



# When Is an Interlocutory Order Really an Appealable Final Order?

By Hearing Officer Carlos R. Lopez

The July 1, 2007 – September 30, 2007, edition of the PERC News included a front page article titled, "Court Remand Results in Mitigation by Split Decision." That article addressed the Commission's August 23, 2007, order regarding Julius G. Smith's appeal of his dismissal by the Department of Corrections (Agency). It contained a summary of the hearing officer's factual findings, his conclusion that cause existed to discipline Smith, and his recommendation that the dismissal be mitigated to a demotion and a sixty day suspension without pay. It indicated that the Commission rejected the hearing officer's mitigation recommendation, that Smith appealed the decision, and that the district court vacated the final order because the Commission erred by stating that marital strife and emotional turmoil never qualify as mitigating factors. On remand, the Commission in a split decision adopted the hearing officer's mitigation recommendation. The article ended by stating that the "Commission's latest order on the merits is not an appealable final order because the amount of back

pay remains to be determined." *Smith v. Department of Corrections*, 22 FCSR 213 (2007).

Upon Smith's request, a back pay case (BP-2007-014) was opened and a hearing officer appointed. Thereafter, the Agency advised the hearing officer that it would not be reinstating Smith because it intended to appeal the Commission's order. The hearing officer issued an order stating that reinstatement is a prerequisite to a back pay hearing because it establishes the end point of the Agency's back pay liability. The hearing officer stayed the back pay case and directed Smith to petition an appropriate circuit court to enforce the Commission's order. After the hearing officer denied Smith's request for reconsideration, the Agency filed an interlocutory appeal of the hearing officer's order with the Commission. The Commission denied the interlocutory appeal. Smith filed an enforcement petition in the Fourth Judicial Circuit (Case No. 2007-CA-011043).

On November 28, 2007, the Agency filed a petition for issuance of a

writ of mandamus with the First District Court of Appeal (Case No. 1D07-6043). Conceding that a back pay hearing was necessary in order to obtain an appealable final order, the Agency sought an order directing the Commission to conduct a back pay hearing notwithstanding that Smith had not been reinstated. The Agency reasoned that any additional back pay that might accrue if the court were to affirm the Commission's order reinstating Smith could be calculated at a subsequent hearing. On its own motion, the court treated the Agency's mandamus petition as a petition to review nonfinal administrative action.

Relying on the court's decision in *State of Florida, Department of Corrections v. Chesnut*, 847 So. 2d 575 (Fla. 1st DCA 2003), the Commission argued that its order would remain interlocutory until Smith's total back pay amount could be determined and such a determination required that Smith be reinstated. The Commission advised the court that it had requested a rehearing of the *Chesnut* decision, positing the

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scenario arising in the instant case, but that the court had denied the Commission's request. Thus, the Commission contended that the hearing officer's stay was consistent with the *Chesnut* decision. In his response, Smith supported the Agency's position.

On May 5, 2008, the court issued its opinion. The court determined that, notwithstanding that all the parties agreed that the Commission's August 23 order was nonfinal, this was not the case. In reaching its decision, the court distinguished three cases that had been cited in arguing that the Commission order was non-final.

In *Department of Corrections v. Saulter*, 751 So. 2d 163 (Fla. 1st DCA 2000), the decision stated in its entirety:

Having considered appellant's response to the court's show cause order, the appeal is dismissed for lack of jurisdiction. See *Mathis v. Florida Department of Corrections*, 726 So. 2d 389 (Fla. 1st DCA 1999) (stating that an order that determines entitlement to back-pay, but leaves open the amount due is interlocutory in nature). The dismissal is without prejudice to file a notice of appeal when a final order is rendered.

