

2011 Arbitration Awards - Minnesota B.M.S.

March 7, 2012

Summary of Arbitration Awards listed on the Bureau of Mediation Services' web site (http://www.bms.state.mn.us/arbitration_awards.html).

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

December, 2011

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS	DeZurick Incorporated Int Assn of Machinists District 165	Remington, John	Termination	Low productivity in a factory setting.	Sustained	Insufficient evidence to prove low productivity & procedural deficiencies.
FMCS	Dotson Company GMPIU	Jacobs, Jeffrey	Sick leave	Policy denies use of sick leave on Saturdays.	Sustained	No such restriction in contract.
11-PA-0939	Duluth, City of AFSCME Minnesota Council 5	McCoy, Arthur	2 day suspension	Insubordinate by leaving assignment early; falsified timesheet and claimed mileage reimbursement not due.	Split.	Written warning. Can only bypass warning when conduct is so severe that warning can't correct it.
???	FMS Corporation IBEW Local 292	Jacobs, Jeffrey	Union access to plant	BA denied access to plant. Co. cites when necessary language & Union dropped unfair labor practice.	Sustained	Contract only requires BA to sign in before entering. Union decides when necessary.
12-PA-0049	Hennepin County Medical Center AFSCME Minnesota Council 5	Fogelberg, J.C.	Termination	Medical assistant - loud threatening abusive language.	Denied	Pattern of anger, loud outbursts, justified firing w/o prior suspension.
FMCS	Hilton Hotels Minneapolis UNITE HERE Local 17	Gallagher, Thomas	Termination	Housekeeper let guest enter room w/o using his card key.	10 day susp.	Situation was not clearly defined in training. Discussion on discipline.
10-PN-1606	Little Falls, City of Law Enforcement Labor Services, Inc.	Latimer, George	Interest	Wages:'09-0%-e (u-3%);'10-0%-e(u-0% with steps or 1.5%);'11-0%-e(u-0% w steps or 2%). Funeral-5 sickdays-u.	2009 - 0% 2010 - 0% 2011 - 0%	Wages-economy & 16% fund balance Steps denied despite 49ers getting stps (only 2ees). Funeral-intrnl pattern
11-VP-1279	Minnesota, State of Individual Grievant	Daly, Joseph	Termination VP Hearing	Corrections officer convicted of 5 charges involving breaking into ex-girlfriend's apt. Failed to notify employer.	Denied	Serious criminal charges; barred from carrying a gun. Attempt to conceal details from employer.
09-PA-0887	Saint Cloud, City of Law Enforcement Labor Services Inc.	Beens, Richard	Right to work a Holiday.	Lts not allowed to work Holidays so city saves 1 1/2 premium pay.	Denied	Managemnet right to schedule. Discussion on past practice.
11-PA-0875	Shakopee, City of Teamsters Local 320	Wallin, Gerald	Over Time pay	Failed to call for snowplowing OT. Offered employee future OT but no pay.	Sustained	City's policy not to pay ee when they don't work is not in contract.

November, 2011

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
11-PN-0466	Dakota County (Interest Case) Teamsters Local 320	Jacobs, Jeffrey	Interest	Corrections Wages:2011-0%-e (u-3%) Merit pay-0%-e (u-3%).	2011 - 0%	Internal pattern and the state of the economy.
11-PA-0739	ISD 624, White Bear Lake White Bear Lake Teachers' Assoc.	Beftor, Stephen	Leave Request	2 teachers denied leave. 1 sustained, 1 denied. Only remedy was to use this award as a future guide.	Split	Past practice used adequacy of coverage as basis for denial. Length of leave not basis for denial.
11-PN-1177	Hennepin County Medical Center Minnesota Nurses Association	Miller, Richard John	Interest	One issue - Layoff language -u	Union position	Problems with existing language. Same as other hospitals language.

11-PN-0581	Hibbing, City of (Interest Award) Hibbing Police Federation	Ogata, Harley	Interest	Wages: '10-0%-e (u-8%); '11-2% (e-0.5%, u-5%); '12-2% (e-1%, u-5%). Insurance 85% to 80% in 2011-no-u	2010 - 0% 2011 - 2% 2012 - 2%	Wages - job study & fund balance. Insurance - internal pattern of 85%. No change to duration language-e.
FMCS	Honeywell International, Inc. Teamsters Local 1145	Gallagher, Thomas	Termination	Violated safety rules while repairing a machine; and failed drug test.	14 mo susp.	Using drug test as basis to fire violates MN 181.953 subd 10.
11-PN-0465	Isanti County (Interest Case) Law Enforcement Labor Services, Inc.	Orman, Anthony	Interest	Deputies; 2 years-e (u-1yr.); 11-0%-e (u-1%), 2012-1.5%-u (e-1%); Steps 2011-y, 12-n-e; 24 hr furlough-n-u.	2011 - 0% 2012 - 1.5%	Duration-history & pattern; Wages-pattern '11, 2012-pattern deviation; Furlough-questioned savings.
11-PA-1274	St. Louis County AFSCME, Minnesota Council 5	Befort, Stephen	Step Increase	Should ee hired at step 5 move up steps as if hired at step 1?	Denied	Timetable is tempered by longevity step requirements.
10-PN-1621	St. Louis County (Interest Case) AFSCME, Minnesota Council 5	Remington, John	Interest	Attrnys; Stop ee insurance contibution to County's self insurance plan-no-er; 2 floating holidays-yes-u.	Split	A wage increase was quid pro quo for insur + internal pattern; 2 F Hol replaces 2 discretionary days.
11-PA-0815	South St. Paul, City of AFSCME, Minnesota Council 5	Johnson, John	Timelines Seniority bidding Step Placement	7 day requirement, took 14 days. Denied based on qualifications. From 7 to step 3 in new position.	Denied Denied Denied	Discussion of continuing violations. Timeline missed, not continuing. No rule on placement when demoted.

