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## IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA

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| Ronald Windeler, et al., Plaintiffs, vs. Jack Slama, et al., Defendants. | Case No. A81-536 Civ. |

## NOTICE OF PENDENCY OF CLASS ACTION AND PROPOSED SETTLEMENT WITH DEFENDANTS

**TO: ALL MEMBERS IN GOOD STANDING OF LOCAL 959 OF THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA BETWEEN AUGUST 14, 1981, AND THE PRESENT WHO WERE/ARE/WILL BE SUBJECT TO THE RESOLUTIONS PASSED AT THE MEMBERSHIP MEETINGS IN FAIRBANKS, ALASKA, ON AUGUST 14, 1981; KENAI, ALASKA, ON AUGUST 17, 1981; AND ANCHORAGE, ALASKA ON AUGUST 20, 1981.**

### I. BACKGROUND

In August of 1981, while pursuing a strike action against Anchorage Cold Storage Company, Teamsters Local 959 held a series of meetings at which a "picket or pay" assessment was imposed on Local 959 members following a voice vote. After oral and written protest and appeals through internal Union procedures, a group of Local 959 members filed a class action suit in the federal District Court seeking to halt the mandatory assessment because of the voting procedure used by the Local.

In December of 1982, District Judge von der Heydt issued a decision finding that the assessment was in violation of federal laws, ordered a halt to the mandatory picketing, and certified the class action. In pertinent part the decision states:

> The court concludes that the motion (to picket two hours per week or pay $100.00) approved by voice vote at the Anchorage meeting of Local 959 on August 20, 1981 was an assessment in violation of 29 USC 411(a)(3) (1976).

29 USC § 411 (a)(3), Section 101(a)(3) of the "Landrum-Griffith Act," states in pertinent part:

> the rates of dues and initiation fees payable by members of any labor organization in effect on the date of enactment of this act shall not be increased, and no general or special assessment shall be levied upon such members, except . . . in the case of a local organization, (1) by majority vote by secret ballot of the members in good standing voting at a general or special membership meeting, after reasonable notice of the intention to vote upon such question, or (2) by majority vote of the members in good standing voting in a membership referendum conducted by secret ballot . . .

In February of 1983, Local 959 reinstated the assessment following a mail ballot election. The same group of members who protested the August 1981 assessment filed an amended class action suit challenging the February 1983 assessment on the grounds that the 1983 election was not by secret ballot and that the granting of credit for hours walked during the 1981 assessment was an improper retroactive ratification of the 1981 assessment. To date, the legality of the February 1983 assessment has not been decided by the federal District Court Judge.

In May of 1985, a pilot trial was held by Judge von der Heydt to determine the nature of damages inflicted on the class by the 1981 assessment. The ten named plaintiffs plus selected other members gave testimony as to their experiences related to picketing. As a result of that trial, Judge von der Heydt awarded the named plaintiffs damages (in the amount of their regular rate of pay) for all the hours they walked or provided substitute pickets and for the time they spent at disciplinary hearings, as well as one dollar each as nominal compensation for the violation of their rights. (No money has actually been paid to them yet, and they have agreed to accept the same terms of this settlement as outlined below.)

In August 1986, the Local filed a voluntary petition under Chapter 11 of the United States Bankruptcy Code, which automatically stayed further proceedings in Plaintiffs' lawsuit. On December 19, 1989, the Local filed an Amended Plan of Reorganization, which incorporates the terms of this Settlement Agreement as the provision for Plaintiffs as a separate class of creditors. The Local has requested confirmation of its Amended Plan by the Bankruptcy Court.

The parties, Defendants and Plaintiffs, reasonably expected that as much as one year could elapse after the Local emerges from Bankruptcy Court before the federal District Court determines the legality of the 1983 assessment. They also expect that if either party appeals the decisions of the trial court that up to two years could elapse before a final decision is made on the legality of either the August 1981 or February 1983 assessments. The parties have, therefore, agreed to propose a settlement to the class.

