

Workers' Rights Board



A Project of
JOBS WITH JUSTICE



Denver SuperShuttle Workers' Rights Board Hearing

June 18, 2014 — Denver, CO

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Introduction

In response to a request by Local 7777 of the Communications Workers of America on behalf of the SuperShuttle drivers in Denver, Colorado, Jobs with Justice held a public hearing on Wednesday June 18th at the St. Cajetan's Cathedral.

Outside experts, community and faith leaders, and politicians came together to hear the testimony of SuperShuttle drivers about their organizing campaign and the anti-worker actions taken by SuperShuttle.

Participants

Serving on the panel were six leaders of the Denver community, including elected officials, people of faith, academia, and immigrant advocates:

Superintendent Patrick Demmer, *Pastor of Graham Memorial Church of God in Christ (COGIC)*

Reverend Anne Dunlap, *Pastor of Chadash Community United Church of Christ*

Representative Crisanta Duran, *Member of the Colorado House of Representatives*

Lisa Duran, *Executive Director of Rights for All People*

Rob Prince, *University of Denver Professor of Labor and International Relations*

Commissioner Charles “Chaz” Tedesco, *Board of County Commissioners, Adams County*

Testimony was provided by **Stan Gosch**, an attorney with the law firm Rosenblatt & Gosch, and four SuperShuttle drivers:

Negede Assefa

Hicham Aziam

Noureddine Berezqi

Fekadu Ejigdegsew



Background

SuperShuttle is a subsidiary of Transdev, a multinational corporation based in Paris with locations in 25 countries and approximately 100,000 employees worldwide. Transdev itself is owned by two French companies: Caisse des dépôts et consignations, an investment group owned by the government of France, and Veolia Environnement, a French company that manages water and other environmental systems around the world.

SuperShuttle has 1,400 employees in the U.S. and operates van and black car transportation services to 70 major U.S. airports in addition to airports in the U.K., France and Mexico. Between 1998 and 2002, SuperShuttle converted its U.S. van drivers from regular employees to “franchisees.” Drivers in Texas, Arizona and California lost their union representation due to this transition.

In 2009, one hundred SuperShuttle drivers in Denver began organizing and filed for an election with the National Labor Relations Board (NLRB) in December of that year. After two years of court battles, an election was held October of 2011 and the drivers won their union representation with 95% of the vote. They became the first unit of SuperShuttle drivers under the franchise system to win recognition as regular employees from the NLRB.

After another two years of negotiations, SuperShuttle unilaterally ended negotiations in March of 2014 and imposed a new contract that included a reduced wage rate and new limits on work hours. This same proposal was overwhelmingly rejected by the drivers with 94% of the vote in October 2013. On April 28th, the NLRB Regional Director found SuperShuttle to be in violation of labor law and is currently deciding whether to pursue charges in federal court.

Testimony & Driver Stories

Fekadu Ejigdegsew: SuperShuttle Drivers Believe in the American Dream

Fekadu Ejigdegsew has been a driver with SuperShuttle since 2005. After graduating from the University in Ethiopia, Fekadu worked in research on wildlife conservation for the government and was eventually promoted to Head of the Ethiopian National Parks System.

In 1994, Fekadu traveled to London to participate in a seminar. Due to turmoil within the Ethiopian government, Fekadu feared returning to his home country. He decided to stay in London with his family and become a cab driver. Fekadu stayed in London for 8 months before his wife was granted a diversity visa to the United States. “I have always wanted to provide my family with everything they wanted. Working in the United States would finally allow me to do this.”



Fekadu Ejigdegsew



“We are here, in America, not to suffer. We left our country to have a better life and be treated with respect and dignity...I kindly request this Workers’ Right Board to help us gain our American Dream back.”

— Fekadu Ejigdegsew

Fekadu started with SuperShuttle in 2005. It wasn't long before he experienced the dark side of American labor relations. He was treated unfairly and was told to leave if he didn't like it. **“There was no respect, and the appeal of the American dream was diminished for me and my family.”** After years of working at SuperShuttle, it's the conversations and friendships with other drivers that give Fekadu hope that conditions can improve and that the American dream is still possible for him and his colleagues.

