



# Wisconsin Employment Relations Commission

## WISCONSIN SCHOOL ATTORNEYS ASSOCIATION

February 28, 2024

### WERC UPDATE

By Peter G. Davis-Staff Attorney\*\*

## I. Agency Information

### Commission and Staff

Chairman James Daley-appointed and confirmed by the Senate for a term expired March 1, 2023.

Attorney Peter Davis (1975-present)

Attorney Anfin Jaw Wise (2022-present)

Attorney Katherine Scott Lisiecki (2022-present)

Office Manager Elena Lugo (2020-present)

Legal Assistant Carolyn Gallagher (2020-present)

### General Agency Contact Information

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\*\* As always, the speaker's views and remarks are not necessarily those of the WERC.

## **II. Judicial Review of Labor Relations Issues**

Green Bay Prof. Police Ass'n v City of Green Bay, 2021 AP 102 (2023) Wisconsin Supreme Court determines the arbitrator did not "manifestly disregard the law" articulated in *Loudermill*.

Wisconsin Professional Police Ass'n v WERC, 2022CV001674-Dane County CirCt Judge Jacob Frost. Appeal of two City of Racine declaratory rulings (Dec No. 39447-Fire and Dec. No. 39446- Police) issued by WERC on July 6, 2022 determining that various health insurance provisions in existing collective bargaining agreements were prohibited subjects of bargaining under Sec. 111.70(4)(mc)6.

Frost reverses WERC. Legislature amends Sec. 111.70(4)(mc) 6., Stats to makes clear that there is a duty to bargain over whether there will be health insurance coverage and who will be covered by any health insurance plan.

On February 26, 2024, Frost remands the matters to WERC for further proceedings.

Service Employees International Union Healthcare Wisconsin v. WERC, 2022CV003199 Dane County CirCt-Judge Jacob Frost. Appeal of a November 11, 2022 WERC declaratory ruling (Dec. No. 39765) concluding that the University of Wisconsin Hospital and Clinics Authority is not an "employer" under the Wisconsin Employment Peace Act. Judge Frost to issue an oral decision on March 22, 2024.

## **III. Recent Labor Relations Decisions**

City of Eau Claire, Dec. No. 40233-A (Davis 1/24)-no appeal

Duty to bargain complaint dismissed. Contract had provision obligating Employer to bargain over mandatory subjects of bargaining. Examiner concludes Union was obligated to use contractual grievance arbitration procedure instead of unfair labor practice process to litigate the status of the disputed issue.

City of Milwaukee, Dec. No. 40246 (Davis, 2/24)-appeal filed

Employer cannot deduct dues for a public safety union employee member for a period prior to the date the employee signs the dues authorization card-absent knowing employee authorization for a retroactive application.

City of New Richmond, Dec. No 39954-A (Davis, 2/24)- appeal period has not expired.

Where disciplinary charges are pending before the PFC, WERC will not exercise jurisdiction over a complaint alleging that the Employer is acting out of animus toward the employee's concerted activity.