The decision in *Chesnut*, in its entirety, stated:

Upon consideration of the appellant's response to the Court's order of April 14, 2003, as well as the response filed by the Public Employees Relations Commission, the Court has

determined that the order is not a final appealable order. See *Department of Corrections v. Saulter*, 751 So. 2d 163 (Fla. 1st DCA 2000); see also *Mathis v. Department of Corrections*, 726 So. 2d 389 (Fla. 1st DCA 1999). Accordingly, the appeal is dismissed for lack of jurisdiction.

The court noted that the *Saulter* decision has been cited only twice – in a civil case and in *Chesnut*. The court further noted that the *Chesnut* decision has not been cited in any subsequent opinion. Finally, the court noted that these decisions contained no facts and, therefore, did not reflect why the court treated those orders as nonfinal, non-appealable orders. Thus, the court stated that relying "on these decisions for the conclusion that the August 23, 2007, PERC order was nonfinal is misplaced."

Regarding the language in *Mathis* that is cited in *Saulter* and *Chesnut*, the court noted that it is dicta appearing in a footnote. Furthermore, the jurisdiction of the court to render the initial decision in *Mathis* was not at issue and, although the court stated that the initial order was interlocutory, it did not state that the initial order was not an appealable order. Nevertheless, the court conceded that, "The reliance by all parties on *Mathis* for the conclusion that no review could be sought of the August 23, 2007, PERC order until a firm dollar figure for back pay was set by PERC was not, however, without some basis."

Because the court concluded that the Commission's August 23 order was a final order, it treated the Agency's petition as a notice of appeal and redesignated the case as an

appeal of a final order. The Agency was provided a schedule for preparing and transmitting the record and for service of the initial appeal. See *Department of Corrections v. Smith*, 33 Fla. L. Weekly D1232b (Fla. 1st DCA 2008).

Consistent with the *Smith* decision, the Commission has amended its procedures and now, once again, includes a notice of appeal rights on all orders disposing of the merits of a career service appeal, including those awarding back pay.

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## Farewell To Our Friend and Co-Worker

by Mary Ann Burns



It is with much sadness that we say our last goodbye to our friend Margie Parnell. Margie passed away on June 22, 2008, after a year-long battle with cancer. Almost everyone who has done any business with the Commission knew Margie, as she was usually the first person with whom you had contact. She handled all incoming documents for the Clerk's Office, and when she wasn't doing that, she stayed busy scheduling hearings. Margie had a great sense of humor but was extremely serious when it came down to getting the job done. She came to the Commission in 1994 under former Chairman Mallory Horne and quickly became part of the family. Actually, most of us can't remember when Margie wasn't here.

Margie was born in Lamont, Florida, and described herself as just a "simple country girl." She was definitely much more than that. She loved her family, fishing, riding in the country with her husband, Earl, and sitting on the porch of her home looking at the lake. She had two sons, a daughter, and three grandchildren and you could see her heart swell with pride when she spoke about them. And last but certainly not least, she had the strength and determination of a lion. She never gave up on anything, and she fought her biggest foe until her last breath with grace and dignity.

Margie always thought about others. Each time I visited she would ask about every person at the office, and I would have to report individually on each person. At the end of our visits she would always send me off with well wishes and messages for everybody. Goodbye, Ms. Margie, our sweet, kind, funny friend; we are all fine but we miss you.

### Veteran's Preference Cases

#### ***Murray v. City of Largo*, 34 FPER ¶ 68 (2008).**

The employer did not violate the veteran's preference law by failing to promote the employee because the applicant hired for the fire lieutenant position was more qualified than the employee.

#### ***Duley v. Department of Transportation*, Case No. AF-2008-002 (Relates to Case No. VP-2007-001) (June 2, 2008).**

The Commission denied exceptions to the hearing officer's limitation of an award of attorney's fees and costs to a prevailing veteran to \$10,000 pursuant to the statutory limit for such awards.

### Whistle-Blower Case

#### ***Blinn v. Department of Children and Families*, Case No. WB-2008-001 (June 18, 2008).**

The Commission dismissed a whistle-blower complaint because the complainant had not received a notice of termination of investigation by the Florida Commission on Human Resources prior to filing a whistle-blower complaint with the Commission.

