STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

MARINETTE COUNTY COURTHOUSE EMPLOYEES UNION, LOCAL 1752, AFSCME, AFL-CIO,

Complainant,

vs.

MARINETTE COUNTY (COURTHOUSE),

Respondent.

Case 154
No. 53337 MP-3103
Decision No. 28783-A

Appearances:
Mr. David Campsure, Staff Representative, Wisconsin Council 40, AFSCME, AFL-CIO, 1566 Lynwood Lane, Green Bay, Wisconsin 54311, on behalf of Local 1752.
Mr. Chester Stauffacher, Corporation Counsel, 1926 Hall Avenue, P.O. Box 320, Marinette, Wisconsin 54143-0320, on behalf of the County.

FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER

Marinette County Courthouse Employees Union, Local 1752, AFSCME, AFL-CIO (Union or Complainant) filed a complaint with the Wisconsin Employment Relations Commission on November 8, 1995 alleging that Marinette County had committed prohibited practices in violation of Secs. 111.70(3)(a)1, and 5, Stats., by refusing to arbitrate a grievance which sought backpay for male civilian correction officers as a result of alleged discrimination. On July 8, 1996 the Commission appointed Sharon A. Gallagher, a member of its staff, to act as Examiner and to make and issue Findings of Fact, Conclusion of Law and Order as provided in Sec. 111.07(5), Stats. By letter dated December 18, 1995, Complainant advised that Respondent had agreed to waive a hearing in this case, to enter into factual stipulations, and to submit briefs thereafter. On January 9, 1996, Complainant submitted a draft of stipulations to Respondent. By letter dated January 12, 1996, Respondent by its attorney, agreed to the proposed stipulated facts as drafted by the Union, but suggested that an additional paragraph be added as follows:

> The parties agree that Marinette County has always paid the wage scale agreed to in all of the collective bargaining agreements that have been in force at all times relevant to the events recited herein.

On January 25, 1996 Complainant advised that the Union did not agree with the additional proposed paragraph, and stated that the issue of whether or not all Civilian Correction Officers were

paid the wage scale contained in the relevant collective bargaining agreements is the "crux of the instant dispute." On February 12, 1996, the Examiner requested that the parties submit further documentary evidence to flesh out the record in this case. Complainant and Respondent submitted the additional requested evidence by March 8, 1996. By letter dated May 7, 1996, the Examiner invited the parties to set a briefing schedule. By letter dated May 14, 1996 the Complainant advised that the parties had agreed that initial briefs should be postmarked on or before June 14, 1996 and that the parties would reserve the right to submit reply briefs to be posted within ten working days after receipt of the opposing side's initial brief. By letter received June 11, 1996 the Respondent advised that it would not submit an initial brief and stated its reliance upon the case file in this matter.

The Complainant submitted its initial brief on June 17, 1996. Complainant also requested in its cover letter that reply briefs be waived or in the alternative if the County chose to file a reply brief that the Union have the opportunity to reply to the County's brief. Despite the County's previous statement that it would not file a brief herein, the undersigned received a brief from Respondent on July 15, 1996 and she therefore allowed the Complainant to file a responsive brief by July 18 1996. The record was thereupon closed.

The Examiner, having considered the evidence and arguments of the parties, makes and issues the following Findings of Fact, Conclusion of Law and Order.

FINDINGS OF FACT 1/

1. Marinette County Courthouse Employees Union, Local 1752, AFSCME, AFL-CIO, hereinafter referred to as the Union, is a labor organization within the meaning of Sec. 111.70(1)(h), Stats., and has its principal place of business at 1566 Lynwood Lane, Green Bay, Wisconsin, 54311.

2. Marinette County, hereinafter referred to as the County, is a municipal employer within the meaning of Sec. 111.70(1)(j), Stats., and its offices are located at 1926 Hall Avenue, P.O. Box 320, Marinette, Wisconsin, 54143-0320.

1/ Findings of Fact Nos. 1 through 11 above were stipulated to by the parties. Findings of Fact No. 12, et seq. were made and issued by the Examiner based upon the documentary evidence submitted by the parties.

3. At all times material hereto, the Union has been the certified exclusive collective bargaining representative of all regular full-time and regular part-time employes of the Marinette County Courthouse and related classifications as listed in Appendix A of the parties' collective bargaining agreement ("CBA"), excluding elected, supervisory and confidential personnel.

4. The Union and County have been parties to a series of CBAs, including at all times material hereto. The current agreement was in effect from January 1, 1995 through December 31, 1997.

