

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

In the Matter of:

OAKLAND COUNTY,  
Public Employer - Respondent,

Case No. C06 J-248

-and-

OAKLAND COUNTY PROSECUTOR'S  
INVESTIGATORS ASSOCIATION,  
Labor Organization - Charging Party.

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**APPEARANCES:**

Butzel Long, by Malcolm D. Brown, Esq., for the Public Employer

M. Catherine Farrell, Esq., for the Labor Organization

**DECISION AND ORDER**

On November 30, 2006, Administrative Law Judge Doyle O'Connor issued his Decision and Recommended Order in the above matter finding that Respondent has not engaged in and was not engaging in certain unfair labor practices, and recommending that the Commission dismiss the charges and complaint as being without merit.

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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Christine A. Dardarian, Commission Chair

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Nino E. Green, Commission Member

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Eugene Lumberg, Commission Member

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

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Charging Party-Labor Organization.

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APPEARANCES:

M. Catherine Farrell, for the Labor Organization

**DECISION AND RECOMMENDED ORDER  
OF ADMINISTRATIVE LAW JUDGE ON SUMMARY DISPOSITION**

Pursuant to Sections 10 and 16 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.210 and 423.216, this case was assigned for hearing to Doyle O'Connor, Administrative Law Judge (ALJ) for the Michigan Employment Relations Commission. Based upon the entire record, I make the following findings of fact, conclusions of law, and recommended order.

The Unfair Labor Practice Charge and Findings of Fact:

A charge was filed in this matter against Respondent Oakland County on October 18, 2006. That charge asserted, in two separate counts, that on June 5, 2006 an individual employee had been improperly demoted and that an appeal hearing had been denied. The relief sought was rescission of the demotion or alternatively a hearing before the County Personnel Appeal Board.

On October 23, 2006 I issued an order to show cause why the charge should not be dismissed, noting that:

In the Charge against your Employer you contend that the Employer has treated bargaining unit member Oliver Mathes improperly. PERA does not prohibit all types of discrimination or unfair treatment, nor is the Commission charged with interpreting a collective bargaining agreement to determine whether its provisions were followed. Absent a factually supported allegation that the Employer was motivated by union or other activity protected by Section 9 of PERA, the Commission is

foreclosed from making a judgment on the merits or fairness of the actions complained of by Charging Party in this matter. See e.g. *City of Detroit (Fire Department)*, 1988 MERC Lab Op 561, 563-564; *Detroit Board of Education*, 1987 MERC Lab Op 523, 524. Because there is no allegation suggesting that the Employer was motivated by antagonism toward activity protected by PERA, it appears that the charge against the Employer fails to state a claim upon which relief can be granted.

The order concluded by granting Charging Party fourteen days to respond, and by directing that:

To avoid dismissal of the Charge, any response to this Order to Show Cause must provide a factual basis to proceed that addresses the absence of any alleged discrimination in violation of PERA. Failure to file a timely response to this order will result in dismissal of the charge.

Instead of responding to the order, an attempt was made to file an amended charge, which proposed adding a new Respondent, the Oakland County Prosecutor, and which substituted a conclusory allegation that the Prosecutor had unilaterally changed unspecified terms and conditions of employment on June 5, 2006, which is the date of the previously complained of demotion.

Discussion and Conclusions of Law:

Charging Party declined to respond to the order to show cause. The original charge failed to state a claim under the Act and was therefore subject to dismissal pursuant to an order to show cause issued under R423.165. The proposed amended charge provides no factual support for the bare allegation that an unspecified change in conditions of employment occurred. A charge must contain more than a mere conclusory assertion of a violation of the Act. *Michigan State University*, 16 MPER 52 (2003) The proposed amended charge fails, as did the original charge, to meet the express requirement of R423.151 that the charge include a ‘clear and complete’ statement of facts which allege a violation of PERA, and it therefore fails to state a claim upon which relief can be granted.

RECOMMENDED ORDER

The unfair labor practice charge is dismissed in its entirety.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

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Doyle O’Connor  
Administrative Law Judge

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