

PUBLIC EMPLOYMENT RELATIONS BOARD

Sacramento Regional Office
1031 18th Street
Sacramento, CA 95811-4124
Telephone: (916) 327-8385
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January 18, 2012

Shelline K. Bennett, Attorney
Liebert Cassidy Whitmore
5250 N. Palm, Suite 310
Fresno, CA 93704

Kerianne R. Steele, Attorney
Weinberg, Roger & Rosenfeld
1001 Marina Village Parkway, Suite 200
Alameda, CA 94501

Re: *SEIU Local 521 v. County of Fresno*
Unfair Practice Charge No. SA-CE-768-M

Dear Parties:

The Office of the General Counsel has issued the enclosed COMPLAINT in the above-entitled matter. The Respondent is required to file an ANSWER within 20 calendar days from the date of service of the COMPLAINT, pursuant to PERB Regulation 32644.¹ The required contents of the ANSWER are described in PERB Regulation 32644(b). If you have not filed a Notice of Appearance form, one should be completed and returned with your ANSWER.

Also enclosed is a Notice of Informal Conference informing you that an informal settlement conference has been scheduled. If you are unable to meet on the date specified, please follow the instructions in the second paragraph of the notice. All inquiries, filings, and correspondence in this matter should be directed to me.

Sincerely,

Wendi L. Ross
Deputy General Counsel

Enclosures

¹ PERB's Regulations are codified at California Code of Regulations, title 8, section 31001 et seq. Copies may be purchased from PERB's Publications Coordinator, 1031 18th Street, Sacramento, CA 95811-4124, and the text is available at www.perb.ca.gov.

STATE OF CALIFORNIA

PUBLIC EMPLOYMENT RELATIONS BOARD



SEIU LOCAL 521,

Charging Party,

v.

COUNTY OF FRESNO,

Respondent.

Case No. SA-CE-768-M

COMPLAINT

It having been charged by Charging Party that Respondent engaged in unfair practices in violation of California Government Code section 3500 et seq., the General Counsel of the Public Employment Relations Board (PERB), pursuant to California Government Code sections 3509(b) and 3541.3(i) and California Code of Regulations, title 8, section 32640, issues this COMPLAINT on behalf of PERB and ALLEGES:

1. Charging Party is an exclusive representative within the meaning of PERB Regulation 32016(b) of an appropriate unit of employees and within PERB's jurisdiction.
2. Respondent is a public agency within the meaning of Government Code section 3501(c) and PERB Regulation 32016(a).
3. During the period from August 12, 2011, through November 10, 2011, Respondent and Charging Party were meeting and conferring pursuant to Government Code section 3505.
4. During the period of time described in paragraph 3, Respondent engaged in the following conduct:
 - a. On August 12, 2011, Respondent gave Charging Party 700 proposals to modify or eliminate existing contract language and told Charging Party that "rejection of a single proposal within the package constituted a rejection of the entire package."

- b. On or about August 12, 2011, Respondent set the date of October 31, 2011, as a deadline for reaching agreement. Respondent did not explain to Charging Party why it had set October 31, 2011 as a deadline.
- c. On or about August 12, 2011, Respondent proposed a new retirement “tier” applicable only to new employees. Respondent insisted on the inclusion of the new retirement tier throughout negotiations.
- d. On or before October 6, 2011, Charging Party proposed an alternative retirement plan that would have saved Respondent “\$16 million,” but Respondent rejected the proposal without giving Charging Party an explanation.
- e. Charging Party presented Respondent with numerous proposals, but Respondent “summarily rejected” all of the Charging Party’s proposals except two.
- f. On September 29, 2011, Charging Party asked Respondent for actuarial information that would enable Charging Party to evaluate the new retirement “tier” that Respondent had proposed. As of November 20, 2011, Respondent had not given that information to Charging Party.
- g. On November 10, 2011, Respondent gave Charging Party its last, best, and final offer (LBFO). At the time, 500 of Respondent’s proposals “remained on the table.” Charging Party told Respondent that Charging Party would submit the LBFO to Charging Party’s members for a ratification vote, but that Charging Party could not complete and tally the vote until December 18, 2011.
- h. On December 1, 2011, Respondent declared “impasse,” which was before Charging Party could complete its membership ratification vote regarding the LBFO.