## Career Service Cases

***Young v. Department of Children and Families, 23 FCSR 68 (2008).***

Appeal was dismissed because the employee was a probationary employee and because no final action had been taken.

***Weiss v. Department of Children and Families, 23 FCSR 69a (2008).***

Appeal had been stayed pending a hearing before the Division of Administrative Hearings in which the employee challenged her reclassification to the selected exempt service. The stay was lifted and the appeal was dismissed upon the employee's undisputed assertion that the issues in the career service appeal had been resolved.

***Reid v. Department of Juvenile Justice, 23 FCSR 69b (2008).***

Appeal had been stayed pending a hearing before the Division of Administrative Hearings in which the employee challenged his reclassification to the selected exempt service. The stay was lifted and the appeal was dismissed upon the parties' assertion that no further proceedings were necessary because the dispute had been resolved.

***Bryant v. Department of Corrections, 23 FCSR 70 (2008).***

The dismissal of a correctional probation specialist was affirmed. The employee was negligent because he failed to investigate the alleged violation of probation of a sex offender who reportedly had contact with minors at a mall. The employee was also negligent because he failed to complete a violation report within the required five days. Mitigation was unwarranted because the employee's twenty-four year employment record was offset by an extensive disciplinary record.

***Lucas v. Department of Environmental Protection, 23 FCSR 73 (2008).***

An engineering specialist II appealed his dismissal for alleged poor performance, insubordination, and violation of law or agency rules. The employee did not appear at the hearing notwithstanding that his counsel had provided the notice of hearing to him. The employee's counsel, who had not spoken to the employee in more than a week, was unable to locate him and moved for a continuance due to the employee's unexplained absence. Citing *Bush v. Department of Corrections, 8 FCSR ¶ 184 (1993)*, the hearing officer denied the motion because there was no assertion that the employee's absence was due to circumstances beyond his control. The employee's counsel then demanded that the agency present its case. The hearing officer concluded that the agency proved it had cause to discipline the employee for poor performance because he failed to meet assignment deadlines, arrived late for work and left early without obtaining approval from his supervisor, and appeared to sleep while at work. Neither party excepted to the recommended order, which the Commission affirmed.

***Paulk v. Department of Corrections, Case No. 23 FCSR 77a (2008).***

An appeal of a suspension was dismissed because it was undisputed that the agency had rescinded the suspension and that the employee had suffered no damages.

***Ford v. Department of Management Services, 23 FCSR 77b (2008).***

An appeal had been stayed pending a hearing before the Division of Administrative Hearings in which the employee challenged his reclassification to the selected exempt service. After the district court dismissed the employee's

challenge to his re-classification, the hearing officer lifted the stay and recommended that the appeal be dismissed for lack of jurisdiction. In the absence of any exceptions to the recommended order, the Commission dismissed the appeal.

***Werner v. Department of Corrections, 23 FCSR 78 (2008).***

The Commission agreed with the hearing officer's recommendation that the employee's appeal be dismissed because it has no jurisdiction to resolve a dispute over leave without pay.

***Wilson v. Department of Corrections, 23 FCSR 79 (2008).***

A correctional officer's ten-day suspension for sleeping on duty, negligence, and engaging in conduct contrary to the maintenance of proper security was affirmed. The employee excepted to the hearing officer's failure to credit his testimony and to the hearing officer's consideration of discipline received by the employee more than eighteen months ago. The employee also alleged that the hearing officer was unethical and biased in reaching his decision. In the absence of a transcript, the Commission dismissed all of the employee's exceptions, including the unsupported allegation that the hearing officer engaged in improper conduct.

***Lockett v. Department of Children and Families, 23 FCSR 82 (2008).***

A child protective investigator's dismissal for violating agency policies against accepting paid positions with subcontractors and dual employment without prior authorization, engaging in poor performance for failing to report to work without leave approval for three weeks, and knowingly entering commencement times for two assigned child abuse/neglect cases in order to mislead the agency

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regarding the times these case were commenced was affirmed.