Noureddine Berezqi: Conditions at SuperShuttle Push Workers to Organize



Noureddine Berezqi

Noureddine Berezqi began with SuperShuttle in 1997 after coming to the US from Morocco. As a longtime driver with seniority, he described the working conditions that pushed the drivers to organize. When he started, the drivers were able to work comfortable schedules in order to fulfill their financial needs.

After Veolia purchased SuperShuttle in 2006, drivers in Denver saw their income fall when

SuperShuttle began contracting with more franchisees, and their opportunities for fares were reduced. **Drivers had to put in 60 hour weeks, working 6-7 days each week to cover their fees and expenses and still have sufficient take home pay.** Drivers were responsible for all costs related to their vans, including maintenance, fuel, insurance and other expenses. Exhausting schedules left workers no time for bathroom breaks while working 10 to 12 hour shifts.

During this time, management also began firing and suspending drivers without cause or for minor infractions, such as missing parts of their uniform. Management increased surveillance on drivers by employing phony passengers to spy and installing new GPS monitoring systems. Inefficient dispatching resulted in drivers getting fewer fares or fares that were inconveniently distant. Fines were imposed for little to no reason. Many of the drivers faced verbal and racist abuse and were told to deal with the issues or find a new job. **“One of the former drivers was called a monkey, and**

“SuperShuttle was flooding the market with vans because drivers pay all the costs and their share of revenue was the same coming from 50 vans or 100 vans.”
— Noureddine Berezqi

told by his manager ‘Mohammed come, Mohammed go.’” When the drivers had finally had enough of the constant abuse, the decision was made to file for an election with the NLRB. The NLRB ruled in favor of the drivers, giving them all the rights of regular employees.

Stan Gosch: SuperShuttle Franchise Agreements Exploit Workers

Stan Gosch is an attorney with the Denver law firm of Rosenblatt & Gosch. Stan has represented workers for more than 20 years, and has worked with the drivers at SuperShuttle since 2009. Stan explained that SuperShuttle requires drivers to sign one-sided franchise agreements that protect and enrich the Company at the expense of the drivers.

Stan highlighted the most egregious aspects of these agreements that exploit workers, including:

- *Indemnification Clause* – Normally employers give their workers legal protection in case of an accident on the job. **Under the franchise agreements, the drivers must protect SuperShuttle instead.**



Stan Gosch

“These agreements that they foisted upon the newest immigrants to our country and used against them are completely one-sided and unfair.”
— Stan Gosch

- *Big Fees and Costs* – The drivers get hit with fees and required costs from the company that must be paid on top of SuperShuttle’s share of revenue. See table for details.
- *Force Majeure Clause* – If SuperShuttle vans can’t operate due to an event beyond their control (such as bad weather or a terrorist attack), the drivers must keep paying all contract fees and costs.
- *No Protections from Termination* – Franchise agreements must be renewed every year; the company can choose not to renew without cause. The company can unilaterally terminate the contract for late payments, traffic citations, and other reasons with no severance payment. These are at the discretion of SuperShuttle.
- *No Justice on the Job* – SuperShuttle limits the drivers’ ability to take cases to arbitration and limits the relief they can win. **SuperShuttle requires drivers to pay for the company attorneys if they lose their arbitration case.**
- *Release of Claims* – Drivers must give up all rights they’ve won in arbitration every year when they renew their franchise agreement.

The NLRB highlighted many of these provisions when it ruled, making the drivers of Denver the first SuperShuttle driver unit in the United States to win back their rights as regular employees. This paved the way for their successful union organizing drive.