October, 2011

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS	Aspen Medical Group SEIU Local 113	Befort, Stephen	Disciplinary Investigation	Seeking reimbursement for 2 days pay when investigation found no fault.	Denied	Contract allows 7 unpaid days for investigation. Union sought pay for investigations in contract neg.
FMCS	FMS Corporation Electrical Workers Local 292	Jacobs, Jeffrey	Wage Opener	Opener offered for 1/1/11. Must wage increase begin on that date? - no.	Split	Increase effective upon ratification. Contract vote valid despite union's promise to arbitrate effective date.
11-PA-0608	ISD 152, Moorhead Education Minnesota - Moorhead	Paull, David	Selection of Department Chair	Chairs had been selected by election. principal changed to selection based on application.	Sustained	Maintenance of standards clause, prevailed over management right argument.
11-PA-355	ISD 299, Caledonia Caledonia Education Association	Daly, Joseph	Claims margin return on insurance	Union seeking portion of insurance refunded due to lower usage.	Denied	Contract calls for a maximum amt from district - no language dealing with refund - ees got bargained amt.
11-PN-0203	Lyon County (Interest Award) Law Enforcement Labor Services, Inc.	Befort, Stephen	Interest	Deputies wages 2010: 3% to merit grid-no-e; merit increase-yes-u.	Union Position	Internal pattern for 10. Deputies negotiated steps in 09 while pattern was for no steps.
12-VP-0058	Minnesota, State of, Department of Human Services Individual Grievant	Scoville, James	V.P. Termination	Moose Lake treatment ee took too long to respond to an emergency & caused escalation of 2nd situation.	Denied	Disciplined 5 times in past yr for absences. New events strike at heart of treatment principles.
11-PA- 0525	Minnesota, State of, Department of Transportation AFSCME Minnesota Council 5	Bard, Stephen	Termination	Kicked door, pounded table, cursed contract employees at meeting, left site driving state truck recklessly.	60 day susp.	Zero tolerance policy refers to ees not contract workers. Prior disclpn for similar acts was 5 years old.
11-PA-1144	Mounds View, City of Law Enforcement Labor Services, Inc.	O'Toole, Carol	Step movement	Sgts seeking step increase at 6 mos similar to past practice.	Denied	Contract calls for 12 month step Clear language trumps practice & er free to correct mistake.

FMCS	North Memorial Medical Center Minnesota Nurses Association	O'Toole, Carol	Job Offer	Nurse offered a day/night suprv job; offer then rescinded.	Sustained	Contract's written confirmation of work agreement can't be changed unilaterally.
11-HA-0935	Virginia Regional Medical Center AFSCME Minnesota Council 65	Frankman, Janice	OT calculation	Calculating OT changed from using all hours paid to only hours worked.	Sustained	Well established past practice of counting all hours paid.

September, 2011

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
10-PN-1346	Dakota County (Interest Award) Law Enforcement Labor Services, Inc.	Bognanno, Mario	Interest	Police Wages: 2010-0%-e (u-2%); Merit: 0%-e (u-3%).	2010 - 0%	Internal pattern (11 settlements) and state of economy.
11-PN-0587	Prior Lake, City of (Interest Award) Teamsters Local 320	Fogelberg, J.C	Interest	Sgts insurance reopener 2011-\$940-e (u-\$875+50% of increase = \$992).	City's Position	Pattern with one group. 10 year history of \$ amounts vs % formula.
11-PA-0834	Shakopee, City of Law Enforcement Labor Services, Inc.	Daly, Joseph	1 day suspension	Officer returned unused uniform jacket seeking cash - received credit. Dept felt it was someone else's jacket.	Sustained	No proof of jacket's origin. No specific policy dealing with this. Credit used for new Dept items.
11-PA-0434	Stearns County Law Enforcement Labor Services, Inc.	Toenges, Rolland	Elimination of work	Ramsey County contracted to do Medical examiner work eliminating. Detective/medical examiners.	Sustained	Management right; not a demotion since work eliminated. Layoff seniority should have been used.
11-PA-0434	Stearns County (Implementation) Law Enforcement Labor Services, Inc.	Toenges, Rolland	Back pay	Union seeking base pay difference of position eligible to bump. ER wants to reduce amt by specialty pay received.	Split	Seniority rights election retro to Sept 2010. No backpay.
AAA	Xcel Energy Electrical Workers Local 160	Jacobs, Jeffrey	Pool Cars	Foreman's ability to use own vehicles instead of pool vehicles for relief shifts.	Sustained	Past practice argument. Also informal negotiations allowed use.

