ALRA Advisor

July 2010

59th Annual Conference, *Ottawa, Canada*

ALRA Advisor

ALRA Advisor is published for members of the Association of Labor Relations Agencies (ALRA) and their staff.

In this issue...

Photo courtesy of the Fairmont Château Laurier

ON THE COVER
Rideau Canal and Fairmont Château Laurier.

Boehmer © photo

Parliament Hill and a view of the Library of Parliament

www.alra.org

The *ALRA Advisor* is published bi-annually (January and July). On occasion, special issues are produced on an ad hoc basis.

DEADLINES:

January Issue: November 1st

July Issue: May 1st

ARTICLES:

Submit material as e-mail attachments (in MS Word or WordPerfect format)

PHOTOS:

Send photos as separate digital files (jpeg, bmp, tif) at 300 dpi. Please **do not** embed/insert photos in text document.

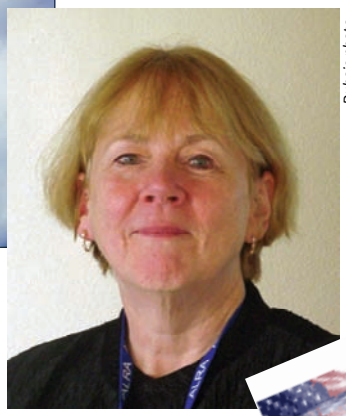
EDITING:

All articles are subject to editing for length and clarity.

SEND:

Material to the Editor:
josee.dubois@psst-tdfp.gc.ca

Ottawa Tourism photo



Dubois photo

From the President...

It is hard to believe that our Annual Conference is quickly approaching. This year's conference is at the historic Fairmont Château Laurier hotel in Ottawa, Canada. The Château Laurier is conveniently located between Parliament Hill, the Ottawa River, The Congress Centre and the open-air Byward Market.

The theme of this year's conference is: *Surviving the Storm – Catching the Wave* and will focus on the labor relations consequences resulting from the current economic challenges. The Program Committee has put together a great program.

Topics to be discussed at the Ottawa conference include: Strategic Realignment of Labor Relations Services; Restructuring Under the Threat of Bankruptcy and the Use of Technology in Labor Relations. This year's Keynote Address will be given by the Honourable Mr. Justice Louis LeBel, Supreme Court of Canada and our Advocates'Day luncheon speaker is George Cohen, Director of the U.S. Federal Mediation and Conciliation Service.

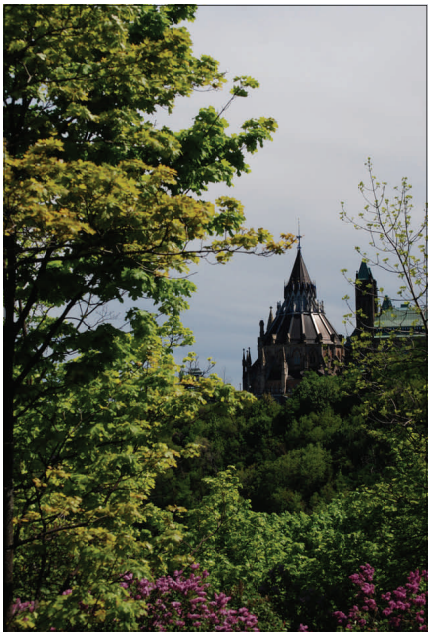
In the ALRA tradition, the Arrangements Committee has outdone itself in planning several social activities that will highlight some of the best that the Canadian capital has to offer. From boat tours down the Ottawa River to an evening reception at the National Gallery of Canada, this promises to be a memorable conference. I want to thank the Board and the Committees for all their hard work in putting together our 59th Annual Conference.

I know that it may be challenging for many of you to attend this year's conference in the midst of budget cutbacks and reduced funding. However, I hope that all of you will find a way to join us in Ottawa. I think that this year's conference will provide a valuable opportunity for us all to come together and address the challenges posed by the current economy.

I look forward to seeing everyone in Ottawa!

Sincerely, Mary Johnson

59th Annual ALRA Conference—Ottawa, Canada



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Saturday, July 24, 2010

1:00 - 5:00	Registration
5:00 - 6:00	Newcomers' Reception
6:00 - 8:00	Reception

Sunday, July 25, 2010

9:00 - 1:30	Registration
10:00 - 11:00	ALRA Executive Board meeting
11:30 - 1:15	**Welcome Brunch** **Welcome Remarks**: Mary Johnson, ALRA President **Guest Speaker**: Mr. Ken Clavette, Labour Historian
1:30 - 3:30	**CONCURRENT ROUNDTABLES** ▸ Board and Commission Members ▸ Mediators ▸ General Counsel ▸ Directors and Administrators

Monday, July 26, 2010 – ADVOCATES' DAY (See page 5 for details)

Tuesday, July 27, 2010

9:00 - 10:30	**Strategic Realignment of Labor Relations Services – Re-engineering of agencies or processes to do more (or the same) with less**
10:30 - 10:45	*Health Break*
10:45 - 12:15	**Use of Technology in Labor Relations: Friend or Foe?**

Wednesday, July 28, 2010

9:00 - 10:30	**CONCURRENT WORKSHOPS** **1. Decision Writing - How to write a better story (not a longer decision)** **2. Mediation in the Context of Interest Arbitration - Is it really all that different?**
10:30 - 10:45	*Health Break*
10:45 - 12:00	**The Metaphysics of Ethics - Ethical issues in mediation and arbitration**
12:00 - 1:15	*Luncheon*
1:30 - 3:00	**Zap the Gap? Updates on Generational experiences in collective bargaining, dispute resolution, and organizational cultures**
3:00 - 3:15	*Health Break*
3:15 - 4:00	ALRA Annual Business Meeting
4:00 - 5:00	ALRA Executive Board Meeting
6:00 - 7:00	**Closing Reception**
7:00 - 9:00	**Closing Banquet**

Photo courtesy of Ottawa Tourism

National Gallery of Canada-Grand Hall where the reception for Delegates and Advocates will be held on July 26, 2010.