5. The parties' agreement contains a grievance procedure culminating in final and binding arbitration. The agreement also contains the following provisions:

ARTICLE 1

AGREEMENT AND RECOGNITION

> 1.03 Equal Opportunity. The parties of this Agreement agree that they shall not engage in any act of employment discrimination as specified in the Wisconsin Statutes against any individual on the basis of age, race, creed, color, handicap, marital status, sex, national origin, ancestry, sexual orientation, arrest record or conviction record, and that such persons shall receive the full protection of this Agreement. Wherever in this Agreement one gender is used, it shall include the opposite gender and the singular shall include the plural, where applicable.

6. On or about July 31, 1995 the Union filed a grievance in accordance with the terms of the parties' collective bargaining agreement, involving backpay for male civilian corrections officers ("CCO's") as the result of discrimination. The parties' processed said grievance through the steps delineated in Article 4 - Grievance Procedure of the parties' collective bargaining agreement. The County denied said grievance at each step of that process, stating the County did not violate the parties' Agreement. On or about September 13, 1995 the Union notified the County of its intent to submit said grievance to arbitration. On or about October 2, 1995 the Union submitted a written petition to the Wisconsin Employment Relations Commission (WERC) requesting that it provide the Union and the County with a sole arbitrator to hear and decide said grievance (WERC Case 153 No. 53208 MA-9271). On or about October 17, 1995, the County notified the WERC of its refusal to participate in the arbitration process, on the grounds "that the claim represented by the grievance did not arise from the Labor Agreement."

7. On or about July 30, 1992 the Equal Employment Opportunity Commission ("EEOC") commenced action under the Equal Pay Act of 1963, 29 U.S.C. Sec. 206(d) ("EPA"), on behalf of a group of female CCO's employed by the County on or after August 1, 1988. The EEOC

alleged that the County paid the female CCO's less than it paid male Security Deputies performing equal work requiring equal skill, effort and responsibilities, and performed under similar work conditions. On or about June 26, 1995, the EEOC and the County entered into a Consent Decree and Order in which, without admitting that it had failed to comply with federal Equal Opportunity laws, including the EPA, the County agreed to pay the sum of $160,000.00 in back pay and damages to female CCO's employed on or after July 30, 1989, allocated as follows:

Female CCO	Back Pay & Liquidated Damages
Betty Aarant	$ 2,516.37
Susan Brown	$23,383.46
Colleen Crawford	$11,604.48
Teresa Gleason	$24,598.18
Linda Konyn	$ 5,812.93
Amber Lynwood	$16,178.25
Cindy Stolpa	$30,933.79
Diane Strzyzewski	$12,249.02
Sherell Trentin	$ 1,735.30
Ruth Werner	$30,988.22

The amount paid to each female CCO was divided equally between back pay and liquidated damages. The County was required to make proper deductions for income taxes and FICA as well as pension contributions for the back pay portion but not the liquidated damages portion.

8. The service dates, as CCO's, for the male Grievants' and the female CCO's who received back pay and damages under the terms of the Consent Decree are as follows:

Female CCO's	Hire Date	Termination Date
Betty Aarant	06/21/89	04/21/91
Susan Brown	08/16/88	08/27/93
Collen Crawford	08/02/88	01/01/91
Teresa Gleason	08/01/88	
Linda Konyn	10/04/93	07/15/95
Amber Lynwood	08/02/88	
Cindy Stolpa	05/31/89	
Diane Strzyzewski	05/13/91	
Sherell Trentin	08/01/88	05/14/91
Ruth Werner	08/08/88	

Male CCO's	Hire Date	Termination Date
John Champeau	01/23/91	06/04/95
Jeff Gray	05/15/91	01/11/94
William Hamer	05/22/95	
Robert Majewski	01/22/91	
Chris Mosconi	06/18/93	
Dennis Nordahl	03/27/90	

Wayne Panske	06/17/90	11/30/90
Richard Prince	03/22/90	
Dale Reisner	08/09/93	

9. Prior to the hiring of CCO's the County jail was staffed by Security Deputies ("SD's") who, as sworn deputies, could carry weapons, had the power of arrest, and could perform all law enforcement functions of the Sheriff's Department, including road patrol and jail duty. At no time did the County employ any female SD's. SD's are and always have been members of a different bargaining unit than the CCO's, which is represented by a different labor organization than AFSCME.