August, 2011

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
11-PN-0635	Brainerd, City of (Interest Award) Teamsters Local 346	Reynolds, James	Interest	Cpts and Sgts. wage reopener. 2010-3% eff 12/31/10-u (u-3% 1/1/10; e-1% 12/31/10); 2011-1%-u (e-0%).	2010 - 3% 2011 - 1%	Officers received 3% in arbitration (09-PN-0550). This maintains relationship with officers.
10-PN-0423	Carver County AFSCME Minnesota Council 65	Fogelberg, J.C	Interest	2010-0%, no steps-e (u-steps); 2011-2.75% step, 1% to top-u (c-.5% step 2.5% to top); Ins 2011- \$650s,\$1150f.	2010 - 0% 2011 - 1%	County Attorneys - Internal pattern. Those who already received 2011 step (4.5%) had to return pay.
FMCS	Capitol Beverage Sales, LLP Teamsters Local 792	Gallagher, Thomas	Termination	Relief driver initially refused to make deliveries. Unhappy that pay would be less then his regular helper pay. Deliveries made as directed by Union.	10 month susp.	Returned w/o backpay. Also to pay \$105-truck cost for delivery. Prior written for similar incident.
11-PA-0314	Cohasset, City of AFSCME Minnesota Council 65	Befort, Stephen	Termination	Abusive behavior and insubordination. Personality conflict between sprv & ee.	20 day susp.	Lack of progressive discipline & supervisor's hands were not "clean".
FMCS	CUB Foods, Duluth UFCW Local 1189	Daly, Joseph	Lay Off	Full time ees given option of layoff or part-time work, but part-time with less seniority not laid off.	Sustained	Store wide seniority vs class seniority when laying off in a class.. Pt time less senior to be laid off.

FMCS	Federal Bureau of Prisons - Federal Council of Prison Locals (AFL-CIO)	Kircher, Andrea	FLSA Overtime	Registered Nurses correction duties should make them non-exempt.	Denied	Nursing duties considered primary that is reason for existence.
11-PN-0612	Goodhue County (Interest Award) Law Enforcement Labor Services, Inc.	Johnson, John	Interest	Sergeants; H.S.A. Insurance plan that reduces aggregate value of insurance-e	Co.'s Position	Union seeking no change. Pattern, 5 other units accepted change.
???	Hennepin County AFSCME Minnesota Council 5	Jacobs, Jeffrey	Termination	Social Services supervisor engaged in verbal altercation with client.	11 month susp.	Oral warning only prior. Returned to work without back pay.
11-PA-0725	Metro Transit Amalgamated Transit Union 1005	Anderson, Richard	Termination	Fell asleep in bus & failed to make his run. 4th violation in year.	9 month susp.	Suffers from sleep apnea-seeking treatment. Retrnd w no backpay.
11 PA-0490	Metro Transit Amalgamated Transit Union 1005	Imes, Sharon	Termination	Excessive absences in violation of. no fault policy.	Sustained	Faults unilateral policy defining excessive absenteeism.
11-PA-0724	Metro Transit Amalgamated Transit Union 1005	Jacobs, Jeffrey	Termination	Job abandonment. Gone 23 days without contacting employer.	Denied	Claimed sick & carry status, but claim only made during grievance.
11-PA-0623	Metro Transit Amalgamated Transit Union 1005	A Ray McCoy	Removal as Light Rail Operator.	Removed as light rail operator after third red-light overruns.	Denied	Contract calls for return to bus operations if 3 violations.
???	Minneapolis, City of Minneapolis Police Federation	Fogelberg, J.C.	Termination	Excessive force & untruthful Garrity. Garrity statement was basis for termination.	2 month susp.	Inability to recall details of yr old incident do not constitute a lie.
???	MN State Colleges and Universities Minnesota State College Faculty	Befort, Stephen	Eliminating Coordinator Duties	Coordinator duties and pay removed from assigned teachers who continued to perform duties.	Split	ER didn't make arrangements re who should do essential tasks. Partial pay 10 & 11- none forward.
???	MN, Department of Human Services Middle Management Association	Jacobs, Jeffrey	Termination	Superv. at group home for vulnerable adults failed to report abuse or deal with hostile work environment.	30 day susp.	Mitigation - she informed her supervisor re some of the incidents.
11-HN-0894	New River Medical Center Minnesota Nurses Association	Anderson, Richard	Interest	Duration: 7/1/10-6/13/13,	2010 - 0% 2011 - 1% 2012 - 2%	No explanation for award.
11-PA-0035	St. Louis County Teamsters Local 320	Fields, Bernice	Termination	Numerous threats to kill supervisor. Criminal investigation but no charges.	Sustained	Due process violations;no summy of investigation; failure to cite rule violated. Good record for 23 yrs.
11-PN-0027	South St. Paul, City of (Interest Award) Law Enforcement Labor Services, Inc.	Wallin, Gerald	Interest	Wages: 0%.0%-e (u-1%,1%); Steps: 10&11-yes-u; 3 days off in lieu of 1%-no-e; comp payout 1st pay period per quarter- no-u; vac accrual as earned-no-u.	2010 - 0% 2011 - 0%	Wages internal pattern and ability to pay. Steps reflect learning curve and er is getting greater value.
FMCS	Star Tribune Company Minnesota Newspaper Guild Local	Gallagher, Thomas	Transfer to lower pay	Cost cutting transfer to lower paid job should consider seniority.	Denied	Per contract, when move is due to economy seniority not a factor.
11-PA-0452	Stearns County Law Enforcement Labor Services, Inc.	Befort, Stephen	Termination	Officer used cocaine.	Denied	Off-duty misconduct may be grnds for discharge where misconduct has substantial impact on busn or rep.
FMCS	SYSCO Minnesota Teamsters Local 120	Miller, Richard John	Termination	3 preventable accidents within a 12 month period (last 2 within 53 days)..	Denied	Contract calls for termination after 3rd non-preventable accident.
11-PA-0577	University of Minnesota Law Enforcement Labor Services, Inc.	Fogelberg, J.C.	Unpaid Furlough	Unable to negotiate, U imposed 24 hour furlough on PD.	Denied	2080 hrs is not a guarantee; not a layoff. Allowed by Mngmt Rights. Pope Co (BMS 10-PA-0870) sustnd. due to more specific contract.

