

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

**AFSCME, LOCAL 260-A, AFL-CIO,
MAINTENANCE AND CUSTODIAL EMPLOYEES
OF MARINETTE SCHOOL DISTRICT, Complainant,**

vs.

MR. PAUL FOX, MARINETTE SCHOOL DISTRICT, Respondents.

Case 64
No. 67189
MP-4364

Decision No. 32358-A

Appearances:

Michael J. Wilson, Representative at Large, Wisconsin Council 40, AFSCME, AFL-CIO, 8033 Excelsior Drive, Suite "B", Madison, Wisconsin 53717-1903, on behalf of the Complainant.

Robert W. Burns, Davis & Kuelthau, 318 South Washington Street, Suite 300, Green Bay, Wisconsin 54301, on behalf of the Respondents.

ORDER DENYING MOTION IN LIMINE

AFSCME, Local 260-A, AFL-CIO, Maintenance and Custodial Employees of Marinette School District (Complainant) filed a complaint with the Wisconsin Employment Relations Commission on August 7, 2007, alleging that the Marinette School District and Mr. Paul Fox (Respondents) had committed prohibited practices by violating Sec. 111.70(3)(a) 1 and 3, Stats. On February 19, 2008, the Commission assigned Coleen A. Burns, as Examiner to make and issue Findings of Fact, Conclusions of Law and Order in the matter of the prohibited practice complaint filed by the Complainant. On February 29, 2008, Respondent filed a Motion in Limine. On March 3, 2008, Complainant, by voice mail, objected to Respondent's Motion in Limine. On March 3, 2008, by email, the Examiner notified the parties of her intent to deny Respondent's Motion in Limine. The Examiner, having considered the record to date and the arguments of the parties, makes and issues the following

ORDER

The pre-hearing Motion in Limine is denied.

Dated at Madison, Wisconsin, this 9th day of June, 2008.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Coleen A. Burns /s/

Coleen A. Burns, Examiner

MARINETTE SCHOOL DISTRICT

MEMORANDUM ACCOMPANYING ORDER
DENYING MOTION IN LIMINE

The essence of the complaint is that Respondents have unlawfully retaliated against Complainant's bargaining unit members for engaging in concerted activity protected by MERA. Respondents request that Complainant be limited to presenting evidence at the hearing to events occurring within the time period set forth in the Complaint, April 20, 2007 through the date of the filing of the Complaint, to wit, August 7, 2007.

Respondent's Motion in Limine has been denied on the basis that it would be premature to exclude evidence regarding events that occurred prior to April 20, 2007. Events occurring prior to April 20, 2007 may give context to Respondents' actions that are the subject of Complainant's prohibited practices complaint. Respondents may, of course, raise relevancy objections to specific evidence as it is tendered at hearing.

Dated at Madison, Wisconsin, this 9th day of June, 2008.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Coleen A. Burns /s/

Coleen A. Burns, Examiner

