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2. Case 06-MED-10-1255 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and City of Middleburg Heights

The Rival Employee Organization filed a Petition for Representation Election (Case 06-REP-09-0123) seeking to replace the Incumbent Employee Organization as the exclusive representative for a bargaining unit of the Employer's service employees. The Incumbent Employee Organization objected to the petition and requested an election. The Incumbent Employee Organization filed with SERB a Notice to Negotiate concerning negotiations for a successor collective bargaining agreement with the Employer. The Incumbent Employee Organization subsequently filed a disclaimer of interest in the representation-election case.

The Employer filed a Motion to Stay Negotiations until the representation question has been resolved. The Incumbent Employee Organization did not file a response.

Vice Chairman Gillmor moved that the Board grant the motion to stay the negotiations in Case 06-MED-10-1255 pending disposition of the Incumbent Employee Organization's disclaimer of interest in Case 06-REP-09-0123. Board Member Verich seconded the motion. Chairman Mayton called for discussion and the vote.

Vote: MAYTON:     Aye     GILLMOR:     Aye     VERICH:     Aye      
Affirmed     X     Denied \_\_\_\_\_

III. REPRESENTATION MATTERS AT ISSUE:

1. Case 06-REP-10-0138 Glass Molders, Pottery, Plastics & Allied Workers International Union and Columbiana County Treasurer
2. Case 06-REP-09-0134 Ohio Association of Public School Employees (OAPSE)/AFSCME Local 4, AFL-CIO, and Its Local 003 and Zanesville City School District Board of Education

The Employee Organizations filed Requests for Recognition seeking to represent certain employees of the Employers. No objections have been filed, and the Employers have complied with the posting requirements.

Board Member Verich moved that the Board certify the Employee Organizations as the exclusive representatives of all employees in the relevant bargaining units. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for discussion and the vote.

Vote: MAYTON:     Aye     GILLMOR:     Aye     VERICH:     Aye      
Affirmed     X     Denied \_\_\_\_\_



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8. Case 06-REP-11-0149 Cuyahoga County, Payroll Division and Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and Cuyahoga County Board of Commissioners

The Petitioner filed a Petition for Decertification Election seeking to decertify the Board-certified exclusive representative. The Incumbent Employee Organization filed a disclaimer of interest. The parties confirmed no contract exists.

Vice Chairman Gillmor moved that the Board grant the disclaimer of interest, revoke the Incumbent Employee Organization's certification, and dismiss the Petition for Decertification Election as moot. Board Member Verich seconded the motion. Chairman Mayton called for discussion and the vote.

Vote: MAYTON: Aye GILLMOR: Aye VERICH: Aye  
Affirmed X Denied \_\_\_\_\_

9. Cases 05-REP-11-0162 Fraternal Order of Police, Ohio Labor Council, Inc. and Ohio Patrolmen's Benevolent Association and Jefferson County Sheriff  
06-REP-06-0080

In Case 05-REP-11-0162, the Rival Employee Organization filed a Petition for Representation Election seeking to displace the Incumbent Employee Organization, which is the Board-certified exclusive representation of certain employees of Employer. The Employer responded by filing a Motion to Dismiss, maintaining the instant petition was untimely because the current collective bargaining agreement expired September 30, 2006.

In Case 06-REP-06-0080, the Rival Employee Organization filed a Petition for Representation Election seeking to represent the same unit of employees and requested that the showing of interest in support of Case 05-REP-11-0162 be transferred to Case 06-REP-06-0080. The Incumbent Employee Organization responded by filing a Motion to Dismiss, maintaining the second petition is barred by the execution of a collective bargaining agreement. In support of the motion, the Incumbent Employee Organization provided a copy of a Memorandum of Understanding executed May 11, 2006, regarding vacation, wages, longevity pay, and insurance coverage.

The Board received objections to the Motion to Dismiss in Case 06-REP-06-0080. The objections were from Corrections Sergeants, Lieutenants, and Captains requesting that the Board deny the Incumbent Employee Organization's Motion to Dismiss; the employees in question stated that they want to be represented by the Rival Employee Organization.

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The latest collective bargaining agreement expired September 30, 2006. Case 05-REP-11-0162 was filed November 1, 2005, and is untimely filed pursuant to Ohio Revised Code § 4117.07(C)(6).