Host Agencies

Canada Industrial Relations Board; Canadian Artists and Producers Professional Relations Tribunal; Federal Mediation and Conciliation Service; Public Service Labour Relations Board; Public Service Staffing Tribunal

The Association of Labor Relations Agencies *presents*

ADVOCATES' DAY

July 26, 2010—Ottawa, Canada—The Fairmont Château Laurier Hotel

Surviving the Storm — Catching the Wave

08:00 - 09:00 Registration / Breakfast

09:00 - 09:15 **Welcome Remarks – Chairs of the Five host agencies**
Canada Industrial Relations Board; Canadian Artists and Producers Professional Relations Tribunal; Federal Mediation and Conciliation Service; Public Service Labour Relations Board; Public Service Staffing Tribunal

09:15 - 10:15 **Keynote Address**: The Honourable Mr. Justice Louis LeBel, Supreme Court of Canada

10:15 - 10:30 *Health Break*

10:30 - 11:45 **Collaboration vs Confrontation - Should unions agree to reopen contracts to avoid lay-offs or bankruptcy?**
- Dave Coles, President, Communications, Energy and Paperworkers Union of Canada
- Scott Morey, Vice-President, Labour Relations, Air Canada

11:45 - 1:15 Luncheon
Guest Speaker: George H. Cohen, Director, Federal Mediation and Conciliation Service - U.S.

CONCURRENT WORKSHOPS

1:30 - 3:00 **1. PRIVATE SECTOR**: **Labour-Management cooperation to achieve results in difficult economic times**

a. Joint Efforts to influence public policy
- Richard Dixon, Chair, Federally-Regulated Employers, Transportation and Communications (FETCO)
- Hassan Yussuff, Secretary-Treasurer, Canadian Labour Congress

b. Relationship improvement initiatives and their positive impact in the workplace
- Elizabeth Cameron, Assistant Vice-President, Labour and Employee Relations, NAV CANADA
- Greg Myles, President, Canadian Air Traffic Controllers Association

OR

1:30 - 3:00 **2. PUBLIC SECTOR: New technologies and the protection of privacy**
- Jennifer Stoddart, Privacy Commissioner of Canada
- Barbara Mclsaac, Q.C., Counsel, Borden, Ladner, Gervais
- William Herbert, Deputy Chair and Counsel, NewYork State Public Employment Relations Board

3:00 - 3:15 *Health Break*

3:15 - 4:45 **Plenary Session - Restructuring in the airline industry under the threat of bankruptcy**
- The Honourable James M. Farley, Q.C., Senior Counsel, McCarthy Tétrault
- Mr. Michael Campbell, Executive V.P. of Human Resources and Labor Relations, Delta Airlines
- Mr. Lee Moak, Chairman, Delta Master Executive Council, Air Line Pilots Association

5:30 - 8:00 **Evening Reception at the National Gallery of Canada** - Grand Hall. Sponsored by *Les Fonds de Solidarité, NAVCANADA and CAW, Local 5454 (CATCA)*

ALRA is seeking CLE credit recognition from le Barreau du Québec

Special thanks to…

Les Fonds de Solidarité, NAV CANADA and CAW, Local 5454 (CATCA) for their sponsorship of the Advocates' Day reception.

NATIONAL LABOR RELATIONS BOARD (NLRB)

By Les Heltzer

The New Board

As of late June 2010, the Board again has a full complement of five members for the first time since mid-December 2007.

From January 2008 through the end of March 2010, a 27-month period, the Board was comprised of two members, Wilma B. Liebman and Peter C. Schaumber.

In early April 2010, Craig Becker and Mark Gaston Pearce, both Democrats, were recess appointed to the Board by President Obama, allowing them, if not subsequently confirmed by the U.S. Senate to a set term, to serve until the adjournment of the Senate session sometime in late 2011.

On June 22, the U.S. Senate confirmed Member Pearce for a term that will expire in August 2013 and confirmed Brian Hayes, a Republican, for a term that will expire in December 2012. Member Schaumber's confirmed term expires August 27, 2010 and Chairman Liebman's confirmed term expires August 27, 2011.

Board Member **Becker** served as Associate General Counsel to both the Service Employees International Union and the AFL-CIO. He graduated summa cum laude from Yale College in 1978 and received his J.D. in 1981 from Yale Law School where he was an Editor of the Yale Law Journal. After law school he clerked for the Honorable Donald P. Lay, Chief Judge of the United States Court of Appeals for the Eighth Circuit. For 28 years, he practiced and taught labor law. He was a Professor of Law at the UCLA School of Law between 1989 and 1994 and has also taught at the University of Chicago and Georgetown Law Schools. He has published numerous articles on labor and employment law in scholarly journals, including the Harvard Law Review and Chicago Law Review, and has argued labor and employment cases in virtually every federal court of appeals and before the United States Supreme Court.

Board Member **Pearce** was a founding partner of the Buffalo, New York law firm of Creighton, Pearce, Johnsen & Giroux, where he practiced union side labor and employment law before state and federal courts and agencies. In 2008, he was appointed to the New York State Industrial Board of Appeals, an independent quasi-judicial agency responsible for review of certain rulings and compliance orders of the NY Department of Labor in matters including wage and hour law. He has taught at Cornell University's School of Industrial Labor Relations Extension, and is a Fellow in the College of Labor and Employment Lawyers. Prior to 2002, Pearce practiced union side labor and employment law at Lipsitz, Green, Fahringer, Roll, Salisbury & Cambria LLP. From 1979 to 1994, he was an attorney and District Trial Specialist for the NLRB in Buffalo, NY. He received his J.D. from State University of New York, and his B.A. from Cornell University.

