



**Commissioner Jackson Departs;
 Commissioner Varn Appointed**

In April 2002, Commissioner Cassandra Jackson left the Commission after serving a four-year term and then some, having continued to serve after the expiration of her original term pending the Governor’s appointment of her successor. Commissioner Jackson has accepted a position providing legal counsel on labor matters to the Department of Management Services. All of the staff of PERC join in thanking Commissioner Jackson for her service to the Commission and wishing her success in her new position.

As Commissioner Jackson departed, PERC welcomed Jessica E. Varn to the Commission. In addition to her legal expertise, Commissioner Varn brings to the Commission facility as a wordsmith which will enhance the Commission’s opinions. In the following article, Commissioner Varn reviews her path to the PERC:

After receiving my bachelor’s degree from The University of Puget Sound, I graduated from Florida State University College of Law in 1995, and started working for a private firm in Tallahassee. I handled trial and appellate workers’ compensation cases. In 1997 I began clerking for Judge Anne C. Booth at the First District Court of Appeal. In the Fall of 1999 I joined the legal writing faculty at Florida State University College of Law. I taught a first-year course, Legal Research and Writing I and II, and also taught an upperclass course, Spanish for Lawyers. While working for the law school I was also of counsel with a local firm, where I practiced only appellate law. I was appointed by Governor Bush to the Second Circuit Judicial Nominating Commission in July 2000, and was elected Vice-Chair of the Commission in July 2001. Governor Bush then appointed me to serve PERC in March 2002.

Relocation of PERC

The Commission will relocate its offices and staff to new quarters in mid to late May 2002. The new location will be in the Capital Circle Office Center in Tallahassee. The new address will be:

Public Employees Relations Commission
 Suite 125
 4050 Esplanade Way
 Tallahassee, Florida 32399-0950

It is anticipated that the Commission’s telephone and facsimile numbers will remain the same. Until the move is completed, the Commission will continue to function at its present address. We hope to make the transition as seamless as possible and appreciate your patience and support during this passage.

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Practice Pointers: Witnesses in Career Service Cases

Parties to a career service appeal are required by the Notice of Hearing and Prehearing Order to identify any witnesses to be called at hearing, except rebuttal witnesses, at least twelve days prior to hearing. The Commission's Prehearing Statement forms provide spaces to both identify witnesses and to request any needed subpoenas. Subpoenas may also be secured through a separate written request to the Commission's clerk. Subpoenas duces tecum are also available to require the witness to appear with documents or other material.

It is the responsibility of the party requesting a subpoena to ensure that the subpoena is completed and served on the witness by personal delivery or certified mail. Service can be made by any process server, a law enforcement officer, or any other person who is not a party to the case who is at least eighteen years of age or older.

In some cases, the hearing officer may issue an additional prehearing order requiring the parties to provide a brief statement of the relevant facts about which they expect each of their witnesses to testify. This information is helpful in case management and avoidance of irrelevant or cumulative testimony. Therefore, in responding to such an order it is most helpful if the descriptions of anticipated testimony are as precise as possible. A response that advises generally that six witnesses are expected to testify to "the facts of the case" or merely states the relative supervisory roles of proposed witnesses ("direct supervisor," "second level supervisor") is not useful in determining whether witnesses will be called unnecessarily. A more useful statement would specify the facts of which each witness has personal knowledge or what part of the incident each witness observed.

A party may elect to have a witness testify by telephone. The party calling a witness to testify by telephone is responsible for ensuring that a notary public will be present with the witness to verify the witness' identity and to administer the witness oath.

Any witness who fears or who has experienced retaliation in the workplace as a result of testifying in a career service proceeding should contact the Commission's Appeals Coordinator, June Farrell, at (850) 488-8641, ext. 126, so that steps may be taken to protect the witness. The avenue for redress of retaliation or threat of retaliation for participating in a career service proceeding is the filing of an unfair labor practice charge with the Commission, through the procedure provided in Section 447.503, Florida Statutes, alleging that the agency acted unlawfully under Section 447.501.

Staff Changes

Deputy Clerk II Lori-Ann Schifter resigned her position with the Commission in March. In addition to other word-processing duties for the Commission's legal staff, Lori-Ann was the designer and word-processor for the PERC News. Her valuable services will be greatly missed, but we wish her well in her new career as a revenue analyst in the Financial Planning Office of the Department of Transportation.

