

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

In the Matter of:

AFSCME COUNCIL 25,  
Labor Organization - Respondent,

Case No. CU09 H-029

-and-

THIRD CIRCUIT COURT,  
Public Employer - Charging Party.

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**APPEARANCES:**

Miller Cohen, P.L.C., by Bruce A. Miller, Esq., and Richard Mack, Esq., for Respondent

Bruce Campbell, Esq., Assistant Corporation Counsel for Charging Party

**DECISION AND ORDER**

On August 28, 2009, Administrative Law Judge Doyle O'Connor 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

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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:

THIRD CIRCUIT COURT,  
Respondent/Counter Charging Party-Public Employer,

**CORRECTED CASE NO:  
CU09 H-029**

-and-

Case No. C08 J-230

AFSCME COUNCIL 25,  
Charging Party/Counter Respondent-Labor Organization.

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Bruce A. Campbell, for Respondent/Counter Charging Party-Public Employer

Bruce A. Miller and Richard Mack, for Charging Party/Counter Respondent-Labor Organization

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

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, of the State Office of Administrative Hearings and Rules (SOAHR), acting on behalf of the Michigan Employment Relations Commission (MERC).

This matter involves charges and counter-charges by, and against, the Employer Third Circuit Court and the Union of certain of the employees of the Court, AFSCME Council 25. The Employer sought and was granted an expedited hearing on its motion for summary disposition under MERC Rule 423.165 on the assertion that there were no legitimate disputes of material fact as to the Employer counter-charges against the Union. The Employer charges asserted that the Union's conduct, in securing and seeking to enforce several subpoenas and in unilaterally securing a private transcript of an otherwise public MERC conducted fact-finding hearing, violated the Union's duty to bargain in good faith, as mandated by PERA.

Following oral argument by counsel for the parties, on August 28, 2009, and for the reasons more fully set forth on the record, I found that there are no legitimate disputes of material fact related to the three counter-charges brought by the Employer. Under Commission Rule R 423.165 (1), where there is a charge and no genuine issue of material fact, an administrative law judge acting for the Commission has the authority and obligation to issue a ruling on the merits of the dispute on summary disposition. *Detroit Public Schools*, 22 MPER 19 (2009); see also, *Oakland County and Oakland County Sheriff v Oakland County Deputy Sheriffs Assoc*, 282 Mich App 266 (2009).

Further, and based on the conclusions of law more fully set forth on the record, I found that summary disposition was appropriate as each of the three counter-charges brought by the Employer as each of those counter-charges failed to assert claims cognizable under PERA.

### RECOMMENDED ORDER

The Employer's three unfair labor practice counter charges are dismissed in their entirety.

### MICHIGAN EMPLOYMENT RELATIONS COMMISSION

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

Dated: August 28, 2009