10-PA-0565	Wright County AFSCME Minnesota Council 65	Jacobs, Jeffrey	Out of Class Pay	Union challenged points awarded in job study.	Denied	Contract called for study & increase if over 1200 pts. Arbitrator has no authority to change points awarded.
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July, 2011

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
11-PA-0691	Duluth, City of Firefighters Local 101	Lundberg, James	Out of Network Insurance costs	Challenged how Health Partners calculated UCR insurance fee.	Sustained	Contract language. Deals with who is successor to listed entity.
11-RA-0711	Human Development Center AFSCME Minnesota Council 5	Scoville, James	Health Insurance	80/20 premium split in contract. ER has 3 plans and is paying 80% of low cost HRA - Union objected.	Sustained	Existing contract until 2012 has 80/20% formula. ER must pay. 80% of all plans.
???	ISD 191, Burnsville Individual Grievant	O'Toole Carol	Termination VP Hearing	Plumber arrested - DUI & open bottle. Can't be insured to drive district vehicles.	Denied	Long history of progressive disipline. W/o insurance is incompetent to hold the job.
11-PA-0276	Metropolitan Council Amalgamated Transit Union Local 1005	Bognanno, Mario	Termination	Fraudulent workers comp claim.	Denied	Video playing soccer yet claiming permanent disability.
???	Minneapolis, City of Police Officers Federation of	Lundberg, James	Working out of Class	Two lieutenants claim they are doing captains work.	Denied	Managements right to reorganize & need for classification study to evaluate if working out of class.
???	Minneapolis Convention Center Teamsters Local 320	Lundberg, James	5 day suspension	Loud & threatening confrontation with co-worker.	Denied	Egregious nature of misconduct; detrimental impact to co-worker; & is progressive from priors.
11-VP-1075	MN Department of Transportation Individual Grievant	Fields, Bernice	Termination VP Hearing	Worked on neighbor's van in Dprtmnt garage during working hours.	Denied	Violated clear ethics policy & 2nd similar violation in 6 mo. Period.
11-PA-0560	Mower County Law Enforcement Labor Services, Inc.	Jacobs, Jeffrey	Termination	Deputy routinely left work early w/o using PTO or properly filling time card.	Denied	Union argued lapses due to Post Traumatic Stress Syndrome.
FMCS	Range Regional Health Services - United Steelworkers Local 9349	Kircher, Andrea	Termination	LPN accused of bullying & creating hostility & fear in the workplace.	Denied	Misconduct serious because of its cumulative negative effect.
11-HA-0639	St. Michael's Hospital and Nursing SEIU Healthcare Minnesota	Paull, David	Termination	Nurse violated HIPPA regulations.	Sustained	Looked up a name - not "critical". Reduced to a final written rprmd..
FMCS	Thermo King Corporation United Steelworkers of America 2175	Gallagher, Thomas	Evaluation of a combined job	Tube bender & Fabricator duties were combined. Dispute re classification.	Denied	Reasoned explanation of classifcn process. Current duties of new position vs combining previous pts.
11-RA-0788	Usem Chevrolet United Auto Workers Local 867	Remington, John	Insurance Opt-Out	Employees who opted out charged for dental & life insurance.	Sustained	Opted out of health, each type is in a different contract section.

June, 2011

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS	Abbott Northwestern Hospital Alliana Health System Operating Engineers Local 70	Flagler, John	Termination	Maintenance engineer didn't respond to an alarm that a freezer with body parts was failing - parts were lost.	Sustained	Disparate treatment. No disipline when ventilating fan failed for 13 hours.