“When I started working, all I kept seeing was that Management has the power over everything... What we really need is a fair contract.”
— Hicham Aziam

Negede Assefa



Driver Fees and Expenses under SuperShuttle Franchise Agreement

Up-front Costs	
Purchase of Vehicle	\$15,000 - \$30,000
Fees to SuperShuttle	\$3,750
Deposits	\$1,700
Other Expenses (Decals, Van Painting, etc)	\$900 - \$2,000
Ongoing Costs	
Revenue Sharing	28-38%
Annual Franchise Fee	\$1,000 - \$3,500
Airport Expenses	\$200/week
Company Provided Insurance	\$125-\$200/week
Fuel, "System Changes", Audits, Customer Complaints, Uniforms, and other Miscellaneous Costs	Driver incurs all costs
Annual Interest Rate on Vehicle Lease	15%
Annual Interest Rate on Late Payments	24%
Termination Costs	
Transfer of Franchisee Agreement	Lesser of \$1,000 or 10% of vehicle sales price plus all SuperShuttle expenses

Negede Assefa: Organizing at SuperShuttle becomes a 5-Year Struggle for Rights and Respect

Negede Assefa has been a driver with SuperShuttle since 2007. He came to the United States from Ethiopia to live with his mother after she emigrated away from an unstable government. Negede spoke passionately about the move to organize among the drivers.

After Veolia took over, “the financial benefits of the job were no longer worth it”, said Negede. Through a local taxi driver and union activist, the drivers contacted the Communications Workers of America (CWA). The group filed for a union election with the NLRB in late 2009.

“We needed 30 signatures to have an election. Six of us split 5 each. We each took responsibility because for no reason they can fire you, let alone trying to organize against them. So we took 5 drivers each as our responsibility, to find drivers we could trust. We came up with 30 signatures in one night. We started at 6 and we were done by 11. The reason is that everyone was getting abused.”

— Negede Assefa

SuperShuttle sought to deny the drivers their right to organize, saying that the franchise agreements made them small business owners. The NLRB ruled in favor of the drivers, finding SuperShuttle’s controlling management practices to violate the definition of contracted work. However, it would take another 2 years before Negede and the others would get the chance to vote on union representation.

As retaliation for organizing, SuperShuttle began making unilateral changes to conditions of employment and tripled driver fees. Negede was fired without reason and was out of his job for 8 months while he waited for justice from the NLRB. Management held one-on-one meetings with drivers to discourage union organizing and told workers they weren’t allowed to repeat what was said to the other drivers.

The drivers fought all of these actions at the NLRB and in May of 2011 the board again found against the company and for the drivers on all charges. SuperShuttle was forced to reinstate Negede, refund the drivers tens of thousands of dollars for retaliatory fees, and end the intimidation tactics

they’d used against their workers. In October 2011, after years of fighting with their employer, the drivers finally got their election. The result: 95% of the drivers voted for union representation.

Hicham Aziam: The Company Ends Bargaining and Cuts Wages

Hicham Aziam has been with the company since 2007 after leaving his home in Morocco. He shed some light on the conditions under which the drivers are currently working.



Hicham Aziam

In March of 2014, after more than two years of negotiations, some of the drivers, including Hicham, traveled to Phoenix for a rally to deliver a petition to SuperShuttle headquarters. That same day, SuperShuttle management declared they were done negotiating and would implement its final offer for a contract. The drivers had already voted down this proposal nearly unanimously in October 2013.

After SuperShuttle ended bargaining, the company made each driver sign new employee documents when their franchise agreements expired. If the drivers didn’t feel comfortable signing the documents they were dismissed. The company assigned the drivers random shifts without regard to seniority or to established schedules based on the personal needs of the drivers. A few of the drivers are the sole providers for their household, and schedule changes have caused hardship for their families.



“In the contract that they wrote themselves we should get a lunch break and 10 minute breaks. But this is only on paper. There is no real way to get it.”

— Nouredine Berezqi



The company's contract took advantage of the drivers' new employee status by eliminating revenue sharing, instituting a reduced hourly wage and capping work hours. **This resulted in significant wage cuts of up to 30% for some drivers and forced many to near poverty.** Because of this cut in wages, Hicham was forced to open a second business to stay above water. The company's unilateral implementation has disrupted the workplace and created confusion among the drivers. The company has made clear the punitive impact of the wage and hour provisions, but it has left the drivers in the dark about important benefits secured through years of negotiations, like vacation, sick days, leaves of absence, breaks and scheduling.