***Thomas v. Department of Health, 23 FCSR 86 (2008).***

After the hearing officer issued an order recommending that the Commission accept the parties' settlement agreement, the employee filed an exception based on the lack of the agreement's finality. The agency subsequently filed a settlement agreement which included all pertinent signatures. Citing *Kulhari v. Department of Transportation*, 8 FCSR ¶ 273 (1993), the Commission denied the employee's exception and approved the agreement, stating that, "If the Comptroller declines to fund this settlement, either party shall have ten days from the date of notice from the Comptroller to reopen this appeal."

***Hill v. Department of Corrections, 23 FCSR 87b (2008); Pierce v. Department of Corrections, Case No. CS-2008-155 (June 24, 2008).***

Appeals filed more than fourteen days after receipt of the notices of discipline were dismissed because the appeals were untimely filed and no facts existed justifying the tolling of the statutory time limit for filing the appeals.

***Barnes v. Department of Corrections, 23 FCSR 89 (2008).***

An appeal was dismissed when the employee failed to appear at the hearing site within a reasonable time of the scheduled commencement of the hearing.

***Bixler v. Sixth Judicial Circuit, Guardian Ad Litem Program, 23 FCSR 90 (2008).***

An appeal of the layoff of an employee of the Sixth Judicial Circuit Guardian Ad Litem Office was dismissed because the Commission lacks jurisdiction to consider the appeal of an employee who did not hold permanent status in the state career service system and to decide whether that employee's layoff is lawful.

***Hernandez v. Department of Corrections, 23 FCSR 91 (2008).***

A correctional officer sergeant's dismissal for conduct unbecoming a public employee was affirmed when the employee did not dispute that he was arrested by the Palm Beach County Sheriff's Office for refusing to participate in a blood alcohol test, DUI, and resisting an officer without violence. Mitigation was not appropriate because the employee's conduct was serious, his short-term employment record was neutral, and he had not been treated in a disparate manner.

***Jones v. Department of Corrections, 23 FCSR 94 (2008).***

A correctional officer's dismissal for willfully violating rules when he left the confinement unit without being properly relieved and failing to exercise due care in the performance of a critical job responsibility when he initialed the housing log without completing the required security check was affirmed. Mitigation was not appropriate because the employee's conduct was serious, his employment history did not favor mitigation, and disparate treatment was not proven.

***Gobin v. Department of Children and Families, 23 FCSR 97 (2008).***

The appeal of a probationary employee was dismissed for lack of jurisdiction.

***Williams v. Department of Corrections, Case No. CS-2008-060 (June 16, 2008).***

A correctional officer sergeant's dismissal for making a false report to a 911 emergency operator, fabricating facts in an incident report, and lying under oath in an agency investigation was affirmed. Mitigation was not appropriate.

***Hall v. Department of Corrections, Case No. CS-2008-090 (June 16, 2008).***

A correctional officer's dismissal for slapping an inmate without provocation was affirmed. Mitigation was not appropriate.

***Robinson v. Department of Children and Families, Case No. CS-2008-088 (June 17, 2008).***

A licensed practical nurse filed an appeal of her dismissal, which had been implemented under the extraordinary procedure provision. The agency alleged that the employee engaged in misconduct/mistreatment by throwing juice on a patient and denying the incident when questioned. The hearing officer found that the employee did not engage in the conduct alleged and recommended that the appeal be sustained. Neither party filed exceptions. The Commission sustained the appeal and directed the agency to reinstate the employee with back pay and benefits, less lawful deductions, plus interest.

***Mitchell v. Department of Corrections, Case No. CS-2008-108 (June 17, 2008).***

A correctional officer sergeant's dismissal for applying unnecessary physical force to an inmate and pushing her against a wall was affirmed. Mitigation was not appropriate.

