



Retirements Deplete Commission Staff

The Commission is fortunate to have a loyal staff of long-time employees. The downside of that good fortune is that the attrition of staff through retirement represents a significant loss to the Commission, both personally and professionally. Last quarter, we noted the retirement of Hearing Officer Fran Seidler. This quarter our ranks have been further depleted by the retirement of Deputy General Counsel Lee Cohee and Clerk of the Commission June Farrell. As is readily seen from the accompanying articles, Lee and June were long-term members of the PERC staff whose influence on our practice was manifold. Their departure represents an irretrievable loss of institutional knowledge. While we wish them all the best in their well-deserved leisure years, they will be sorely missed.

Long-Time Staff Member Remembered

On December 31, 2007, Lee Cohee left the building for the last time. Lee was hired into a six month OPS position by former Chairman Leonard Carson. Those six months turned into a career in public sector labor law for Lee that spanned over thirty years. During this time he held almost every position in PERC’s hierarchy except clerk and election agent. Lee even served as interim chairman during the hiatus between the departure of Mike Mattimore and the arrival of Mallory Horne.

When it comes to handling representation cases, Lee is not sure whether he has had thirty years of experience or one year’s experience thirty times. He particularly remembers 1981-82 when he worked full-time on the state’s massive managerial/confidential petition conducting hearings at many of the state agencies and recommending that over 6,000 designations be made. When asked whether he will miss defining wall-to-wall city and county units, Lee paraphrased Rhett Butler, and stated, “Frankly, my dear, I don’t have another R case in me.”

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A Farewell to Farrell

PERC must say “Good-bye” to June Farrell who served the Commission so long and so well. June is retired January 4, 2008, after twenty-one years of service as the clerk and appeals coordinator. June was first hired July 1, 1986, when PERC obtained its career service jurisdiction. She and just a few others were in a separate division tasked with handling the backlog of 219 cases, PERC inherited from the Career Service Commission as well as the incoming career service cases. It soon became obvious to June that the Commission would have to integrate its career service and labor jurisdictions so that word processing, case assignments, and scheduling could be handled efficiently. June was instrumental in that transition.

Since then, June has assisted the Commission in making other adjustments such as heralding in computers, with the associated realignment of job duties that computers bring. Throughout her tenure, June has kept most of the statistics essential for determining trends to enable the Commission to remain current and adjust to the variation in public employment needs. Most recently, she has been instrumental in establishing

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Long-Time Staff Member Remembered

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Over the years Lee has assumed ever increasing duties; including editing the work of junior attorneys he has supervised and that of other staff counsel preparing final orders in the Commission's labor jurisdiction where Lee cut his teeth. Many an attorney has had a draft returned with the words "nice order" at the top only to look inside and see extensive penciled edits making a mockery of those words. Throughout his career with PERC, Lee has profited from exposure to a series of talented writers from his first supervisor, Tom Brooks, to his last, Steve Meck.

One of the duties of PERC's legal staff is to answer employment questions from public employees, usually after they have been fired or believe that their union has not been responsive to their needs. Lee's availability to field these calls will be greatly missed. From his standpoint, Lee welcomes the opportunity to turn over some of his regular customers to the rest of the staff.

Although Lee stumbled into his position with PERC out of financial urgency, he soon warmed to the task and leaves contributing much to PERC's vitality and the quality of its work product. Lee says simply that it was a very satisfying career enriched by the people with whom he worked and from whom he continued to learn until his departure.

Lee and his wife, Chris, plan to move to Northern California in 2008, build a house, and grow some grapes. Lee also plans to keep bees, play with his old British cars, and run agility trials with his dog, Keegan. We hope that all his retirement dreams come true and that he does not have to go to work for the California Public Employment Relations Board to ensure that they do.



A Farewell to Farrell

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a new database that permits staff online access to all documents filed. Within the last two years, she has successfully orchestrated inputting not only all of PERC's current files on that system, but also all of its prior thirty years of cases. June is particularly proud that she has been able to assist her staff in working together as a smooth team and independently handling key case processing responsibilities.

June will also be remembered for her clever and original Halloween costumes. We first recognized this ability when, at a Department of Management Services costume contest, she dressed in a fabulous handmade SpongeBob SquarePants costume. She looked so great that when she was presented to the judges many of us were moved to sing several verses of the SpongeBob SquarePants theme song. Needless to say, she won. Since then she has coordinated the clerk's office staff in theme costumes. They have been characters from Peanuts, the Wizard of Oz, and most recently the Rockford Peaches from the movie "A League of Their Own." June will also be missed by PERC staffers in her role as custodian of a lending library of recreational reading materials and savior of neglected and abused office plants.

PERC NEWS

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Unfair Labor Practices Committed When Duty of Fair Representation Breached in Representation and Refusal to Arbitrate and Additional Unfair Labor Practice Committed When Union Attempted to Cause Employer to Discriminate Against Employee Because of Union Unlawful Animus

By Jack E. Ruby, Hearing Officer.