The drivers and their union have sought an injunction and a return to the status quo from the NLRB and are awaiting a ruling. Until then, Hicham and others are committed to continue the fight until respect and dignity return to their workplace.

"I use to have good money at the bank. I now have to take out all that money to continue my ordinary life. After 2 or 3 months I might not be able to survive. This is a big impact in our lives."
 — Fekadu Ejigdegsew

"I would like to have an atmosphere and a good environment with respect and dignity."
 — Noureddine Berezqi

"We were thinking, as the drivers, that we were building some kind of business through the franchisee system which turned out to be nothing just because we're organizing. They're retaliating with this contract and making us hourly. I've been working with them since 2007 and all the business I thought I was building just went poof."
 — Negede Assefa

Average Annual Wages for SuperShuttle Drivers



Workers' Rights Board Recommendations

After listening to the testimony and questioning the drivers, the Board deliberated privately to develop a preliminary set of recommendations. When they returned to the public forum, the Board members thanked the drivers for sharing their stories, and for showing such courageous dedication to the struggle for union representation and a good standard of living. **Reverend Anne Dunlap** reported back on the Board's findings and recommendations:

"As members of the Colorado Jobs with Justice Workers' Rights Board, **we have found the management of Denver SuperShuttle is in violation of basic human rights.** It is clear that there has been retaliation against the drivers who are involved in union activity. It is also our finding that SuperShuttle is arbitrarily imposing poverty wages, both by their previous practice of flooding the market with drivers so that drivers could not work enough to make a living wage, and by their current practice of paying a non-living wage. We found that SuperShuttle has imposed an unfair contract and is refusing to bargain in good faith with their workers.

Lastly, it is our conclusion that SuperShuttle is violating the dignity of its workers through the above as well as through verbal abuse, racial slurs and discrimination. We condemn these actions and recommend that SuperShuttle management take the following steps immediately:

- **Rescind the unfair and immoral contract** imposed on the workers, and return to the bargaining table in good faith, as the parent company has done in other countries;
- **End all forms of retaliation** against workers for organizing efforts;
- **Treat all workers with dignity and respect**, including ending all forms of abuse in the workplace and paying a living wage.

In addition to the recommendations made to the management of SuperShuttle, we call upon the community to continue to support these drivers in their fight. Continue to

stand in solidarity as these workers strengthen the working conditions for all Coloradans."

The board each took a moment to share their final statements with the group. **Superintendent Patrick Demmer** began by speaking of the exploitive institution of sharecropping which replaced slavery in the south after the Emancipation Proclamation. "**SuperShuttle and the practices that they are employing highly mirror the concepts of sharecropping.** Sharecropping perpetrated many of the unfair, unethical aspects of slavery in a legal and highly immoral manner." Superintendent Demmer condemned the actions of SuperShuttle management and called those actions "reprehensible". He committed to bring this issue to the attention of the Greater Metro Denver Ministerial Alliance and to stand in solidarity with the drivers.

"I strongly condemn the actions, the attitude, and the very manner that SuperShuttle and its parent company are treating people of color."

— Superintendent Patrick Demmer

Rob Prince told the story of his immigrant roots, family members who faced anti-Semitism and discrimination after coming to America. He compared the actions of SuperShuttle's parent company to other French companies that treat workers well in Europe while violating their rights in America. Mr. Prince promised to spread the story of these drivers by publishing articles in national journals. "The silence," he said, "is a problem."

"One sees a pattern of European-based companies that come to the United States looking for cheap labor. They're looking to violate the very conditions that workers have been able to achieve in Europe."

— Rob Prince

“It’s always the right thing to stand in solidarity with people who are being exploited. Period. My faith calls me to stand always with folks who are being treated the way these workers are being treated.”