***Facey v. Agency for Health Care Administration, Case No. CS-2008-089 (June 23, 2008).***

A senior human services program specialist's dismissal was affirmed where, during the preapproval process for a pharmacy to become a Medicaid provider, the employee attempted to coerce the pharmacy owner to change her wholesale drug supplier, thereby creating the perception that the change was necessary in order to obtain final approval.



## Unfair Labor Practice Cases

***Henry v. University of South Florida Board of Trustees, 34 FPER ¶ 065 (2008).***

The Commission affirmed the General Counsel's summary dismissal of an amended charge alleging that the employer failed to discuss a grievance in good faith because the charge failed to allege that the employee sought to process the grievance to Step 3 when it was denied at Step 2. The applicable bargaining agreement placed the burden on the grievant to request arbitration if the grievance was not satisfactorily resolved at Step 2.

***Pinellas Lodge 43, Fraternal Order of Police v. Sheriff of Pinellas County, 34 FPER ¶ 073 (2008).***

The employer did not commit an unfair labor practice by changing the general orders regarding assignment of take-home vehicles and physical ability tests because changes were permitted under the parties' collective bargaining agreement and did not conflict with the agreement, and the employer provided the required notice prior to implementation of the changes. The employer was awarded attorney's fees and costs because the clear contractual language rendered litigation of the charge unreasonable.

***Federation of Public Employees, A Division of the National Federation of Public and Private Employees, AFL-CIO, v. City of Winter Haven, Case No. CA-2008-020 (Apr. 18, 2008).***

The Commission affirmed the General Counsel's summary dismissal of an amended charge alleging that the employer failed to arbitrate a grievance because the charge was untimely filed.

***International Association of Fire Fighters, AFL-CIO, Local 754 of Tampa, Florida v. City of Tampa, Case No. CA-2007-092 (Apr. 28, 2008).***

The employer committed an unfair labor practice by failing to pay merit/step increases to eligible

members of a bargaining unit of rank-and-file fire suppression personnel after the parties' bargaining contract expired.

***Martin County Education Association v. School District of Martin County, Case No. CA-2007-077 (Apr. 29, 2008).***

The employer committed an unfair labor practice by unilaterally changing the method by which it distributed a stipend to classroom teachers from checks to debit cards without notice to, or negotiating with, the union.

***McCall v. School District of Polk County, Florida, Case No. CA-2008-030 (May 27, 2008).***

The Commission affirmed the General Counsel's summary dismissal of an amended charge alleging that the employer failed to process the charging party's grievances because the charging party failed to allege that he was unable to process his grievances to Step 3. Further, the charging party failed to show that he even attempted to advance his grievances to step 3.

***Daniels v. Manatee Education Association, FEA, AFT, Case No. CB-2007-030 (May 30, 2008).***

The certified union did not commit an unfair labor practice by refusing to send a representative to an investigatory interview of a bargaining unit member and union member. The union had a dual representation policy that stated it would not represent a member who was already represented by a private attorney. The policy was known to the charging party who was represented by her own attorney at the interview. Disciplinary action taken against the charging party for not participating in the interview was not attributable to the union's failure to provide a representative. The union was not awarded fees and costs as the prevailing respondent because of the unique legal question and facts.

***School District of Polk County v. Polk County Education Association, Inc., Case No. SM-2008-015 (Related to Case No. CA-2008-046) (June 9, 2008).***

The Commission granted a stay of special master collective bargaining impasse proceedings due to an unfair labor practice charge that alleged an improper declaration of impasse because the impasse proceedings may be unnecessary if the charge is proven and additional bargaining is ordered as a remedy.

***Russell v. School District of Alachua County, Florida, Case No. CA-2008-005 (June 12, 2008).***

The employer did not commit an unfair labor practice when it terminated union dues deductions for an employee because the employee was not in the bargaining unit and because the unfair labor practice charge was untimely filed.