Board Member **Hayes** (*photo not available*) served as the Republican Labor Policy Director for the U.S. Senate Committee on Health, Education, Labor and Pensions. Previously, he was in private law practice for more than 25 years representing management in all aspects of labor and employment law before state and federal courts and agencies. Before entering private practice, he clerked for the NLRB chief administrative law judge and served as staff counsel to the NLRB chairman. He has taught labor law courses at Western New England Law School. He received his undergraduate degree from Boston College and his law degree from Georgetown University Law Center. ⌘

Wilma B. Liebman

Peter C. Schaumber

Craig Becker

Mark Gaston Pearce

NATIONAL LABOR RELATIONS BOARD (NLRB) (continued)

The Supreme Court Rules on Authority of the Two-Member Board

The article in the January 2010 issue of the *ALRA Advisor*, *Challenges to the Authority of the Two-Member Board*, noted that as of that time the First, Second, Fourth, Seventh and Tenth Circuits had held that under the delegation language of Section 3(b) of the NLRA the two-member Board had the authority to issue decisions, that the District of Columbia Circuit had found to the contrary, and that the Supreme Court had granted the petition for *certiorari* in the Seventh Circuit case, *New Process Steel v. NLRB*, 564 F.3d 840 (7th Cir. 2009), cert. granted 130 S.Ct. 488 (Nov. 2, 2009).

Section 3(b) of the NLRA reads, in pertinent part:

> The Board is authorized to delegate to any group of three or more members any or all of the powers which it may itself exercise...
>
> A vacancy in the Board shall not impair the right of the remaining members to exercise all of the powers of the Board, and three members of the Board shall, at all times, constitute a quorum of the Board, except that two members shall constitute a quorum of any group designated pursuant to the first sentence hereof.

Since then, on June 17, 2010, the Supreme Court issued its decision in *New Process Steel*, (No. 08-1457) -- S.Ct. ---, 2010 WL 2400089 (U.S.), 78 USLW 4570. The Court, by a 5-4 vote, held that following a delegation of the Board's powers to a three-member group, two members may not continue to exercise that delegated authority once the group's and the Board's membership falls to two. The Court majority (Justice Stevens, joined by Chief Justice Roberts and Justices Scalia, Thomas, and Alito) concluded that "reading the delegation clause to require that the Board's delegated power be vested continuously in a group of three members is the only way to harmonize and give meaningful effect to all of the provisions in §3(b)." It further found that had Congress intended to empower two-members to exercise the Board's authority "on an ongoing basis," it could have done so in "straightforward" language but that it had instead imposed the requirement that the Board delegate authority to no fewer than three members, and that the Board have three participating members to constitute a quorum. Lastly, the Court majority found its interpretation consistent with the Board's longstanding practice of allowing two members of a three-member panel to issue a decision on the disqualification of one of the members but reconstituting a "defunct" panel caused by the expiration of the term of one of the three members.

The Court majority ended its opinion recognizing the Board's "understandable desire" to "keep its doors open despite vacancies" and acknowledging the costs of delay to litigants but stating that:

> If Congress wishes to allow the Board to decide cases with only two members, it can easily do so. But until it does, Congress' decision to require that the Board's full power be delegated to no fewer than three members, and to provide for a Board quorum of three, must be given practical effect rather than swept aside in the face of admittedly difficult circumstances. Section 3(b), as it currently exists, does not authorize the Board to create a tail that would not only wag the dog, but would continue to wag after the dog died.

The dissent [Justice Kennedy, joined by Justices Ginsburg, Breyer, and Sotomayor) found that the plain terms of Section 3(b) permit a two-member quorum of a properly delegated three-member group to issue decisions. The dissent stated:

> It is not optimal for a two-member quorum to exercise the full powers of the Board for an extended period of time. But the desire to avoid that situation cannot justify the Court's significant revisions to [Sec. 3(b)]: (1) it writes language into the delegation clause, requiring delegee groups to maintain a membership of three, despite the conspicuous absence of this requirement and the statutory rejection of it in the group quorum provision; (2) it excises the word "not" from the vacancy clause, so that a Board vacancy does "impair the right of the remaining members to exercise all of the powers of the Board" in hundreds of cases; (3) it renders the group quorum provision unintelligible, so that its application depends entirely on the reason for the third member's absence, and applies in all instances except when the absence is due to a vacancy (despite the vacancy clause's contrary mandate, earlier in the very same sentence).

The dissent concluded that the majority's decision would leave "the Board defunct for extended periods of

(Continued on page 11)

Federal United States

NATIONAL MEDIATION BOARD (NMB)

In 2009, the National Mediation Board celebrated its 75th year of addressing and resolving labor-management disputes in the railroad and airline industries. The NMB took the occasion to renew its commitment to providing and improving its dispute resolution programs and services.

Foremost however, the Board marked this occasion by the formation of an independent, blue-ribbon "Dunlop Committee Reports Review Committee" (Dunlop II) to examine the internal functions, policies and procedures of the NMB and the recommendations of the Dunlop Commission of the 1990s. The Dunlop II Committee was comprised of recognized experts in labor relations with the airline and railroad industries, including participants in the original Dunlop Commission proceedings.

Dunlop II was asked to report to the Board its recommendations for agency improvement. The committee met directly with over 25 representatives of the airline and railroad industries as well as with current NMB Members and senior staff. The views of other management and labor leaders were also solicited.

A report applicable to railroad arbitration by the Section 3 sub-committee was completed on November 24, 2009, and submitted to the Dunlop II Committee by Section 3 Co-chairmen. On December 2, 2009, the Dunlop II Committee submitted an interim report recommending the re-creation of a Chief of Staff position. On April 29, 2010, the NMB announced that the Dunlop II Committee had released its final report of recommendations to the NMB. Those two reports along with the final report of the Dunlop II Committee are posted in the NMB website on the What's New page and the Open Government Portal.

As part of its ongoing efforts to further the statutory goals of the Railway Labor Act, the NMB proposed to amend its Railway Labor Act rules to provide that, in representation disputes, a majority of valid ballots cast will determine the craft or class representative. A Notice of Proposed Rule-making was published in the Federal Register on November 3, 2009.

On May 11, 2010, the NMB published its final rule in the Federal Register and on the NMB website regarding its Representation Election Procedure.

The rule change was passed by a majority of the three-member Board, with Chairman Elizabeth Dougherty dissenting. The Final Rule, including Chairman Dougherty's dissenting statement, is available on the NMB website at http://www.nmb.gov/representation/proposed-rep-rulemaking.html.