The Rival Employee Organization seeks to represent Corrections Sergeants, Lieutenants, and Captains. The Board certified a unit of full-time Corrections Sergeants and Lieutenants pursuant to a Board-conducted election in Case 00-REP-06-0139. To date, the Board has not received a Petition for Amendment of Certification to add Corrections Captains.

Board Member Verich moved that the Board, in Case 05-REP-11-0162, grant the Employer's Motion to Dismiss and dismiss the petition pursuant to Ohio Revised Code § 4117.07(C)(6) as barred by contract; and in Case 06-REP-06-0080, direct an election pursuant to In re City of London, SERB 98-009 (4-30-98), in the bargaining unit as certified, at a date, time, and place to be determined by the Representation Section in consultation with the parties, and deny the Incumbent Employee Organization's Motion to Dismiss. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for the vote.

Vote: MAYTON:     Aye     GILLMOR:     Aye     VERICH:     Aye      
Affirmed     X     Denied \_\_\_\_\_

10. Case 06-REP-03-0045 Teamsters Local Union No. 413, affiliated with the International Brotherhood of Teamsters and Southwest Licking Local School District Board of Education

The Employee Organization filed a Petition for Representation Election seeking to represent certain employees of the Employer. The Employer filed objections, maintaining there are other employees who share a community of interest and should be included in the proposed bargaining unit. A conference call was conducted, and the case was mediated by the Representation Section. The parties' dispute remains.

Vice Chairman Gillmor moved that the Board direct the case to hearing to determine an appropriate bargaining unit and for all other relevant issues. Board Member Verich seconded the motion. Chairman Mayton called for discussion and the vote.

Vote: MAYTON:     Aye     GILLMOR:     Aye     VERICH:     Aye      
Affirmed     X     Denied \_\_\_\_\_

Chairman Mayton congratulated Labor Relations Specialist Tonya Jones on her academic achievement of receiving a Bachelor's degree. Executive Director Art Marziale also congratulated her for finishing a comprehensive training program at DAS relating to her EEO Officer responsibilities at SERB. She was commended for her hard work in these two achievements.

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IV. ADMINISTRATIVE LAW JUDGE RECOMMENDATIONS AT ISSUE:

1. Case 06-ULP-03-0104 SERB v. Cuyahoga Metropolitan Housing Authority
2. Case 06-ULP-03-0091 Kurt C. Eyman v. City of Euclid, Mayor Bill Cerenik, and Police Chief David Maine

Board Member Verich moved that the Board approve and adopt the settlement agreements, construe the settlement agreements as motions to withdraw and dismiss, grant the motions, dismiss the complaint, and dismiss with prejudice the unfair labor practice charges. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for discussion and the vote.

Vote: MAYTON: Aye GILLMOR: Aye VERICH: Aye  
Affirmed X Denied \_\_\_\_\_

V. UNFAIR LABOR PRACTICE CHARGE MATTERS AT ISSUE:

1. Case 06-ULP-08-0426 Thomas Koontz v. Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO, Chapter 8310

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(B)(6) by failing to fairly represent Charging Party when it failed to process Charging Party's grievance to the next level of the grievance procedure. Information gathered during the investigation revealed the events giving rise to the charge occurred more than 90 days before the filing of the charge with the Board. No mitigating circumstances existed that warrant equitable tolling of the statute of limitations.

Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice as untimely filed. Board Member Verich seconded the motion. Chairman Mayton called for discussion and the vote.

Vote: MAYTON: Aye GILLMOR: Aye VERICH: Aye  
Affirmed X Denied \_\_\_\_\_

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2. Case 06-ULP-08-0429 Jarrod Flack v. State of Ohio, Rehabilitation Services Commission

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (2), and (3) by reprimanding the Charging Party in retaliation for exercising guaranteed rights. Information gathered during the investigation revealed the Charging Party's reprimand was unrelated to his activities as a union steward. Since the Charging Party was not prevented from performing his union duties, a violation of Ohio Revised Code § 4117.11(A)(2) was not evident.

Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for discussion where it was noted that SERB's General Counsel and Assistant Executive Director, J. Russell Keith, was not involved in the investigation or review of this matter. Chairman Mayton called for the vote.