***Miami-Dade Water and Sewer Department Employees, Local 121 of the American Federation of State, County and Municipal Employees, AFL-CIO v. Miami-Dade County Board of County Commissioners, Case No. CA-2008-003 (June 13, 2008).***

The employer did not commit unfair labor practices when a private meeting between an employee and a supervisor took place without union representation for the employee. Although the meeting was held subsequent to an investigatory meeting at which the union was present concerning the same matter, the private meeting had been requested prior to the investigatory meeting, the employee did not request union representation, and an alleged threat to the employee concerning revealing the meeting to the union did not take place. Similarly, the supervisor did not unlawfully interfere with a subsequent investigation of the employee's charge of discrimination when he was present during an investigation meeting with a union representative

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present. Neither party was awarded attorney's fees and costs because the factual findings turned in part on credibility determinations.

***Raven v. School District of Manatee County, Florida, Case No. CA-2007-074 (June 16, 2008).***

The employer violated a non-union member's right to choose a private attorney as his representative at an investigatory interview that could reasonably result in disciplinary action

when the union that represented his bargaining unit would not represent the employee because of his non-membership in the union. Neither party was awarded attorney's fees or costs.

## Representation Cases

***City of Kissimmee v. Florida Police Benevolent Association, Inc., 34 FPER ¶ 63 (2008).***

Unit clarification petition seeking to clarify a bargaining unit of police officers and detectives to include the newly created classification of corporal was granted.

***Town of Surfside v. Florida State Lodge Fraternal Order of Police, Inc., 34 FPER ¶ 64 (2008).***

Unit clarification petition seeking to clarify a bargaining unit of patrolmen and captains to reflect the retitling of those classifications to police officer and assistant police chief was granted.

***In re Petition of Florida Police Benevolent Association to Amend Certification No. 1125, 34 FPER ¶ 66 (2008).***

Amendment to certification petition seeking to amend a certification by substituting petitioner as the certified bargaining representative for a unit of police officers, corporals, and sergeants was granted.

***Coastal Florida Police Benevolent Association, Inc. v. City of Port Orange, 34 FPER ¶ 67 (2008).***

Consent election agreement seeking to represent a supervisory bargaining unit of police lieutenants was approved.

***Black v. Hillsborough County Police Benevolent Association, Inc., d/b/a West central Florida Police Benevolent Association v. Sheriff of Hillsborough County, 34 FPER ¶ 69 (2008).***

Petition to revoke the certification of the incumbent union as the bargaining agent for a unit of sworn full-time employees was granted, and a secret ballot election was ordered.

***Teamsters, Chauffeurs and Helpers, Local 79 v. Hillsborough County Aviation Authority, 34 FPER ¶ 72 (2008).***

Unit clarification petition seeking to clarify a blue-collar bargaining unit to include the newly created classification of HVAC technician was granted.

***In Re Petition of the United Brotherhood of Carpenters and Joiners of America, To Amend Certification No. 103, Case No. AC-2008-006 (Apr. 23, 2008); In Re Petition of the United Brotherhood of Carpenters and Joiners of America, To Amend Certification No. 92, Case No. AC-2008-005 (Apr. 24, 2008); In Re Petition of the United Brotherhood of Carpenters and Joiners of America, To Amend Certification No. 1437, Case No. AC-2008-008 (Apr. 24, 2008); In Re Petition of the United Brotherhood of Carpenters and Joiners of America, To Amend Certification No. 309, Case No. AC-2008-009 (May 1, 2008);***

***In Re Petition of the United Brotherhood of Carpenters and Joiners of America, To Amend Certification No. 471, Case No. AC-2008-004 (May 1, 2008); In Re Petition of the United Brotherhood of Carpenters and Joiners of America, To Amend Certification No. 84, Case No. AC-2008-003 (May 1, 2008); In Re Petition of the United Brotherhood of Carpenters and Joiners of America, To Amend Certification No. 133, Case No. AC-2008-007 (May 5, 2008).***

Amendment to certification petitions seeking to amend certifications by substituting another union as the certified bargaining representative for bargaining units were denied because 1) petitioner was neither the current bargaining agent nor the one seeking to become the bargaining agent; 2) neither the petitioner nor the union seeking to become the certified bargaining agent were registered with the Commission; and 3) there was no evidence that bargaining unit members were given notice of the change, an opportunity to discuss the change, or a vote.