The Commission has adopted the private sector labor law tenet imposing a duty upon certified bargaining agents to represent members of the units they are certified to represent when acting in their exclusive capacity. *Gow v. AFSCME*, 4 FPER ¶4168 (1978), citing *Vaca v. Sipes*, 386 U.S. 171 (1967). A union breaches its duty of fair representation in violation of Section 447.501(2)(a), Florida Statutes (2007), when its representation and grievance processing are arbitrary, discriminatory, or conducted in bad faith. See *Kallon v. United Faculty of Florida*, 14 FPER ¶19262 (1988), 15 FPER ¶20047 (1988), *recon. denied*, 15 FPER ¶20079 (1989), *aff'd*, 555 So. 2d 859 (Fla. 1st DCA 1989).

Section 447.501(2)(b), Florida Statutes (2007), prohibits a union from causing or attempting to cause management to discriminate against an employee because of that employee's union membership or non-membership, or attempting to cause management to violate any provision of Part II of Chapter 447, Florida Statutes (2007). When a union causes or attempts to cause a public employer to adversely affect an employee's terms and conditions of employment because of concerns relating to union membership, rather than for legitimate causes for disciplinary action, it violates this provision. See *LIUNA, Local No. 666 v. Board of County Commissioners of Brevard County*, 9 FPER ¶14026 (1982).

On March 5, 2007, William Miron filed an amended unfair labor practice charge alleging that the Amalgamated Transit Union, Local 1593 (Local 1593) violated Section 447.501(2)(a) and (b), Florida Statutes (2007), by failing to represent him fairly when processing a grievance over his dismissal by his employer, Hillsborough Area Regional

Transit Authority (HARTline) and by attempting to or causing HARTline to discriminate against him.

After an evidentiary hearing, the Commission-appointed hearing officer determined that Local 1593's representation of Miron during the processing of his grievance was both arbitrary and discriminatory and, thus, in violation of its duty of fair representation. This conclusion was based upon Local 1593's ineffective handling of his grievance at step three of the process, effecting the grievance's denial; its improper consideration of Miron's grievance before its executive board vote and subsequent membership vote on whether Miron's grievance should be arbitrated; and its failure to establish a reasonable basis for its decision to not take Miron's grievance to arbitration. The hearing officer also found that Miron would have prevailed in his grievance at arbitration. Therefore, the hearing officer concluded that, by breaching its duty of fair representation, Local 1593 violated Section 447.501(2)(a) and was liable for Miron's back pay until he obtained comparable employment.

The hearing officer also found that Local 1593 had engaged in a pattern of conduct in attempting to obtain disciplinary action by HARTline against Miron through malicious and false statements because of Miron's internal union complaints and as an attempt to assist in obtaining reinstatement for a favored union member and officer, Ivanhoe Brown, by making Miron look like he had provoked Brown. Accordingly, the hearing officer determined that Local 1593 had also violated Section 447.501(2)(b). The hearing officer concluded that Miron should receive an award of attorney's fees and costs.

Local 1593 filed exceptions to the recommended order objecting to the substitution of a replacement hearing

officer during the hearing necessitated by the retirement of the initial hearing officer and to the substitute hearing officer's findings, conclusions, and recommendations. On November 5, the Commission issued a final order denying the exceptions.

Concerning the change in hearing officers, the Commission noted that no objection was made to the substitution prior to the issuance of the recommended order and that the Administrative Procedure Act provides for such a substitution. The Commission concluded that the hearing officer's findings and credibility resolutions were supported by the record. The Commission also concluded that the hearing officer correctly analyzed the case and considered events that occurred more than six months prior to the filing of the charge as background evidence. Finally, the Commission agreed with the hearing officer's recommended remedy, especially the "make-whole" remedy of back pay effective solely against Local 1593 without the joinder of HARTline, as consistent with the precedent of *Williams v. AFSCME, Florida Council 79*, 27 FPER ¶32124 (2001), when a union has failed in its duty of fair representation resulting in the non-arbitration of an employee's discharge.

Local 1593 has appealed the Commission's final order to the Second District Court of Appeal. See *Miron v. ATU, Local 1593*, 33 FPER ¶260 (2007), appeal filed Case No. 2D07-5704 (Fla. 2d DCA Dec. 5, 2007).



Dunn Appointed Clerk

As reported elsewhere in this issue, June Farrell has retired after a long tenure as the Commission's clerk. Chair Poole has appointed Barry Dunn as the Commission's new clerk. Barry has served as the Commission's settlement attorney for many years and will continue to act in that capacity in addition to performing his new duties as clerk.



New Website Premieres January 1

On January 1, 2008, the Commission launched a new website – <http://perc.myflorida.com>. Please take the time to visit the new site. It already has several important new features, and we anticipate adding more useful tools throughout the year. Note: Be sure to remove any links to our old website (<http://dms.myflorida.com/perc>) from your "Favorites" as that site will be deactivated soon.