Vote: MAYTON: Aye GILLMOR: Aye VERICH: Aye  
Affirmed X Denied \_\_\_\_\_

3. Case 06-ULP-08-0431 Riverdale Education Association, OEA/NEA v. Riverdale Local School District Board of Education

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by reassigning the duties of the Athletic Director from a bargaining-unit position to a nonbargaining-unit position. Information gathered during the investigation reveals that the collective bargaining agreement between the parties includes a grievance procedure culminating in final and binding arbitration. A grievance regarding the alleged unilateral change has been filed and is proceeding through the grievance procedure. While interpreting contract provisions, the arbitrator will determine whether negotiations should have taken place regarding the Athletic Director's position and, if so, whether it should remain in the bargaining unit as a supplemental position. Contract interpretation and application appear to lie at the heart of both the unfair labor practice charge and grievance dispute.

Vice Chairman Gillmor moved that the Board defer the matter for resolution through the grievance-arbitration procedure and retain jurisdiction in accordance with *In re Upper Arlington Ed Assn*, SERB 92-010 (6-30-92). Board Member Verich seconded the motion. Chairman Mayton called for discussion and the vote.

Vote: MAYTON: Aye GILLMOR: Aye VERICH: Aye  
Affirmed X Denied \_\_\_\_\_

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4. Case 06-ULP-09-0445 Kenneth W. Cunningham v. Cuyahoga County Board of Commissioners

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(A)(1) by attempting to harass and intimidate the Charging Party for engaging in concerted and protected activity. Information gathered during the investigation revealed the Charged Party's actions were not an attempt to harass or intimidate the Charging Party. Due to the result of the complaint, the Charged Party investigated the matter and issued corrective counseling to the appropriate supervisor.

Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for discussion and the vote.

Vote: MAYTON:     Aye     GILLMOR:     Aye     VERICH:     Aye      
Affirmed     X     Denied \_\_\_\_\_

5. Cases 06-ULP-09-0446 Toledo Federation of Teachers, Local 250 v.  
06-ULP-09-0447 Toledo City School District Board of  
Education and Jan Kilbride

The unfair labor practice charges alleged the Charged Parties violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally adding one day to the negotiated calendar year and establishing the rate of pay without negotiating. Information gathered during the investigation revealed the matters are purely contractual and do not rise to the level of a violation of the statute.

Vice Chairman Gillmor moved that the Board dismiss the charges with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Parties. Board Member Verich seconded the motion. Chairman Mayton called for discussion and the vote.

Vote: MAYTON:     Aye     GILLMOR:     Aye     VERICH:     Aye      
Affirmed     X     Denied \_\_\_\_\_

6. Case 06-ULP-09-0452 Knox New Hope Education Association,  
OEA/NEA (Unit One) v. Knox County Board  
of Mental Retardation and Developmental  
Disabilities

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) by discriminating against Association President Jamie Day in retaliation for exercising guaranteed rights. Information gathered during the investigation revealed the Charged Party's actions of issuing corrective counseling may have been an attempt to interfere with, restrain, or coerce Ms. Day's capacity as Association President.

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Board Member Verich moved that the Board find probable cause to believe an unfair labor practice has been committed, authorize the issuance of a complaint, refer the matter to hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(A)(1), but not (3), by interfering with, restraining, or coercing Association President Jamie Day from engaging in guaranteed rights, and direct the parties to ULP mediation. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for discussion and the vote.

Vote: MAYTON:     Aye          GILLMOR:     Aye          VERICH:     Aye      
Affirmed     X                          Denied                     

- 7. Case 06-ULP-10-0482      Tanjanik L. Meredith v. Amalgamated Transit Union, Local 268
- 8. Case 06-ULP-10-0496      Willie E. Foster, Sr. v. Western Reserve Transit Authority
- 9. Case 06-ULP-10-0518      Willie E. Foster, Sr. v. Amalgamated Transit Union, Local 272

In Case 06-ULP-10-0482, the unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(B)(6) by failing to fairly represent Charging Party. In Case 06-ULP-10-0496, the unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (5), and (6) by interfering with Charging Party's guaranteed rights. In Case 06-ULP-10-0518, the unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(B)(2), (3), and (6) by interfering with Charging Party's right to file a grievance. Information gathered during the investigations revealed the events giving rise to the charges occurred more than 90 days before the filing of the charges with the Board. No mitigating circumstances existed that warrant equitable tolling of the statute of limitations.

Vice Chairman Gillmor moved that the Board dismiss the charges with prejudice as untimely filed. Board Member Verich seconded the motion. Chairman Mayton called for discussion and the vote.

