at me I'm going to give you something to swing about" and sits down in the driver's chair (21:21:28 – 21:21:31). As the passenger continues walking down the street, Mr. Sims says, "Yah, we'll live to see another day. We'll live to see another day" (21:21:32 – 21:21:36).

Mr. Sims' behavior in pulling the knife out of his pants pocket must be viewed in a "real-time" context. He reasonably felt threatened by the passenger in the back of the bus. The passenger did "come up" on Mr. Sims before the bus reached the bus stop. Mr. Sims lost sight of the passenger when he left the bus. Passengers were entering the bus. There were three passengers standing between Mr. Sims and the passenger when the passenger returned to the bus. Mr. Sims took the knife out of his pocket for "defensive" reasons. Other than the two seconds (21:21:10 – 21:21:11) when he lifted the knife from his side to shoulder level, Mr. Sims kept his knife at his side. He did not tell the passenger he had a knife, point the knife at the passenger or threaten the passenger with the knife. Given the lighting on the bus, and the fact that Mr. Sims turned his body when the passenger reboarded the bus, there is no indication from the video that the passenger knew Mr. Sims had a knife or saw the knife in Mr. Sims' hand. In short, the clear and convincing evidence of this record does not show that Mr. Sims displayed the knife to the passenger, threatened the passenger with his knife or used his knife as a weapon during the argument with the passenger.

It goes without saying that Mr. Sims' behavior on April 1<sup>st</sup> fell short of the professional standards KCATA expects of its bus operators. He carried his knife on the bus and engaged in a heated argument with a passenger. Mr. Sims did not "walk away" from the argument with the passenger. His repeated use of the cell phone while driving contributed to the passenger's frustration in being late. While discharge is not the appropriate penalty in this case, Mr. Sims' behavior warrants some measure of discipline. Mr. Sims' discharge is, therefore, to be converted to an unpaid suspension.

VI. Award

For the reasons set forth above, the grievance is sustained. The Grievant, Derrick Sims, is to be reinstated as a bus operator, with seniority credit, but without backpay.

  
Lon Moeller, Neutral Chair

\_\_\_\_\_  
Fern Kohler, Authority Member  
(Concur/Dissent)

\_\_\_\_\_  
William L. Wilson, Union Member  
(Concur/Dissent)

Dated at Iowa City, Iowa  
This 30<sup>th</sup> day of October, 2009

**Department of Management  
& Organizations**

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October 30, 2009

Mr. Jeffrey M. Place  
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Mr. Scott A. Raisher  
Jolley Walsh Hurley Raisher & Aubrey, P.C.  
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Kansas City, MO 64111

Re: **KCATA and ATU Local 1287**  
**FMCS Grievance No. 090604-02733-A**  
**Derrick Sims Discharge Grievance**

Dear Mr. Place and Mr. Raisher:

Enclosed please find my award and statement of services in connection with the above-referenced grievance. It was my pleasure to work with the parties in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Lon Moeller".

Lon Moeller

Fern Kohler (w/award)  
William Wilson (w/award)