One of the features of the new website about which we are most excited is the institution of the PERC News Notification System. This system will allow us to notify subscribers when a new PERC News issue is available online for reading and downloading. This long-anticipated leap to an electronic format for the News will allow us to explore new frontiers in newsletter design while saving the costs and environmental impacts of the "print and mail" format. Current subscribers to the printed PERC News are NOT automatically registered in the notification system. You must register online to receive notice of new issues of the News. More specific information on how to complete the very easy registration process is provided in a related article in this issue.

The new website also features an Elections section that you will find useful. In this section are answers to frequently asked questions, database reports, and additional information regarding the Commission's Elections Division.



Career Service Cases

Wooden v. Department of Corrections, 22 FCSR 241 (2007).

Demotion of a correctional probation specialist to correctional probation senior officer for alleged improperly filing and processing of a violation of probation report on an offender was vacated where the employee sought guidance from her supervisors. Back pay awarded.

Canary v. South Florida Water Management District, 22 FCSR 244 (2007).

Appeal dismissed for lack of jurisdiction because the water management district is not a state agency to which Chapter 110, Florida Statutes, applies.

Baucham v. Department of Corrections, 22 FCSR 248 (2007).

Dismissal of a correctional officer sergeant for negligence and knowingly violating an agency rule, directive, or policy statement for allowing an unauthorized inmate access to the officer's station, accessing non-agency websites, allowing inmates to access the websites, and dancing to music in the officer's station in front on inmates was affirmed. Mitigation was not warranted where nine-year unblemished employment record is outweighed by seriousness of failing to maintain proper security.

Himelright v. Department of Transportation, 22 FCSR 252 (2007).

Dismissal of a highway maintenance technician for alleged violation of law or agency rules and conduct unbecoming a public employee was vacated where the agency failed to prove that the employee displayed any aggression during an altercation with a coworker or that he engaged in unbecoming conduct toward a warehouse distribution agent. Back pay awarded.

Williams v. Department of Corrections, 22 FCSR 255b (2007).

Five-day suspension of a correctional officer for possession of an unauthorized weapon or firearm on agency property was affirmed. Mitigation was not warranted where the employee failed to show disparate treatment and his nine-year employment record was offset by prior reprimands.

Nedd v. Department of Corrections, 22 FCSR 257 (2007).

Dismissal of wellness education specialist for violation of the agency's domestic violence policy, for failing to complete the EAP program, and for unbecoming conduct with regard to two coworkers was affirmed.

Cline v. Department of Revenue, 22 FCSR 260 (2007).

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

Turnbull v. Department of Health, 22 FCSR 261b (2007); Cook v. Department of Corrections, Case No. CS-2007-231 (Dec. 31, 2007).

Appeals were dismissed as abandoned when the employees failed to appear at hearing.

Jenkins v. Department of Corrections 22 FCSR 265 (2007).

Back pay award calculated.

Chester v. Department of Corrections, 22 FCSR 264 (2007); Johnson v. Department of Juvenile Justice Case No. CS-2007-196 (Nov. 13, 2007).

Appeals were dismissed when agencies rescinded disciplines.

Brown v. Department of Corrections, 22 FCSR 262; DeShazor v. Department of Corrections, Case No. CS-2007-229 (Dec. 18, 2007).

Appeals filed more than fourteen days after receipt of final action letters dismissed as untimely.

Morgan v. Department of Corrections, 22 FCSR 269 (2007).

Back pay award was reduced where employee failed to conduct a good faith job search during the back pay period.

Frazier v. Department of Corrections, 22 FCSR 272 (2007).

Appeal filed by correctional probation officer was dismissed where a felony conviction disqualified the officer from further employment as a probation officer.

Tucker v. Department of Health, 22 FCSR 273 (2007).

Twenty-day suspension of a service representative for improperly storing patient records in violation of agency policy was affirmed.

Polnitz v. Department of Highway Safety and Motor Vehicles, 22 FCSR 278a (2007); Dargie v. Department of Corrections, Case No. CS-2007-232 (Dec. 12, 2007).

Appeals were dismissed as premature where the agencies had not taken any final action with regard to the employees.

Leonard v. Department of Corrections, 22 FCSR 278b (2007).

Appeal of the demotion of a correctional probation senior supervisor to probation specialist during her probationary period was dismissed for lack of jurisdiction.

Redden v. Department of Corrections, 22 FCSR 280 (2007).

Ten-day suspension of a correctional officer sergeant for excessive tardiness was affirmed. Mitigation was not warranted due to the seriousness of the conduct and a seventeen-year employment record with two prior suspensions and three written reprimands.

Anderson v. Department of Highway Safety and Motor Vehicles, 22 FCSR 282 (2007).

Three-day suspension of a driver's license examiner for allegedly engaging in an aggressive and heated conversation with a customer was vacated where the agency failed to prove that the employee was the aggressor and the employee immediately called for help. Back pay awarded.