### II. TERMS OF THE SETTLEMENT

If the terms of the May 1985 pilot trial are applied to the entire class, the damages, prior to interest, will total approximately Seven Million Dollars for the 1981 assessment and Three and One-Half Million Dollars for the 1983 assessment. Because of the depleted state of the Local's finances (as verified by plaintiffs' independent certified public accountant), the unresolved status of the February 1983 assessment, the desire by all parties to resolve this divisive litigation, and the desire of all parties to devote their energies to rebuilding Local 959, the Defendants and Plaintiffs have mutually agreed to a compromise settlement, subject to Court approval. The terms of this settlement are summarized as follows:

(1) Local 959 accepts the Court's decision of December 1982 declaring the August 1981 assessment invalid.

(2) Local 959 will cancel all disciplinary matters flowing from a member's failure to picket under either the August 1981 or February 1983 assessment.

(3) Local 959 will purge its records of any reference to a member's compliance or noncompliance under either August 1981 or February 1983 assessments.

(4) Local 959 agrees that any future mail ballot elections for picket assessments will be by secret ballot, using opaque envelopes.

(5) Local 959 will not impose punishment on any members for having exercised their rights under federal labor laws.

(6) Local 959 will pay to each member of the class nominal damages of $1.00 for the August 1981 assessment and $0.50 for the February 1983 assessment.

(7) Local 959 will reimburse members who attended the August 1982 Joint Council 28 disciplinary hearings for claimed out-of-pocket expenses, except for legal fees.

(8) Local 959 will distribute to members of the class their pro-rata share of the sum of One Million One Hundred Forty Thousand Dollars ($1,140,000). Class members will receive their shares on the basis of the Local's verifiable picket records and without the necessity of filing claims. For purposes of determining each member's entitlement to the distribution, the One Million One Hundred Forty Thousand Dollars ($1,140,000) will be divided by the total of (a) all credited picket hours actually mandated under the 1981 picket assessment; (b) hours spent by members in disciplinary hearings attempting to enforce the 1981 picket assessment; (c) 50% of credited picket hours mandated under the 1983 picket assessment; and (d) 50% of hours spent by members in disciplinary hearings attempting to enforce the 1983 picket assessment.

For purposes of illustration only, the parties' best estimate is that item (a) is approximately 396,037.25, item (b) is no more than 2,000; 50% of item (c) is approximately 153,512.25; and item (d) is believed to be zero (0). Thus if a member had 30 credited picket hours mandated under the 1981 assessment, 20 picket hours under the 1983 picket assessment, spent 3 hours in disciplinary hearings in 1982, and spent no time in disciplinary hearings for the 1983 picket assessment, the member's cumulative total entitlement under this section would be $68.83.

(9) The distribution under paragraph (8) will be made over the course of three (3) years, unless Local 959 elects to pre-pay, and is secured by collateral.

(10) Local 959 will pay plaintiff's counsel his reasonable attorneys fees and costs.

(11) A copy of the Settlement Agreement is available for inspection at the office of the Clerk of Court, United States District Court, (address in Section III below), the offices of plaintiffs' counsel (address in Section III below), and at the offices of Local 959 in Anchorage, Fairbanks and Juneau.

### III. OBJECTIONS TO PROPOSED SETTLEMENT AND HEARING ON OBJECTIONS

Any member of the settlement class may object to this proposed settlement by filing a written statement of objections with the Clerk of Court no later than the 16 day of March, 1990, and by postmarking a copy of said objections to counsel by the same day. Objections should be filed with or mailed to the following:

Clerk of Court
U.S. District Court
Room A240
701 "C" Street, Box 4
Anchorage, Alaska 99513

Plaintiffs' Attorney
William B. Schendel, Attorney
Schendel & Callahan
P.O. Box 2137
Fairbanks, Alaska 99707

Defendant's Attorney
James A. Witt, Attorney
General Teamsters Local 959
P.O. Box 102092
Anchorage, Alaska 99510

Any member who has filed and served an objection may appear and testify at the hearing on the proposed settlement, which will be held in Courtroom 1 of the United States District Court, 222 West 7th Avenue, Anchorage, Alaska, at 10:00 a.m. on the 21 day of March, 1990.

The failure to submit a timely written objection will be deemed a waiver of any objections.

DATED at Anchorage, Alaska, this 2 day of February, 1990.

PHYLLIS RHODES
Clerk of Court

By: Ida Romack
Chief Deputy Clerk