Vote: MAYTON:     Aye          GILLMOR:     Aye          VERICH:     Aye      
Affirmed     X                          Denied

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10. Case 06-ULP-06-0262 Denton Harbaugh, et al. v. Ohio Council 8, American Federation of State, County and Municipal Employees, Local 101, AFL-CIO

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(B)(6) by failing to properly represent the bargaining-unit regarding a wage reduction, and by failing to take their grievance to the next step. Information gathered during the investigation revealed the Charged Party's actions were not arbitrary, discriminatory, or in bad faith when it decided not to pursue the Charging Parties' grievance to Step 3. The Charged Party appeared to be bound by the terms and conditions outlined in the 2003 settlement agreement. The Charged Party did not pursue the grievance based on the merits. The Charging Parties had constructive knowledge of the terms of the settlement agreement in January 2006, which occurred more than 90 days before the charge was filed with the Board. No mitigating circumstances existed that warrant equitable tolling of the statute of limitations.

Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party, and as untimely filed. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for discussion and the vote.

Vote: MAYTON: Aye GILLMOR: Aye VERICH: Aye  
Affirmed X Denied \_\_\_\_\_

11. Case 06-ULP-08-0439 Bloom-Carroll Education Association, OEA/NEA and Vickie Fanska v. Bloom-Carroll Local School District Board of Education

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) by retaliating against Vickie Fanska for the exercise of her guaranteed rights. Information gathered during the investigation revealed the Charging Parties have established a prima facie case of discrimination. The Charged Party provided a persuasive rebuttal to show that Ms. Fanska was not awarded the supplemental contract of Department Chairperson because she lacked the necessary skill set for the position. The Charged Party's decision was based on the skill set needed, and not anti-union animus. Neither Ms. Fanska's continuing teaching contract nor her salary and benefits were affected by the Charged Party's decision not to award her the supplemental contract.

Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Board Member Verich seconded the motion. Chairman Mayton called for discussion and the vote.

Vote: MAYTON: Aye GILLMOR: Aye VERICH: Aye  
Affirmed X Denied \_\_\_\_\_

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12. Case 06-ULP-09-0458 Ashtabula County Employees Association for the Mentally Handicapped, OEA/NEA v. Ashtabula County Board of Mental Retardation and Developmental Disabilities

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) by discriminating against Alice Cook for the exercise of her guaranteed rights. Information gathered during the investigation revealed the Charged Party did not interfere with, restrain, or coerce Alice Cook in the exercise of her guaranteed rights. Ms. Cook was still able to attend and participate at the LPDC meetings, file grievances, and have them heard by the Charged Party. The Charged Party appeared to have made special accommodations for Ms. Cook in order for her to be able to attend the meetings. The Charging Party failed to establish a prima facie case of discrimination. The Charging Party failed to provide sufficient information to show that Ms. Cook was involved in any protected activity, or how she was harmed by any of the Charged Party's actions.

Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for discussion and the vote.

Vote: MAYTON: Aye GILLMOR: Aye VERICH: Aye  
Affirmed X Denied \_\_\_\_\_

13. Case 06-ULP-09-0462 Jo Ellen Boyd v. Cambridge City School District Board of Education

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) by reassigning the Charging Party for the 2006-2007 school year after speaking out at a Board of Education meeting. Information gathered during the investigation revealed the Charging Party is a public employee, but she failed to provide information to show how she was harmed by the reassignment to the Middle School or that she was engaged in any protected activity at the time of her transfer. The Charging Party failed to establish a prima facie case of discrimination, and did not file a grievance over her reassignment.

Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Board Member Verich seconded the motion. Chairman Mayton called for discussion and the vote.

Vote: MAYTON: Aye GILLMOR: Aye VERICH: Aye  
Affirmed X Denied \_\_\_\_\_

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14. Case 06-ULP-09-0464 Joseph Madachy v. Fraternal Order of Police Lodge 18 and President Larry Germovsek

The unfair labor practice charge alleged the Charged Parties violated Ohio Revised Code § 4117.11(B)(2) and (6) by failing to take the Charging Party's April 21, 2006 grievance to arbitration. Information gathered during the investigation revealed the Charged Parties' actions were not arbitrary, discriminatory, or in bad faith when they did not move the Charging Party's grievance to arbitration. The Charged Parties moved the grievance through the steps up to and including the Charging Party's request for arbitration. The full membership of the union voted not to advance the Charging Party's grievance based on the merits. The Charging Party has failed to provide sufficient information to support the Ohio Revised Code § 4117.11(B)(2) allegation. Events and documents referenced in the charge and in the Charging Party's response have occurred prior to June 20, 2006, which was more than 90 days before the charge was filed with the Board. No mitigating circumstances exist that warrant equitable tolling of the statute of limitations.

Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Parties, and as untimely filed for events occurring prior to June 20, 2006. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for discussion and the vote.

Vote: MAYTON:     Aye     GILLMOR:     Aye     VERICH:     Aye      
Affirmed     X     Denied \_\_\_\_\_

15. Case 06-ULP-09-0468 Amalgamated Transit Authority, Local 268 v. Greater Cleveland Regional Transit Authority and Manager Randy Lovell

The unfair labor practice charge alleged the Charged Parties violated Ohio Revised Code § 4117.11(A)(6) by failing to timely process grievances for two of its bargaining-unit members. Information gathered during the investigation revealed the matter is purely a contractual issue between the parties. The Charged Parties have scheduled timely Step 1 meetings, but the Charging Party has cancelled them because the grievants were not scheduled to work at that time. No arguable statutory violation appears evident. The Charging Party failed to provide sufficient information to show a repeated pattern or practice by the Charged Parties to timely process grievances or arbitration requests.

Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Parties. Board Member Verich seconded the motion. Chairman Mayton called for discussion and the vote.

Vote: MAYTON:     Aye     GILLMOR:     Aye     VERICH:     Aye      
Affirmed     X     Denied \_\_\_\_\_

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16. Case 06-ULP-09-0470 Benjamin O. Odit v. Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(B)(1) by removing the Charging Party from a committee to which he had been elected by the membership. Information gathered during the investigation revealed the events giving rise to the charge occurred more than 90 days before the filing of the charge with the Board. No mitigating circumstances existed that warrant equitable tolling of the statute of limitations.

Board Member Verich moved that the Board dismiss the charge with prejudice as untimely filed. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for discussion and the vote.

Vote: MAYTON: Aye GILLMOR: Aye VERICH: Aye  
Affirmed X Denied \_\_\_\_\_

17. Case 06-ULP-09-0471 Fraternal Order of Police, Capital City Lodge No. 9 v. City of Columbus

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(A)(5) by failing to bargain an attempted change to the parties' negotiated agreement pertaining to subpoenas. Information gathered during the investigation revealed the matter is purely contractual with no evident statutory violation. The parties had different interpretations of Article 22.7(C) and CPD Directive 3.37. The Charging Party filed a grievance over the issue and requested it to be moved to arbitration. No date had been scheduled for the arbitration. The issue should be addressed through the parties' final and binding arbitration process.

Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Board Member Verich seconded the motion. Chairman Mayton called for discussion and the vote.

Vote: MAYTON: Aye GILLMOR: Aye VERICH: Aye  
Affirmed X Denied \_\_\_\_\_

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18. Case 06-ULP-09-0480 Brenda Sue Sorrell v. Ohio Council 8,  
American Federation of State, County and  
Municipal Employees, AFL-CIO

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(B)(1) by continuing to deduct dues after the Charging Party informed them it was a hardship. Information gathered during the investigation revealed the Charging Party failed to provide her request to have her dues stopped within the window time period allotted by Article 12.A of the collective bargaining agreement. The request should have been made in May 2006, and not August 2006, which would have been 30-45 days prior to the expiration of the agreement. The dues authorization card signed by the Charging Party is a binding agreement and contained the same provisions outlined in Article 12.

Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for discussion and the vote.

Vote: MAYTON:     Aye     GILLMOR:     Aye     VERICH:     Aye      
Affirmed     X     Denied \_\_\_\_\_

19. Case 06-ULP-09-0483 Cheryl Brock v. Ohio Civil Service  
Employees Association, AFSCME Local 11,  
AFL-CIO

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(B)(1), (4), and (6) by representing the Charging Party in bad faith during the grievance process. Information gathered during the investigation revealed the events giving rise to the charge occurred more than 90 days before the filing of the charge with the Board. No mitigating circumstances existed that warrant equitable tolling of the statute of limitations.

Vice Chairman Gillmor moved that the Board dismiss the charges with prejudice as untimely filed. Board Member Verich seconded the motion. Chairman Mayton called for discussion and the vote.

