

# INTERNATIONAL BROTHERHOOD OF TEAMSTERS

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## MEMORANDUM

**To:** Yellow Corp. Local Unions (including YRC Freight, Holland, New Penn and Reddaway)

**From:** John A. Murphy, National Freight Director and Co-Chair, TNFINC

**Date:** October 29, 2024

**Re:** **Yellow Corporation Bankruptcy Update**

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### **TO ALL LOCAL UNIONS HAVING MEMBERS EMPLOYED OR FORMERLY EMPLOYED BY YELLOW CORPORATION AFFILIATES**

#### **I. YELLOW CORPORATION BANKRUPTCY UPDATE**

Yellow Corporation and its operating companies (“Yellow”) filed for bankruptcy in the District of Delaware Bankruptcy Court on August 6, 2023. The International Union and TNFINC (the “Union”) have entered an appearance in the case on behalf of Local Teamster Unions whose members hold claims against Yellow’s operating companies—YRC Inc., USF Holland, LLC, New Penn Motor Express, LLC, and USF Reddaway, Inc. Claims filed by the Union include contract claims for vacation pay, sick pay, and other paid time, as well as grievance pay.

Yellow has made significant progress liquidating its assets over the past year. To date Yellow has sold numerous properties, re-leased or otherwise monetized leased properties, and sold a majority of its trucks and trailers. Yellow paid off its secured lenders, such as the United States Treasury. As a result, Yellow’s only unpaid creditors remaining are unsecured creditors, meaning the creditors hold no lien rights against Yellow’s property. The claims by Yellow’s former employees, including Teamster-represented employees, as well as the WARN Act claims, are unsecured claims. Unsecured claims are paid out after secured claims, and the unsecured claims are paid out in accordance with the Bankruptcy Code’s priority rules, meaning that unsecured claims that have a higher priority under the law are paid before unsecured claims having a lower priority. Finally, by law, unsecured claims that are approved must be paid in full before equity shareholders are paid. Moving forward, Yellow still holds owned and leased properties and rolling stock that must be sold in order to complete the liquidation process.

**TEAMSTERS NATIONAL FREIGHT INDUSTRY NEGOTIATING COMMITTEE**

## **I. MEMBER WARN ACT CLAIMS**

The Union filed claims on behalf of members citing Yellow's failure to comply with the Federal Worker Adjustment and Retraining Act ("WARN Act") and its State law analogues. Not every Teamster member affected by the Yellow bankruptcy will be eligible to receive potential WARN Act damages, based on requirements of federal law, including the WARN Act. The Union will work, however, to ensure all eligible members receive the WARN Act damages to which they are entitled.

Previously, Yellow objected<sup>1</sup> to the Union filed claims, as well as any individually filed WARN Act claims, on March 12, 2024. The Union filed a response<sup>2</sup> on behalf of all bargaining unit members, stating that all WARN Act claims should be deemed allowed, on March 28, 2024. By responding to Yellow's objection to Teamster WARN claims the Union has put member WARN claims into issue, which will require a trial to resolve.

In the intervening months since Yellow objected to the Union's WARN claims, the Union has engaged in litigation with Yellow, arguing for the allowance of employee WARN claims to the Bankruptcy Court. The litigation process has been time intensive, requiring extensive discovery exchange and several filings with the Court. The discovery process is now complete, and the Union has filed for summary judgment, asking Judge Goldblatt to allow employee WARN claims without the need of a trial.<sup>3</sup> The Court set a summary judgment hearing for October 28th, wherein the Judge will hear arguments from all parties. The Judge is not required to rule immediately, and given the complexity of the arguments, the Judge may not rule for several weeks following the hearing. Any issues the Judge does not decide outright must proceed to trial, which would take place in December at the earliest. There is also the potential that the Union and Yellow reach a consensual settlement which would abrogate any need for trial.

At this time the Union does not have a more detailed update on employee WARN claims. If the Judge rules, a trial date is confirmed, or a settlement is reached, the Union will immediately inform Local Unions through its normal means of communication.

## **II. MULTI-EMPLOYER PENSION PLAN LITIGATION**

Yellow had previously challenged the validity of several multi-employer pension plans' ("MEPPs") claims.<sup>4</sup> For several months, Yellow and the MEPPs have engaged in litigation over

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<sup>1</sup> Yellow's objections (Docket Index Nos. 2576-2578) are available for viewing on <<https://dm.epiq11.com/case/yellowcorporation/dockets>>.

<sup>2</sup> The Union's response (Docket Index No. 2778) is available for viewing on <<https://dm.epiq11.com/case/yellowcorporation/dockets>>.

<sup>3</sup> The Unions' several filings in support of summary judgement (Docket Index No 3728, 3729, 4036, and 4312) are available is available for viewing on <<https://dm.epiq11.com/case/yellowcorporation/dockets>>.