i. On December 1, 2011, Respondent told Charging Party that it would adopt the LBFO on December 6, 2011, but did not explain to Charging Party why it needed to act by December 6, 2011.

j. On December 6, 2011, Respondent, acting through its agent, Henry Pera, stated, in essence, that the Respondent “was rushing to impose [the LBFO] solely to avoid the consequences of Assembly Bill 646,” which was to take effect January 1, 2012.

k. On December 6, 2011, Respondent adopted and, on December 12, 2011, it implemented, the LFBO (the implemented terms).

5. By the acts and conduct included in, but not limited to, those described in paragraph 4, Respondent failed and refused to meet and confer in good faith with Charging Party in violation of Government Code section 3505 and committed an unfair practice under Government Code section 3509(b) and PERB Regulation 32603(c).

6. This conduct also interfered with the rights of bargaining unit employees to be represented by Charging Party in violation of Government Code section 3506 and is an unfair practice under Government Code section 3509(b) and PERB Regulation 32603(a).

7. This conduct also denied Charging Party its right to represent bargaining unit employees in violation of Government Code section 3503 and is an unfair practice under Government Code section 3509(b) and PERB Regulation 32603(b).

8. On or about December 21, 2011, Charging Party offered “to accept a larger share of health care premiums” than was required by the implemented terms.

9. On or about December 21, 2011, Charging Party offered to return to the table “for a presentation of a significant counterproposal,” but Respondent refused to meet with Charging Party.

10. By the acts and conduct included in, but not limited to, those described in paragraphs 8 and 9, Respondent failed and refused to meet and confer in good faith with Charging Party in violation of Government Code section 3505 and committed an unfair practice under Government Code section 3509(b) and PERB Regulation 32603(c).

11. Santiago Ocegüera, Michelle Ronley, and Sandra Shillaci are all public employees within the meaning of Government Code section 3501(d) and within PERB's jurisdiction. All three individuals are also representatives for the Charging Party.

12. On or about October 18, 2011, Respondent, acting through its agent, Carmen Sanchez-Suaceda, told Mr. Ocegüera, in essence, that he could not "talk about Union business during breaks or inside [Respondent's] buildings."

13. On or about October 28, 2011, Respondent, acting through its agent, Ms. Sanchez-Suaceda, issued a "counseling memo" to Mr. Ocegüera advising him, in essence, not to "talk about Union business during breaks or inside [Respondent's] buildings."

14. On some unspecified date in October 2011, Respondent, acting through its agent, Trina Wells-Coleman, told Ms. Ronley, in essence, that she could only distribute union-related material "outside" Respondent's building or in the "foyer" of Respondent's building.

15. On or about November 15, 2011, Respondent, acting through its agent, Maria Kril, told Ms. Shillaci, in essence, that employees were not allowed to have union materials at their desks and that such materials are "only allowed" on union bulletin boards.

16. On or about October 20, 2011, Respondent, acting through its agent, Steve Sanchez distributed a memorandum to bargaining unit employees stating that employees may not distribute union literature in "work areas."

17. On October 24, 2011, Respondent, acting through its agent, Mr. Sanchez sent an e-mail message to employees directing them not to distribute union flyers “anywhere in [Respondent’s] buildings.”


18. On or about November 1, 2011, Charging Party held a rally of its members and supporters in Courthouse Park. Respondent’s agent, Jerry Morris, Chief Security Officer, informed Charging Party’s representatives that they needed a permit to assemble in the Park and ordered Charging Party’s members and supporters to disperse from the park.