— Reverend Anne Dunlap

Reverend Anne Dunlap delivered another moving statement, urging the drivers to remind themselves that it will get better. “It is important, when we gather together in this way to hear the voices of those who are being exploited, that we stand together with you and that we struggle with you and beside you. That’s how we make it better.” Reverend Dunlap, recounted Biblical passage Isaiah 58, where the prophet tells the powerful that **good works and nice words mean nothing if their workers are exploited** and provides a vision of the “beloved community” where human dignity is protected. The Reverend committed to the SuperShuttle drivers struggle to achieve that beloved community in their own workplace.

Lisa Duran took a moment to thank the audience for coming. “We can’t build solidarity if there is no one to build it with.” Ms. Duran shared her thoughts on the revitalization of the labor movement by the immigrant community, reminding the drivers that their efforts are not without hope. “It is the most hopeful aspect of the labor movement today. **The Denver SuperShuttle drivers are adding a new chapter to the militancy of immigrant labor organizing that is going to make a difference for every single worker in the United States.**” Ms. Duran committed to connect her leaders at her organization, Rights for All People, with the SuperShuttle drivers to begin creating a space in that organization to share the issue with the community.

“This is all our struggle. Every time a worker’s rights are eroded, that’s my rights, your rights and all of our rights. Companies in this country are seeing how low they can pull down worker wages by doing things just like they’ve done at SuperShuttle.”

— Lisa Duran

Adams County Commissioner Chaz Tedesco drew on his lifelong experience as a union member to commend the drivers for continuing the fight in the face of obstacles and hardships. He asked everyone who was not a SuperShuttle driver to stand. “You are not alone!” he said, pointing to the drivers in attendance. The Commissioner committed to helping the drivers through the state Human Resources Department, making sure they get the assistance they need under the company’s wage cuts.

“You are not alone! We’re here.”

— Commissioner Chaz Tedesco

Representative Crisanta Duran recounted her experience at the Ludlow Monument where dozens of mineworkers and their families were killed fighting for their rights a hundred years ago. She reminded those in attendance of the century-long struggle for workers’ rights and the progress that’s been made by workers standing up. She urged the drivers to keep fighting and let them know that **they are on the right side of history of people over profits.** “One thing I would encourage is for you to not only recognize the fight in front of you, but recognize how this fight affects your family, your community and the future of this country... We truly need your voice now more than ever.” The Representative committed to reach out to regulatory agencies and her colleagues in the state house to get justice for the workers.

“Of the things I heard tonight that are very disturbing to me, are things like workers being called ‘monkeys’ on the job and workers being retaliated against for coming together to try and have a voice”

— Representative Crisanta Duran

Each of the members of the Workers' Rights Board was moved to pledge their personal and organizational support to the drivers.

Superintendent Patrick Demmer: “I want the workers to know that we’re standing by your side. I intend to bring this matter before the Greater Metro Denver Ministerial Alliance and we will support you in this unfair treatment.”

Rob Prince: “In terms of specifically how I want to contribute to this campaign, first of all I do want to continue in whatever ways I can... I will write, I’m a commentator in a couple of places that are national, it’ll be published. I will continue to work on this board. I have another idea I also want us to consider: to push either the city of Denver or the state legislature to hold hearings on labor.”

Reverend Anne Dunlap: “My commitment is to walking in solidarity with all of you. If you need me to be on a delegation to the airport, I’ll do it. Public statements, continuing to serve on this board, I’m happy to do all of it.”

Lisa Duran: “I want to commit to you. I work at Rights for All People and our leaders don’t know about this struggle. I ask you that we can please come with a delegation of our leaders to meet with you, hear about your struggle, and learn about how our organization can support you in your struggle.”

Commissioner Chaz Tedesco: “On my part, as an Adams County Commissioner, our Human Services Department has committed to partnering with the State. If there are services we can provide in this time of need when your wages have been slashed, we will have the appropriate people there to help you qualify and that speaks your language.”

