



# TWU LOCAL 100 NEWS

## Station Division

June 2010



## Major Progress in Court, But Battle Continues

*We know many Station Division members are confused with all the court rulings, appeals, and appeals of the appeals. Here's what's really happening*

The union has made tremendous headway in the legal battle to force the MTA to reopen the booths and rehire laid off Agents. But, and it's a big "but," the battle is long from won. And unfortunately, despite several court orders favorable to our position, the MTA is successfully using delaying tactics to keep the booths closed, and keep our Agents on the unemployment line.

**Following is a rundown of recent events, including the most recent developments of Jun 15, 2010.**

On **June 04**, thanks to TWU action, State Supreme Court Judge Saliann Scarpulla ruled that the MTA had in fact not followed Public Authority Law 1205 and must hold new public hearings in order to close 14 revenue booths and 42 SCA booths. The MTA interpreted the ruling (as might be expected) to mean that they only had to hold hearings, not really reopen the booths and rehire our Agents.

TWU Attorneys immediately appealed for an "entry of judgement" order to secure greater clarification. Then, on June 8th the same judge ruled again in our favor. She ordered all booths opened until the public

hearings are completed. This was a huge victory for the members and for the riding public.

But it was not the end of the battle.

In such rulings which require mandatory action, an automatic "stay" is in effect if the losers (in this case the MTA) announces its intention to appeal, which they did.

TWU Attorney Arthur Schwartz prepared a brief demanding the "stay" be lifted, and on **June 15, 2010** Judge John Sweeney, Jr. of the Appellate Division of the NYS Supreme Court, heard arguments to that effect.

Judge Sweeney then passed the baton to a full three-Judge Panel, which will review briefs on TWU's motion to lift the "stay" on **Friday June 25, 2010**.

The MTA has until Tuesday, June 22, 2010 to respond to the union's submission to lift the "stay." And then, the union has until Thursday, June 24, 2010, to submit a reply to the MTA's position.

If we are successful in lifting the "stay" the MTA will have no choice but to comply with the court's will to reopen the booths.

**Despite the stops and starts, these rulings show that our union is not just whistling in the dark.**

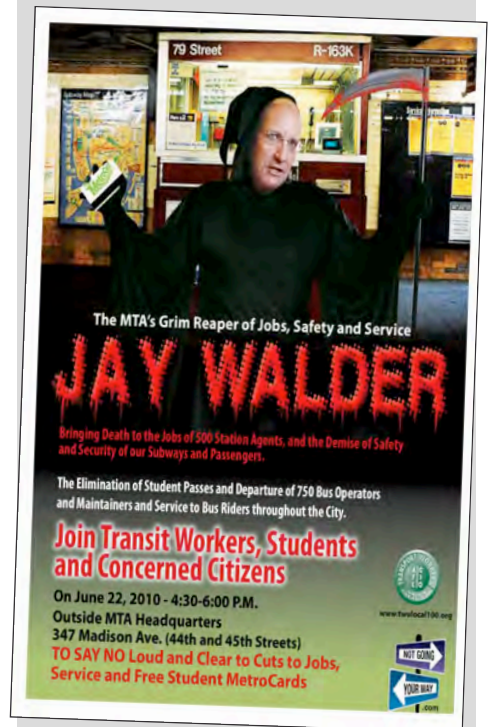
What the MTA is doing is bad for everyone except the swipers, muggers and terrorists.

Riders understand this. They hate booth closings and want to see us win this one almost as much as we want to win it.

### Upcoming Events

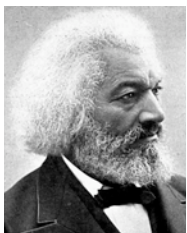
**June 22, 2010**

Demonstration Outside MTA Headquarters  
4:30 - 6:00 P.M.



**June 25, 2010**

Demonstration Outside the Appellate Court - 8:30 A.M.  
25th St. & Madison, where the 3-Judge Panel will be deciding whether or not the MTA will be compelled to reopen recently closed SCA Booths.



"Power concedes nothing without a demand. It never did and it never will."

**Frederick  
Douglass**

## Come out to the Protests at Jay Walder's House

Please remember to show up at Walder's house: 105 Duane street in Manhattan Monday thru Friday 4pm-6pm. (cancelled on 05/25/10) At present we have had good newspaper coverage and have been quite effective. But we need more members to come out. Especially those that have been laid-off or are facing lay-offs, many of you expressed your concerns about "what you could do?" but very few have showed up. The question is where are you?

It's YOUR job, so join the fight!



## Station Shop Steward Lists:

As a result of our new Shop Stewards classes, Station Division now has 14 official TWU shop stewards: these dedicated brothers and sisters have made themselves available to the membership for guidance, information and help. They are:

S/A John Borrero	S/A Alice Ginn-McKay
S/A Kendra Hill	S/A Paul Flores
S/A Laura Ryan	
S/A Tracey Williams	S/A Denise Canton
S/A Sharon D. Allen	S/A Vanessa Jones
CTA Brian Brooks	CTA Nelson Stinson
S/L John Paluszek	S/L Jonathan Ware
S/L Charlie Cogger	

## Help Desk Established for Laid off Members



TWU Local 100 has instituted a Help Desk for members who have been laid-off. This number is specifically for them and their problems. Just another example that TWU Local 100 will not and does not abandon their members, through good times and bad, we will be there for you. For more info please call: Help Desk (212) 873-6000.