19. By the acts and conduct described in paragraphs 12 through 18, Respondent interfered with employee rights guaranteed by the Meyers-Milias-Brown Act in violation of Government Code section 3506 and committed an unfair practice under Government Code section 3509(b) and PERB Regulation 32603(a).

20. This conduct also denied Charging Party its right to represent employees in violation of Government Code section 3503 and is an unfair practice under Government Code section 3509(b) and PERB Regulation 32603(b).

Any amendment to the complaint shall be processed pursuant to California Code of Regulations, title 8, sections 32647 and 32648.

DATED: January 18, 2012

By 

M. SUZANNE MURPHY
General Counsel

PROOF OF SERVICE

I declare that I am a resident of or employed in the County of Sacramento, California. I am over the age of 18 years and not a party to the within entitled cause. The name and address of my residence or business is Public Employment Relations Board, 1031 18th Street, Sacramento, CA 95811-4124.

On January 18, 2012, I served the Letter regarding Case No. SA-CE-768-M on the parties listed below by

placing a true copy thereof enclosed in a sealed envelope for collection and delivery by the United States Postal Service or private delivery service following ordinary business practices with postage or other costs prepaid.

personal delivery.

facsimile transmission in accordance with the requirements of PERB Regulations 32090 and 32135(d).

Shelline K. Bennett, Attorney
Liebert Cassidy Whitmore
5250 N. Palm, Suite 310
Fresno, CA 93704

Kerianne R. Steele, Attorney
Weinberg, Roger & Rosenfeld
1001 Marina Village Parkway, Suite 200
Alameda, CA 94501

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on January 18, 2012, at Sacramento, California.

L. Chisholm

(Type or print name)



(Signature)

STATE OF CALIFORNIA
PUBLIC EMPLOYMENT RELATIONS BOARD



SEIU LOCAL 521,

Charging Party,

v.

COUNTY OF FRESNO,

Respondent.

Case No. SA-CE-768-M

**NOTICE OF INFORMAL
CONFERENCE**

PLEASE TAKE NOTICE that on January 26, 2012, beginning at 10:00 a.m., at the Public Employment Relations Board, 1031 18th Street, Sacramento, California, 95811-4124, an informal conference will be held pursuant to California Code of Regulations, title 8, section 32650 on an unfair practice complaint issued by the Public Employment Relations Board (PERB) against the above-named respondent. The conference will be held before the undersigned representative of PERB, at which time the parties should appear in person or by representative.

PLEASE TAKE FURTHER NOTICE that requests to change the date of the informal conference will not be entertained unless a written request meeting the following conditions is filed in the Sacramento Regional Office not less than five (5) working days before the date set for the conference.

1. The request must be served on the opposing party;
2. The reasons for the request must be specified;
3. The request must include the opposing party's position on the request;
4. Alternate dates proposed by the requesting party and submitted by the opposing party must be stated. (Reasonable attempts should have been previously made to coordinate those dates with the calendar of the undersigned; and


5. The alternate dates must fall within 20 calendar days of the date the conference was originally scheduled.

If all of the above-listed conditions are not met, the written request must set forth good cause for the failure to comply with this directive.

At the conference, the parties should be prepared to reach a settlement agreement or reduce the number of outstanding issues. If no settlement is reached, a formal hearing will be scheduled by the PERB. Parties should be prepared at the conference to submit at least three sets of proposed dates for formal hearing.

All communications concerning the further processing of this case should be addressed to the undersigned at PERB, 1031 18th Street, Sacramento, CA 95811-4124; (916) 327-8385.

DATED: January 18, 2012

By 
Wendi L. Ross
Deputy General Counsel

PROOF OF SERVICE

I declare that I am a resident of or employed in the County of Sacramento, California. I am over the age of 18 years and not a party to the within entitled cause. The name and address of my residence or business is Public Employment Relations Board, 1031 18th Street, Sacramento, CA 95811-4124.

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L. Chisholm
(Type or print name)


(Signature)