Representative Crisanta Duran: “I support you in your effort to be able to organize. If there’s anything I can do at the state level, whether it’s following up with the PUC or the Department of Regulatory Agencies or the EEOC, I’d be more than happy to do that. Let me make it clear that there are many people in elected office that care very much about the struggle you’re going through. If there’s anything I can do, my door is always open.”





About the Workers' Rights Board Members

SUPERINTENDENT PATRICK DEMMER

Superintendent Demmer has served the church and community as a musician, pastor, and community activist for over 20 years. He currently serves as Vice President of Political Affairs for the Greater Metropolitan Denver Ministerial Alliance. He has been appointed to and presently serves on many boards in Colorado, including the Living Wage Advocacy Board, Colorado Consensus Complete Count Committee, Concerned about You Inc., Color of Justice, and the Matthew Center School of Excellence. He has many awards, including the Ambassador of Peace Distinguished Clergyman Award and the Northeastern District Pastor of the Year Award.

REVEREND ANNE DUNLAP

Reverend Dunlap is an ordained UCC minister and cultivating co-pastor of Chadash Community UCC in Aurora, Colorado. She is committed to the work of justice and liberation, working in freedom movement across race, gender and class lines for over 25 years. She has a particular passion for solidarity work with immigrant workers and indigenous communities. She is a founding member of the Colorado Interfaith Worker Justice Committee and helped launch the Denver Metro Area Clergy Immigration Network. She was named Outstanding Alumni in 2011 from the Iliff School of Theology where she serves as an adjunct professor.

REPRESENTATIVE CRISANTA DURAN

Representative Duran serves in the Colorado House of Representatives since 2010. As a legislator, she has served on the Judiciary, Finance, State Veterans & Military Affairs and Joint Council Committees. Rep. Duran is currently the Chair of

the Joint Budget Committee and the Appropriations Committee, which are charged with balancing the Colorado Budget every year. A native of Colorado, she is a longtime champion of working families and immigrant rights.

LISA DURAN

Ms. Duran has served since 2003 as the founding Executive Director of Rights for All People (RAP), an organizing project that bring the voices immigrants to the struggle for justice for all Colorado unions. She has also led the establishment and development of the Aurora Human Rights Center. Other current positions include serving as the faculty coach for the Center for Progressive Leadership and representing RAP nationally at National People's Action. She is a co-founder of the Colorado Immigrant Rights Coalition. She has received the Swanee Hunt Individual Leadership Award, the Caesar E Chavez Award from the Labor Council on Latin America Advancement, the Immigrant Liberty Award from the Colorado Chapter of the American Immigrant Lawyers Association, and the Ralph L. Card Awards from the Colorado ACLU.

ROB PRINCE

Rob Prince is a lecturer of international studies at the Josef Korbel School of International Studies at the University of Denver. For many years he has taught a course entitled "Labor and the Global Economy." Prince is a regular contributor and columnist for the Institute for Policy Studies' *Foreign Policy in Focus* and serves on the board of The Maghreb Center, which deals with economic and political development in North Africa. He is currently working on a biography of Farhat Hached, founder and organizer of the General Union of Tunisia Workers and an opponent of French colonialism in his country.

COMMISSIONER CHARLES "CHAZ" TEDESCO

Adams County Commissioner Charles Tedesco served honorably in the US Navy and worked as a master mechanic and member of the United Steelworkers Union for 23 years. He has been a union officer since 1996 and was elected president of the United Steelworkers in 2005. Commissioner Tedesco was elected to the Adams County Commission in November 2012 and currently serves as its chairman.



JOBS WITH JUSTICE

Colorado Jobs With Justice and the Colorado Workers' Rights Board

Jobs With Justice is an organization that brings together labor, community, students and faith voices to win improvements in workers lives and shape the public discourse on worker rights and the economy. We believe that all workers should have collective bargaining rights, employment security and a decent standard of living within an economy that works for everyone.

Workers' Rights Board



The **Workers' Rights Board** is a project of Jobs With Justice to unite communities, faith leaders, business leaders and elected officials who are concerned with issues impacting working people and the larger community.

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