

NLWJC - Kagan

Counsel - Box 024- Folder 013

SEPTA Dispute

Withdrawal/Redaction Sheet

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001a. profile	Shyam Das; RE: Address, telephone number, DOB, and SSN (partial) (1 page)	n.d.	P6/b(6)
001b. profile	Roberta Golick; RE: Address, telephone number, DOB, and SSN (partial) (1 page)	n.d.	P6/b(6)
001c. profile	Arnold Zack; RE: Address, telephone number, DOB, and SSN (partial) (1 page)	n.d.	P6/b(6)

COLLECTION:

Clinton Presidential Records
 Counsel's Office
 Elena Kagan
 OA/Box Number: 8289

FOLDER TITLE:

SEPTA Dispute

2009-1006-F
db1545

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

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PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

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NATIONAL MEDIATION BOARD
WASHINGTON, D.C. 20572

MEMORANDUM

OFFICE OF THE CHAIRMAN
(202) 523 - 5268

TO: Elena Kagen, Esq.
Associate Counsel to the President

FROM: Kenneth B. Hipp, Chairman 
National Mediation Board

RE: Establishment of a Section 9A commuter railroad emergency board for
Southeastern Pennsylvania Transportation Authority
and the Brotherhood of Locomotive Engineers

DATE: October 15, 1996

On August 16, 1995, Emergency Board No. 231, in accordance with Section 9A of the Railway Labor Act, issued its report and recommendation. On September 7, 1996, Board Member Magdalena G. Jacobsen conducted a public hearing at which Southeastern Pennsylvania Transportation Authority and the Brotherhood of Locomotive Engineers discussed their reasons for rejecting the recommendations of Emergency Board No. 231. Under the time limits provided by Section 9A(e), unless the parties subsequently settle these disputes, or a second emergency board is established, self-help will be available commencing 12:01 a.m., EST, November 16, 1996.

In anticipation of a request by a party for the creation of an emergency board, the following documents are submitted for your information and consideration:

1. Draft letter from the National Mediation Board informing the president of the request for an emergency board;
2. Draft Executive Order creating an emergency board;
3. Draft press release announcing the creation of the emergency board;
4. Draft letter of appointment to the emergency board;
5. Draft telegram informing the parties of the creation of an emergency board; and
6. A list of qualified arbitrators.

cc: Jennifer O'Connor
Special Assistant to the President

DRAFT

Dear Mr. President:

Parties empowered by the Act has requested that the President establish a second emergency board pursuant to Section 9A of the Railway Labor Act. The request involves a dispute between the Southeastern Pennsylvania Transportation Authority and certain of its employees represented by the Brotherhood of Locomotive Engineers.

Section 9A(e) of the Railway Labor Act provides that the President, upon such a request, shall appoint an emergency board to receive final offers from the parties, investigate and report on the dispute.

We transmit for your consideration a draft executive order creating an emergency board to investigate the dispute pursuant to Section 9A of the Railway Labor Act.

Respectfully,

Kenneth B. Hipp
Chairman

**ESTABLISHING AN EMERGENCY BOARD TO INVESTIGATE
A DISPUTE BETWEEN THE SOUTHEASTERN PENNSYLVANIA
TRANSPORTATION AUTHORITY AND ITS EMPLOYEES REPRESENTED BY
THE BROTHERHOOD OF LOCOMOTIVE ENGINEERS**

A dispute exists between Southeastern Pennsylvania Transportation Authority and certain of its employees represented by the Brotherhood of Locomotive Engineers.

The dispute has not heretofore been adjusted under the provisions of the Railway Labor Act, as amended (45 U.S.C. §151 et seq.) (the "Act").

A party empowered by the Act has requested that the President establish an emergency board pursuant to Section 9A of the Act (45 U.S.C. 159A).

Section 9A(e) of the Act provides that the President, upon such request, shall appoint an emergency board to investigate and report on the dispute.

NOW, THEREFORE, by the authority vested in me by Section 9A of the Act, it is hereby ordered as follows:

Section 1. Establishment of the Board. There is established effected (DATE), a board of three members to be appointed by the President to investigate this dispute. No member shall be pecuniarily or otherwise interested in any organization of railroad employees or any carrier. The board shall perform its functions subject to the availability of funds.

