

DARRELL JEFFERSON  
*President-Business Agent*

DARRYLE WEST  
*1st Vice President*

LARRY MUHAMMAD  
*2nd Vice President*



MICHAEL SIMMONS  
*Recording Secretary*

JOHN BAYER  
*Financial Secretary-Treasurer*

PETER FIONDA  
*ABA Maintenance*

**LOCAL UNION 241 • AMALGAMATED TRANSIT UNION**  
A.F.L. - C.I.O. - C.I.C.  
**SUITE 850 • 20 SOUTH CLARK STREET • CHICAGO, ILLINOIS 60603**  
**TELEPHONE: (312) 341-1733 • FAX: (312) 341-1471**

A.T.U. website: [www.atu241chicago.org](http://www.atu241chicago.org)

### Executive Board

**Archer:**  
DWAYNE SAVAGE  
CEDRIC JONES

**Chicago Ave:**  
LONNIE WALKER  
KEITH HILL

**Forest Glen:**  
HERMAN REYES  
JOSE C. COLON

**General Office:**  
KEVIN MITCHELL  
REUBEN JOHNSON

**Kedzie:**  
CARLOS HARRIS  
NATHANIEL SCURLOCK

**North Park:**  
MICHAEL WALLACE  
MICHAEL BARRON

**74th Street:**  
VENITA JONES  
VERN HODGES

**77th Street:**  
CARL HAYMORE  
MICHAEL A. WILLIAMS

**103rd Street:**  
MICHAEL SEATON  
MICHAEL TAYLOR

**Central Repair:**  
CARLOS ACEVEDO

**North Repair:**  
DAN HRYCYK

**South Repair:**  
FREDERICK McCLURE

**Station Clerks:**  
MICHAEL FAIRCHILD

**Supervisors & Instructors:**  
MARY BEARD

**Pace West:**  
ERNEST JONES

**Warden:**  
WOODROW EILAND

**Assistant Warden:**  
ANDRE ALLEN Sr.

**Election Commissioners:**  
MARILYN R. FREEMAN  
TYRONIA JORDAN  
SANDRA SIMMONS  
CHRISTINE HAWKINS  
ROBERT MATTHEWS

September 13, 2007

Dear Brothers and Sisters:

As many of you may already know, I, Darryle West - 1<sup>st</sup> Vice President for Amalgamated Transit Union-Local 241, am attempting to resolve problems with the Chicago Transit Authority (CTA) administration and their Family and Medical Leave Act (FMLA).

I have discussed these many issues with officers of Local 241, the Executive Board Members, and the ATU-Local 241 membership. The Plaintiffs were put in contact with Local 241's legal counsel, Jacobs, Burns, Orlove, Stanton & Hernandez and filed a lawsuit on March 14, 2006 in federal court. The lawsuit alleges that the CTA has interfered with, restrained and/or denied it eligible employees' FMLA rights through its policies and practices. Here is an update on the upcoming lawsuit.

### What is this Case About?

The Plaintiffs allege in this lawsuit that the CTA has interfered with, restrained, and/or denied its employees FMLA rights, and will continue to do so by the following:

- A. The CTA's policy, procedure, and/or practice of not providing periodic training, supervision, and resources to the Human Resources Department and any other CTA Department administering the FMLA program in order to ensure its proper administration and the proper implementation of policies and procedures regarding FMLA. To

date, this policy, procedure, and/or practice has resulted in the following violations:

1. Delays of 30 or more days in the approval or denial of FMLA claims;
2. Denial of FMLA claims because employees submitted their applications and/or medical certificates 1 day to 2 weeks after the deadline without first determining whether the employee could reasonably be expected to act within the deadline;
3. Denial of FMLA claims when the leave was requested to take care of a son or daughter who is 18 years or older based solely on the age of the son or daughter and not his or her medical condition;
4. Placement of stipulations or restrictions when FMLA leave is approved that are not consistent with the recommendations of the employees' physician;
5. Failure to appropriately inform employees of their rights under the FMLA and of the policies and practices in place to file FMLA claims, and to respond to employees' FMLA-related questions or concerns;
6. Failure to notify employees within a reasonable time that absences due to any injury suffered while on duty (IOD) or other absences will be designated as FMLA leave;
7. Misplacement of Applications and/or Medical Certifications resulting in denial of FMLA claims;

**B.** The CTA's policy, procedure, and/or practice of not providing periodic training and adequate supervision to managers and supervisors at work locations on proper policies and procedures regarding FMLA. To this

date, Defendant's policy, procedure, and/or practice has resulted in the following violations:

1. Discipline of employees for taking leave due to a qualifying serious health condition under the FMLA, even when a supervisor or manager knows or should know that employee is: (i) approved to take FMLA, but takes leave without first getting approval of the supervisor or manager or does not strictly follow stipulations or restrictions included in approval; (ii) has a pending FMLA leave;
2. Failure to correctly note FMLA-related absences on the work record; noting them instead as "misses," "snipes" or unexcused absences, all of which can result in discipline to the employee;
3. Using FMLA-related absences as the basis for disciplining employees;
4. Failure to advise employees of the ability to take FMLA leave despite the fact that the immediate supervisor knows employees' absences are related to a serious health condition that may qualify for FMLA leave;
5. Making employees sign into the sick book when taking FMLA leave like they would if they were absent for a non-FMLA reason;
6. Making employees travel to their work location (garage, station, office, etc.) to sign out of the sick book by 4:00 p.m. on the same day the employees had to take FMLA leave due to their serious health condition in order for employees to be able to come back to work the following day;

7. Making employees take more FMLA leave than necessary by:  
(i) not allowing them to arrive later or leave early; (ii) making them take a full eight hours of leave when they may need less; (iii) noting that employees took a full day of leave, even though they may have worked part of the shifts; (iv) making them take another day of leave if they cannot travel to their work locations to sign out of the sick book by 4:00 p.m.;
8. Requiring employees to show their FMLA approval notice to supervisors every time they take any leave;
9. Preventing employees from taking FMLA leave for scheduled appointments despite notification from employees;
10. Asking employees to take leave on a different date to accommodate the employer;

- C. Policy, procedure, and/or practice of denying FMLA claims without providing a reasonable time to the employee to correct any deficiencies in his or her medical certificate;
- D. Policy, procedure, and/or practice of not designating absences taken due to a qualifying serious health conditions as FMLA leave unless those absences occur during the time an FMLA claim is pending or after an FMLA claim is approved;
- E. Policy, procedure, and/or practice of accepting requests for FMLA leave only if employee submits the original forms sent by CTA's third-party administrator;
- F. Policy, procedure, and/or practice of forcing employees to wait until a weekday to return to work after taking FMLA leave because CTA's Medical Services is not available during weekends to clear employee to return to work;

- G.** Policy, procedure, and/or practice of limiting FMLA leave periods so employees are required to re-certify every three months or sooner, even for serious health conditions considered chronic or permanent;
- H.** Policy, procedure, and/or practice of giving only a total of 480 hours of FMLA time to all qualified employees when the actual number of hours the employees work every week would merit more time;
- I.** Policy, procedure, and/or practice of not counting and award of back pay as hours worked by an employee in order to qualify for FMLA leave;
- J.** Policy, procedure, and/or practice of forcing employees to take vacations or holidays when taking FMLA leave to take care of a family member, in violation of the employees' collective bargaining agreement giving employees the right to designate vacations and holidays;
- K.** Policy, procedure, and/or practice of not notifying employees' physicians that they can hand-write comments or include an addendum regarding the severity of a health condition, its likely duration, possible episodes, and other pertinent information to the medical certificate form.
- L.** Policy, procedure, and/or practice of having a doctor employed by the CTA make medical decisions on FMLA claims regarding the length of the period during which FMLA could be taken, and the stipulations or restrictions placed on the approval of FMLA without giving employees the benefit of obtaining a third opinion from a neutral physician.

### **What is Happening With the Case?**

The lawsuit has already survived a challenge from the CTA. Shortly after it was filed, the CTA filed a motion requesting that the court dismiss the Plaintiff's claim that its policy of not counting an award of back pay (a remedy granted to an employee after a finding of a wrongful suspension or discharge) as hours worked in order to qualify for leave violates the FMLA. The Plaintiffs were able to successfully defeat CTA's motion and the court denied the Authorities request.

The Plaintiffs, for their part, have filed a motion for class certification requesting the court to recognize this lawsuit as a class action so any benefits derived from it can affect all CTA employees who are eligible for FMLA. That motion is pending before the court and will be decided some time this fall.

In the meantime, the lawsuit is still in the discovery stages, which is the process of gathering evidence to prove the Plaintiffs' claims. The Plaintiffs and the CTA have taken depositions of employees and managers and have exchanged numerous documents in relation to CTA's FMLA policies and procedures and employees' FMLA claims. This stage is set to end the last week of September 2007.

### **What Should I Do if I Believe my FMLA Rights Have been Violated While the Case is Still Pending?**

All ATU 241 members are encouraged to raise any FMLA-related complaints with your Executive Board Members. Your Board Member or someone from the Union will contact the attorneys to determine how to best proceed with your case.

### **Helpful Tips when Applying for FMLA leave**

1. If you have a chronic condition that is not likely to resolve within a year's time, make sure your physician attaches a note with the medical certificate stating that;
2. If you want to get paid for days you take FMLA, request that those days also be designated as VRDs, holidays or vacation days when you call into state you are taking FMLA leave;
3. If you have exhausted your FMLA hours and the health condition for which you requested FMLA requires you to take more leave, request a leave of absence pursuant to the collective bargaining agreement. Such a leave should be granted for good cause. If it is denied, contact your Board Member to determine whether to file a grievance.

Fraternally yours,

A handwritten signature in cursive script that reads "Darryle West".

Darryle West  
1<sup>st</sup> Vice - President