10-PN-0934	Brooklyn Park, City of (Interest Award) Teamsters Local 320	Wallin, Gerald	Interest	Wages: 10-0%-e (u-1.5%), 11-0%-e (u-1.5%); Steps-2011-no-e; Mkt adj. language (0-2% based on average) to remain, but not applied.	2010 - 0% 2011 - 0%	Internal pattern. Ability to pay has taken on greater weight; mrkt less important due to city's differences.
11-PA-0069	Douglas County Hospital Operating Engineers Local 70	Frankman, Janice	Vacation Denial	Denied weekend vacation unless she could find her own substitute.	Sustained	Hospital unable to show any past practice requiring weekend trades. Can deny, but this request was 6 months in advance.
FMCS	Fairview Southdale Hospital Minnesota Nurses Association	Flagler, John	Mandatory On-Call	Mandatory On-Call requirement in job postings evades contract bar.	Split	Requirement in job posting improper because it nullifies contract language 2 hires must retain requirement.
11-PA-0614	Hennepin County Medical Center AFSCME Minnesota Council 5	Jensen, Eugene	Termination	Interpretive Service scheduler's - performance issues.	Denied	Interpersonal communications problems primary reason.
11-PA-0385	ISD 911, Cambridge-Isanti School Service Employees Local 284	Lundberg, James	Reorganization	Reorganized & duties shifted outside bargaining unit - ee laid off.	Denied	Inherent management right.
11-PA-0018	ISD 750, Ricori SEIU Local 284	Gallagher, Sharon	Bargaining Unit Work	District eliminated child care program referring clients to the Girls and Boys club.	Denied	District is not subcontracting-no money is exchanged. Only needed to bargain effects of shutdown.
FMCS	Joseph T. Ryerson & Son, Inc. United Steel Workers Local 2002	Beens, Richard	Distributing pay checks	Was practice of distributing pay checks at work binding?	Denied	Mailing checks does not result in any pecuniary loss to employees.
11-PN-0174	Metropolitan Council (Interest Award) Law Enforcement Labor Services, Inc.	Bognanno, Mario	Interest	Proper wage rate for new Sgt title? & differential between Sgt & Lts - E.	2010 - 0% 2011 - 0%	Both agreed to 0%, Total cost 2% per yr - internal pattern.
10-RA-1645	Peoples Cooperative Services IBEW Local 949	Jacobs, Jeffrey	Job Requirements	Company changed job description so meter readers can change non-self contained meters.	Sustained	Position negotiated with specific limitations, therefore that change must be negotiated.
FMCS	Rainbow Foods UFCW Local 1189	Beens, Richard	Layoff	Developmentally disabled utility worker on layoff, not given opportunity to take cashiers test.	Sustained	To be offered training & 3 tries to pass test per policy.
11-PA-0492	Ramsey County AFSCME Minnesota Council 5	Befort, Stephen	Termination	Inappropriate touching of female ee (touched butt & kissed on cheek).	Denied	Grievant not warned by Co., but ee previously told him to stop.
11-PA-0450	Shakopee, City of Law Enforcement Labor Services, Inc.	Jacobs, Jeffrey	7 day suspension	Officer failed to include license # of hit & run vehicle in her report.	Denied	Previous coaching & discipline regarding attention to details.
FMCS	SYSCO Minnesota Teamsters Local 120	Jacobs, Jeffrey	1 day suspension	Slid into snow bank due to glare ice. Second accident warrants suspension.	Denied	Reasonable rule and appropriate suspension.

May, 2011

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
11-PA-0030	Anoka, City of Teamsters Local 320	Martin, William	Termination	Safety violation - drove street sweeper around school bus w flashing lights.	Denied	15 prior safety violations.
11-PA-0615	Hennepin Healthcare System, Inc. AFSCME Minnesota Council 5	Bard, Stephen	Termination	Security officer at HCMC called Mpls police to report H&R driver at Hosp. Fired for violating HIPPA.	Sustained	Patient told him she was in H&R. Words were not protected by HIPPA. Ltr of reprimand for not reporting to supervisor.

11-PA-0126	Heritage Living Center Teamsters Local 320	Frankman, Janice	Changing schedule to avoid Overtime	Regular block schedule changed to avoid OT the week of July 4.	Split	Contract requires block schedng. Can't change schedule changed to avoid holiday OT. Award does not bar employer changing schedules.
10-PA-1521	ISD 138, North Branch SEIU Local 284	Gallagher, Sharon	Termination	Hostile work environment - obscene language & threats towards females.	Denied	Prior 10 day suspension & last chance agreement.
11-PA-0395	ISD 728, Elk River Elk River Education Association	Kapsch, Frank	6 day suspensions	3 coaches failed to supervise football player free time between 2 a day summer practices that led to hazing.	Denied	Good discussion of just cause. Disciplined as coaches, not as teachers.
10-PA-0412	Metro Transit Amalgamated Transit Union Local1005	Beens, Richard	Termination	4 chargeable accidents in 3 yr period.. Does responsible = preventable - yes.	Denied	Reasonable rule, prior notice, thorough investigation, employee engaged in conduct.
11-PA-0088	Metro Transit Amalgamated Transit Union Local1005	Gallagher, Thomas	Termination	No fault absenteeism policy - 13 in 12 month period. Union allowed to challenge 4 even though not grieved.	11 month susp.	1 was for care of child and statue bars retaliation. Reinstated w/o backpay & 8 absences retained.
FMCS	Polar Tank Trailer Machinists District Lodge 165	Remington, John	Job Posting	Posted for Operator position in the Robot Cell area rather than for Layout Set-up. Union-there is no Operator post.	Sustained	EE wanted Operator to learn duties then advance to Layout Set-up. Not in contract-must be negotiated.
10-PN-1622	Saint Louis County (Interest Award) AFSCME Minnesota Council 5	Remington, John	Interest	Dispatch/Corrections unit. OT will not use sick or comp hrs as time worked-e. Health Insurance: ee to pay \$37.72 for 2010 & 2011-u.	Co. Position	Award based on county pattern. Union sought insur, w/o OT change. claimed others who agreed did not regularly receive overtime.
FMCS	Sappi Fine Paper-Cloquet Paper LLC United Steelworkers Local 11-63	Reynolds, James	Proper pay rate for new classification	Parties negotiated new rate for Roll Handler. Union claimed duties were then added warranting more pay.	Denied	No showing of any significant change from what was negotiated
???	SSD 1, Minneapolis Individual Grievant	Powers, Nancy	Termination	Choral music teacher at Southwest H.S. terminated	Denied	Inefficiency in teaching in spite of extensive counseling and support.
11-PN-0209	Washington County (Interest Award) Law Enforcement Labor Services, Inc.	Lundberg, James	Interest	Wages: Dep.10-0%, 11-0%-e (u-3%, 1,5%), Sgts 3%, 1.5%-u (e-0%,0%); Step compression-no-e; Steps 2011-yes-u; Shift diff incr-no-e; Comp accrual incr-no-e; Clothing-\$625to\$700-u; Cell phone language-no-e; Eliminate sick preservation & purchasing card-no-u.	2010 - 0% 2011 - 0%	Deputies 0%,0% based on pattern. Sgts due to pay equity (changed differential between Dep & Sgts). Increase to Clothing due to mrkt & by American requirement. Lack of compelling reason to change cntrct basis for other awards.
FMCS	Wirtz Beverage Minnesota Beer Teamsters Local 792	Remington, John	Termination	Warehouse work failed drug test. Union asked for 2nd chance.	Denied	No past practice even though some given 2nd chance.