<sup>4</sup> The multi-employer pension and health and welfare plans have retained their own counsel and filed their own proofs of claims; the Union does not represent the Plans or their claims because the Union operates as a separate legal entity.

issues of withdrawal liability and federal regulations. On September 13th, 2024, the Judge ruled in favor of the MEPPs on nearly all issues.<sup>5</sup> However, Yellow has asked the Judge to reconsider his ruling on one discrete question. After the Judge decides Yellow's motion for reconsideration, the MEPP ruling will be final pending potential appeals by any party to a higher court.

Due to the size of the MEPPs' claims against Yellow, it is unlikely that equity holders in Yellow will receive repayment from the Yellow estate. Therefore, the effect of the MEPPs' success has been to solidify that unsecured creditors' claims (including employee claims) are the core, critical battleground regarding what is left of of Yellow's estate to be distributed.

### **III. PLAN PROCESS**

On October 17th, 2024, Yellow filed an Amended Plan of Reorganization and Amended Disclosure Statement.<sup>6</sup> A Plan of Reorganization is a comprehensive document prepared by the Debtor (in this case Yellow and its so-called "restructuring expert," Matthew Doheny, Yellow's Chairman of the Board Directors. A plan of reorganization describes the assets and liabilities of a debtor and how those assets and liabilities will be distributed to remaining creditors. A Disclosure Statement gives further detail on the size of the estate, the claims against the estate, the value that creditors are likely to receive, and how creditors may vote to confirm or object to the Plan or reorganization. The Union was not consulted in the Debtors' preparation of the Plan and Disclosure Statement, and the Union wholly disagrees with the Debtors' narrative of its business closing. What is most important however, is that the Union is reviewing the Amended Plan of Reorganization and Amended Disclosure Statement to ensure that employee claims are dealt with fairly and appropriately under the law. A hearing is scheduled for November 21st regarding the adequacy of Yellow's proposed Amended Plan of Reorganization and Amended Disclosure Statement.

Once a Plan and Disclosure Statement are approved by the Bankruptcy Court, creditors will receive a copy of the Plan and Disclosure Statement to review. Yellow will then solicit votes from creditors with allowed claims that are not expected to be paid in full ("impaired" classes of creditors). Consistent with the Bankruptcy Code's "priority rules" discussed above, portions of employee claims are expected to be repaid in full, while other portions of employee claims are unlikely to be paid in full. Importantly, the WARN Act portion of employee claims are currently *not* allowed because they are subject to Yellow's objection, while employee contract claims are currently allowed because they are not currently subject to any objection from Yellow.

The Union, as representative of members, may vote on behalf of members regarding its support or opposition to the Plan. The Union expects a voting deadline to be set in late January, 2025. If a majority of voting creditors are in support of a Plan, the Judge will confirm the Plan. After a Plan is confirmed the Plan can become Effective. Only after a Plan becomes Effective will

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<sup>5</sup> Judge Goldblatt's ruling on the MEPP claims (Docket Index No. 4326) is available for viewing on <<https://dm.epiq11.com/case/yellowcorporation/dockets>>.

<sup>6</sup> Yellow's Amended Plan of Reorganization and Amended Disclosure Statement (Docket Index Nos. 4580-4581) are available for viewing on <<https://dm.epiq11.com/case/yellowcorporation/dockets>>.

payments to unsecured creditors be disbursed. For that reason, and for the other reasons stated within this memorandum, it is unlikely that any payments from the estate will be disbursed to employees during the 2024 year. The Union is hopeful that disbursements from the estate to employees will proceed within the first or second quarter of 2025. The Union believes the coming three months will be critical for the continued progress of the Plan, the ongoing sales of remaining assets, and the conclusion of the litigation matters.<sup>7</sup>

In most bankruptcy case, employees are not guaranteed a 100% recovery. While the Union has filed proofs of claims with the maximum recovery of employees in mind, the Union cannot guarantee a 100% repayment to employees on 100% of employees' potential claims. The sale process has succeeded in garnering a surplus beyond Yellow's secured debt, the claims of unsecured creditors is greater than Yellow's expected final estate value. A portion of employee claims based on unpaid wages, including vacation and sick pay, are considered priority claims. Priority claims are guaranteed repayment 100 cents/\$1.00 *only up to and not exceeding* \$15,150.00. Non-priority employee claims, or employee claims in excess of \$15,150.00, will be paid on a pro-rated basis, depended upon the total estate value and the total unsecured claims remaining. It is likely that any repayment employees receive (based on unpaid wages, as well as WARN Act damages) will be taxed as wages, including applicable state and federal withholdings.

#### **IV. IMPORTANT CONTACT INFORMATION REMINDER**

Members should keep their addresses updated with their applicable Local Teamster Union. Estate disbursements will go directly to the individual employee, requiring either Yellow or the IBT to have the most recent accurate address on file of members.

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<sup>7</sup> Updates from the Union's Freight Division will come more frequently in the coming weeks and months as progress continues towards a Plan of Reorganization. Freight Division updates will proceed through memoranda issued to Local Unions.