Mary D'Souza, a Deputy Clerk II currently assigned to the Commission Clerk's Office, will transfer into the position vacated by Lori-Ann's departure. Mary provided word-processing support for the legal staff in a prior position during her long tenure with the Commission, and the legal staff looks forward to more of her excellent services. Responsibility for the design and production of the PERC News has been assumed by Deputy Clerk II Barbara Kirkland, another of the long-time administrative employees with which the Commission is blessed.

PERC NEWS

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Constitutionality of Bargaining Statute Challenged

On March 6, 2002, the United Teachers of Dade, the Dade County School Administrators Association, and the Dade County School Maintenance Employee Committee (Plaintiffs) filed civil action 1001-CA-000621 in the Second Judicial Circuit, Leon County Circuit Court, against the Commission and the School Board of Miami-Dade County (School Board), challenging the constitutionality of Section 447.4095, Florida Statutes (2001). Section 447.4095 allows a collective bargaining agreement to be modified if the public employer has a "financial urgency." The statute allows for a period of collective bargaining of up to fourteen days, after which an impasse may be declared. Following the declaration of impasse, the parties are to proceed under the impasse procedures of Section 447.403, Florida Statutes (2001). The statute also permits the filing of an unfair labor practice charge with the Commission after the expiration of the fourteen-day negotiations period.

The history of the current lawsuit began with the reduction in state legislative funds based on anticipated shortfalls addressed in last year's special legislative session. This caused the Miami-Dade School Board to employ Section 447.4095 to reopen the collective bargaining agreement. After declaring impasse, the School Board sought the appointment of a special master by the

Commission to hold a hearing and recommend a resolution of the impasse. The Plaintiff Unions filed suit and sought the circuit court to restrain the appointment of the special master and implementation of the impasse procedure on the ground that Section 447.4095 is facially unconstitutional as violative of Article I, Sections 6 and 10, of the Florida Constitution, which prohibit the impairment of contracts, including collective bargaining agreements.

Both the School Board and the Commission moved to dismiss the circuit court action. Among the bases for dismissal were the arguments that the statute is not facially unconstitutional and that the Commission, pursuant to the criteria established in Chiles v. United Faculty of Florida, 615 So. 2d 671 (Fla. 1993), could interpret the statute in a constitutional manner. Therefore, the defendants contend that the case was properly addressed by the Commission rather than the circuit court. The Commission and the School Board argued that the legislature had apparently envisioned a Commission review of whether a "financial urgency" actually exist through the unfair labor practice procedures. The Plaintiffs have not filed unfair labor practice charges with the Commission.

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Out-of-State Veterans' Rights

In Yount v. Lee County, Case No. VP-2001-009 (Fla. PERC Feb. 22, 2002), the Commission ruled that an out-of-state veteran who obtains public employment in Florida gets to "bank" his right to a preference and then assert that right the next time he applies for public employment. Relying upon the legal rationale established in an earlier veteran's preference appeal, the Commission reiterated, within the unique facts of this case, that a veteran must be entitled to assert a preference at the time he obtains public employment in order for it to expire upon his obtaining the position sought. Since Yount, who was an Alabama resident when he applied for a state job, was not eligible to assert his right to an employment preference, that preference did not expire when Yount was hired.

The Commission recognized that its ruling runs contrary to the intent of the statute to provide a veteran with only one opportunity to gain regular public employment, and that it appears to give non-resident veterans greater rights than resident veterans whose entitlement to a preference would have been extinguished after applying for and securing public employment, regardless of whether they asserted the preference in their application. However, the Commission was compelled by the plain meaning of the statutory provision pertaining to expiration of a veteran's employment preference, to give it an interpretation that preserves a successful out-of-state applicant's veteran's employment preference for use in his or her next application for a public sector position. The Commission stated that it leaves the correction of this apparent anomaly to the legislature.

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Career Service Cases

Losch v. Department of Juvenile Justice, 17 FCSR 1 (2002).

Commission declined to consider constitutional challenge to legislative elimination of mitigation of authority. Suspension of employee for failing to follow instructions in documenting her reports.

Williams v. Department of Health, 17 FCSR 4 (2002).

Employee's dismissal due to her inability to work after a car accident affirmed.