April, 2011

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
09-PN-1040	Duluth, City of (Interest Award) Firefighters Local 101	Fogelberg, J.C.	Interest	Union asked city to increase HCSP contribution for new ees from 1.25% to 2% - no. Other unions receive 1%.	City's Position	Internal pattern; city's distressed finances; fire already is .25% above other union's 1%.
11-PN-0059	Hennepin Healthcare System, Inc. Minnesota Nurses Association	Kircher, Andrea	Interest	Wages: 2010-0%-e (u-3%, 5%-clinic nurses put into 2nd tier in 2008).	2010 - 0%	Internal & external patterns of 0%.

10-PA-1299	ISD 700, Hermantown Education Minnesota - Hermantown	Fogelberg, J. C	Job Description	District failed to negotiate changes to janitor job description.	Sustained	Job duties revert to previous ones until negotiated with union.
11-TD-2	ISD 911, Cambridge-Isanti Individual Grievant	Reynolds, James	Termination - School Principal	Sent to a seminar in Orlando by the district. Skipped an afternoon session & went to amusement pk w 5 teachers.	3 day susp.	Behavior is remediable. Others received letters of reprimand. He only supervised 1 of the teachers.
11-PA-0041	Janesville, City of Electrical Workers Local 160	O'Toole, Carol	Layoff then replacement w PT	Police officer laid off due to budget, then 2 part-time officers hired.	Denied	Contract not violated. Part-time not members of union so seniority not at issue.
10-PN-0925	Lyon County (Interest Award) Law Enforcement Labor Services, Inc.	Jacobs, Jeffrey	Interest	Wages: 0%, 0%-e (u-3%, 3%); Merit pay:09-yes-u;2010-yes-e; Vac:240 hr cap-no-u; Hol. Pay: Columbus floater -u (e-2 floaters); Retiree Ins. if hired prior to 5/1/97-no-e.	2009 - 0% 2010 - 0%	1st Jail/Disp contract. Wages-internal & economy. Merit & Hol. pay-dep. pattern. Vac-should be negotiated. Retiree benefit provided through policy not contract.
11-PA-0414	Metro Transit Amalgamated Transit Union Local 1005	Gallagher, Sharon	Termination	Bus cleaner violated absentee policy with 13 absences.	Sustained	Not a true no-fault policy. Just cause used to exempt 1 absence.
11-PA-0382	Minneapolis Park Board Minneapolis Police Federation	Schiovani, Mary Jo	Termination	Police Lt. terminated for taking a bolt from I35 bridge collapse; running a business on work computer; & double dipping working extra duty assignments.	1 day susp.	Insufficient evidence to support termination and his clear record. One day suspension for sloppy records of extra duty assignments.
10-PN-0748	Roseville, City of (Interest Award) Law Enforcement Labor Services, Inc.	Martin, William	Interest	2 yrs-e (u-1 yr.), Wages:1%,1%-u (e-0%,0%); Longevity:1%,1%-u (e-0,0); Ed credit:1%,1%-u (e-0%,0%).	2010 - 1% 2011 - 1%	Duration-already in yr 2. Wages-1% is modest request; below cpi. (Sgt's 2010-2.95%). Longevity & Ed cr historically mirror wage incr.
FMCS	United Hospital Minnesota Nurses Association	Kapsch, Frank	Termination	Nurse accessed HIPPA records in violation of policy and law.	Denied	Nurse acknowledged she screwed up at the time, but did not self-report, which may have mitigated.