## These are unusual times we are living in. Seemingly you can be 100% right and still be wrong overall.

Such is the case with the Arbitration decision rendered by Arbitrator Richard Adelman on the SCA booth closings.

Arbitration is made up of two parts: the opinion and the award.

**The following is part of Adelman's published opinion:**

*"...the Authorities' failure to note on the Station Agent winter pick sheets that the SCA kiosks might be closed was an unreasonable disregard of the normal seniority rights of employees..."*

**But he then adds:**

*"...the contractual violation has to be considered in light of all the existing circumstances...and these particularly difficult economic times..."*

Therefore, even though the MTA violated the pick and seniority rights of the employees affected by the SCA closings, it doesn't matter because the MTA says it has an \$800 million budget deficit.

Mr. Adelman felt the Union's remedy, to place the SCA clerks back in their picked jobs, an agreement which was agreed to by the MTA in the first place, was "impractical".

As amazing as that sounds, Adelman also says that implementing the new pick as soon possible (May 30th) *"is the most effective way to protect the seniority rights of the affected employees."*

## Don't Criticize, Join the Fight to Help Your Brother and Sisters in Stations

If people insist on telling you what a bad job your Union is doing, ask them how many times they've come out to Walder's house? Ask them how much overtime they are doing while their brothers and sisters are out of work? Ask them why they never put up a fight? Ask them why they never have anything to offer except criticism or "after the fact" advice? If they know so much, why have they never offered their ideas? Don't they care about the members? Answer is no they don't. These people know next to nothing except for being negative or being critical. They are like yapping Chihuahuas.

How violating the pick and seniority rights of employees, protects the pick and seniority rights is anyone's guess.

Clearly Mr. Adelman has hit a new low in judicial prudence.

What does it all mean?

**Number 1:** the new pick will go through on May 30th.

**Number 2:** a part of our strategy to effectuate the return of laid-off station agents right away to solve MTA man-power shortages has been short-circuited. This does not mean the fight is over. We are still trying to find ways for that to happen.

**Number 3:** Richard Adelman, who at one time was thought to be a fair arbitrator, is no longer a viable option for a fair hearing. Recent Adelman contract arbitration rulings:

- The violation of gain-sharing agreement in regards to 2010 S/A summer pick.
- The ignoring of safety and terrorist threats to NYCT personnel and the public.
- The disregard of the violation of seniority and pick rights in the closing of SCA booths.
- The overlooking of a court-ordered Temporary Restraining Order (TRO) in regards to layoffs and booth closings.
- Comments like: "I'm a fiscal conservative." That is not indicative of impartiality.
- Constantly disregarding contractual language due to the MTA's alleged economic problems.

## Overtime Rules

It is important at this juncture to state that the only overtime MTA can force you to do is MANDATORY overtime: that is when you have no relief and get stuck in your booth. All other overtime is voluntary and it is the members' choice whether they will do it or not.

Family Day 2010 at Great Adventure is



scheduled for July 31, 2010. Tickets are \$45 (bus) and \$35 (driving). This includes all rides and Food. This is an extremely good price.

**For more info call: Special Projects/Organizing: (212) 973-6000 x2168**

# The State of the Station

By Maurice Jenkins  
Vice President, Station Department, TWU Local 100

**W**here are we? Right now we have double digit layoffs. We have people who have been illegally displaced from their jobs. We have an astronomical number of disciplinary cases. Our brothers and sisters are being forced to work overtime to the extent that eventually they will start breaking down.

How did we get here?

It started with Automatic Fare Collection (AFC) in 1993, which opened the door to the situation we find ourselves in today. It brought the elimination of tokens, which led to total dependence on the MetroCard, which led to the SCA program, which led to the booth closings, which led to the layoffs and contract violations that we have to use so much of our energy and resources to combat today.

If you look at the progression of this attack on our livelihoods we can see that it was a slow process. After all 17 years. is a long time. What we see as immediate is really a plan that was set in motion years ago. As we fight these changes we need instant results but we have to confine ourselves to the constraints of the process. It does not mean that we won't win, it means that we have to put a continuous struggle forth that in the long run will be victorious.

This is not our fight alone. That is why we lobby in Albany and in Washington so far we have been making progress, so much so that Jay Walder has been lobbying in D.C. to prevent the MTA from getting \$500 million that has over \$325 million set aside for operating expenses. It's this kind of depraved indifference and flat out disregard for the rights and privileges of the worker that we must stand in defiance of.

Because of the Taylor Law, our ability to do job actions is curtailed but we can do something. We must continue to organize. Our strength is in our numbers. The politicians can see that. We must make them respect it. We can call and visit their offices. We must do everything we can to make sure those who help us get re-elected. That means volunteering in elections and contributing to their campaigns. This is a capitalistic society. We must use our capital constructively to build relationships. We must use those same energies against those who don't help us.

When I ran for office I wanted to do a lot of things in our Department --. the bowling night, the bereavement council, the chess tournament and a few more things to encourage member participation. We will do these but the loss of our members and the attack on our people by management must take a higher priority over everything else

