

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

FRANCIS C. TOPEL, JR., Complainant,

vs.

**MILWAUKEE COUNTY DEPT. OF PUBLIC WORKS –
HWY. DIVISION and AFSCME, DISTRICT COUNCIL 48,
AFL-CIO, # LOCAL 882,** Respondents.

Case 514
No. 60566
MP-3777

Decision No. 30298

PETER HEIM, Complainant,

vs.

**MILWAUKEE COUNTY DEPARTMENT OF PUBLIC WORKS,
HIGHWAY DIVISION and AFSCME, DISTRICT COUNCIL 48,
AFL-CIO, LOCAL 882,** Respondents.

Case 520
No. 60839
MP-3795

Decision No. 30299

No. 30298
No. 30299

Appearances:

Alan C. Olson & Associates, S.C. by **Attorney Faye D. Boom**, 2880 South Moreland Road, New Berlin, Wisconsin 53151-3744, appearing on behalf of Francis C. Topel, Jr. and Peter Heim.

Attorney Timothy R. Schoewe, Deputy Corporation Counsel, Milwaukee County, Milwaukee County Courthouse, Room 303, 901 North Ninth Street, Milwaukee, Wisconsin 53233, appearing on behalf of Milwaukee County.

Podell, Ugent, Haney & Miszewski, S.C., by **Attorney Alvin R. Ugent**, 611 North Broadway, Suite 200, Milwaukee, Wisconsin 53202-5004, appearing on behalf of AFSCME District Council 48, AFL-CIO and Local 882.

ORDER DENYING MOTION TO CONSOLIDATE

On February 14, 2002, Complainants Topel and Heim filed a Motion asking that their prohibited practice complaints be consolidated for hearing because of common Respondents and issues.

On February 19, 2002, Respondent Milwaukee County filed a statement in opposition to the Motion that asserted the two complaints presented different facts. On March 6, 2002, Topel filed an amended complaint.

ERC 10.07 provides:

Whenever the commission deems it necessary, in order to effectuate the purposes of s. 111.70, Stats., or to avoid unnecessary costs or delay, it may remove or transfer any proceedings before a single commission member or examiner. Proceedings under several subsections of s. 111.70, Stats., may be combined or severed.

We have held that consolidation is appropriate under ERC 10.07 where we are satisfied that the facts and circumstances underlying the cases are sufficiently interrelated and the witnesses are substantially the same. CITY OF LACROSSE, DEC. NOS. 28081, 28082 (WERC, 6/94). While the Respondents in the Topel and Heim complaints are the same and some of the complaint allegations raise parallel legal issues, the factual underpinning of each complaint is sufficiently distinct to make consolidation inappropriate under ERC 10.07.

NOW, THEREFORE, it is

ORDERED

The Motion to Consolidate is denied.

Given under our hands and seal at the City of Madison, Wisconsin, this 22nd day of March, 2002.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

A. Henry Hempe /s/

A. Henry Hempe, Commissioner

Paul A. Hahn /s/

Paul A. Hahn, Commissioner