Balongag-McGredie v. Department of Corrections, 17 FCSR 5 (2002).

Request to reopen case to allow employee to withdraw from settlement denied. Commission noted that since adoption of the Uniform Rules of Procedure it lacks the authority to reconsider a case after issuance of the final order.

Smith v. Department of Children and Families, 17 FCSR 6 (2002).

Employee's dismissal for misconduct related to an attempted battery on an off-duty police officer affirmed.

Blake v. Department of Corrections, 17 FCSR 8 (2002).

Employee's dismissal for sleeping at work affirmed. Correctional

officer's 18-year record did not justify a lesser discipline in light of prior incidents of misconduct.

Peagler v. Department of Children and Families, 17 FCSR 11 (2002).

Where employee was suspended, suspension was rescinded, and employee was later dismissed for the same misconduct along with other charges, Commission held the prohibition against double jeopardy precluded the second discipline for the same misconduct. Because the additional charges were not proven, the employee was ordered reinstated.

Theard v. Department of Children and Families, 17 FCSR 16 (2002).

Dismissal for continued substandard work affirmed. Employee's allegation of a conspiracy against him denied.

Hale v. Department of Children and Families, 17 FCSR 22 (2002).

Dismissal for conduct unbecoming a public employee affirmed where employee was arrested off-duty for child abuse, pled guilty, adjudication of guilt was withheld, employee was put on probation, and the arrest was publicized in local newspaper.

Merriex v. Department of Children and Families, 17 FCSR 25 (2002); Williams v. Department of Children and Families, 17 FCSR 43 (2002).

Cases were closed when employees who had been awarded back pay failed to file computation of back pay statements.

Bello v. Department of Revenue, 17 FCSR 26 (2002).

Dismissal of employee for absence without authorized leave, insubordination, and related offenses affirmed. Employee worked from his home but failed to comply with telecommuting contract.

Hunter v. Department of Transportation, 17 FCSR 32 (2002).

Dismissal of employee for attempted theft of a vehicle starter affirmed.

Ates, et al v. Department of Corrections, 17 FCSR 35 (2002).

Dismissal of five correctional officers for participation in or failing to report use of force on an inmate affirmed.

Mitchell v. Department of Corrections, 17 FCSR 42 (2002).

Appeal dismissed because employee filed earlier career service grievance over the same issue, and her appeal was untimely.

Gay v. Department of Transportation, 17 FCSR 43 (2002).

Appeal dismissed because employee had not completed probation at time of demotion.

Bennett v. Department of Children and Families, 17 FCSR 45 (2002).

Premature appeal filed before final agency action is dismissed.

***Bennett v. Florida School for the Deaf and Blind*, Case No. CS-2001-368 (Feb. 1, 2002).**

Dismissal for conduct unbecoming a public employee affirmed due to vulgar, threatening language and physical intimidation towards co-worker.

***Wilds v. Department of Juvenile Justice*, Case No. CS-2001-428 (Feb. 4, 2002).**

Lay-off appeal dismissed. Commission determined that it did not have jurisdiction to hear allegation that layoff was a subterfuge to get rid of employee.

***Broussard v. Department of Corrections*, Case No. CS-2001-387 (Feb. 13, 2002).**

Correctional officer dismissed for improper dealings with an inmate. Only part of the charge was proven and the dismissal was reduced to a suspension.

***Howard v. Department of Children and Families*, Case No. CS-2001-400 (Feb. 20, 2002).**

Employee's dismissal for theft affirmed.

***Abbe v. Department of Transportation*, Case No. CS-2002-006 (Feb. 20, 2002).**

Employee's suspension for using offensive language affirmed. Employee sent e-mail to supervisor concerning his objections to co-workers speaking Spanish in the workplace and made remarks about replacing the United States flag with the Cuban flag. Commission concluded that the employee's intent or lack of intent to insult was not determinative.

***Henderson v. Department of Children and Families*, Case No. CS-2001-345 (Feb. 25, 2002).**

Employee filed a late objection to the recommended order after issuance of the final order. Commission treated it as a motion to reconsider the final order and denied it. Final orders will be reconsidered only to correct clerical errors arising from mistake or inadvertence or where egregious circumstances warrant reconsideration to allow a belated appeal. Employee's dismissal for a variety of rule violations affirmed.