Section 2. Report. Within 30 days after creation of the board, the parties to the dispute shall submit to the board final offers for settlement of the dispute. Within 30 days after submission of final offers for settlement of the dispute, the board shall submit a report to the president setting forth its selection of the most reasonable offer.

Section 3. Maintaining Conditions. As provided by Section 9A(h) of the Act, from the time a request to establish a board is made until 60 days after the Board makes it report, no change, except by agreement, shall be made by the parties in the conditions out of which the dispute arose.

Section 4. Records Maintenance. The records and files of the board are records of the Office of the President and upon the board's termination shall be maintained in the physical custody of the National Mediation Board.

Section 5. Expiration. The Board shall terminate upon submission of the report provided for in Section 2 of this Order.

William J. Clinton

THE WHITE HOUSE

FOR IMMEDIATE RELEASE

DRAFT

Office of the White House Press Secretary

THE WHITE HOUSE

The President announced today that he has established, effective (DATE), Presidential Emergency Board No. 232, to investigate and make recommendations for settlement of the current dispute between the Southeastern Pennsylvania Transportation Authority and certain of its employees represented by the Brotherhood of Locomotive Engineers.

The President, by Executive Order, established the Emergency Board at the request of (REQUESTING PARTY).

The President appointed (NAME) of (CITY, STATE) to be Chairman of the Board and (NAME) of (CITY, STATE) and (NAME) of (CITY, STATE) as members.

The Emergency Board will report its findings and recommendations for settlement to the President in sixty days.

###

DRAFT

Dear [Appointee]:

Pursuant to Section 9A of the Railway Labor Act, as amended, I established by Executive Order an Emergency Board to investigate a dispute between Southeastern Pennsylvania Transportation Authority and certain of its employees represented by the Brotherhood of Locomotive Engineers.

The functions and duties of the Emergency Board are set forth in the Railway Labor Act, as amended, and in the Executive Order creating the Board.

I am pleased to learn that you are willing to serve on this Emergency Board, and I hereby appoint you as its [member or chairman]. This letter will constitute your appointment and your authority to act in that capacity. Each member of the Board is to receive compensation as an independent contractor at the rate of (\$445 recommended) per day for each day that you are actually engaged in the performance of your duties or in travel in connection therewith. In addition, each member of the Board will be allowed per diem in lieu of subsistence while so engaged away from the member's home or the member's regular place of business.

Sincerely,

Appointee
1 Main Street
Anytown, USA

DRAFT

GERALD LA CLAIRE
CHIEF LABOR RELATIONS OFFICER
SEPTA

RONALD MC LAUGHLIN
PRESIDENT, BLE

STEPHEN J. BRUNO
GENERAL CHAIRMAN, BLE

THE NATIONAL MEDIATION BOARD HAS BEEN INFORMED THAT THE PRESIDENT HAS TODAY CREATED AN EMERGENCY BOARD UNDER THE PROVISIONS OF SECTION 9A OF THE RAILWAY LABOR ACT, AS AMENDED, TO INVESTIGATE DISPUTE BETWEEN THE SOUTHEASTERN PENNSYLVANIA TRANSPORTATION AUTHORITY AND THE BROTHERHOOD OF LOCOMOTIVE ENGINEERS.

AS PROVIDED BY SECTION 9A(H) OF THE ACT, FROM THE DATE OF THE CREATION OF THE BOARD AND UNTIL 60 DAYS AFTER THE BOARD MAKES ITS REPORT, NO CHANGE, EXCEPT BY AGREEMENT OF THE PARTIES, SHALL BE MADE BY THE CARRIER OR THE EMPLOYEES IN THE CONDITIONS OUT OF WHICH THE DISPUTE AROSE.

THE EMERGENCY BOARD WILL CONTACT YOU WITH RESPECT TO FURTHER PROCEEDINGS. JOINT LA CLAIRE AND MC LAUGHLIN. COPY BRUNO.

KENNETH B. HIPPI
CHAIRMAN
NATIONAL MEDIATION BOARD

LIST OF QUALIFIED ARBITRATORS

1. Shyam Das
2. Roberta L. Golick
3. Arnold M. Zack*

*Denotes recommended chair.