March, 2011

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
10-PN-1600	Hopkins, City of (Interest Award) Hopkins Police Officers Association	Lundberg, James	Interest	2010-1% (u-Jan1%,Jul2%) (e-0%); 2011-2%-e (u-2%); Single Insr 2010-\$667-u (e-\$612), 2011-\$724-u (e-\$669) Uniform-\$800-u (e-\$850). (U-use \$50 to pay for single insurance).	2010 - 1% 2011 - 2%	W-intrnl pattern argued-49ers 3% in yr 3 (08-10) trumped current 0%. Single insr (100% of high vs 100% of low plan) past trend & lack of quid pro quo.
11-PA-0386	ISD 741, Paynesville School Service Employees Local 284	Jacobs, Jeffrey	Earned Vacation during unpaid leave	12 mo. employee only worked 3 mo. then went on unpaid leave. Felt vac. should paid as a full time employee.	Denied	Vac was prorated, since hrs wrked only qualify for part time status. Discussion of past practice.
11-PA-0091	Metro Transit Amalgamated Transit Union Local1005	Imes, Sharon	20 days suspension	Bus driver using cell phone. 20 days and indefinite record of warning challenged.	Split	Indefinite warning removed. It is in conflict with 36 month contract limit. 10 day susp based on other cases arbitrated.
11-PA-0093	Metro Transit Amalgamated Transit Union Local1005	Latimer, George	Assigning Work	Transportation information center told to take customer complaints during hours customer service is closed.	Denied.	Assignment reasonable. Did not result in any loss of positions for customer service.

10-PA-1646	Metro Transit Amalgamated Transit Union Local1005	Neigh, Charlotte	Unit work	Supervisor moved locomotive from yard to shop.	Denied	Moving equipment in the yard is not exclusively the work of mechanics.
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February, 2011

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS	Ameripride Services, Inc. Workers United, SEIU Local 150	Gallagher, Thomas	Termination	Told to return to work station 2 times. 3rd time refused because his wrk was done & he thought others were lazy. Was helping others at another station.	Split	Insubordinate, but not grossly-1 yr. suspension. No prior discp & was not told failure could result in displ.
10-PN-1602	Cottage Grove, City of Cottage Grove Police Officers	Anderson, Richard	Interest	Wages:12/31/10*-2%-e (u-\$1/h to top pay); 1/1/11-1% & 7/1/11-1%-u (e-1% 1/1 & mrkt adjustment 7/1);drop short term disability eligibility frm 20 days to 5 days-no-e.	2010 - 2%* 2011-1%,1%	2010 internal pattern. 2011 COLA, Union failed to meet burden of need to change ST Disability eligibility.
FMCS	Honeywell International, Inc. Teamsters Local 1145	Anderson, Richard	Subcontracting	2 millwrights laid off while millwright work was subcontracted.	Denied	Right to subcontract was not encumbered by the Grievant's layoff.
11-RA-0120	Human Development Center AFSCME Minnesota Council 5	Remington, John	Termination	Performance issues due to data entry errors.	Sustained	Failure to establish objective performance standards.
10-PA-1207	ISD 316, Coleraine AFSCME Council 65	Daly, Joseph	Benefit Accrual on Workers Comp	Benefits paid on part time basis due to employer only paying 1/3 of wage.	Denied	1/3 payment proper. Mistake by bookkeeper does not establish a practice. District has no claim for repayment as a matter of equity.
10-PN-1074	ISD 625, St. Paul St. Paul Principals Association	VerPloeg,Christine	Interest	Retiree insr. sunset for new ee hired after 1/1/96, in exchange they got a 403b. Seeking 403b for those who kept insurance.	Denied	Final Offer. Neither internal nor external comparisons support incr. budget realities and should adhere to 1995 negotiated agreement.
10-PA-1498	Hibbing Public Utilities Commission AFSCME Council 65	Gallagher, Thomas	Filling Temporary Vacancies	Union claims seniority must govern temporary filling of higher paid position.	Denied	Contract only requires seniority for bids on permanent positions.
FMCS	McQuay International Sheetmetal Workers Local 480	Imes, Sharon	Termination	Violated 4 plant rules in 12 mos. Last 2 for smoking & calling suprvisor a snake (abusive language)..	Sustained	Failure to conduct an investigation denied ee due process. Didn't see smoking; "snake" is not abusive.
10-PA-0868	Metro Transit Amalgamated Transit Union Local1005	Jacobs, Jeffrey	Termination Last Chance Agrmnt	Bus driver's last chance agreement limits 2 incidents in a year-he had 3.	Denied.	Unsafe driving incidents-on camera. .
10-PA-0733	Moorhead, City of Law Enforcement Labor Services, Inc.	Jacobos, Jeffrey	Tuition Reimbursement	Union challenged city's denial of tuition reimbursement.	Denied	City's right to deny course or reimbursement can include denial because of budget.
10-PA-1561	Rice County Teamsters Local 320	Beftor, Stephen	Termination	Child mental health worker arrested for domestic assault, put on 2 Return to Work Expectations Agreements, then arrested for DUI.	Denied	Return to work agreements weren't last chance agreemnts, but several emotional meltdowns raise questns re her capacity to perform sensitive mental health counseling functions
FMCS	SMDC Health System Operating Engineers Local 70	O'Toole, Carol	Interest	Interest Arbitration- keep language-u; part-time ee language-no change-u; lump sum of \$595 (exclude 5 eligible for steps or longevity?)-no-u.	Union positions	Changes to contract should take place at negotiating table. Lump sum will treat every one the same.