LaPradd v. Department of Corrections, Case No. CS-2007-179 (Dec. 7, 2007).

Extraordinary dismissal of a correctional officer for alleged violations related to a positive drug test was vacated where the agency failed to prove by a preponderance of

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the evidence, due to discrepancies in the collection process, that the sample tested was the employee's sample. Back pay awarded.

Filipowicz v. Department of Corrections, Case No. CS-2007-076 (Dec. 10, 2007).

Extraordinary dismissal of a correctional officer for allegedly making threatening statements or being present while statements were being made, fleeing from sheriff's vehicles, and giving a false statement to an investigator was vacated where the agency failed to prove that the employee was present when the sheriff's officers arrived or while the statements were being made. Back pay awarded.

Punter v. Department of Business and Professional Regulation, Case No. CS-2007-190 (Dec. 11, 2007).

Five-day suspension of a law enforcement officer for conducting a traffic stop in violation of agency policy and for failing to properly identify himself during the stop was affirmed. The agency failed to prove other charges by a preponderance of the evidence. Mitigation was not warranted.

Hightman v. Department of Elder Affairs, Case No. CS-2007-203 (Dec. 17, 2007).

Appeal of the dismissal of a grants specialist during her extended probationary period was dismissed for lack of jurisdiction.

Abdur-Rahman v. Department of Children and Families, Case No. CS-2007-191 (Dec. 19, 2007).

Dismissal of a hearing officer for poor performance for deficiencies in five of his final orders was affirmed.

George v. Department of Corrections, Case No. CS-2007-200 (Dec. 19, 2007).

Dismissal of a correctional probation officer for inability to perform assigned job duties was affirmed where the officer was unable to return to work after exhausting his sick leave. Mitigation is not available for employees who are dismissed for inability to perform their duties.

Beasley v. Department of Juvenile Justice, Case No. CS-2007-199 (Dec. 21, 2007).

Dismissal of a juvenile detention officer for negligence for incorrectly accounting for juveniles under his supervision was affirmed.



Ramirez v. Amalgamated Transit Union, Local 1577, 33 FPER ¶ 228 (2007).

The Commission affirmed the General Counsel's dismissal of an amended unfair labor practice charge alleging that the union refused to represent the charging party in a "wrongful employment termination." The Commission agreed with the General Counsel's determination that the terms of a last chance settlement agreement signed by the charging party and the employer prohibited the union from challenging his dismissal and provided the union with a rational basis for refusing to file a contractual grievance on his behalf.

Collier Support Personnel/NEA v. School District of Collier County, Florida, 33 FPER ¶ 231 (2007).

The Commission considered the parties to have settled the case by private agreement when the parties secured a continuance in expectation of settlement, but no settlement or request for an extension of time was filed within the allotted response time.

Nolasco v. Federation of Public Employees, A Division of the National Federation of Public and Private Employees, AFL-CIO, 33 FPER ¶ 246 (2007).

The Commission dismissed an unfair labor practice charge alleging that the union improperly refused to advance to arbitration a grievance contesting Nolasco's termination from employment. Nolasco had been discharged for allegedly participating in an

illegal "sick out" when he was absent from work on one occasion. The union determined that the grievance lacked merit because its business agent did not believe Nolasco's alleged medical excuse for not attending work. The Commission agreed with the hearing officer that the union's decision that the grievance lacked merit was logical and did not demonstrate that its refusal to seek arbitration was arbitrary, discriminatory, or in bad faith.

Florida State Lodge, Fraternal Order of Police v. Sheriff of Pasco County, Case No. CA-2007-038 (Nov. 29, 2007).

The Commission dismissed an unfair labor practice charge alleging that the sheriff refused to allow employees to discuss bargaining issues on office email or through interoffice mail. The sheriff had adopted a policy in December 2005 prohibiting the use of interoffice mail or any mail "not connected with official agency business." The union failed to prove that the sheriff allowed interoffice mail to be regularly used for non-business purposes while prohibiting the dissemination of union literature after the policy was implemented. Thus, the union did not establish that the sheriff's policy was arbitrarily or discriminatorily applied to it. The Commission awarded the sheriff attorney's fees and costs for the portion of the charge alleging that the union was unlawfully denied use of the email system because the union failed to present evidence on this issue at hearing.

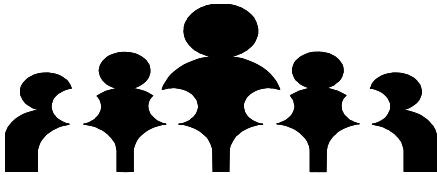
Jensen v. Public Health Trust/ Jackson Health System, Case No. CA-2007-080 (Dec. 20, 2007).

The Commission affirmed the General Counsel's summary dismissal of an amended unfair labor practice charge where the charge was not factually detailed or specific. Charges which contain allegations that are vague, general, or conclusory will not be found sufficient. Further, the charging party failed to allege objective facts establishing a nexus between her termination and her protected activity.