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P6/(b)(6)

SHYAM DAS, ARBITRATOR

P6/(b)(6)

Phone: P6/(b)(6)
Fax:

ARBITRATION EXPERIENCE:

- Full-time Labor Arbitrator since 1977 (over 1200 cases decided in the private and public sectors).
- Impartial Umpire, Bethlehem Steel Corporation and United Steelworkers of America (1991 to present).
- Chairman, Iron Ore Industry Board of Arbitration (1995 to present).
- Panel Arbitrator: U.S. Postal Service and American Postal Workers Union (National Arbitration Panel); Bell Atlantic and Communication Workers of America; Community College of Allegheny County and CCAC Federation of Teachers; Allegheny Ludlum Corporation and Steelworkers; and others.
- Former member of United States Government Foreign Service Grievance Board (1983-1991).
- Former Associate Chairman of the United States Steel Corporation-United Steelworkers of America Board of Arbitration (1984-1990).
- Member of Federal Mediation and Conciliation Service roster of arbitrators, National Mediation Board roster of arbitrators, American Arbitration Association's Labor Panel and Pennsylvania Bureau of Mediation's roster of arbitrators.

PROFESSIONAL AFFILIATIONS:

- Member, National Academy of Arbitrators.

OTHER EXPERIENCE:

- Admitted to practice of law before State and Federal Courts in Pennsylvania.
- Professor of Law, School of Law, University of Pittsburgh (1971-77 - full-time; 1977-81 - adjunct). Taught courses on Labor Arbitration, International Law, International Trade, Conflict of Laws and Civil Procedure.
- Legal Associate in New York City law firm (1969-71).

EDUCATION:

- B.A. (History)-Harvard University, 1965.
- M.A. (Social Sciences)-University of Chicago, 1966.
- LL.B.-Yale University Law School, 1969.

DATE OF BIRTH:

P6/(b)(6)

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P6/(b)(6)



BERTA GOLICK

**ARBITRATOR
.....
MEDIATOR**

**PRESENT
OCCUPATION**

Arbitrator, Mediator

Have arbitrated and mediated in private and public sectors full time since 1974

National Academy of Arbitrators, admitted 1984
Regional Chair, 1990-92
National Committee Chair, 1994-97

**PERMANENT
ARBITRATOR**

- General Electric Company;
International Union of Electrical, Radio and Machine Workers.
- United Parcel Service, New England Area;
International Brotherhood of Chauffeurs, Warehousemen and Helpers of America.
- American Airlines, Inc.;
- Association of Professional Flight Attendants.
- Federal Aviation Administration;
National Air Traffic Controllers Association.
- Yale University;
Federation of University Employees, Local 35.
- Higher Education Coordinating Council;
Massachusetts Teachers Association.
- University of Massachusetts;
Service Employees International Union, Local 509.
- State of Connecticut;
AFSCME (Social and Human Services Bargaining Unit) and
District 1199 (Professional Health Care Bargaining Unit).
- Commonwealth of Massachusetts Trial Court;
OPEIU, Local 6.
- City of Boston;
SEIU, Local 285.
- Massachusetts Water Resources Authority;
Building and Construction Trades Council.
- Logan International Airport;
Metropolitan District Building and Construction Trades Council.
- Ansonia Copper and Brass, Inc.
United Steelworkers of America.

PUBLICATION

Contributing Author: **LABOR AND EMPLOYMENT ARBITRATION**
(Bornstein & Gosline, General Editors) Matthew Bender & Co., 1988

**PRIOR
EMPLOYMENT**

Massachusetts Board of Conciliation and Arbitration
Arbitrator/Mediator
1974 - 1982

EDUCATION

- Boston University School of Law
Juris Doctor, 1974
- Barnard College, Columbia University
Bachelor of Arts, 1971

P6/(b)(6)

Per diem: \$800 plus expenses
Postponement/cancellation policy: 4 weeks

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Arnold Marshall Zack

P6/(b)(6)

EDUCATION Tufts University, AB, 1953
Yale University, School of Law, LLB, 1956
Harvard University, Graduate School of Public Administration, MPA, 1961

EMPLOYMENT

1960- present Arbitrator, Factfinder, Mediator
Faculty, Harvard Trade Union Program.
Current panels: Yale University /Federation of University Employees; US Postal Service/
APWU,NALC,NAMH NRLCP postal Unions; Procter & Gamble/Independent Oil & Chemical
Workers; Commonwealth of Massachusetts and several unions; Pan American Airways and
Flight Attendants; Trans World Airlines/Air Line Pilots Association, IAM; Greyhound Lines,
Inc./Amalgamated Transit Union; Film Companies and Screen Director Guild.

