

**STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
LABOR RELATIONS DIVISION**

In the Matter of:

WAYNE COUNTY,
Respondent-Public Employer,

Case No. C02 F-141

- and -

AMERICAN FEDERATION OF STATE, COUNTY,
AND MUNICIPAL EMPLOYEES, COUNCIL 25 AND
LOCAL 25,
Charging Party-Labor Organization.

APPEARANCES:

John L. Miles, Esq., Assistant Director of Labor Relations, for the Public Employer

Robert E. Donald, Esq., for the Labor Organization

DECISION AND ORDER

On November 18, 2002, Administrative Law Judge Roy L. Roulhac issued his Decision and Recommended Order in the above matter finding that Respondent did not violate Section 10 of the Public Employment Relations Act, 1965 PA 379, as amended, and recommending that the Commission dismiss the charges and complaint.

The Decision and Recommended Order of the Administrative Law Judge was served on the interested parties in accord with Section 16 of the Act.

The parties have had an opportunity to review the Decision and Recommended Order for a period of at least 20 days from the date of service and no exceptions have been filed by any of the parties.

ORDER

Pursuant to Section 16 of the Act, the Commission adopts the recommended order of the Administrative Law Judge as its final order.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Maris Stella Swift, Commission Chair

Harry W. Bishop, Commission Member

C. Barry Ott, Commission Member

Dated: _____

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DECISION AND RECOMMENDED ORDER
OF ADMINISTRATIVE LAW JUDGE

On June 24, 2002, Charging Party American Federation of State, County and Municipal Employees, Council 25 and Local 25, filed a charge against Respondent Wayne County. The charge and a response to a request for a more definite statement, allege that Respondent violated Section 10 of the Public Employment Relations Act (PERA), MCL 423.210, by refusing to meet and bargain on October 16, 2001, pursuant to requests to bargain that were made on September 19 and October 3, 2001. Charging Party's bargaining requests related to the method for determining the twelve-month period under the Family Medical Leave Act (FMLA).

On October 18, 2002, I directed Charging Party to show cause why the charge should not be dismissed since it was untimely filed. Section 16(a) of PERA, MCL 423.216(a) provides that no complaint shall issue based upon any unfair labor practice occurring more than 6 months prior to the filing of the charge. The Commission has consistently held that the statute of limitations is jurisdictional and cannot be waived. *Walkerville Rural Community Schools*, 1994 MERC Lab Op 582; *Washtenaw County*, 1992 MERC Lab Op 471. The charge filed on June 24, 2002, is more than six months after any of the dates of the alleged violation that are set forth in the charge and is beyond the limitation period set forth in Section 16(a). Therefore, I recommend that the charge be dismissed as untimely and the Commission issue the order set forth below:

RECOMMENDED ORDER

The unfair labor practice charge is dismissed.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Roy L. Roulhac
Administrative Law Judge

Dated: _____