Full text is also provided there for the original proposal and clarification; public hearing documents; and comments from numerous stakeholders such as individual employees, carriers, unions, associations, and congressional legislators.⌘

2010-11 ALRA ELECTIONS

The Nominating Committee (Philip Hanley; Pierre Hamel; Steve Hoffmeyer; Elizabeth MacPherson; and Dan Nielson) present the following nominees for the 2010/11 ALRA Executive positions.

EXECUTIVES (three positions)

- President: **Les Heltzer**, National Labor Relations Board
- President Elect: **Sheri King**, Federal Mediation and Conciliation Service (Canada)
- V.P. Finance**: Scot Beckenbaugh**, Federal Mediation and Conciliation Service (US)

BOARD MEMBERS (three positions):

- **Paul Roose**, California State Mediation and Conciliation Service
- **Ginette Brazeau**, Canada Industrial Relations Board
- D**iane Chartrand**, Canadian Artists and Producers Professional Relations Tribunal

Ginette Brazeau

Diane Chartrand

FMCS and FLRA Partner to provide joint Training on Executive Order 13522

WASHINGTON, DC– The Federal Mediation and Conciliation Service and the Federal Labor Relations Authority, Office of General Counsel announced a joint training on implementing Executive Order 13522, Creating Labor-Management Forums to Improve Delivery of Government Services. FMCS Director George Cohen and FLRA General Counsel Julia Akins Clark stated that they are committed to providing this outreach opportunity to parties to enhance effective and cooperative labor-management relations in the federal sector.

The two-day training program is designed to enhance participants' knowledge of bargaining rights and obligations under the Federal Service Labor-Management Relations Statute. Participants should attend the program with their bargaining counterparts so that management and union representatives will have a common understanding and shared experience of the information and skills needed for effective labor management forums.

Day One will cover bargaining rights and obligations under the Federal Service Labor-Management Relations Statute, particularly section 7106(b)(1), as well as Pre-Decisional Involvement—defining and establishing processes to involve employees, through their union representatives, prior to final decisions being made on agency initiatives.

Day Two training, which will be conducted by the FMCS, will be devoted to the fundamentals of establishing and maintaining an effective Labor Management Forum that meets the goals of the Executive Order, including forum design, agendas, consensual decision-making, facilitation, and other techniques for ensuring committee success.

There is no charge for the program, which will be offered at least two times in seven locations located in FLRA regional office cities. Parties are encouraged to register early as space is limited to 18 two-person teams (labor and management). Dates for the second offering of the program, which will be scheduled between July and September 2010, will be posted on the FMCS and FLRA web sites in the near future.

FMCS Director praises Rhode Island Teachers Agreement

WASHINGTON, DC– May 17, 2010. FMCS Director George Cohen commended Deborah Gist, Commissioner of the Rhode Island Department of Elementary and Secondary Education, Dr. Frances Gallo, Superintendent of the Central Falls School District, and Marcia Reback, President of the Rhode Island Federation of Teachers and Health Professionals, for having reached a key new comprehensive agreement focused directly on meeting the educational needs of the students in the Central Falls School District.

In March 2010, the parties jointly requested the assistance of the FMCS to serve as a facilitator in their ongoing discussions. The Agency appointed FMCS Director of Field Operations Jack Buettner as Special Representative to serve in conjunction with retired Federal District Court Judge Ernest Torres. ⌘

ALRA committee members at the March E-Board meeting (held in Newark, NJ) planning the 2010 Ottawa conference.

Photos by Josée Dubois

CANADA INDUSTRIAL RELATIONS BOARD (CIRB)

Marine Atlantic Inc., 2010 CIRB 507

This case had to do with the ferry service between the mainland of Canada and its easternmost island province, Newfoundland.

Newfoundland's Terms of Union with Canada require the federal government to maintain this ferry service, and it is operated by a federal Crown corporation, Marine Atlantic Inc. (MAI).

In the context of a previous proceeding, the Board had ordered that, in order to prevent serious danger to public safety or health during any legal strike or lockout, there was to be no reduction in the ferry service.

In this case, MAI and the National Automobile, Aerospace, Transportation and General Workers Union of Canada (CAW-Canada) agreed that 42-45 of the 64 employees in the bargaining unit would be required in order to maintain the required level of service.

They had also concluded that providing this level of service would render a strike or a lockout ineffective and applied to the Board to direct a binding method of resolving the outstanding collective bargaining issues between them, pursuant to section 87.4(5) of the *Canada Labour Code*.

Each party provided the Board with written submissions regarding the form of binding resolution that it believed was most appropriate in the circumstances of this case.

It is of interest to note that neither party wanted the standard interest arbitration process.

The employer submitted that Final Offer Selection (FOS) by a single Final Offer Selector would be the best method of dispute resolution in the circumstances of this dispute.

According to the employer, FOS is superior to traditional interest arbitration, as it is faster and cheaper, and is particularly well suited to resolve the issues between the parties, which were all of a monetary nature.

The union, on the other hand, submitted that the most appropriate form of dispute resolution in this case would be a mediation/arbitration process conducted by a tripartite panel.

The union argued that through this process the parties would attain the resolution that best reflects what free collective bargaining would have produced.

In the union's view, FOS would be an inappropriate method to adopt as there were a number of issues still outstanding between the parties, and that this method of dispute resolution would enshrine a "winner and loser" aspect to collective bargaining.

The Board found that the most appropriate method of dispute resolution was a mediation/arbitration process, with a single mediator/arbitrator fulfilling both roles.

In the Board's view, a further opportunity to negotiate with mediation assistance would allow the parties to resolve their issues through compromise; however, should that be impossible, a final and binding decision would be made by a person knowledgeable of the parties, their circumstances and the issues in dispute.

The Board noted that the choice of a dispute resolution mechanism is more a matter of policy than law, and decided against using FOS for dispute resolution in this case, as by its very nature, FOS produces a winner and a loser. It found that depending on the positions taken by the parties, FOS ran a higher risk of producing disparate results than traditional interest arbitration. ⌘

CIRB E-Voting

In 2009, the CIRB added electronic voting to its repertoire of ways to conduct representation votes.