1960-present Consultant

UN International Labor Office, UN Development Program; US Dept. of State-AID;
US Dept of Labor; UN Mission to Congo; US Peace Corps; President's Study Commission on
National Service Corps; International Secretariat for Volunteer Service; OECD; Frederick
Ebert Stiftung; Imperial Ethiopian Government; National Center for Dispute Settlement of the
American Arbitration Association.

1981-83 Member, US Foreign Service Labor Relations Board

1966-68 Director, Labor Management Institute of the American Arbitration Association

1963-64 Visiting Fulbright Professor, Haile Selassie 1st University, Addis Ababa, Ethiopia

1957-63 Lecturer in Labor Economics, Northeastern University, Simmons College

1956-63 Assistant to Arbitrator Saul Wallen

1950-55 Election Examiner, National Labor Relations Board
(part-time Case Analyst, Wage Stabilization Board
summer work) Assistant to Executive Director, Labor Relations Associates of Chicago

ORGANIZATIONS African Studies Association, Fellow
American Arbitration Association, Chairman AAA Labor Management Education Advisory
Committee (1985-88)
Industrial Relations Research Association, Program Chairman 1972; President Boston
Chapter 1957
International African Law Association of America
International Society for Labor Law and Social Legislation
National Academy of Arbitrators, Treasurer, 1972-74, Board of Governors, 1976-79, Vice
President, 1980-82, President, Education and Research Foundation 1989-1991
Society for Professionals in Dispute Resolution, Chairman, International Relations
Committee, 1985-

PANEL LISTINGS American Arbitration Association
Federal Mediation and Conciliation Service
Massachusetts Board of Conciliation and Arbitration
National Mediation Board
Public Employment Relations Boards of New Jersey, New York, New Hampshire,
Pennsylvania
New York City Office of Collective Bargaining
Wisconsin Public Employment Relations Commission

HONORS Whitney North Seymour Medal of the American Arbitration Association, 1980
Cushing-Gavin Award of the Archdiocese of Boston, 1986
Distinguished Service Award for Arbitration of Labor Management Disputes of the American
Arbitration Association, 1989
Mildred Spaulding Award

DIRECTORIES Contemporary Authors; Who's Who in America; Who's Who in Labor; Who's Who in the World

PUBLICATIONS Books

- 1964 Labor Training in Developing Countries, Praeger, NY, 1964, 189 pp. Portuguese edition, Distribudors Road, Rio de Janeiro, 1966. Spanish edition, Editorial Norma, Cali, Columbia, 1966.
- 1974 Understanding Grievance Arbitration in the Public Sector, US Dept of Labor, US Govt Printing Office, 1974, 2nd ed 1976, 3rd ed 1980, 128 pp.
- Understanding Fact Finding and Interest Arbitration in the Public Sector, US Dept of Labor, US Govt Printing Office, 1974, 2nd ed 1976, 3rd ed 1980, 128 pp.
- 1977 Grievance Arbitration: A Practical Guide, International Labor Office, Geneva, 1977, 71 pp.
- 1979 Arbitration of Discipline and Discharge Cases, with Richard Bloch, American Arbitration Association, New York, 1979, 84 pp.
- 1982 The Agreement in Negotiations and Arbitration with Richard Bloch, Bureau of National Affairs, Washington, DC, 1982, 248 pp.
- 1984 Arbitration in Practice, edited by Arnold Zack, Cornell University Press, 1984, 264 pp.
- 1985 Public Sector Mediation, Bureau of National Affairs, Washington DC, 1985, 210 pp.
- 1989 Grievance Arbitration: Issues on the Merits in Discipline, Discharge and Contract Interpretation, Lexington Books, 1989, 304 pp.