10. County CCO's are not sworn, do not carry weapons, do not have the power of arrest, and cannot perform any other law enforcement function other than staffing the jail and prisoner transport. Beginning in August of 1988, the County began hiring female CCO's to replace the female matron system that previously existed when there were females housed in the jail. Thereafter, over a period of approximately four (4) years, the County replaced the SD's, with one exception, with female and male CCO's. The exception was for an SD with a medical disability that prevents him from performing Sheriff's Deputy work outside of the jail as an accommodation under the Americans with Disabilities Act ("ADA").

11. The parties' 1989-90 collective bargaining agreement contained a Civilian Jailer classification. The three (3) subsequent collective bargaining agreements (1991-1992, 1993-1994, 1995-1997) have contained a Civilian Corrections Officer classification. At no time have the Union and the County made a distinction between male and female CCO's with regard to job duties, working conditions, wages, benefits, or otherwise.

12. The effective collective bargaining agreement contains the following language in Article 4 - Grievance Procedure:

> 4.01 Grievance Procedure. Should differences arise between the Employer and Employees or the Union, this procedure shall be followed:
>
> **Step 1**: Any Employee covered by this Agreement who has a grievance shall report h/er grievance to the steward or other representative of the Union within ten (10) work days, who shall investigate the grievance thoroughly, and if the Union feels the grievance is warranted, the Union shall request a meeting with the department head within five (5) work days. The department head shall give h/er answer to the Union in writing within three (3) work days of this meeting.

. . .

Step 4: If the matter still remains unsettled, then it should be submitted in writing to arbitration.

A) The arbitration board shall consist of one (1) member selected by the Wisconsin Employment Relations Commission. The decision of the arbitration board shall be submitted to both parties hereto in writing and shall be final and binding upon both parties.

The Union shall have the right to have present the aggrieved Employee or Employees and any other Union representatives at all meetings for the purpose of resolving said grievance. Grievances shall be presented for adjustment without fear of penalty to the Employee aggrieved. No Employee shall be caused to suffer loss in pay on account of carrying out the provisions of this grievance procedure.

13. There is no provision in the effective collective bargaining agreement which specifically excludes arbitration of the grievance filed on or about July 31, 1995. The grievance specifically cited a violation of "Article 1.03 Equal Opportunity" by the County's actions: "Women Correction Officers received earned wages in a Settlement with Marinette County dating back to the year 1990."

14. Respondent answered the EEOC complaint referred to in Finding of Fact No. 7 by denying the complaint allegations of discrimination based upon sex and further defended by stating the following:

AFFIRMATIVE DEFENSES

9. That the Complaint fails to state a claim upon which relief may be granted.

10. That any disparity in wages and wage rates was and is based upon a factor other than sex; a seniority system and a merit system.

11. That all or portions of the claims involved are barred by the applicable statute of limitations.

12. That Plaintiff lacks the authority to proceed on behalf of persons other than those filing administrative complaints.

13. That the Complaint is barred by the equitable

doctrine of laches.

15. The EEOC case Consent Decree and Order referred to in Finding of Fact No. 7 read in relevant part as follows:

. . .

> The EEOC alleges that defendant Marinette County ("County") paid the women jail guards less than it paid male jail guards doing equal work requiring equal skill, effort, and responsibility, and performed under similar working conditions.
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> The County has denied the EEOC's allegations that it violated the EPA. The parties have entered into this consent decree after extensive and thorough pre-trial discovery regarding the facts and applicable law of the case, in order to avoid the additional time, expense, and burden of protracted litigation. This Consent Decree does not constitute an adjudication or finding by the court on the merits of the EEOC's complaint or the County's defense, and shall not be construed as an admission of fact, liability or non liability by the parties.
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> . . .
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> Without admitting that it has failed to comply with federal Equal Employment Opportunity laws, including specifically the EPA, the County agrees to comply fully with said laws.
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> . . .
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> This Consent Decree fully and finally resolves all claims that have been or could have been received by the Recipients, as well as all claims for monetary or injunctive relief that have been or could have been raised by the EEOC based upon the allegations in the complaint on behalf of the female jail guards working in the Marinette County jail on or before August 1, 1988, through the date of approval of this Consent Decree by the court. This Consent Decree and the dismissals and releases which accompany its execution do not adjudicate the rights and thereby bar the claims of any individual who is not a recipient. Neither shall the Consent Decree nor the dismissals and releases which accompany its execution barr the EEOC from seeking monetary relief on behalf of any such individual, or from investigating or seeking to remedy

claims not previously resolved by this Consent Decree.