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Representation Cases



In Re Petition of Coastal Florida Police Benevolent Association, Inc., 33 FPER ¶ 229 (2007).

Union's petition seeking to disclaim interest in representing a supervisory unit of sworn law enforcement officers in the classification of lieutenant was granted and its certification was revoked. The union was prohibited from initiating or intervening in a proceeding seeking to represent employees in the bargaining unit for a period of one year.

Federation of Public Employees v. City of Winter Haven, 33 FPER ¶ 230 (2007).

Unit clarification petition seeking to clarify an operational services bargaining unit was granted.

Federation of Public Employees v. Town of Lake Park, 33 FPER ¶ 234 (2007).

Unit clarification petition seeking to clarify operational services bargaining unit to add newly created positions and delete eliminated or retitled positions was granted.

In Re Petition of International Union of Painters and Allied Trades, AFL-CIO, Local Union 1010, To Amend Certification No. 787, 33 FPER ¶ 237 (2007).

Amendment to certification petition seeking to substitute "Union" for "Brotherhood" in its name was granted.

In Re Petition of SEIU Florida Public Services Union, CTW, CLC, To Amend Certification No. 225, 33 FPER ¶ 238 (2007).

Amendment to certification petition requesting that certification 225 be amended

by substituting the petitioner as the bargaining representative for a unit of rank-and-file operational services personnel was granted.

Local 3158, Destin Professional Firefighters v. Destin Fire Control District, 33 FPER ¶ 239 (2007).

Unit clarification petition seeking to include the classifications of captain and captain/fireboat operator in a non-supervisory bargaining unit of fire suppression personnel was granted.

In Re Petition of SEIU Florida Public Services Union, CTW, CLC, To Amend Certification No. 1218, 33 FPER ¶ 244 (2007).

Amendment to certification petition seeking to amend a certification by substituting petitioner as the bargaining representative for a unit of professional personnel was granted.

In Re Petition of SEIU Florida Public Services Union, CTW, CLC, To Amend Certification No. 238, 33 FPER ¶ 245 (2007).

Amendment to certification petition seeking to amend a certification by substituting petitioner as the bargaining representative for a unit of blue collar personnel was granted.

Village of Royal Palm Beach v. SEIU Florida Public Services Union, CTW, CLC, 33 FPER ¶ 247 (2007).

Unit clarification petition seeking to modify a wall-to-wall unit of non-professional employees was granted.

Coastal Florida Police Benevolent Association, Inc. v. City of Ormond Beach v. Coastal Florida Police Benevolent Association, Inc., 33 FPER ¶ 248 (2007).

Representation-certification petition seeking to sever the classification of police sergeant from a rank-and-file bargaining unit of sworn law enforcement personnel was dismissed.

In Re Petition of SEIU Florida Public Services Union, CTW, CLC, To Amend Certification No. 1243, 33 FPER ¶ 249 (2007).

Amendment to certification petition seeking to amend a certification by substituting the petitioner as the bargaining

representative for a unit of non-instructional rank-and-file personnel was granted.

In Re Petition of SEIU Florida Public Services Union, CTW, CLC, To Amend Certification No. 898, 33 FPER ¶ 250 (2007).

Amendment to certification petition seeking to amend a certification by substituting the petitioner as the bargaining agent for a unit of white collar employees was granted.

In Re Petition of SEIU Florida Public Services Union, CTW, CLC, To Amend Certification No. 984, 33 FPER ¶ 251 (2007).

Amendment to certification petition seeking to amend a certification by substituting the petitioner as the bargaining representative for a unit of supervisory personnel was granted.

In Re Petition of SEIU Florida Public Services Union, CTW, CLC, To Amend Certification No. 1219, 33 FPER ¶ 252 (2007).

Amendment to certification petition seeking to amend a certification by substituting the petitioner as the bargaining representative for a unit of supervisory personnel was granted.

Stephens v. Teamsters Local Union 385 v. City of Maitland, 33 FPER ¶ 253 (2007).

Petition seeking to revoke the union's certification for a unit of rank-and-file law enforcement employees was granted.

McSween v. SEIU Florida Public Services Union, CTW, CLC v. Orange County Library District, 33 FPER ¶ 256 (2007).

Petition seeking to revoke the union's certification for a unit of non-supervisory professional employees was granted. The Commission allowed employees in four classifications to participate in the decertification election who had not been officially included in the unit where the employees were appropriate for unit inclusion, the employees had been represented in fact by the union, and the parties agreed to modify the unit. The Commission also allowed the unit description to be modified to reflect mere changes in classification titles.

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International Union of Painters and Allied Trades, AFL-CIO, Local Union 2301 v. City of Cape Coral, 33 FPER ¶ 261 (2007).

Unit clarification petition seeking to include the classification of communications manager in a non-supervisory bargaining unit was granted.