***Alston v. Department of Juvenile Justice*, Case No. CS-2001-420 (Feb. 25, 2002).**

Probation officer's suspension for lying in court affirmed. Commission reiterated that an objection to a telephone hearing must be made to the hearing officer and denied exception to a telephone hearing because no objection had been raised earlier. Finally, Commission declined to consider an exception to an oral ruling made by the hearing officer at the hearing because the employee failed to provide a transcript of the proceeding. Employee's claim that her false testimony was "absolutely privileged" because it occurred during a juvenile court proceeding was rejected.

***Wright v. Department of Agriculture and Consumer Services*, Case No. CS-2002-002 (Feb. 25, 2002).**

Employee's dismissal for sleeping at work, negligence, and other offenses affirmed.

***Holton v. Agency for Workforce Innovation*, Case No. CS-2002-005 (Mar. 3, 2002).**

Employee's dismissal for sexual harassment, unbecoming conduct, and use of offensive language affirmed; however, the agency's motion to add a new charge was denied. Commission held that even one egregious incident of sexual touching will sustain discipline.

***Zensen v. Department of Corrections*, Case No. CS-2002-019 (Mar. 4, 2002).**

Appeal of employee who failed to appear at the hearing dismissed.

***Larnc v. Department of Corrections*, Case No. CS-2001-418 (Mar. 8, 2002).**

Dismissal for negligence and other offenses mitigated to a 60-day suspension. Defense of excessive workload rejected; however, since the agency allowed employee to continue working for over a year after the incidents, and she improved her work to satisfactory and productive, appeal was partially sustained.

***Margulio v. Department of Children and Families*, Case No. CS-2002-016 (Mar. 11, 2002).**

Dismissal for submitting a false job application affirmed where employee omitted listing his prior criminal convictions and prison sentence.

***Domenech v. Department of Children and Families*, Case No. CS-2002-058 (Mar. 12, 2002).**

Premature appeal dismissed.

(Continued from page 5)

Dixon v. Department of Children and Families, Case No. CS-2001-429 (Mar. 13, 2002).

Ten-day suspension reduced to five days because that was the maximum punishment allowed by the employer's discipline rules. Otherwise, discipline for employee's violation of the call-in policy for sick leave affirmed. Commission rejected arguments that discipline was in retaliation for EEOC complaint and that docking employee's pay for absence without leave and suspending him without pay violated ban against double punishment.

Davis v. Department of Children and Families, Case No. CS-2002-061 (Mar. 13, 2002).

Case dismissed as previously filed.

Riveron v. Department of Children and Families, Case No. CS-2002-015 (Mar. 19, 2002).

Dismissal of employee who told angry, profane, and rude client to "get your ass out of the lobby" affirmed despite provocation from client.

Koon v. Department of Children and Families, Case No. CS-2001-417 (Mar. 21, 2002).

Employee's dismissal for conduct unbecoming a public employee upheld. Commission declined to reopen record to admit criminal court verdict of not guilty because of the differences in the burdens of proof and other issues in the different forums. Employee struck her

aunt, who was over sixty-five years of

age, during a off-duty domestic dispute. A public employee may be dismissed for conduct that constitutes a crime even in the absence of a criminal conviction.

Hayes v. Department of Juvenile Justice, Case No. CS-2002-027 (Mar. 26, 2002).

Lay-off appeal dismissed. Commission concludes that it does not have jurisdiction to consider allegation that employee was selected for

layoff in retaliation



for prior complaints about racism.

Professional Tradesmen Union v. Duval County School District v. Florida Public Employees Council 79, AFSCME, Case No. AF-2001-018 (Feb. 6, 2002).

AFSCME was awarded appellate attorney's fees plus interest at the lawful rate.

Professional Firefighters of Tallahassee, Local 2339, IAFF v. City of Tallahassee, Case No. CA-2001-029 (Feb. 7, 2002).

Union filed an unfair labor practice charge alleging that the city refused to process to arbitration a fire lieutenant's grievance which alleged that he was unlawfully denied a promotion to captain in violation of

contract articles relating to discrimination and promotion procedures.

Union also alleged that the city's refusal to arbitrate the arbitrability of the alleged contractual violations was an unfair labor practice. Commission concluded that the city's failure to proceed to arbitration was not an unfair labor practice because union did not fulfill the contractual requirements for it to request arbitration on the arbitrability issue. Commission stated, however, that it believed the union could still make a request for arbitration under the contract to allow an arbitrator to decide arbitrability and timeliness issues.