Vote: MAYTON:     Aye     GILLMOR:     Aye     VERICH:     Aye      
Affirmed     X     Denied \_\_\_\_\_

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20. Case 06-ULP-07-0339 Laura Kaminski v. Ohio Council 8,  
American Federation of State, County and  
Municipal Employees, Local 2916, AFL-CIO

The unfair labor practice charge alleged the Charged Parties violated Ohio Revised Code § 4117.11(B)(6) by not filing grievances on the Charging Party's behalf and refusing to provide information. Information gathered during the investigation revealed the Charged Party represented the Charging Party through the grievance process. The Charged Party, after reviewing documentation from the Employer, agreed that the Charging Party lacked the necessary qualifications for the positions based upon its interpretation of Article 23 of the collective bargaining agreement. The Charged Party determined that the grievance lacked merit to proceed to arbitration. The Charged Party's actions were not arbitrary, discriminatory, or in bad faith. The Charging Party had knowledge of the alleged violations prior to April 13, 2006, which was more than 90 days before the charge was filed with the Board. No mitigating circumstances existed that warrant equitable tolling of the statute of limitations.

Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Parties, and as untimely filed for alleged violations occurring prior to April 13, 2006. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for discussion and the vote.

Vote: MAYTON: Aye GILLMOR: Aye VERICH: Aye  
Affirmed X Denied \_\_\_\_\_

21. Case 06-ULP-07-0356 Katrina R. Ruffin v. Toledo Area Regional  
Transit Authority

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(A)(6) by failing to treat the Charging Party's grievance equally with that of another similarly situated employee. Information gathered during the investigation revealed the processing of one grievance as compared to another grievance processed in a different manner does not, in itself, rise to the level of a violation. The Charging Party has received discipline in the past related to the incident. The Charging Party failed to provide information showing the Charged Party repeatedly failed to process grievances.

Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Board Member Verich seconded the motion. Chairman Mayton called for discussion and the vote.

Vote: MAYTON: Aye GILLMOR: Aye VERICH: Aye  
Affirmed X Denied \_\_\_\_\_

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22. Case 06-ULP-07-0357 Katrina R. Ruffin v. Amalgamated Transit Union, Local 697

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(B)(6) by failing to represent the Charging Party when she was terminated in the same manner it represented another similarly situated employee's grievance. Information gathered during the investigation revealed the Charged Party's actions were not arbitrary, discriminatory, or in bad faith. No discriminatory motive or bad faith is evident. Each grievance, and how it is processed, depends upon its own set of facts. An arbitration hearing regarding the Charging Party's grievance is scheduled for January 9, 2007.

Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for discussion and the vote.

Vote: MAYTON:     Aye     GILLMOR:     Aye     VERICH:     Aye      
Affirmed     X     Denied \_\_\_\_\_

23. Case 06-ULP-07-0359 Cuyahoga County Commissioners-Payroll Division v. Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(B)(1) and (6) by failing to timely notify SERB that the employees had rejected the Fact-Finding report. Information gathered during the investigation revealed no fact-finding hearing took place. The Charged Party and the Employer engaged in mediation and reached a tentative agreement. The Fact Finder notified SERB that the parties had reached a settlement. What the bargaining-unit employees voted on was a tentative agreement, and the Charged Party is not required to notify SERB that a tentative agreement has been rejected.

Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Board Member Verich seconded the motion. Chairman Mayton called for discussion and the vote.

Vote: MAYTON:     Aye     GILLMOR:     Aye     VERICH:     Aye      
Affirmed     X     Denied \_\_\_\_\_



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Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Board Member Verich seconded the motion. Chairman Mayton called for discussion and the vote.

Vote: MAYTON:     Aye     GILLMOR:     Aye     VERICH:     Aye      
Affirmed     X     Denied \_\_\_\_\_

26. Case 06-ULP-08-0386 Association of Warrensville Heights Fire Fighters, Local 1591, IAFF v. City of Warrensville Heights and Fire Chief Stanley Martin

The unfair labor practice charge alleged the Charged Parties violated Ohio Revised Code § 4117.11(A)(5) by unilaterally changing the minimum staffing from seven fire fighters to six fire fighters. Information gathered during the investigation revealed the Charged Parties have the right to determine the adequacy of the work force. The Charged Parties did not change the number of fire fighters assigned to each shift. The Charged Parties only lowered the minimum where an off-duty fire fighter will be called in for overtime. Overtime was addressed in the collective bargaining agreement. The matter was contractual with no evident statutory issues.

Board Member Verich moved that the Board dismiss the charges with prejudice for lack of probable cause to believe that unfair labor practices have been committed by the Charged Parties. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for discussion and the vote.