PUBLICATIONS Articles and Monographs

- 1956 "Arbitration, Step Child of Wills and Estates," Arbitration Journal, Vol. II No. 4, pp. 179-198.
- 1960 "An Evaluation of Arbitration Apprenticeships." Challenges to Arbitration, BNA, pp. 169-177.
- 1962 "Trade Unions and the Development of Middle Level Manpower," Peace Corps Manpower Conference, Puerto Rico. Reprinted by International Congress of Africanists, Union Herald of Kuala Lumpur, Vol. 21, No. 56, Jan 1963, pp 97-99.
- "Impact of Western Trade Unionism in Africa," Labor Law Journal, July, pp. 524-532.
- "Toward Voluntary Arbitration in Africa," Bulletin of Inter-African Labor Institute, Vol. IX, No. 4, Nov., pp. 62-68.
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- "The Principle of Job Evaluation with Special Reference to Industrial Development in Africa," Bulletin of ILI, Vol. X, No. 2, May, pp. 249-264.
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- "International Contacts of Trade Unions in French Speaking Africa," Georgetown University Seminar on French West Africa, Aug.
- "Trade Union Role in Education and Skill Development," Bulletin of ILI, Vol. XI, No. 4, Nov. , pp 395-411.
- "Trade Union Role in Skill Development," International Development Review, Mar., pp. 26-27.
- "Training Labor leaders for Africa," Africa Digest, August. Reprinted in ILO Bulletin, Aug.
- "Ethiopia's High Level Manpower – Analysis and Projections," Ethiopian Government, Addis Ababa, p.74.
- 1965 "New Trade Unions in Africa's Oldest Country," Analyst, Vol. 3, pp. 29-37.
- "Trade Unionism Develops in Ethiopia," Bulletin of ILI, Vol. XII, may, pp. 223-246.
- "Trade Unions in Africa," Africa – Handbook for the Continent, C. Legum, Praeger, Pall Mall, pp. 447-458. Revised Africa Handbook, ed. C. Legum, Penguin Books, 1969.
- 1966 "Developing Human Resources," in Education and Training in Developing Countries, W. Y. Elliott, Praeger, NY, pp. 133-158.

- "Development of Trade Unions in New Nations: Problems and Prospect," Magreb Digest, Vol. IV, No. 9, Oct., pp. 37-46.
- 1967 "Trade Unionism Develops in Africa," in Boston University Papers on Africa, J. Butler, A. A. Castagno, et al., pp. 104-115.
- "Are Strikes of Public Employees Necessary?," American Bar Association Journal, Vol. 53, Sept., pp. 808-811.
- "Need Teachers Strike?" COMPACT, Dec., pp. 22-24.
- "Labor Relations and Legislation – The Trend and Alternatives to Militancy," American Nursing Association, Washington Workshop.
- 1968 "Arbitration and Fact Finding in Public Disputes," 21st Annual Conference on Labor, NYU, T. G. S. Christensen, ed., pp. 535-547.
- "Why Public Employees Strike," Arbitration Journal, Vol. 23, No. 2, July, pp. 69-85.
- "Dispute Settlement in the Public Sector," New York Law Forum, Vol. XIV, No. 2, Summer, pp. 249-270.
- "Handling Employee Grievances," Public Employment Relations Library, No. 2, pp. 31-40.
- "Mediation, Arbitration and the Poverty Program," Law in Action, Vol. 2, No. 9, December.
- 1970 "Ability to Pay in Public Sector Bargaining," 23rd Annual Conference on Labor, NYU, T. G. S. Christensen, ed., 1971, pp. 403-426.
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- 1972 "Impasses, Strikes and Resolution," Public Workers and Public Unions, Sam Zagoria, ed., Prentice-Hall, Inc., pp. 101-121.
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- "Can We Afford the Rising Costs of Public Sector Settlement?" IRRA Annual Proceedings, pp. 43-49. Reprinted in Monthly Labor Review, May 1973, pp. 38-41.
- 1973 "Fact Finding in the Public Sector" presented at the founding meeting of the Society for Professionals in Dispute Resolution, Washington, DC, published in Public Interest and the Role of the Neutral, SPIDR, 1973, pp. 44-49.
- 1974 "Final Offer Selection: Panacea or Pandora's Box?" New York Law Forum, Vol. XIX, No., 3 Winter, pp. 568-586.
- Book review, "Punishment and Redress in the Modern Factory," ILRR, Vol. 27, No. 4, July, pp. 639-640.

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1976 "Increasing Productivity Through Collective Bargaining," Proceedings of the 1976 International Conference on Trends in Industrial and Labor Relations, Montreal, May , 1976, pp. 90-92.

"Effective Evidence and Presentation for Influencing a Factfinder or Arbitrator," Proceedings of the Seventh Annual Convention of the Association of Educational Negotiators, New Orleans, Mar-Apr, 1976, pp. 59-74.

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