. . .

The recipients, listed in Finding of Fact No. 7 herein, received the amounts listed next to their names, equally divided between back pay and liquidated damages pursuant to the Consent Decree and the order of the court.

16. The grievance filed on July 31, 1995, raises a claim that comes within the definition of a grievance under Article 4 - Grievance Procedure of the parties' collective bargaining agreement.

Upon the basis of the foregoing Findings of Fact, the Examiner makes and issues the following

CONCLUSION OF LAW

Marinette County, by its refusal to arbitrate the July 31, 1995 grievance, has violated the terms of the parties' collective bargaining agreement and by its actions has violated Sec. 111.70(3)(a)5 and 1, Stats.

Upon the basis of the foregoing Findings of Fact and Conclusion of Law, the Examiner makes and issues the following

ORDER 2/

IT IS ORDERED that Marinette County, by its officers and agents, shall immediately:

1. Cease and desist from refusing to submit the July 31, 1995 grievance related to male CCO's claims that the County has violated Article 1.03 - Equal Opportunity, by its treatment of male CCO's, to final and binding arbitration.

2. Take the following affirmative actions which the Examiner finds will effectuate the policies of the Municipal Employment Relations Act:

   a. Submit the July 31, 1995 grievance to binding arbitration.

   b. Notify the Commission within twenty (20) days of the date of this Order, in writing, of what steps have been taken to comply with this

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2/ Footnote found on page 9.

Order.

c. Pay $225.00 of the $250.00 WERC grievance arbitration case filing fee.

Dated at Oshkosh, Wisconsin this _____ day of September, 1996.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By _____
Sharon A. Gallagher, Examiner

1/ Any party may file a petition for review with the Commission by following the procedures set forth in Sec. 111.07(5), Stats.

Section 111.07(5), Stats.

> (5) The commission may authorize a commissioner or examiner to make findings and orders. Any party in interest who is dissatisfied with the findings or order of a commissioner or examiner may file a written petition with the commission as a body to review the findings or order. If no petition is filed within 20 days from the date that a copy of the findings or order of the commissioner or examiner was mailed to the last known address of the parties in interest, such findings or order shall be considered the findings or order of the commission as a body unless set aside, reversed or modified by such commissioner or examiner within such time. If the findings or order are set aside by the commissioner or examiner the status shall be the same as prior to the findings or order set aside. If the findings or order are reversed or modified by the commissioner or examiner the time for filing petition with the commission shall run from the time that notice of such reversal or modification is mailed to the last known address of the parties in interest. Within 45 days after the filing of such petition with the commission, the commission shall either affirm, reverse, set aside or modify such findings or order, in whole or in part, or direct the taking of additional testimony. Such action shall be based on a review of the evidence submitted. If the commission is satisfied that a party in interest has been prejudiced because of exceptional delay in the receipt of a copy of any findings or order it may extend the time another 20 days for filing a petition with the commission.

This decision was placed in the mail on the date of issuance (i.e. the date appearing immediately above the Examiner's signature).

MEMORANDUM ACCOMPANYING
FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER

In its complaint, the Union alleged that the County committed prohibited practices by refusing to proceed to arbitration on the backpay grievance brought by male Civilian Correction Officers (CCO's) filed on July 31, 1995. The County denied it committed any prohibited practices and asserted that the grievance is not substantively arbitrable under the parties' collective bargaining agreement.

UNION'S POSITION:

The Union urged that the Examiner's sole role in this case is to determine whether the underlying grievance is arbitrable under the language of the parties' contract. The Union observed, pursuant to the Steelworkers 3/ trilogy and cases which have arisen thereafter, courts may not address or consider the merits of a grievance but may only consider whether the parties intended that such grievances or disputes be arbitrated or whether any provision of the contract prohibits the arbitration thereof. In this regard, the Union noted that the contract defines a grievance as a "difference" arising between the parties. Thus, to be arbitrable, a grievance between the parties need not arise from the labor agreement as the County has contended. Furthermore, the Union asserted, a specific term of the contract, Section 1.03 was alleged to have been violated by the County's actions in voluntarily entering into a backpay settlement for female CCO's which excluded male CCO's. The Union also argued that Section 20.01 and Appendix A of the contract were violated when the County deviated from bargained-for pay rates in paying the backpay amounts to female CCO's.