Florida Public Employees Council 79, AFSCME, v. State of Florida, John Ellis "Jeb" Bush as Governor, Case No. CA-2001-042 (Feb. 13, 2002).

In August 2001, AFSCME filed an unfair labor practice charge against the state alleging that it violated collective bargaining laws by implementing the recent "Service First" legislation. At that time, General Counsel issued a stay of the proceeding based upon a circuit court action initiated by AFSCME challenging the constitutionality of the Service First legislation. AFSCME filed a motion requesting that Commission vacate its stay based upon the circuit court's dismissal of two counts of the complaint. Commission concluded that the stay remained viable because the remaining counts of the circuit court complaint contained AFSCME's request that the state action, via legislation and rule, which is the sub-

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ject of the present unfair labor practice charge be declared unconstitutional.

Federation of Public Employees, A Division of the National Federation of Public and Private Employees, AFL-CIO v. Florida Department of Lottery, Case No. CA-2001-070 (Feb. 25, 2002).

Commission denied the lottery's request to overrule the hearing officer's decision to deny its motion to defer the case to arbitration. Commission determined that, assuming it could properly consider an interlocutory appeal of a hearing officer's refusal to grant the lottery's motion, under criteria previously applied when considering motions to defer to arbitration, the lottery did not show that the hearing officer improperly denied the motion.

Professional Association of City Employees, Inc. v. City of Jacksonville, Case Nos. CA-2001-077, CA-2001-078 (Feb. 25, 2002).

Commission affirmed General Counsel's dismissal of unfair labor practice charges which alleged that the city unilaterally revoked the union's right to post information on the city's bulletin boards, and unlawfully refused to allow elected employee officers or stewards paid leave time to conduct union business. Commission determined that the newsletter the union sought to place on bulletin boards contained statements "which would adversely reflect upon the Employer" in violation of the expired collective bargaining agreement. Commission

further concluded that the city was not required to grant paid leave time

to employees engaged in official union business in the absence of a collective bargaining agreement requiring such payments.

International Union of Police Associations, AFL-CIO v. State of Florida, Department of Management Services, Case No. CA-2001-033 (Mar. 20, 2002).

Commission concluded that the State's unilateral change of its prior work schedules affecting Florida Fish and Wildlife Conservation Commission officers without negotiating this change was an unfair labor practice. Commission further concluded that the union failed to prove that it did not receive a rea-

sonable opportunity to bargain over the impact of new work assignments before the new schedules were implemented.

Petition to disclaim interest granted and union's certification revoked where the union satisfied the Commission's requirements for disclaiming interest, i.e., there was no existing bargaining agreement between the union and college, and no outstanding financial obligations related to election costs or special master proceedings.

Avon Park Professional Fire Fighters, Local 3132, IAFF v. City of Avon Park, 28 FPER ¶ 33067 (2002).

Unit clarification petition seeking to include newly created positions of fire marshal and senior firefighter, and substantially altered position of code enforcement officer, in bargaining unit of fire suppression personnel granted.

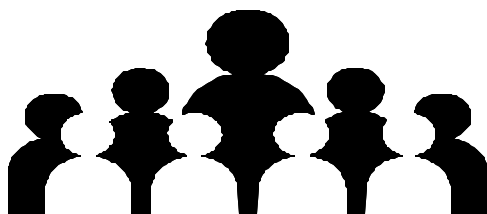
Ponce Inlet Professional Firefighters Association Local 4140 v. Town of Ponce Inlet, 28 FPER ¶ 33068 (2002).

Representation-certification petition dismissed where the petitioner was not registered with Commission and petition was unsigned.

Suncoast Professional Fire Fighters and Paramedics, Local 2546, IAFF v. Charlotte County Fire and EMS, 28 FPER ¶ 33073 (2002).

Petition dismissed where union's registration had expired at time petition was filed and bargaining unit certification needed to be amended to reflect new name of petitioning union.

Representation Cases



sonable opportunity to bargain over the impact of new work assignments before the new schedules were implemented.

In re Petition of United Academic Association of North Florida Community College To Disclaim Interest in Certification 1330, 28 FPER ¶ 33066 (2002).