Smith v. Florida State Lodge, Fraternal Order of Police, Inc. v. Sheriff of Clay County, 33 FPER ¶ 262 (2007).

Petition seeking to revoke the incumbent union's certification for a bargaining unit of sworn law enforcement officers was granted.

Coastal Florida Police Benevolent Association, Inc. v. City of Oviedo, 33 FPER ¶ 264 (2007).

Representation-certification petition seeking to represent a unit of police lieutenants was granted.

Palm Beach County Police Benevolent Association, Inc., Chartered by the Florida Police Benevolent Association, Inc. v. City of Lake Worth v. Florida State Lodge, Fraternal Order of Police, Inc., 33 FPER ¶ 265 (2007).

Representation-certification petition seeking to represent a unit of law enforcement personnel in the classifications of police officer, dispatcher, and sergeant was granted.

Florida State Lodge, Fraternal Order of Police, Inc. v. Sheriff of Santa Rosa County, 33 FPER ¶ 266 (2007).

Consent election agreement seeking to represent a unit composed of all the civilian personnel employed by the sheriff was approved.

Florida Public Employees Council 79, American Federation of State, County and Municipal Employees, AFL-CIO v. City of Oakland Park, 33 FPER ¶ 267 (2007).

Consent election agreement seeking to represent a unit of rank-and-file administrative and clerical employees was approved.

University of Florida Board of Trustees v. United Faculty of Florida, 33 FPER ¶ 268 (2007).

The case had been remanded to the hearing officer to consider the effect of significant changes in statutory or case law which would require clarification of the faculty and non-faculty bargaining unit. The Commission determined that changes in job duties implemented by the University for non-faculty employees were not substantial enough to warrant their removal from a unit they have been part of since 1976. Further, the fundamental duties of the disputed department chairs had not changed enough to warrant removing them from the unit.

City of Stuart v. Local 2411, Professional Fire Fighters of Stuart, Florida, International Association of Fire Fighters, Case No. UC-2007-030 (Nov. 15, 2007).

Unit clarification petition seeking to modify a bargaining unit of fire and rescue personnel was granted. The abolished classifications of fire captain, ambulance attendant, and ambulance shift commander were deleted from the unit description and the classifications of EMS lieutenant, fire rescue lieutenant, firemedic, paramedic, and full-time firefighter trainee were included in the unit.

Local 1891 Boynton Beach Fire Fighters and Paramedics International Association of Fire Fighters v. City of Boynton Beach, Case No. UC-2007-032 (Nov. 19, 2007).

Unit clarification petition seeking to include the classification of battalion chief and exclude the fire inspector and assistant fire marshal classifications was granted.

Pinellas County Police Benevolent Association, Inc. v. City of Brooksville, Case No. RC-2007-053 (Nov. 20, 2007).

Consent election agreement seeking to represent a unit of sworn law enforcement personnel in the classifications of police officer and police sergeant was approved.

Coastal Florida Police Benevolent Association, Inc. v. City of Melbourne, Case No. RC-2007-059 (Nov. 20, 2007).

Representation-certification petition was dismissed where the union sought to represent a unit limited to the single classification of detective. The Commission

concluded that the proposed unit appeared to be overfragmented, and without evidence of exceptional circumstances, a unique community of interest, or a conflict of interest justifying the fragmentation, the petition was insufficient.

Professional Firefighters of Citrus County, Local 4562 v. Citrus County Board of County Commissioners, Case No. UC-2007-037 (Nov. 20, 2007).

Unit clarification petition seeking to add the classification of lieutenant to a rank-and-file bargaining unit of firefighters was granted.

Florida Public Employees Council 79, American Federation of State, County, and Municipal Employees, AFL-CIO v. City of Williston, Case No. RC-2007-047 (Nov. 28, 2007).

Consent election agreement seeking to represent a unit of regular full-time and part-time, non-supervisory, non-professional personnel was approved.

Coastal Florida Police Benevolent Association, Inc. v. City of Port St. Lucie, Case No. RC-2007-049 (Nov. 29, 2007).

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

Florida State Lodge, Fraternal Order of Police, Inc. v. Sheriff of Santa Rosa County, Case No. RC-2007-055 (Nov. 29, 2007).

The Commission remanded the case to the hearing officer after the issuance of an order directing an election where two employees filed objections to their designation as confidential employees. The Commission directed that the election proceed as scheduled with the objecting employees voting by challenged ballots.

Florida State Lodge, Fraternal Order of Police, Inc. v. City of Melbourne, Case No. RC-2007-060 (Nov. 29, 2007).

Representation-certification petition was dismissed where the petitioned-for unit of white collar employees in the city's police department appeared to be overfragmented. Without evidence of exceptional circumstances, a unique community of interest, or a conflict of interest justifying a unit of white

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collar employees from one city department, the petition was insufficient.

Local 3169 Professional Fire-fighters of Marion County, International Association of Fire Fighters v. Marion County Board of County Commissioners, Case No. UC-2007-033 (Dec. 3, 2007).