Vote: MAYTON:     Aye     GILLMOR:     Aye     VERICH:     Aye      
Affirmed     X     Denied \_\_\_\_\_

27. Case 06-ULP-08-0392 George Roulhac v. Southwest Ohio Regional Transit Authority

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (4), (5), and (6) by failing to provide the Charging Party union representation and terminating his employment. Information gathered during the investigation revealed the events giving rise to the charge occurred more than 90 days before the filing of the charge with the Board. No mitigating circumstances existed that warrant equitable tolling of the statute of limitations.

Vice Chairman Gillmor moved that the Board dismiss the charges with prejudice as untimely filed. Board Member Verich seconded the motion. Chairman Mayton called for discussion and the vote.

Vote: MAYTON:     Aye     GILLMOR:     Aye     VERICH:     Aye      
Affirmed     X     Denied \_\_\_\_\_

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28. Case 06-ULP-08-0393 George Roulhac v. Amalgamated Transit Union, Local 627

The unfair labor practice charge alleged the Charged Parties violated Ohio Revised Code § 4117.11(B)(1) and (6) by failing to properly represent the Charging Party. Information gathered during the investigation revealed the Charged Party provided representation to the Charging Party at each level of the grievance procedure. The Charged Party's actions were not arbitrary, discriminatory, or in bad faith. The Charging Party had knowledge of the alleged violations at the hearing on January 18, 2006, which was more than 90 days before the charge was filed with the Board. No mitigating circumstances existed that warrant equitable tolling of the statute of limitations.

Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party, and as untimely filed. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for discussion and the vote.

Vote: MAYTON:     Aye     GILLMOR:     Aye     VERICH:     Aye      
Affirmed     X     Denied \_\_\_\_\_

29. Case 06-ULP-05-0198 Buckeye Central Education Association and Mark McCoy v. Buckeye Central Local School District Board of Education

30. Case 06-ULP-05-0210 Jesse Cooper v. Lucas County Commissioners and Administrator Michael Beazley

31. Case 06-ULP-06-0311 Edward C. Johnson, Jr. v. Shaker Heights City School District Board of Education, David Puffer, and Dr. Freeman

32. Case 06-ULP-08-0411 Tracy L. Stephens v. Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO, Chapter 2200

33. Case 06-ULP-08-0412 Tracy L. Stephens v. Ohio Veteran's Home

34. Case 06-ULP-05-0248 Chalet Dickinson-Jules v. Cincinnati City School District Board of Education

Vice Chairman Gillmor moved that the Board construe the Charging Party's requests as motions for reconsideration, and deny with prejudice all of the motions for reconsideration. Board Member Verich seconded the motion. Chairman Mayton called for discussion and the vote.

Vote: MAYTON:     Aye     GILLMOR:     Aye     VERICH:     Aye      
Affirmed     X     Denied \_\_\_\_\_



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45. Case 06-ULP-07-0347 Ohio Patrolmen's Benevolent Association v. City of Lorain and Chief of Police Celestino Rivera

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11. Information gathered during the investigation revealed the Charging Party failed to respond to the requests for information.

Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice because the Charging Party failed to pursue the matter. Board Member Verich seconded the motion. Chairman Mayton called for discussion and the vote.

Vote: MAYTON: Aye GILLMOR: Aye VERICH: Aye  
Affirmed X Denied \_\_\_\_\_

VI. TABLED MATTER:

1. Case 06-ULP-08-0430 Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Its Local 134 v. Lakewood City School District Board of Education

VII. ADMINISTRATIVE MATTERS:

1. Resolutions for Louis J. Manchise and G. Thomas Worley

Chairman Mayton mentioned that Louis J. Manchise will be retiring as Commissioner of the Federal Mediation and Conciliation Service (FMCS) the first of the year in 2007, and have a resolution to be presented to him upon his retirement. Board Member Verich moved that the Board adopt the following resolution and present it to Mr. Manchise upon his retirement. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for discussion and the vote.