***Teamsters Local Union 385 v. City of Panama City, Case No. RC-2008-014 (Apr. 24, 2008).***

Representation-certification petition seeking to represent a bargaining unit of sworn law enforcement officers was dismissed for lack of jurisdiction because the

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Commission ceded its jurisdiction to the city's local commission for processing of any petition, charge, or proceeding involving the city's employees after the city adopted a local option ordinance pursuant to Section 447.603, Florida Statutes.

**Local 4638, Minneola Professional Firefighters, International Association of Fire Fighters v. City of Minneola, Case No. RA-2008-003 (Apr. 25, 2008).**

Representation-acknowledgment petition seeking to represent a bargaining unit of fire suppression personnel was granted.

**Black v. Hillsborough County Police Benevolent Association, Inc., d/b/a West Central Florida Police Benevolent Association v. Sheriff of Hillsborough County, Case No. EL-2008-011 (Relates to RD-2008-003) (Apr. 28, 2008).**

Motion to stay a decertification election pending the resolution of a related unfair labor practice was denied.

**In re Petition of Laborers' International Union of North America, Public Employees' Local 678, AFL-CIO, to Amend Certification 1376, Case No. AC-2008-010 (May 1, 2008).**

Amendment to certification petition seeking to amend a certification by substituting the petitioner as the certified bargaining representative for a wall-to-wall unit of rank-and-file nonprofessional employees was granted.

**International Association of Machinists and Aerospace Workers District Lodge 166 v. City of South Bay, Case No. RC-2008-004 (May 1, 2008).**

Representation-certification petition seeking to represent a bargaining unit of nonsupervisory, nonprofessional employees was granted, and a secret ballot election was ordered.

**Local 4575, Edgewater Professional Firefighters, International Association of Fire Fighters v. City of Edgewater, Case No. RC-2008-012 (May 12, 2008).**

Consent election agreement seeking to represent a bargaining unit of fire lieutenants and fire marshals was approved.

**Williams v. Teamsters Local Union 769 Affiliated with the International Brotherhood of Teamsters v. St. Lucie West Services District, Case No. RD-2008-006 (May 20, 2008).**

Petition seeking the revocation of a certification for a non-supervisory bargaining unit was dismissed because it was untimely filed prior to the statutory sixty-day period before the expiration of a collective bargaining agreement when a representation petition may be filed.

**Bush v. Teamsters Local Union 769 Affiliated with the International Brotherhood of Teamsters v. St. Lucie West Services District, Case No. RD-2008-007 (May 20, 2008).**

Petition seeking the revocation of a certification for a supervisory bargaining unit was dismissed because it was untimely filed prior to the statutory sixty-day period before the expiration of a collective bargaining agreement when a representation petition may be filed.

**Union of Escambia Education Staff Professionals, FEA, NEA, AFT, AFL-CIO v. School District of Escambia County, Florida, Case No. UC-2008-003 (May 28, 2008).**

Unit clarification petition seeking to clarify a bargaining unit of non-professional clerical and educational support personnel to include a new classification was granted where the position shared a community of interest and was not a professional employee.

**Southwest Florida Professional Fire Fighters & Paramedics, Local 1826 - International Association of Fire Fighters v. Fort Myers Shores Fire Protection and Rescue Service District, Case No. RA-2008-002 (May 29, 2008).**

Representation-acknowledgment

petition seeking to represent a bargaining unit of supervisory fire suppression personnel was granted.