The Union pointed out that the courts have historically applied a presumption of arbitrability in cases such as the instant one and that in Wisconsin, unless a specific provision of the contract prohibits or excludes arbitration of like issues, if the grievance arbitration clause on its face can be construed to cover the grievance, the dispute must be held arbitrable. Here, the Union urged, the parties' grievance procedure clearly covers the grievance and the County has failed to show or even to argue that any provision of the agreement prohibits or excludes the underlying grievance from arbitration.

The Union argued that Section 1.03 of the labor agreement provides a forum separate from

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3/ United Steelworkers v. American Mfg. Co., 363 U.S. 564 (1960); United Steelworkers v. Warrior & Gulf Navigation Co., 363 U.S. 574 (1960); and United Steelworkers v. Enterprise Wheel & Car Corp., 363 U.S. 593 (1960).

the courts and equal rights agencies wherein employes can resolve claims of employment-related discrimination. Thus, the Union contended, a ruling herein that the male

CCO's grievance is not arbitrable would render Section 1.03 meaningless and deny employes the right to seek relief in these cases through the use of the parties' grievance arbitration procedure. The Union noted that nothing in the EEOC complaint involving the female CCO's states that it is to be the exclusive remedy regarding the events underlying it for all potential litigants. The Union argued that in a similar legal circumstances, Wisconsin courts have acknowledged that an employes' right to seek a remedy through grievance arbitration should not preclude that employe from pressing a statutory claim for Worker's Compensation regarding the same events, citing LaCrosse County v. WERC, 182 Wis.2d. 15, 513, n.w.2d 579 (1994). Therefore, the Union sought an order to arbitrate as well as an order requiring the County to pay $225 of the $250 filing fee for the instant case because of the increase in WERC grievance arbitration filing fees which became effective approximately two months after the filing of the complaint herein.

County Position:

The County argued in its October 17, 1995 and November 10, 1995 position letters that the complaint does not state a claim upon which relief can be granted under Sec. 802.06(2), Stats., because there is no violation of Sec. 111.70(3)(a)1 and 5, Stats., as the Union has alleged. In the County's view, the County's actions in complying with a federal court order requiring it to make payments to female CCO's does not constitute interference with, restraint or coercion of male CCO's under Sec. 111.70(3)(a)1, Stats. In addition, the County urged that because all male CCO's have received the compensation required by the labor agreement during all times relevant hereto, no violation of Sec. 111.70(3)(a)5, Stats. can be found. The County asserted that male CCO's are, by the instant grievance, merely attempting to obtain what the EEOC would not give them under the law. The County noted that female CCO's received extra money, not pursuant to the labor agreement or as a result of collective bargaining, but rather due only to a federal court order. The County therefore stated:

> . . . Marinette County still maintains that the grievance did not arise from the collective bargaining agreement and is not a proper subject of arbitration.

The County therefore stated that it "will not participate" in the arbitration of the dispute.

In its position statement dated July 9, 1996, 4/ the County asserted that the Union, by failing

4/ The County sent this position statement to the WERC's Madison, Wisconsin office. The Examiner did not receive it (forwarded by the Commission) until July 15, 1996, at which time it was considered formally received and filed by the Commission.

to participate in the EEOC case against the County, had waived its right to complain that

male CCO's were discriminated against. The County asserted that even if the grievance is found arbitrable, the Union has failed to allege herein that the County has violated any specific provision of its contract with the Union. No remedy exists in the labor agreement, in the County's view, for the male CCO's, given the facts surrounding the grievance. In addition, the County argued, the facts of the grievance will show that no measure of damages exists at law for the male CCO's due to the lack of any gender difference upon which an "equal pay for equal work" claim can be successfully founded. Finally, the County speculated that should the Examiner find the grievance arbitrable, a grievance arbitrator would have ". . . to re-write past and present collective bargaining agreements to arbitrarily revise the pay scale for certain . . ." employes. The County stated its belief that as there is nothing for an arbitrator to interpret in the underlying grievance and that the Union's claims herein are "absurd and frivolous". The County therefore sought an order dismissing the complaint in its entirety.