10-PA-1392	Waite Park, City of Teamsters Local 320	Martin, William	Continuing Contract	City changing insur contribution from % to set \$ amount. Union tried to keep % arguing continuing contract	Denied	Insurance expressly stated 97% of 2009 cost, which city was paying. Maintaining status quo does not
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January, 2011

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
10-PA-1616	Alexandria, City of Law Enforcement Labor Services, Inc.	Toenges, Rolland	3 day suspension Right to Union rep.	Off-duty officer was called by Sgt. re driving under influence. He lied about driving. Sgt didn't notify him of rights to a Union rep before questioning.	Denied	Lying to Sgt was basis for susp. Discipline not contemplated at time of call therefore need to advise of right to Union representative.
10-PN-1311	Anoka County (Interest Award) Law Enforcement Labor Services Inc.	Miller, Richard	Interest	Wages: 0%-c (u-2%); Merit steps: 3%-u (c-1.5%); Pay for negotiating: yes-u (c-no).	2010 - 0%	Wages-internal pattern; Merit step-needed to adjust internal pay gap; Neg pay-maintains past practice.
10-PN-0769	Dakota Communications Center Law Enforcement Labor Services, Inc.	Toenges, Rolland	Interest	Steps v Pay for performance wage schedule-steps-u; OT seniority rights & right to grieve-no-(county position). Wages 0% for 10 & 11 not arbitrated.	Step system	Steps are more common in public safety. Dispatchers who had P for Performance rejected it. Steps effective 3/1/11 with no backpay.
11-RA-0211	Douglas County Hospital Operating Engineers Local 70	Flagler, John	Supervisors doing Union's Work	Union challenged supervisor doing bargaining unit work.	Sustained	Supervisors can only be assigned in emergencies. Supvr improperly removed from Unit w/o BMS ruling.
10-PN-0853	Forest Lake, City of (Interest Award) Law Enforcement Labor Services, Inc.	Miller, Richard	Interest	Retiree insur. sunsets for ees hired after 1/1/10. Wages, health, dental, severance positions identical. Union tried to reject HCSP incr as insufficient quid pro quo for retiree insurance.	2010 - 0% 2011 - 1.5% 2012 - 3%	No quid pro quo required since only effects new employees. City's position-no increase if sunset not awarded. Economy distinguishes this from 2008 Arb award.
10-PN-0313	Freeborn County (Interest Award) Teamsters Local 320	Bognanno, Mario	Interest	Working out of class-\$2-u (c-2weeks in position before eligible). Health Insurance-no change-c(u-90%)	Union position Co.'s position.	Maintains intent of existing article-nullified by new Sgt position. Insurance-internal pattern.
FMCS	Great Western Recycling Operating Engineers Local 49	Jacobs, Jeffrey	Termination	Grievant fell asleep while operating a scrap metal bailer.	5 month susp.	Reinstated w/o backpay. Lack of notice that sleeping would result in termination.
10-PN-1022	Hennepin County (Interest Award) Hennepin County Sheriffs Supervisors	Miller, Richard	Interest	OT: for Cpts & Lts, remove FLSA restrictions for Sgts-u; Hol premium-no-c; Comp time for Watch Cmdrs-no-c; Uniform incr-no-c (u-\$1,000). 2 year wage freeze-no 2011 steps negotiated.	OT for Cpts & Lieutenants	Contract provided for OT in rare & unusual circumstances. Award changes to, "if obligated". FLSA reference is removed.
10-PA-1365	ISD 728, Elk River Elk River Education Association	Toenges, Rolland	5 day suspension	Unprofessional conduct, put a candy bar in a 7th grade girls pocket and touched her buttock.	Denied	12 students testified re. this event. Actions inappropriate whether sexual or not.
11-PA-0180	Metro Transit Amalgamated Transit Union Local1005	Neigh, Charlotte	20 day suspension Final Record Wrning	Bus driver talking on a cell phone. Can warning be on indefinite length?	Denied Sustained	Safety policy calls for 20 day susp. Limited to 36 months per contract.
10-PA-1475	Minneapolis Parks & Recreation Bd Teamsters Local 320	Bognanno, Mario	Arbitrability due to missing time lines.	Grievance denied, notice sent by e-mail. Union did not receive e-mail & filed for arbitration 3 months later.	Sustained	No follow-up letter nor fax was sent per parties practice. No timelines to move to next step if no response.

11-PA-0315 Plymouth, City of AFSCME Minnesota Council 5	Dunn, Richard	20 day suspension Timeliness?	Senior Engineering Tech (surveyor) performance issues i.e. errors. Union notified intent to arbitrate in April but did not file w BMS until Oct.	Denied Arbitrable	Notice, counseling and previous discipline failed. Delay caused no harm.
09-PA-0940 Princeton, City of AFSCME Council 65	Paul, David	3 day suspension 5 day suspension	Didn't notify suprv re disabled vehicle. Used obscene language at drug test.	Written Rpmnd Denied	Investigation took 5 months. Other members of public present.