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Manatee County and Municipal Employees, Local 1584, AFSCME, AFL-CIO v. Manatee County School Board, 28 FPER ¶ 33074 (2002).

Representation-certification petition dismissed as untimely because it was not filed within the statutory 60-day window period, that is, 150 to 90 days prior to the expiration of the contract.

Government Supervisors Association of Florida/Office & Professional Employees International Union Local 100 v. Miami-Dade County, Case No. UC-2001-056 (Jan. 29, 2002).

Unit clarification petition seeking to include 43 classifications in a bargaining unit of professional, non-supervisory employees granted.

Teamsters Local Union No. 385 v. Town of Oakland, Case No. RC-2001-055 (Feb. 4, 2002).

Consent election agreement in unit of sworn police officers approved.

Pinellas Lodge No. 43, Fraternal Order of Police v. Town of Indian Shores v. Pinellas County Police Benevolent Association, Inc., Case No. RC-2001-063 (Feb. 4, 2002).

Consent election agreement in unit of rank-and-file police officers approved.

Charles E. Brookfield Lodge #86, Fraternal Order of Police v. Orange County Board of County Commissioners, Case No. RC-2001-045 (Feb. 4, 2002).

Petitioner sought to create a supervisory bargaining unit comprised of police lieutenants. County contended that the unit was inappropriate because all the lieutenants were managerial employees. The Commission concluded that one lieutenant performed managerial job duties and the remaining 16 lieutenants were appropriate for inclusion in a supervisory unit.

Government Supervisors Association of Florida Office & Professional Employees, International Union, Local 100 v. Miami-Dade County, Case No. UC-2001-053 (Feb. 4, 2002).

Unit clarification petition seeking to include numerous classifications in a supervisory bargaining unit granted.

Space Coast Police Benevolent Association, Inc. v. Town of Melbourne Village, Case No. RC-2001-051 (Feb. 6, 2002).

Consent election agreement for unit of police officers and sergeants approved.

Florida State Lodge, Fraternal Order of Police, Inc. v. City of Kissimmee, Case No. RC-2001-058 (Feb. 7, 2002).

Consent election agreement in a unit of police sergeants approved.

International Brotherhood of Teamsters Local 385 v. City of Palm Coast, Case No. RC-2002-006 (Feb. 7, 2002).

Representation-certification petition dismissed where the petitioner was not registered with Commission, the petition failed to list the job classifications sought for inclusion by title, and it appeared the proposed unit may result in over-fragmentation.

Florida Public Employees Council 79, AFSCME, AFL-CIO v. Hialeah Housing Authority, Case No. RC-2001-046 (Feb. 13, 2002).

AFSCME's request to withdraw its representation-certification petition granted.

Teamsters Local Union No. 385 v. City of Deland (Deland Police Department), Case Nos. EL-2002-001, EL-2002-002 (Feb. 14, 2002).

The Commission denied the City's objection to conducting elections by mail ballot. City's contention that a mail ballot election could result in voting irregularities and the disruption of police services was speculative.

Florida Community College Faculty Federation v. Florida Community College at Jacksonville, Case No. RC-2001-061 (Feb. 14, 2002).

Consent election agreement for a unit of professional employees paid

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on an instructional salary scale approved.

Manatee County Professional Firefighters and Paramedics, Local 4074, IAFF v. Braden River Fire Control and Rescue District, Case No. UC-2001-055 (Feb. 14, 2002).

Unit clarification petition seeking to include the classification of battalion chief/shift commander in a bargaining unit comprised of firefighters, lieutenants, and captains granted.

In Re Petition of National Conference of Firemen & Oilers, Local 1220, NCFO, SEIU, AFL-CIO, CLC To Amend Certification No. 1255, Case No. AC-2002-005 (Feb. 19, 2002).

Certification 1255 amended to reflect the petitioner as the certified bargaining agent.

Professional Managers and Supervisors Association, A Division of Federation of Physicians and Dentists/Alliance of Healthcare and Professional Employees, NUHHCE, AFSCME, AFL-CIO v. Jeb Bush, Governor of the State of Florida, Case No. RC-2002-007 (Feb. 22, 2002).

The Commission dismissed a representation-certification petition because the petitioner was not registered as an employee organization, the showing of interest statements

did not meet the 30% requirement, and the petition failed to list all classifications to be included in the proposed unit.