**Midway Professional Fire Fighters, Florida, Local 4192 v. Midway Fire District, Case No. RA-2008-0042 (June 5, 2008).**

Representation-acknowledgment petition seeking to represent a bargaining unit of rank-and-file fire suppression personnel was granted.

**In re Petition of Plantation Lodge 42, Fraternal Order of Police to Amend Certification No. 544, Case No. AC-2008-011 (June 12, 2008).**

Amendment to certification petition seeking to amend a certification by substituting the petitioner as the certified bargaining representative for a non-supervisory unit of police officers was dismissed without prejudice to refile because the petitioner was not registered with the Commission as required by statute before a certification can be granted.

**Bush v. Teamsters Local Union 769 affiliated with the International Brotherhood of Teamsters v. St. Lucie West Services District, Case No. RD-2008-010 (June 18, 2008).**

Petition to revoke the certification of the incumbent union as the bargaining agent for a unit of non-professional supervisory employees was granted, and a secret ballot election was ordered.

**Williams v. Teamsters Local Union 769 affiliated with the International Brotherhood of Teamsters v. St. Lucie West Services District, Case No. RD-2008-010 (June 19, 2008).**

Petition to revoke the certification of the incumbent union as the bargaining agent for a unit of non-supervisory operational services employees was granted, and a secret ballot election was ordered.

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***International Brotherhood of Electrical Workers, Local Union 2358 v. JEA v. Northeast Florida Public Employees, Local 630, LIUNA, AFL-CIO, Case No. UC-2008-007 (June 19, 2008).***

Unit clarification petition seeking to remove a classification from one bargaining unit and place it into a second bargaining unit was dismissed because the classification has more community of interest with the first unit, and the classification, although retitled, has not substantially changed since it was included in the first unit by the Commission.

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## **Elections Verified and Certifications Issued or Revoked**

*Local 4638, Minneola Professional Firefighters, International Association of Firefighters v. City of Minneola, Case No. RA-2008-003; Certification 1663.*

*Florida State Lodge, Fraternal Order of Police, Inc. v. City of Pensacola, Case No. EL-2008-002; Election 03/25 – 04/15/08; Union won; Certification 1664.*

*Coastal Florida Police Benevolent Association, Inc. v. City of Atlantic Beach v. Florida State Lodge, Fraternal Order of Police, Inc., Case No. EL-2008-007; Election 4/9 – 4/30/08; PBA won; Certification 1665.*

*Florida Public Employees Council 79, American Federation of State, County and Municipal Employees, AFL-CIO v. City of Oakland Park, Case No. EL-2008-008; Election 4/15 – 5/6/08; Union won; Certification 1666.*

*Florida State Lodge, Fraternal Order of Police, Inc. v. Sheriff of Okeechobee County, Case No. EL-2008-009; Election 4/15 – 5/6/08; Union won; Certification 1667.*

*Coastal Florida Police Benevolent Association, Inc. v. City of Port Orange, Case No. EL-2008-010; Election 4/29 – 5/20/08; Union won; Certification 1668.*

*Southwest Florida Professional Fire Fighters and Paramedics, Local 1826, International Association of Firefighters v. Fort Myers Shores Fire Protection and Rescue Service District, Case No. RA-2008-002; Certification 1669.*

*Midway Professional Fire Fighters, Florida, Local 4192 v. Midway Fire District, Case No. RA-2008-004; Certification 1670.*

*Black v. Hillsborough County Police Benevolent Association, Inc., d/b/a West Central Florida Police Benevolent Association v. Sheriff of Hillsborough County, Case No. EL-2008-011; Election 5/20 – 5/21/08; Union lost; Certification 1472 revoked.*

*International Association of Machinists and Aerospace Workers District Lodge 166 v. City of South Bay, Case No. EL-2008-012; Election 5/22 – 6/12/08; Union won; Certification 1671.*

*Local 4575, Edgewater Professional Firefighters International Association of Fire Fighters v. City of Edgewater, Case No. EL-2008-013; Election 6/6 – 6/26/08; Certification 1672.*