In two circumstances where large employee groups were dispersed over a wide geographic area, CIRB industrial relations officers conducted "e-votes" supported by an outside electronic voting system company.

Eligible employees were issued personal identification numbers (PINs) and able to cast a secure electronic ballot via Internet or telephone.

The Board's officers administered the vote and oversaw the auditing process.

At the conclusion of the voting period, the ballots were tabulated instantaneously, which was an outstanding feature for the Board's officers.

E-voting proved to be a secure, efficient, cost-effective and expedient means to ascertain employee wishes. ⌘

QUEBEC

Supreme Court decides Walmart case on narrow grounds, Quebec law different from rest of Canada

By a 6-3 vote, a majority of the Supreme Court of Canada has held that, where a business in Quebec is closed, employees who are dismissed cannot seek reinstatement, a remedy that is normally available under section 15 of the Quebec *Labour Code*, even though the business is closed to avoid a union. Moreover, the majority held, where a closing occurs, the "reverse onus" provision in section 17 of the *Code* – which presumes that dismissal of an employee engaged in union activity is the result of anti-union reprisal, unless the employer provides good and sufficient reason – does not apply, because the closing of a business in itself constitutes good and sufficient reason for the dismissal.

Full text of decision can be found at: http://scc.lexum.umontreal.ca/en/2009/2009scc54/2009scc54.html

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ARIZONA

Phoenix Employment Relations Board (PERB)

By Paula Alberts

In mid-June, the PERB office moved to the Historic City Hall in downtown Phoenix, Arizona; ironically, returning to its origins (after 35 years) on the first floor of this same building.

Historic City Hall**,** well known as the birthplace of the *Miranda Rights*, houses the interrogation room in which Miranda was questioned, and the old jail cells used at that time. It is also the home of the Phoenix Police Museum.

Prior to this move, for over 20 years the PERB office occupied space at another legendary site, the Barrister Building. Originally named the Jefferson Hotel, the building was one of the filming sites of the infamous 1960's Hitchcock movie thriller *Psycho.* The Barrister Building also sponsored a boys' baseball team of which Henry Olea, past Labor Member, was a player in his youth (a team photo is proudly displayed in the PERB offices).

PERB Cases

The Phoenix Employment Relations Board has had only 17 Unit Clarification cases filed in its history until July 2009, at which time the 18th case was filed.

This case is ongoing and went into its fifth through seventh days of hearing on June 22, 2010. Being the small agency that the Phoenix ERB is, this case has garnered quite a bit of attention. As the case moves forward, it will play an important role in future filings regarding the questions that were raised at the inception and that are coming forward in the hearing itself.

NLRB—the Supreme Court Rules on Authority of the Two-Member Board

(Continued from page 7)

time, a result that Congress surely did not intend."

As a result of the Court's decision, approximately 100 unfair labor practice cases pending in the courts on June 17 are expected to return to the Board over the next several months.

During the 27-month period of the two-member Board, it decided approximately 600 contested cases overall. About 450 of these were unfair labor practice cases, most of which were not appealed to the courts, some of which were not final orders, and many of which have been closed on voluntary compliance or in which partial compliance has been achieved. About 150 were representation cases which were not directly appealable to the courts.

The full impact of the Court's decision on these cases and the potential impact on numerous other two-member decisions, orders or rulings in cases in other various postures cannot yet be fully measured. ⌘

FLORIDA

County Commissions are the Legislative Bodies to Resolve Impasse Disputes Between Sheriffs & Employee Organizations

By WILLIAM D. SALMON, Hearing Officer

In Florida State Lodge, Fraternal Order of Police, Inc. v. Sheriff of Pasco County, 35 FPER ¶ 322 (2009), the FOP filed an unfair labor practice charge alleging that the Sheriff of Pasco County (Sheriff) violated Section 447.501(1)(a) and (c), Florida Statutes (2007). The dispute between the FOP and the Sheriff is whether the Sheriff or the Pasco County Board of County Commissioners is the legislative body, as defined by Section 447.203(10), Florida Statutes (2007), for the purpose of resolving collective bargaining impasse issues between the Sheriff and the FOP. Because the final order could affect its substantial interests, the County Commission participated in the proceeding.

In resolving the parties' dispute, the Commission focused on the interpretation and application of Section 447.203(10) which defines the term "legislative body." The Commission initially noted that Section 447.203 (10) identifies two classes of entities as legislative bodies: named and unnamed. Sheriffs are not, and have never been, named in the statute as a legislative body. However, the absence of a specific statutory reference to sheriffs was not dispositive of the question. The definition of "legislative body" also includes "the governing body of an instrumentality or unit of government having authority to appropriate funds and establish policy governing the terms and conditions of employment and which, as the case may be, is the appropriate legislative body for the bargaining unit." In applying this statutory standard, the Commission concluded that the legislature intended that all three prongs of the test must be satisfied based on its use of the conjunction "and," which links all three parts of the test.

The first prong of the statutory test is whether the entity in question has authority to appropriate funds. The hearing officer and the Commission relied on the court's holdings in Florida School for the Deaf and the Blind v. Florida School for the Deaf and the Blind Teachers United, 483 So. 2d 58, 60 (Fla. 1st DCA 1986), aff'g 11 FPER ¶ 16080 (1985) and *United Faculty of Florida, FEA/United, AFT, AFL-CIO, Local 1880 v. Board of Regents*, 365 So. 2d 1073, 1075 (Fla. 1st DCA 1979), as well as the Commission's holding in *Brevard County Police Benevolent Association v. Brevard County Sheriff's Department*, 2 FPER 21 (1976), to conclude that the Sheriff does not satisfy the first prong of the test because he does not have authority to appropriate funds. Rather, the Sheriff disperses funds that are appropriated by the County Commission. Because sheriffs are not a named entity and the Sheriff failed to satisfy the three-part test for unnamed entities, the Commission concluded that the Sheriff is not a legislative body.

The Commission then considered the FOP's contention that the County Commission is the appropriate legislative body to resolve the impasse. The Commission noted that Section 447.203(10) specifically identifies the board of county commissioners as a legislative body. Arguably, the analysis could have ended there. However, the fact that the County Commission is a named entity did not necessarily establish that it is the legislative body for the Sheriff's employees. Thus, the Commission also applied the three-part test for unnamed entities to the County Commission.