Maxwell v. Florida Public Employees Council 79, AFSCME, AFL-CIO v. The Housing Authority of the City of Miami Beach, Case No. RD-2002-001 (Feb. 22, 2002).

Where a petition to revoke AFSCME's certification was filed and, shortly thereafter, AFSCME filed a petition to disclaim interest in further representation of the bargaining unit, the Commission granted AFSCME's petition to disclaim interest and dismissed the decertification petition as moot.

In Re Petition of National Conference of Firemen and Oilers, Local 1220, NCFO, SEIU, AFL-CIO, CLC, To Amend Certification, Case Nos. AC-2002-001, 002, 003, 004, 006, 007 (Feb. 25, 2002).

Petitions to amend certifications to reflect the name change of the certified bargaining agent granted.

Cocoa Fire Fighters Association, Local 2416, IAFF v. City of Cocoa, Case No. RC-2001-059 (Feb. 28, 2002).

Consent election agreement for unit of firefighters in the classification of battalion chief approved.

Walton County Education Association v. Walton County School Board, Case No. RC-2001-060 (Mar. 5, 2002).

Consent election agreement in unit of rank-and-file non-instructional employees approved.

Burney v. DeFuniak Springs Professional Firefighters Association, Local 3557 v. City of DeFuniak Springs, Case No. RD-2002-002 (Mar. 5, 2002).

The Commission concluded that the certified bargaining agent's disclaimer of interest was sufficient and revoked the certification.

Professional Managers & Supervisors Association, A Division of Federation of Physicians and Dentists/Alliance of Healthcare and Professional Employees, NUHHCE, AFSCME, AFL-CIO, Case No. RC-2002-011 (Mar. 5, 2002).

Representation-certification petition dismissed where the named petitioner was not properly registered with Commission and the showing of interest failed to meet the 30% requirement because many of the statements were either copies or not personally signed and dated.

National Conference of Firemen & Oilers, SEIU, Local 1227 v. City of Boynton Beach, Case No. UC-2002-001 (Mar. 6, 2002).

Unit clarification petition seeking to include seven new classifications into a bargaining unit of non-supervisory operational services employees granted.

Lee County Public Employees Association v. Lee County Board of

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County Commissioners, Case No. RC-2002-012 (Mar. 11, 2002).

Representation-certification petition filed less than twelve months from the date an election was conducted in the same bargaining unit in contravention of Section 447.307 (3)(d), Florida Statutes, dismissed.

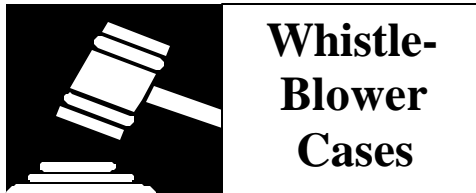
National Conference of Firemen & Oilers/SEIU, Local 1227, AFL-CIO v. Palm Tran, Inc. and Palm Beach County, Case No. RC-2002-015 (Mar. 21, 2002).

Representation-certification pe-

School System. Commission held that teacher's years of work with Duval County did not terminate her veteran's preference because she did not become eligible for a preference until after she was hired by Duval County Schools.

Miskiewicz v. Escambia County Board of County Commissioners, Case No. VP-2001-010 (Mar. 18, 2002).

Parties settled vet-



eran's employment dispute after hearing officer ruled in favor of the veteran. However, Commission noted that it does not enforce its orders approving settlements; rather, the circuit court has that jurisdiction.

Williams v. Florida Gulf Coast University, Case No. WB-2001-004 (Jan. 22, 2002).

Employee's whistle-blower complaint dismissed because undisputed facts established grounds for disciplining employee, and there was no showing that whistle-blowing was a substantial or motivating cause for discipline. Existence of whistle-blowing coupled with later discipline, standing alone, does not establish a prima facie case of retaliation. There must be allegations that create a reasonable supposition of a causal connection between the two events.

Mills v. Department of Corrections, Case No. WB-2002-001 (Feb. 27, 2002).

Commission affirmed summary dismissal of whistle-blower complaint. Employee did not dispute using vulgar and crude language toward an inmate. Thus, it was undisputed that cause existed for discipline. Employee failed to show alleged reporting of sexual harassment was a substantial or motivating cause for the discipline. Moreover, employee did not make report to a specified official or person identified by the whistle-blower law.