The hearing officer recommended dismissal of a representation-certification petition because the union's registration had lapsed, but the Commission remanded the case to the hearing officer to process the union's petition when the union timely renewed its registration.

Florida State Lodge, Fraternal Order of Police v. City of Hialeah Gardens v. Dade County Police Benevolent Association, Inc., Case No. RC-2007-056 (Dec. 6, 2007).

Consent election agreement seeking to represent a unit of rank-and-file police personnel was approved.

Coastal Florida Police Benevolent Association, Inc. v. City of St. Augustine Beach, Case No. RC-2007-057 (Dec. 7, 2007).

Consent election agreement seeking to represent a unit of sworn police officers was approved.

Coastal Florida Police Benevolent Association, Inc. v. City of St. Augustine Beach, Case No. RC-2007-058 (Dec. 7, 2007).

Consent election agreement seeking to represent a unit of supervisory law enforcement personnel in the classification of sergeant was approved.

Coastal Florida Police Benevolent Association, Inc. v. City of Melbourne v. Florida State Lodge, Fraternal Order of Police, Case No. UC-2007-039 (Dec. 7, 2007).

Unit clarification petition was dismissed where the petitioner lacked standing to seek an amendment to the bargaining unit because the unit was currently represented by another union. The fact that some employees in the bargaining unit may be members of the Coastal PBA did not confer standing on the decertified union to seek an amendment to the bargaining unit now represented by a rival organization.

Smith v. Florida State Lodge, Fraternal Order of Police v. Sheriff of Clay County, Case No. EL-2007-045 (Dec. 10, 2007).

The Commission directed that an absentee ballot be mailed to an employee who would be absent from the election due to work-related business. The Commission will issue absentee ballots to employees when their absence is necessitated by the performance of work-related duties.

Florida Police Benevolent Association, Inc. v. City of Gainesville v. Gator Lodge 67, Inc., Fraternal Order of Police, Case No. RC-2007-042 (Dec. 12, 2007).

Representation-certification petition seeking to sever the police sergeants from a rank-and-file unit of city police employees was dismissed where the petitioner failed to demonstrate that the existing unit was unworkable or otherwise inappropriate.

Binkley v. Florida State Lodge, Fraternal Order of Police, Inc. v. Sheriff of Clay County, Case No. RD-2007-013 (Dec. 12, 2007).

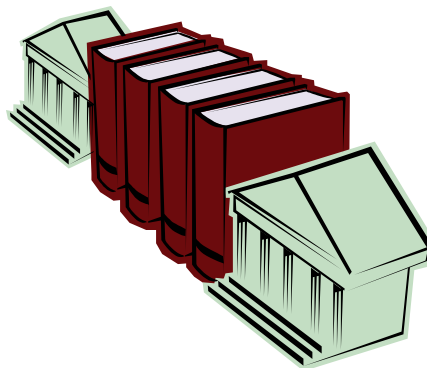
Petition to revoke the incumbent union's certification was granted.

Cronk v. SEIU Florida Public Services Union, CTW, CLC v. Village of Royal Palm Beach, Case No. RD-2007-012 (Dec. 19, 2007).

Petition seeking to revoke the incumbent union's certification was granted.

Florida Gulf Coast University Board of Trustees v. United Faculty of Florida, Case No. UC-2007-036 (Dec. 19, 2007).

Unit clarification petition seeking to add newly created positions in a faculty bargaining unit was granted.



Elections Verified and Certifications Issued

Madison Professional Firefighters, Local 4565 v. City of Madison, Case No. EL-2007-028; Election 9/6 - 9/26/2007; Union won; Certification 1641.

Florida State Lodge, Fraternal Order of Police v. City of Melbourne v. Coastal Florida Police Benevolent Association, Case No. EL-2007-031; Election 9/27 - 9/28/2007; FOP won; Certification 1642.

Local 4522, Big Corkscrew Professional Fire Fighters Association v. Big Corkscrew Island Fire Control and Rescue District, Case No. EL-2007-029; Election 9/13 - 10/4/2007; Union won; Certification 1643.

International Union of Police Associations, AFL-CIO v. City of Fellsmere v. Teamsters Local Union 769 Affiliated with the International Brotherhood of Teamsters, Case No. EL-2007-030; Election 9/13 - 10/4/2007; IUPA won; Certification 1644.

Teamsters Local Union 385 v. Sheriff of St. Johns County, Case No. EL-2007-034; Election 10/11 - 10/12/2007; Union lost.

Florida Public Employees Council 79, American Federation of State, County and Municipal Employees, AFL-CIO v. Washington County Board of County Commissioners, Case No. EL-2007-033; Election 9/26 - 10/17/2007; Union lost.

Florida State Lodge, Fraternal Order of Police, Inc. v. Jacksonville Aviation Authority v. Jax Airport Lodge 85 of the Fraternal Order of Police, Case No. EL-2007-032; Election 9/26 - 10/17/2007; FOP won; Certification 1645.