The County Commission meets the first prong of the test because it has authority to appropriate funds to the Sheriff. Second, the County Commission has authority to establish policy governing the Sheriff's employees' terms and conditions of employment. As to the third prong, "which, as the case may be, is the appropriate legislative body for the bargaining unit," the County Commission is a named entity in the statute, is the only entity that appropriates funds to the Sheriff, and has authority to establish policy regarding the Sheriff's employees' terms and conditions of employment.

The Commission concluded that, because the County Commission has authority to appropriate funds to the Sheriff and authority over the Sheriff's employees, it is an appropriate legislative body to resolve the disputed issues between the Sheriff and the FOP. If the Commission were to conclude otherwise, the Sheriff's employees would be left with no mechanism for resolving the impasse, and their constitutional right to collectively bargain would be rendered meaningless.

The Sheriff and the County Commission have appealed the Commission's final order to the First District Court of Appeal. *Sheriff of Pasco County v. Florida State Lodge, FOP, Inc.*, Case No. 1D09-3106 (Fla. 1st DCA filed June 18, 2009). Another Commission decision on the same issue is also pending on appeal, *Sheriff of Clay County v. Florida State Lodge, Fraternal Order of Police, Inc. v. Sheriff of Clay County*, Case No. 1D09-3115 (Fla. 1st DCA filed June 23, 2009).

Contract Trumps Past Practice

By Jerry W. Chatham, Hearing Officer

In *Federation of Public Employees, a Division of the National Federation of Public and Private Employees, AFL-CIO v. Sheriff of Broward County*, Case No. CA-2009-049 (Fla. PERC Dec. 7, 2009), the Federation filed an unfair labor practice charge against Sheriff Al Lamberti alleging that he violated his obligation to bargain by rescinding a past practice allowing two Federation representatives who were full-time Sheriff's employees to conduct union business during paid release time.

In addition, the Sheriff withdrew the right for the employees to use a Sheriff's car and computer for union business. The hearing officer agreed with the Federation and recommended restoration of the prior status quo.

After reviewing the record, the Commission rejected the hearing officer's legal conclusion.

The existing collective bargaining contract had a provision delineating when and how much release time would be granted to employee representatives to conduct grievance or other union business.

The Sheriff had not rejected this provision; instead, he had rescinded the prior practice that had informally expanded release time for two employees to all day, every day.

The Commission applied its existing precedent in concluding that the contract, and not prior practice, established the status quo of terms and conditions of employment for the employees.

The Commission also rejected the hearing officer's conclusion that the Sheriff's motivation for rescinding the prior practice, failure of the Federation to support his re-election and other incidents, distinguished the prior case law.

Finally, the Commission decided it was unnecessary to decide whether the release time at issue constituted illegal taxpayer assistance to a union because the issue was not raised below.

This order has been appealed, Case No. 1D10-32 (Fla. 1st DCA filed Jan. 5, 2010). ⌘

Legislative Body Departs from Neutrality, Resolves Agreed-to Provision

By Sharon A. Zahner, Hearing Officer

On October 22, 2008, the Volusia County Fire Fighters Association, Local 3574, IAFF filed an unfair labor practice charge alleging that the Volusia County Board of County Commissioners violated Section 447.501 (1)(a) and (c), Florida Statutes, when acting as the legislative body to resolve impasse issues. Local 3574 alleged that the County took action on a collective bargaining issue that was agreed upon by the parties and that it acted as a disputant during the impasse resolution hearing.

The hearing officer found that during the impasse resolution hearing the County Council ruled on Article 19 which the parties had agreed upon during the special magistrate's proceedings. Because the article was agreed upon, the hearing officer concluded that the County engaged in an unfair labor practice when it acted upon the article at an impasse resolution hearing. In addition, the hearing officer found that Council members made remarks that identified the county manager's position as their position and that admonished Local 3574 for its bargaining positions. The Council members' comments demonstrated that the County Council departed from the role of a neutral legislative body and that it became a party in interest during the hearing. Therefore, the hearing officer concluded that the County committed an unfair labor practice by failing to remain neutral during the impasse resolution hearing. Because the hearing officer concluded that the law regarding both issues is well settled, she recommended that Local 3574 be awarded attorney's fees and litigation costs.

The County filed exceptions to the recommended order. Regarding the first issue, the County argued that it was required to resolve Article 19 at the impasse resolution hearing because the special magistrate's recommendation differed from the parties' agreement. The Commission agreed with the hearing officer's analysis that a legislative body's authority is strictly limited to resolution of impasse items upon which the parties were unable to reach agreement. *See Hendry County Education Association v. School Board of Hendry County*, 9 FPER ¶ 14059 (1982); *Madison County Education Association and District School Board of Madison County*, 4 FPER ¶ 4006 (1977). Because the parties agreed to Article 19, it was not within the special

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FLORIDA (CONTINUED)

(Continued from page 13)

magistrate's authority to recommend or the legislative body's authority to finally resolve the issue.

On the issue of whether the County Council acted as a neutral, independent body at the impasse resolution hearing, the County argued that it was not required to be neutral. In rejecting this argument, the Commission relied upon long standing precedent that an employer/legislative body exercising its impasse resolution authority has a strict duty of fairness and impartiality not unlike that governing the conduct of judicial and quasi-judicial officers. *See Fraternal Order of Police, Florida State Lodge v. City of Miramar*, 12 FPER ¶ 17332 (1986), *per curiam aff'd*, 509 So. 2d 321 (Fla. 1st DCA 1987); *ATU, Local 1596 v. Orange-Seminole-Osceola Transportation Authority*, 12 FPER ¶ 17134 (1986), *per curiam aff'd*, 500 So. 2d 1352 (Fla. 1st DCA 1987); *Hollywood Fire Fighters, Local 1375 v. City of Hollywood*, 11 FPER ¶ 16001 at 4 (1984), *aff'd in part and rev'd in part*, 476 So. 2d 1340 (Fla. 1st DCA 1985); *IAFF, Local 2135 v. City of Ocala*, 5 FPER ¶ 10252 (1979), *per curiam aff'd*, 394 So. 2d 1156 (Fla. 1st DCA 1981); *In re Indian River School Board*, 4 FPER ¶ 4192 at 354 (1978); *Dade County Employees, Local #1363, AFSCME v. City of South Miami*, 4 FPER ¶ 4065 (1978); *Boca Raton Fire Fighters, Local 1560 v. City of Boca Raton*, 4 FPER ¶ 4040 (1978).