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Constitutionality of Bargaining Statute Challenged

In a hearing on March 21, 2002, Circuit Judge Janet Ferris heard the Plaintiffs' motion for a temporary injunction restraining the special master process and motions to dismiss filed by the School Board and the Commission. The motion to enjoin the special master process was denied. The motions to dismiss are still pending at this writing. The special master conducted a hearing after Judge Ferris' denial of the injunction and has issued an impasse resolution recommendation. We will keep you updated.

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Out-of-State Veterans' Rights

The Commission also rejected arguments that Yount lost his preference by his continued public employment for several years and by a promotion he received during his employment. With respect to the latter event, the Commission ruled that Yount was not entitled to a promotional preference and, there-



tion which failed to indicate that the petitioned-for unit conformed to the one previously defined, or if the union sought a different unit, failed to explain why a different unit was warranted, dismissed.

Mallor v. Palm Beach County, Case No. VP-2002-002 (Mar. 1, 2002).

Veteran's complaint dismissed because the Department of Veterans' Affairs had not yet had the opportunity to investigate it.

Cagle v. St. Johns County School District, Case No. VP-2001-011 to VP-2001-015 (Mar. 13, 2002).

Teacher employed by Duval County School System filed a veteran's preference complaint when not hired by St. Johns County

Elections Verified January 1-March 31, 2002

1115 Florida, Division of 1199, SEIU, AFL-CIO, CLC v. Palm Beach County Health Care District, Case No. EL-2001-051 (Relating to RC-2001-056); Election conducted 12/21/01 (Union lost)

Pinellas Lodge No. 43, Fraternal Order of Police v. City of St. Petersburg v. Pinellas County Police Benevolent Association, Inc., Case No. EL-2001-050 (Relating to RC-2001-050); Election conducted 01/10/02 (Pinellas PBA won)

William Doering v. Florida Public Employees Council 79, American Federation of State, County and Municipal Employees, AFL-CIO v. City of DeFuniak Springs, Case No. EL-2001-049 (Relating to RD-2001-007); Election conducted 01/09/02 - 01/30/02 (Union won)

Gulf County Education Association, FEA-NEA v. Gulf County School Board, Case No. EL-2001-048 (Relating to RC-2001-043); Election conducted 01/31/02 - 02/21/02 (Union won)

Pinellas Lodge No. 43, Fraternal Order of Police v. Town of Indian Shores v. Pinellas County Police Benevolent Association, Inc., Case No. EL-2002-004 (Relating to RC-2001-063); Election conducted 02/20/02 - 03/13/02 (F.O.P. won)

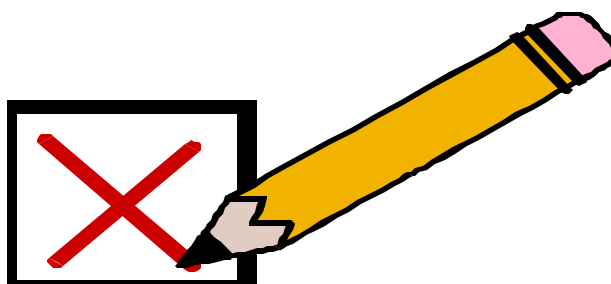
Teamsters Local Union No. 385 v. Town of Oakland, Case No. EL-2002-003 (Relating to RC-2001-055); Election conducted 02/21/02 - 03/14/02 (Union lost)

Florida State Lodge, Fraternal Order of Police, Inc. v. City of Kissimmee v. Florida Police Benevolent Association, Inc., Case No. EL-2002-008 (Relating to RC-2001-058); Election conducted 02/28/02 - 03/20/02 (PBA won)

Teamsters Local Union No. 385 v. City of Deland, Case No. EL-2002-001 (Relating to RC-2001-048); Election conducted 02/28/02 - 03/21/02 (Union won)

Teamsters Local Union No. 385 v. City of Deland, Case No. EL-2002-002 (Relating to RC-2002-002); Election conducted 02/28/02 - 03/21/02 (Union won)

Charles E. Brookfield Lodge #86, Fraternal Order of Police v. Orange County Board of County Commissioners, Case No. EL-2002-005 (Relating to RC-2001-045); Election conducted 03/06/02 - 03/27/02 (Union lost)





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