

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

GERHARDT J. STEINKE,

Complainant,

vs.

MILWAUKEE AREA TECHNICAL
COLLEGE, ET AL.,

Respondents.

Case 456

No. 53078 MP-3067

Decision No. 28562-A

ORDER DENYING MOTIONS TO REQUIRE GOOD FAITH
RESPONDENTS' REPRESENTATION AND FOR PRE-HEARING ORDER
ON WHO STEINKE CAN PROPERLY CONTACT UNDER THE TRO

Gerhardt J. Steinke, hereinafter referred to as the Complainant, on August 11, 1995, filed a complaint with the Wisconsin Employment Relations Commission naming 85 Respondents and claiming violations within the meaning of Secs. 111.70(3)(a) and (b), of the Municipal Employment Relations Act. On October 13, 1995, the Complainant filed an amended complaint. On October 18, 1995, the Commission appointed Lionel L. Crowley, a member of its staff, to act as Examiner to make and issue Findings of Fact, Conclusions of Law and Order pursuant to Sec. 111.07(5), Stats. On October 25, 1995, Complainant filed a Motion to Require Good Faith Respondents' Representation in response to the Notice of Appearance by Michael, Best & Friedrich by Attorney John A. Busch on behalf of approximately 74 Respondents and a motion by Schneidman, Myers, Dowling & Blumenfield by Attorney Timothy E. Hawks on behalf of certain Respondents. The import of Complainant's Motion was that the Examiner order all Respondents to speak for themselves and to come forward clearly stating their wish to be represented by Busch or Hawks or neither. Complainant asserted that the representation claims by Busch and Hawks are insufficient. On October 26, 1995, Complainant filed a Motion for Pre-Hearing Order On Who Steinke Can Properly Contact Under the TRO. The Complainant is apparently under a Temporary Restraining Order which precludes his contacting anyone from MATC except Attorney Maria K. Myers. The Examiner, having considered the matter, makes and issues the following

ORDER

1. The Motion to Require Good Faith Respondents' Representation is hereby denied.
2. The Motion for Pre-Hearing Order On Who Steinke Can Properly Contact Under the TRO is hereby denied.

Dated at Madison, Wisconsin, this 1st day of November, 1995.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Lionel L. Crowley /s/
Lionel L. Crowley, Examiner

MILWAUKEE AREA TECHNICAL COLLEGE, ET AL.

MEMORANDUM ACCOMPANYING ORDER DENYING MOTIONS TO REQUIRE GOOD FAITH RESPONDENTS' REPRESENTATION AND FOR PRE-HEARING ORDER ON WHO STEINKE CAN PROPERLY CONTACT UNDER THE TRO

Every person may appear by an attorney in any proceeding against that person. See Sec. 111.07(2)(a), Stats., and Wis. Adm. Code, ERC 2.12. Service of a Notice of Appearance by an attorney on behalf of any party or parties establishes the appearance of that party or parties in the proceeding. Nothing more is required by any rule or statute. It is axiomatic that an opposing party cannot insist on any additional proof that such person(s) acknowledged being a party because the appearance establishes it and additional proof that the attorney represents the party or parties is irrelevant and immaterial for the purposes of any proceeding. Therefore, this Motion has been denied in all respects.

With respect to the Temporary Restraining Order, the Wisconsin Employment Relations Commission is an administrative agency under Chap. 227, Stats., and as such its authority is limited. Section 111.07(1), Stats., provides that, "nothing herein shall prevent the pursuit of legal or equitable relief in courts of competent jurisdiction." A TRO is equitable relief and only a court may grant it or modify it and the Commission cannot provide such relief. Therefore, the Commission is without jurisdiction to take any action with respect to the TRO and Complainant must seek relief in the courts. Thus, this Motion is denied in all respects.

With respect to the instant complaint, the Complainant may contact attorneys Hawks, Busch, Burns and Benrud who have made appearances in this case and Complainant is required to send them copies of anything Complainant sends to the Examiner.

Dated at Madison, Wisconsin, this 1st day of November, 1995.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Lionel L. Crowley /s/
Lionel L. Crowley, Examiner