The County also argued that there was no competent substantial evidence that demonstrated that it failed to act independently. However, the Commission noted several statements made by the County Council members and agreed that these statements demonstrated that the County Council members improperly identified with the county manager's recommendation and prejudged its decision. The County also contended that the statements could not be attributed to the County Council because not every member voiced his or her opinion regarding the propriety of Local 3574's bargaining proposals. In rejecting this argument, the Commission distinguished the instant case from *Florida Public Employees Council 79, AFSCME v. Escambia County Utilities Authority*, 16 FPER ¶ 21011 (1989). The Commission noted that in *Escambia* only one council member made disparaging statements whereas, in the instant case, five of the seven County Council members made inappropriate statements. Thus, the Commission concluded that *Escambia* did not prevent the statements from being attributed to the County Council.

Accordingly, the Commission adopted the hearing officer's conclusion that the County engaged in both unfair labor practices and her recommendation to award attorney's fees and litigation costs to Local 3574. *Volusia County Fire Fighters Association, Local 3574, IAFF v. Volusia County Board of County Commissioners*, 35 FPER ¶ 211, Case No. CA-2008-089 (2009).

The Status Quo Doctrine Allows Unilateral Wage Raises Permitted by a Expired CBA

BY JACK E. RUBY, HEARING OFFICER

The United Faculty of Florida (UFF) filed an unfair labor practice charge with the Commission in Case No. CA-2008-025 claiming that an unfair labor practice was committed by the Florida State University Board of Trustees (FSU) when FSU gave discretionary salary increases to bargaining unit employees pursuant to a provision in an expired collective bargaining agreement. UFF argued that this action violated FSU's duty to bargain before making unilateral changes in the status quo of working conditions and, therefore, FSU committed an unfair labor practice in violation of Section 447.501(1) (a) and (c), Florida Statutes (2008), which prohibit an unlawful refusal to bargain.

The Commission has held that terms and conditions of employment incorporated into a collective bargaining agreement that has expired are part of the status quo unless expressly limited to the agreement's term. *See, e.g., City of Delray Beach v. Professional Firefighters of Delray Beach*, 636 So. 2d 157 (Fla. 4th DCA 1994). The hearing officer held that the discretionary wage increase provision in the expired agreement constituted the status quo and recommended the dismissal of the unfair labor practice charge, citing *Volusia County Firefighters Association, Local 3574 v. Volusia County*, 22 FPER ¶ 27066 (1996), and *International Association of Fire Fighters, Local 2266 v. City of St. Petersburg Beach*, 13 FPER ¶ 18116 (1987). The hearing officer further recommended that attorney's fees and costs be awarded to FSU because the Commission's precedent was clear and UFF had proceeded with the unfair labor practice charge even after being apprised of the precedent by the hearing officer prior to hearing.

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FLORIDA (CONTINUED)

The Commission rejected UFF's argument that the Commission's decisions cited by the hearing officer are contrary to the Commission's holding in *Duval Teachers United v. Duval County School Board*, 7 FPER ¶ 12056 (1980), in which the Commission had opined that the survival of an expired waiver depends upon whether it relates to a mandatory subject of bargaining or a term and condition of employment. The Commission held that the hearing officer's interpretation of the Commission's holding did not expand the status quo doctrine concerning waivers.

The Commission determined that the subject matter of the discretionary wage increase clause concerns itself with wages, a mandatory subject of bargaining. The Commission noted that the case of *International Association of Firefighters, Local 2266 v. City of St. Petersburg*, 13 FPER ¶ 18116 (1987), cited by the hearing officer, holds that such a provision survives the expiration of a collective bargaining agreement, even though it waives negotiations about a mandatory subject of bargaining. The Commission also cited a recent holding that waivers concerning mandatory subjects of bargaining survive the expiration of agreements and establish the status quo pending the resolution of negotiations for a new agreement. *See Florida Public Employees 79, AFSCME v. State*, 31 FPER ¶ 139 at 319-20 (2005), *aff'd*, 939 So. 2d 121 (Fla. 1st DCA 2006) citing *Volusia County Firefighter Association, Local 3574 v. Volusia County*, 22 FPER ¶ 27066 (1996).

Consequently, the Commission affirmed the hearing officer's status quo analysis and dismissed the unfair labor practice charge. Further, because the Commission's precedent was clear and was cited to UFF prior to the hearing, the Commission agreed with the hearing officer's recommendation to assess attorney's fees and costs against UFF. The Commission's decision has been affirmed on appeal. *United Faculty of Florida v. Florida State University Board of Trustees*, 33 FPER ¶ 159 (2008), *aff'd per curiam*, 9 So. 3d 622 (Fla. 1st DCA 2009).

MICHIGAN

Michigan Employment Relations Commission (MERC)[1]

Unfair Labor Practice Charges Regarding the Duty to Bargain

Kalamazoo County -and- Kalamazoo County Sheriff -and- Kalamazoo County Sheriff's Deputies Association, Case No. C08 A-019, issued October 16, 2009.

The Commission reversed the ALJ's Decision and Recommended Order, and found that Respondents, Kalamazoo County and Kalamazoo County Sheriff, violated PERA by unilaterally repudiating a contract provision in which it agreed not to challenge Act 312 eligibility for certain classifications of employees. The Commission held that the parties' agreement was designed to extend binding interest arbitration to classifications of employees who were not eligible for Act 312 arbitration and the parties' mutual intent should be effectuated. However, to the extent that the provision calls for the Commission to expend public funds to extend Act 312 arbitration to ineligible employee classifications, the provision is unenforceable.