Vote: MAYTON: Aye GILLMOR: Aye VERICH: Aye  
Affirmed X Denied \_\_\_\_\_

*RESOLUTION*

*Ohio State Employment Relations Board*

*Louis J. Manchise*

*WHEREAS, the State Employment Relations Board is honored to recognize Commissioner Louis J. Manchise of the Federal Mediation and Conciliation Service upon his retirement for his dedicated service to this agency since its creation in 1983, and*

*WHEREAS, it is fitting that Louis J. Manchise, who has served as a Commissioner of the Federal Mediation and Conciliation Service since 1973 and as Director of Mediation Services for the Mid-Western Region since 1999, be recognized and commended for the outstanding service he has rendered as a mediator in nurturing public sector labor relations in Ohio, therefore,*

*BE IT RESOLVED THAT: We, the members of the State Employment Relations Board, in adopting this resolution recognize and commend Commissioner Louis J. Manchise for his service to the citizens of Ohio and convey our sincere gratitude and best wishes on the occasion of his retirement.*

*WHEREUNTO we have set our hands and seal this Fourteenth Day of December, 2006.*

*Craig R. Mayton, J.D., Chairman  
Karen L. Gillmor, PhD., Vice Chairman  
Michael G. Verich, J.D., Member*

*Attest: Arthur J. Marziale, Jr, J.D., Executive Director*

Chairman Mayton also mentioned that Mediator G. Thomas Worley will be leaving SERB to become the new Chief of Staff for Ohio Secretary of State-Elect Jennifer Brunner. Vice Chairman Gillmor moved that the Board adopt the following resolution and present it to Mr. Worley upon his departure. Board Member Verich seconded the motion. Chairman Mayton called for discussion and the vote.

Vote: MAYTON:     Aye     GILLMOR:     Aye     VERICH:     Aye      
Affirmed     X     Denied

*RESOLUTION*

*Ohio State Employment Relations Board*

*G. Thomas Worley*

*WHEREAS, G. Thomas Worley has tendered his resignation in order to accept the position of Chief of Staff for Ohio Secretary of State-Elect Jennifer Brunner, and*

*WHEREAS, the State Employment Relations Board desires to recognize and thank Tom Worley for the truly exceptional service he has given to the people of Ohio and to this agency throughout his long tenure since his initial appointment as Administrator of the Bureau of Mediation on March 19, 1984, and*

*WHEREAS, his achievements have included most notably the development of administrative procedures in dispute settlement that have stood the agency in good stead for many years; his establishment of an international presence for SERB through his work with the American Bar Association in Bulgaria and with the United States Agency for International Development in obtaining a USAID grant for SERB to train six new mediators from Croatia; his leadership role in the Ohio Public Sector Labor-Management Health Care Benefits Committee; and his work with the Association of Labor Relations Agencies as board member, officer, and webmaster, and*

*WHEREAS, Tom Worley's unparalleled institutional and historical knowledge of SERB will be sorely missed.*

*NOW, THEREFORE, BE IT RESOLVED THAT: We, the members of the State Employment Relations Board, in adopting this resolution recognize and commend our longtime colleague and friend G. Thomas Worley for his outstanding service to the citizens of Ohio and convey our sincere gratitude and best wishes in his future endeavors.*

*WHEREUNTO we have set our hands and seal this Fourteenth Day of December, 2006.*

*Craig R. Mayton, J.D., Chairman  
Karen L. Gillmor, PhD., Vice Chairman  
Michael G. Verich, J.D., Member*

*Attest: Arthur J. Marziale, Jr, J.D., Executive Director*

It was briefly discussed that since Mr. Worley is the longest serving employee of SERB, the Board wished to provide Mr. Worley with a special farewell reception.

2. Proposed Board Meeting Dates for 2007

The Board discussed the proposed list of possible meeting dates for 2007. It was decided that the first meeting in 2007 will be January 4, 2007. General Counsel and Assistant Executive Director Russ Keith will post the meeting schedule for the first six months of 2007.

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3. Executive Session

Board Member Verich moved that the Board go into executive session, pursuant to Ohio Revised Code § 121.22(G)(1), to consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of public employees. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for the roll-call vote.

Roll-Call Vote: MAYTON: Aye GILLMOR: Aye VERICH: Aye  
Affirmed X Denied \_\_\_\_\_

Vice Chairman Gillmor moved that the Board exit from Executive Session. Board Member Verich seconded the motion. Chairman Mayton called for the roll-call vote.

Roll-Call Vote: MAYTON: Aye GILLMOR: Aye VERICH: Aye  
Affirmed X Denied \_\_\_\_\_

VIII. ADJOURNMENT

Board Member Verich moved that the Board adjourn the meeting. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for the vote.

Vote: MAYTON: Aye GILLMOR: Aye VERICH: Aye  
Affirmed X Denied \_\_\_\_\_

s/ Craig R. Mayton  
Craig R. Mayton, Chairman