Teamsters Local Union 385 v. City of Edgewater v. Florida State Lodge, Fraternal Order of Police, Inc., Case No. EL-2007-035; Election 9/28 - 10/17/2007; Teamsters won; Certification 1646.

United Food and Commercial Workers Union, Local 1625, Chartered by the United Food and Commercial Workers International Union v. City of Keystone Heights, Case No. EL-2007-038; Election 10/4 - 10/18/2007; Local 1625 won; Certification 1647.

Teamsters Local Union 769 Affiliated with the International Brotherhood of Teamsters v. Martin County Board of County Commissioners v. Martin County Public Employees United, Case No. EL-2007-037; Election 10/25/2007; Teamsters won; Certification 1648.

Local 4575, Edgewater Professional Firefighters Association, International Association of Firefighters v. City of Edgewater, Case No. EL-2007-036; Election 10/9 – 10/30/2007; Local 4575 won; Certification 1649.

International Union of Police Associations, AFL-CIO v. Village of Pinecrest, Case No. EL-2007-040; Election 10/9 – 10/30/2007; Union won; Certification 1650.

(Continued from page 10)

International Union of Police Associations, AFL-CIO v. Sheriff of Broward County v. Broward County Police Benevolent Association, Inc., Chartered by the Florida Police Benevolent Association, Inc., Case No. EL-2007-039; Election 10/16 – 11/7/2007; PBA won; Certification 1034 remains in effect.

Hendry County Professional Paramedics and EMT's, International Association of Fire Fighters, Local 4520 v. Hendry County Board of County Commissioners, Case No. EL-2007-042; Election 10/18 – 11/8/2007; Union won; Certification 1651.

Florida State Lodge, Fraternal Order of Police, Inc. v. Sheriff of Clay County, Case No. EL-2007-041; Election 10/18 – 11/8/2007; Union lost.

Smith v. Florida State Lodge, Fraternal Order of Police, Inc. v. Sheriff of Clay County, Case No. EL-2007-045; Election 12/12/2007; Union won; Certification 1590 remains in effect.

Cotchaleovitch, Jr. v. Florida State Lodge, Fraternal Order of Police, Inc. v. Sheriff of Clay County, Case No. EL-2007-048; Election 12/12/2007; FOP won; Certification 1592 remains in effect.

Stephens v. Teamsters Local Union 385 v. City of Maitland, Case No. EL-2007-043; Election 11/27 – 12/18/2007; Union won; Certification 1578 remains in effect.

McSween v. SEIU Florida Public Services Union, CTW, CLC v. Orange County Library District, Case No. EL-2007-044; Election 11/26 – 12/18/2007; SEIU won; Certification 1255 remains in effect.

Florida State Lodge, Fraternal Order of Police, Inc. v. Sheriff of Santa Rosa County, Case No. EL-2007-049; Election 11/28 – 12/20/2007; FOP won.

Palm Beach County Police Benevolent Association, Inc., Chartered by the Florida Police Benevolent Association, Inc. v. City of Lake Worth v. Florida State Lodge, Fraternal Order of Police, Inc., Case No. EL-2007-047; Election 11/29 – 12/20/2007; PBA won; Certification 1652 issued, Certification 1430 revoked.

Coastal Florida Police Benevolent Association, Inc. v. City of Oviedo, Case No. EL-2007-046; Election 12/05 – 12/21/2007; Union won; Certification 1653.



PERC News Enters the Electronic Age

The issue of the PERC News you hold in your hand will be the last issue of the News to be printed and mailed. Henceforth, the News will only be available in electronic format on the Commission's new website (see article on the new website in this issue). To ensure that no one is deprived of their quarterly dose of Florida public sector labor law, the Commission's technology guru has created the PERC News Email Notification System. As its name suggests, this system is designed to send notices to subscribers via email when a new issue of the News is available online. The subscriber is then free to read the News online or download (Adobe Acrobat PDF format) and print their own copy.

"Easy," you say? Yes, but there is a catch! You must register for the notification system. Even if you are already a subscriber to the print version of the News. Even if you are certain that somewhere in our files we have your email address. The good news, however, is that registration is a breeze as long as you know your name and the email address at which you want to receive the notifications. Armed with this information, go to the Commission's spiffy new website: <http://perc.myflorida.com>. On the website's home page, you will see a series of buttons on the left side, one of which is labeled "PERC Newsletters." Click on that button and select "sign up" on the "PERC Newsletters" page that then opens. A quick click on the "sign up" link that appears on the ensuing page and you will be at the actual registration screen. You can also register (and maybe save yourself a click or two) by selecting the "sign up" link in the "What's New!" section on the right of the website home page.

Should you encounter any difficulty in the registration process, please contact Trevor Flanagan at trevor.flanagan@perc.myflorida.com or (850) 488-8641.



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