

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

In the Matter of:

SERVICE EMPLOYEES INTERNATIONAL UNION,  
LOCAL 517M,  
Labor Organization - Respondent,

Case No. CU08 D-019

-and-

JACOBA LUMBRERAS,  
An Individual - Charging Party.

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APPEARANCES:

Jacoba Lumbreras, *In Propria Persona*

William Tucker, for Respondent

**DECISION AND ORDER**

On June 30, 2008, Administrative Law Judge Doyle O'Connor issued his Decision and Recommended Order in the above matter finding that Respondent has not engaged in and was not engaging in certain unfair labor practices, and recommending that the Commission dismiss the charges and complaint as being without merit.

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

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Christine A. Derdarian, Commission Chair

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Nino E. Green, Commission Member

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Eugene Lumberg, Commission Member

Dated: \_\_\_\_\_

**STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
EMPLOYMENT RELATIONS COMMISSION**

In the Matter of:

SERVICE EMPLOYEES INTERNATIONAL UNION,  
LOCAL 517M,  
Respondent-Labor Organization,

-and-

Case No. CU08 D-019

JACOBA LUMBRERAS,  
Individual Charging Party.

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APPEARANCES:

Jacoba Lumbreras, Charging Party appearing personally

William Tucker, for Respondent Labor Organization

**DECISION AND RECOMMENDED ORDER**  
**OF ADMINISTRATIVE LAW JUDGE**  
**ON SUMMARY JUDGMENT**

Pursuant to Sections 10 and 16 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.210 and 423.216, this case was assigned to Doyle O'Connor, Administrative Law Judge (ALJ) of the State Office of Administrative Hearings and Rules (SOAHR), acting on behalf of the Michigan Employment Relations Commission. This matter is being decided pursuant to an order to show cause why the charge should not be dismissed for failure to state a claim

The Unfair Labor Practice Charge:

On April 10, 2008, a Charge was filed in this matter by Jacoba Lumbreras asserting that Service Employees International Union, Local 517M (the Union) had violated the Act, on an unspecified date after October, 2007, by refusing to file a grievance over some unspecified dispute. On April 25, 2008, the Union filed a response which sought dismissal of the Charge on several grounds. It was asserted by the Union that Lumbreras was one of several employees who were laid off, and significantly, that employees with even more seniority than Lumbreras were laid off as well and have not yet been recalled to employment. The Union asserted that there was never a question of filing a grievance, as no contract violation has occurred. Further, the Union provided documentation establishing that Lumbreras was laid off in June of 2007, and not October of 2007, which would mean that the Charge was apparently not filed within six months of the dispute and was, therefore, barred by the statute of limitations.

On May 6, 2008 an order to show cause was issued, under Commission Rule R 423.165, directing Lumbreras to respond within twenty-one days to the claims made by the Union. That order expressly advised Lumbreras that a failure to respond in writing would result in dismissal of the charge. No response was filed.

Discussion and Conclusions of Law:

Where a charge fails to state a claim under the Act, it is subject to dismissal pursuant to an order to show cause issued under R423.165. The failure to respond to such an order may, in itself, warrant dismissal. *Detroit Federation of Teachers*, 21 MPER 3 (2008). Regardless, the fact that a member expresses dissatisfaction with their union's efforts or ultimate decision is insufficient to constitute a proper charge of a breach of the duty of fair representation. *Eaton Rapids Ed Assoc*, 2001 MERC Lab Op 131; *Wayne County DPW*, 1994 MERC Lab Op 855. Because there is no allegation in the Charge supporting the claim that the Union violated its statutory duties, and because no response was filed to the order to show cause, the charge against the Union must be dismissed as it fails to state a claim upon which relief can be granted.

RECOMMENDED ORDER

The unfair labor practice charge is dismissed in its entirety.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

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Doyle O'Connor  
Administrative Law Judge  
State Office of Administrative Hearings and Rules

Dated: \_\_\_\_\_