

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

In the Matter of:

CHRYSLER GROUP LLC AND STELLANTIS GROUP,
Employers-Respondents,

MERC Case No. 21-G-1524-CE

-and-

CHIDI KINGSLEY ONWUZULIKE,
An Individual Charging Party.

APPEARANCES:

Chidi Kingsley Onwuzulike, appearing on his own behalf

DECISION AND ORDER

On August 9, 2021, Administrative Law Judge Travis Calderwood issued his Decision and Recommended Order¹ in the above matter finding that Respondents 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.

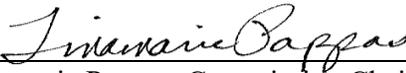
The Decision and Recommended Order of the Administrative Law Judge was served on the interested parties in accord with Section 16 of the Act.

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 either 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



Tinamarie Pappas, Commission Chair



William F. Young, Commission Member

Issued: October 6, 2021

¹ MOAHR Hearing Docket No. 21-016359

**STATE OF MICHIGAN
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
MICHIGAN EMPLOYMENT RELATIONS COMMISSION**

In the Matter of:

CHRYSLER GROUP LLC AND STELLANTIS GROUP,
Employers-Respondents,

-and-

CHIDI KINGSLEY ONWUZULIKE,
An Individual Charging Party.

Case No. 21-G-1524-CE
Docket No. 21-016359-MERC

**DECISION AND RECOMMENDED
OF ADMINISTRATIVE LAW JUDGE
ON ORDER TO SHOW CAUSE**

On July 26, 2021, Chidi Kingsley Onwuzulike filed the above unfair labor practice charge with the Michigan Employment Relations Commission (Commission) against the Chrysler Group LLC and the Stellantis Group (Respondents or Employers). The charge was assigned to Administrative Law Judge Travis Calderwood of the Michigan Office of Administrative Hearings and Rules, acting on behalf of the Commission.

Upon initial review of the Charge it appeared likely that dismissal of the charge without a hearing may be warranted. Rule 165 of the Commission's General Rules, R. 423.165, states that the Commission or an administrative law judge designated by the Commission may, on their own motion or on a motion by any party, order dismissal of a charge without a hearing for the grounds set out in that rule, including that the Commission lacks jurisdiction over a party.

Accordingly, on August 4, 2021, I directed Charging Party to respond in writing and show cause why his charges against the Employer and Union should not be dismissed without a hearing. More specifically, that order directed Charging Party to indicate and provide support for the Commission's exercise of jurisdiction under the Public Employment Relations Act (PERA), 1965 PA 379 as amended, or the Labor Relations and Mediation Act (LMA), 1939 PA 176 as amended. Addressing the possibility that Charging Party's allegations fell under the jurisdiction of the LMA, Charging Party was directed to establish that the National Labor Relations Board (NLRB) either lacked jurisdiction or that it had refused to exercise jurisdiction over the Employer. Charging Party filed his response that same day.

Discussion and Conclusions of Law:

Addressing the Commission's jurisdiction, I note that the predominant number of unfair labor practice charges considered by the Commission involve parties subject to PERA. Parties subject to PERA include, and are almost exclusively limited to, public sector employers, public sector employees, and labor organizations representing public sector employees. It is undisputed

that the Respondents in this matter, the Chrysler Group LLC and the Stellantis Group, are private employers and therefore not subject to PERA. As such, Charging Party is not a public employee as that term is defined by Section 1(e) of PERA and therefore not subject to the protections provided therein.

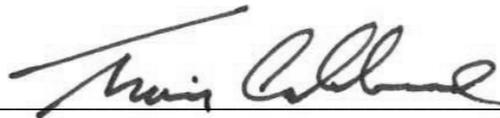
The above determination notwithstanding, the Commission does enjoy jurisdiction, albeit very limited, over some private employers under PERA's companion statute, the Labor Relations and Mediation Act (LMA), 1939 PA 176 as amended. However, within most cases involving private employers the National Labor Relations Board (NLRB) preempts the Commission's jurisdiction where a controversy is arguably subject to the National Labor Relations Act's (NLRA) provisions. *Int'l Longshoremen's Ass'n v Davis*, 476 US 380, (1986). Under the doctrine of federal preemption, the Commission has jurisdiction to resolve unfair labor practice disputes **only** when the NLRB lacks or refuses to exercise jurisdiction. See e.g. *AFSCME v Dep't of Mental Health*, 215 Mich App 1 (1996). Herein, the Charging Party has neither alleged nor given any indication that the NLRB lacks or has refused to exercise jurisdiction over the parties. As such, the Commission lacks jurisdiction to address his allegations under the LMA.

Accordingly, and for the reasons stated herein, I recommend that the Commission issue the following order dismissing the charges in its entirety.

RECOMMENDED ORDER

It is hereby ordered that the unfair labor practice charge be dismissed.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION



Travis Calderwood
Administrative Law Judge
Michigan Office of Administrative Hearings and Rules

Dated: August 9, 2021