

**STATE OF MICHIGAN  
EMPLOYMENT RELATIONS COMMISSION  
LABOR RELATIONS DIVISION**

In the Matter of:

AMERICAN FEDERATION OF STATE, COUNTY  
AND MUNICIPAL EMPLOYEES, COUNCIL 25 and  
LOCAL 1346,  
Respondent–Labor Organization,

Case No. CU03 E-024

-and-

TRINGA GOJACJ  
An Individual Charging Party

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APPEARANCES:

Miller Cohen, P. L. C. by Richard G. Mack, Jr., Esq., for the Labor Organization

Tringa Gojacj, In Pro Per

**DECISION AND ORDER**

On February 26, 2004, Administrative Law Judge Roy L. Roulhac issued his Decision and Recommended Order in the above matter finding that Respondent did not violate Section 10 of the Public Employment Relations Act, 1965 PA 379, as amended, and recommending that the Commission dismiss the charges and complaint.

The Decision and Recommended Order of the Administrative Law Judge was served on the interested parties in accord with Section 16 of the Act.

The parties have had an opportunity to review the Decision and Recommended Order for a period of at least 20 days from the date of service and no exceptions have been filed by any of the parties.

**ORDER**

Pursuant to Section 16 of the Act, the Commission adopts the recommended order of the Administrative Law Judge as its final order.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

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Nora Lynch, Commission Chairman

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Harry Bishop, Commission Member

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Maris Stella Swift, Commission Member

Dated: \_\_\_\_\_

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DECISION AND RECOMMENDED ORDER  
OF ADMINISTRATIVE LAW JUDGE ON  
MOTION FOR SUMMARY DISPOSITION

On May 5, 2003, Charging Party Tringa Gojrcaj, an employee of the Warren Consolidated School and a member of the American Federation of State, County and Municipal Employees, Council 25, Local 1346 (Respondent), filed an unfair labor practice charge alleging that Respondent failed to provide union representation during mediation to settle her lawsuit. On September 23, 2003, Respondent filed a Motion for Summary Disposition and for a Pre-hearing Conference. Respondent alleged that the charge, on its face, lacked merit and did not raise a colorable claim under the Public Employment Relations Act (PERA), MCL 423.201 *e. seq.*

After a telephone pre-hearing conference, Charging Party was provided an opportunity to amend her charge. In an amended charge filed on November 20, 2003, Charging Party claimed that the Respondent breached its duty to fairly represent her by filing a grievance against the seniority date that she was granted by her employer upon returning to work in August 2001. The charge reads:

Employer made an unconditional offer to return to work on June 6, 2001 without notifying my union. When I returned to work pursuant to the employer's offer, after receipt but before returning on August 1, 2001, I verbally made Linda Kocke aware that I was returning with full seniority and asked if she would meet me for coffee. She refused to do so. After

returning to work the union filed a grievance (8-20-01) concerning my return to work with full seniority. I feel that the union failed to represent me thereafter. I also feel that the union's conduct was in retaliation and bad faith due to the fact that I had filed a formal complaint against another union member (2-9-2002) and 1346 union officials. Union was very well aware of my return of employment in [sic] full seniority. My new seniority date is 8-1-01. Union filed 20 days later but Linda knew at least 2 to 3 weeks prior. Why was the grievance filed on 8-20-01.

On November 25, 2003, Respondent filed a Motion for Summary Disposition of Charging Party's amended charge claiming that the charge was untimely. I agree. Section 16(a) of PERA MCL 423.216(a) requires that an unfair labor practice charge be filed within six months of the date of the alleged violation. However, the amended charge was not filed until November 20, 2003, twenty months from August 2001, when she claimed that Respondent failed to represent her. The Commission has consistently held that the statute of limitations is jurisdictional and cannot be waived. *Walkerville Rural Community Schools*, 1994 MERC Lab Op 5, 82; *Washtenaw County*, 1992 MERC lab Op 471. I, therefore, recommend that the Commission issue the order set forth below:

RECOMMENDED ORDER

The unfair labor practice charge is dismissed.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

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Roy L. Roulhac  
Administrative Law Judge

Dated: \_\_\_\_\_