

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

**LOCAL 180, SERVICE EMPLOYEES
INTERNATIONAL UNION, AFL-CIO, Complainant,**

vs.

CITY OF LACROSSE, Respondent.

Case 299
No. 57990
MP-3553

Decision No. 29954-A

**ORDER GRANTING MOTION TO MAKE
COMPLAINT MORE DEFINITE AND CERTAIN**

Local 180, Service Employees International Union, AFL-CIO filed an amended complaint with the Wisconsin Employment Relations Commission on September 16, 1999, which alleged that the City of LaCrosse had committed prohibited practices by continuing to flagrantly ignore prior grievance settlements in which the City promised that it would direct its supervisors and managers not to perform bargaining unit work and to enforce its directives. Thereafter, the complaint was held in abeyance pending settlement efforts. On August 14, 2000, the Commission appointed Coleen A. Burns as Examiner to conduct a hearing on the Complaint and to make and issue Findings of Fact, Conclusions of Law and Order in the matter as provided in Secs. 111.70(4)(a) and 111.07, Stats. On August 17, 2000, Respondent filed a Notice of Motion and Motion for More Definite Amended Complaint. By letter dated August 17, 2000, the Examiner requested Complainant to file any response to Respondent's Motion by August 25, 2000. Complainant has not filed any response. The Examiner, being fully advised in the premises, makes and issues the following

ORDER

1. The Complainant shall make its amended complaint more definite and certain by identifying the facts constituting the alleged prohibited practices. In doing so, it is to identify

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the bargaining unit work alleged to have been performed by City managers or supervisors; the time and place of such bargaining work performance; and the names of the City managers or supervisors who are alleged to have performed bargaining unit work.

2. The amended complaint is to be filed with the Examiner and the City's representative, Attorney Peter B. Kisken, by September 11, 2000.

Dated at Madison, Wisconsin this 31st day of August, 2000.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Coleen A. Burns /s/

Coleen A. Burns, Examiner

CITY OF LACROSSE

**MEMORANDUM ACCOMPANYING ORDER GRANTING MOTION
TO MAKE COMPLAINT MORE DEFINITE AND CERTAIN**

Wisconsin Administrative Code, Section ERC 12.02(2)(c) provides that a complaint must contain, *inter alia*:

A clear and concise statement of the facts constituting the alleged prohibited practice or practices including the time and place of occurrence of particular acts and the sections of the statute alleged to have been violated thereby.

The amended Complaint alleges, generally, that City managers and supervisors continue to perform bargaining unit work in flagrant disregard of grievance settlements and, specifically, that on July 9, 1999, City managers and supervisors performed bargaining unit work. Complainant does not identify the names of the City managers and supervisors alleged to have performed bargaining unit work, the bargaining unit work alleged to have been performed by the City managers and supervisors, or the place at which the City managers and supervisors are alleged to have performed bargaining unit work.

The amended Complaint lacks the clear and concise statement of the facts required by ERC 12.02(2)(c). This requires the Respondent to speculate as to the facts that may, or may not, give rise to a claim or claims against it. Accordingly, Respondent's Motion has been granted.

Dated at Madison, Wisconsin this 31st day of August, 2000.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Coleen A. Burns /s/

Coleen A. Burns, Examiner

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