Discussion:

The issue presented here is whether the July 31, 1995 grievance is arbitrable. In determining arbitrability, the Commission has consistently applied the law enunciated by the U.S. Supreme Court in the Steelworkers 5/ trilogy cases which have been applied to the Municipal Employment Relations Act by the Wisconsin Supreme Court in Jt. School Dist. No. 10 v. Jefferson Ed. Assoc., 78 Wis.2d 94, 253 N.W. 2d 536 (1977). In the latter case, the Wisconsin Supreme Court held that in determining arbitrability, the Court's function is limited to determining whether there is a construction of the arbitration clause that would cover the grievance on its face and whether any other provision of the contract specifically excludes arbitration of the underlying dispute. 6/ The Commission has held that a party has a right to proceed to arbitration whenever it has made a claim which, on its face, is governed by the grievance arbitration clause of the collective bargaining agreement. 7/

None of the County's defenses is relevant or material to the instant case. The County must arbitrate the underlying grievance for the following reasons. Initially, I note that the effective labor agreement defines grievances in the broadest possible terms, as ". . . differences . . . between the Employer and Employees or the Union . . ." and that there is no language in the contract which otherwise limits or precludes the right to proceed to arbitration in a case such

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5/ United Steelworkers v. American Mfg. Co., 363 U.S. 564 (1960); United Steelworkers v. Warrior & Gulf Navigation Co., 363 U.S. 574 (1960); and United Steelworkers v. Enterprise Wheel & Car Corp., 363 U.S. 593 (1960).

6/ Jt. School Dist No. 10, supra, at 11.

7/ State of Wisconsin, Dec. No. 18012-C (WERC, 11/81).

as the instant one. The instant case clearly represents a "difference" between the County and the Union. 8/

In addition, I note that the grievance document specifically refers to Section 1.03 of the parties' agreement which guarantees that neither the Union nor the County:

> . . . shall engage in any act of employment discrimination as specified in the Wisconsin Statutes against any individual on the basis of . . . sex . . ., and that such persons shall receive the full protection of this Agreement."

Thus, the collective bargaining agreement arguably adopts Wisconsin State law by reference and incorporates it into the labor agreement so that certain discrimination claims, which are proscribed by Wisconsin law, are also arbitrable. Furthermore, there is no language in this contract which expressly precludes the arbitration of reverse sex discrimination claims and/or the arbitration of the meaning and applicability of Article 1.03. Finally, the grievance specifically objected to the County's payment of "earned wages" to female CCO's pursuant to an EEO settlement, also drawing into controversy the wages paid to male CCO's. Therefore, on its face, the grievance states a claim which is governed by the terms of the effective collective bargaining agreement. 9/ The County has violated Sec. 111.70(3)(a)5, Stats., by its refusal to arbitrate the July 31, 1995 grievance and it is directed to proceed to arbitration on that grievance. 10/

The Union has requested partial payment of the grievance filing fee herein, asserting that the County's position in refusing to arbitrate the grievance was frivolous. The Commission has held that fees and costs are warranted only in exceptional cases where the allegations or defenses are frivolous as opposed to debatable. 11/ In my view, given the clear language of the grievance, the

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8/ I note that Article 4 does not require "differences" to relate to the interpretation or application of a specific term of the labor agreement.

9/ The County's assertion that the grievance fails to state a claim upon which relief can be granted, under Chapter 802, Stats., is hereby rejected. The County's defense that the grievance does not "arise out of" the labor contract, mis-states and misapplies the principles that govern refusal to arbitrate complaint cases in Wisconsin and it is also rejected. See, e.g. City of Cudahy, Dec. No. 28167-A (Crowley, 4/95).

10/ Other defenses which the County has raised herein, such as the extent to which Wisconsin law should be applicable to the grievance, whether an appropriate contract remedy can be ordered, the County's practices regarding wage payments, any waiver or laches arguments and any other substantive arguments are all for the arbitrator to decide.

11/ Wisconsin Dells School District, Dec. No. 25997-C (WERC, 8/90), citing Madison

extremely broad definition of a grievance contained in Article IV, the citation of Article 1.03 in the grievance and the language of that Article,demonstrate that the County's defenses to this complaint are frivolous, devoid of merit and not debatable 12/ so as to warrant the imposition of that portion of the grievance filing fee on the County which the Union has requested herein. 13/

Dated at Oshkosh, Wisconsin this ___ day of September, 1996.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By _____
Sharon A. Gallagher, Examiner

Metropolitan School District, Dec. No. 16471-B (WERC, 5/81).

12/ No evidence was offered herein to demonstrate that the County refused to arbitrate the underlying grievance for bad faith reasons.

13/ Had the County agreed to proceed to arbitrate the underlying grievance, the Union's original filing fee of $25.00 would have then been sufficient to process the entire case before the arbitrator at the time the original request to arbitrate was filed.