Charging Party, Kalamazoo County Sheriff's Deputies Association, filed exceptions to the ALJ's Decision and Recommended Order. In response, Respondents filed a brief in support of the ALJ's Decision and Recommended Order. Subsequently, Charging Party filed a motion to strike portions of Respondents' brief contending that those portions improperly asked the Commission to reject certain findings by the ALJ. On that same day, Charging Party also filed a reply brief in support of its exceptions.

The Commission found that under Commission Rule 176, any argument which disagrees with the ALJ's findings must be made as an exception or cross-exception. Thus, the Commission granted Charging Party's motion to strike and the portions of Respondents' brief in support of the ALJ's Decision and Recommended Order that disagreed with the ALJ's findings were stricken. The Commission also declined to consider Charging Party's reply brief in support of its exceptions, because the Commission rules do not provide for the filing of a reply to a response to exceptions.

Charging Party represents a bargaining unit of Respondents' employees that includes positions designated as deputy sheriff, sergeant, and corrections deputy. The deputy sheriff and sergeant positions may be assigned to work in the law enforcement division or the jail division. The corrections deputy works only in the jail division. In the late 1970's, Respondents created two new bargaining unit positions, corrections officer (CO) I and CO II to staff the jail division. The CO Is were not required to be certified police officers. Upon the completion of certain training, CO Is were automatically promoted to CO IIs at a pay grade equivalent to that of deputy sheriffs.

In 1999, nearly all the CO Is had taken the requisite training to become CO IIs. Respondents told Charging Party that it would no longer hire COs, because it was more economically efficient to hire deputies to staff jail division since deputies could be shifted to the law enforcement division and CO IIs, who were paid the same as deputies, could only work in the jail. By 2002, there was a high concentration of deputies staffing the jail division. In 2002, while bargaining a successor collective bargaining agreement, Respondents expressed the need to reduce operating costs by staffing the jail division entirely with CO Is and ending the past practice of automatically promoting CO Is to CO IIs. In exchange for agreeing that CO Is would no longer be automatically promoted, Charging Party requested that Respondents agree not to challenge COs' eligibility for Act 312 arbitration. The parties' agreement was incorporated into their 2003-2004 collective bargaining agreement, which addressed Act 312 eligibility issues in Article 24, Section 6, as follows:

> Employees in the Corrections Deputy (F-17) classification and employees in the F-19 and F-22 classifications assigned to the jail will be included within the jurisdiction of Act 312 arbitration to the same extent as Deputies on road patrol and the Employer will not challenge their Act 312 eligibility at any time so long as road patrol Deputies have Act 312 arbitration or similar interest arbitration.

When the parties negotiated a new agreement two years later, Article 24, Section 6, was not discussed and was incorporated into the 2005-2007 contract. However, during negotiations in 2007 for a successor agreement, Respondents informed Charging Party that they believed Article 24, Section 6, covered a permissive subject of bargaining, that they would not agree to include that provision in the successor agreement, and that the COs were not eligible for Act 312 arbitration. Charging Party then filed an Act 312 petition, which Respondents answered by stating that the corrections deputies and deputies and sergeants assigned to the jail were not Act

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312 eligible. Subsequently, Charging Party filed this unfair labor practice charge alleging that Respondents violated their duty to bargain in good faith by repudiating Article 24, Section 6.

The Commission agreed with the ALJ's finding that the parties intended to invoke Act 312 or similar interest arbitration procedures with respect to corrections deputies and deputies and sergeants assigned to the jail, regardless of how the Commission or courts read Act 312. The Commission also agreed with the ALJ's finding that the parties intended the provisions of Article 24, Section 6 of their collective bargaining agreement to apply beyond the expiration date of the contract. Inasmuch as there were no exceptions taken to those findings of the ALJ, the Commission found that the main issue before it was whether Respondents' repudiation of a provision contained in the parties' agreement, extending Act 312 arbitration to classifications that may not otherwise be covered by Act 312, is an unfair labor practice.

The Commission held that interest arbitration is a permissive subject of bargaining. Parties are not required to bargain permissive subjects and may take unilateral action on permissive subjects in the absence of an agreement on the matter. However, when a permissive subject is embodied in an agreement, neither party may take unilateral action regarding the permissive subject. Further, the Commission reasoned that when a permissive subject and a mandatory subject are intertwined, repudiation of the permissive subject is repudiation of the entire package. Here, the parties agreed that Respondents would not challenge the Act 312 eligibility of certain classifications in exchange for Respondents' ability to staff the jail with CO Is at reduced costs, as Respondents were no longer obligated to promote them to CO IIs. The Commission explained that under such circumstances, to allow one party to renege on its negotiated promise would frustrate the bargaining process and undermine the goal of good faith bargaining.

The Commission also held that Respondents' challenge to Charging Party's Act 312 petition was a repudiation of the parties' bargaining agreement and a breach of Respondents' duty to bargain in good faith. The Commission explained that the parties could not, by their agreement, extend Act 312 arbitration to ineligible employee classifications. To do so would require the expenditure of public funds in ways not authorized by the legislature. However, it was obvious from their agreement that the parties intended to submit to binding interest arbitration if unable to resolve differences in negotiating their successor agreement. Therefore, the Commission ordered that the Respondents submit to binding interest arbitration, which must be conducted in accordance with those provisions of Act 312 that do not require action by the Commission.

Lake County and Lake County Sheriff -and- Police Officers Association of Michigan, Case No. C07 A-011, issued June 25, 2009.

The Commission affirmed the ALJ's Decision and Recommended Order finding that Respondents, Lake County and Lake County Sheriff, violated Section 10(1)(e) of PERA by refusing to arbitrate a grievance filed by Charging Party, Police Officers Association of Michigan (the Union). Charging Party and Respondents were parties to a 2003-2005 collective bargaining agreement that contained a grievance procedure concluding in binding arbitration as well as a "just cause" termination clause. As of the contract's expiration in December 2005, the parties had not reached an agreement to extend the term or provisions of the contract.

The parties reached a tentative agreement in May 2006. After the Union ratified the agreement, Respondent's counsel put it in writing and submitted the draft version to Charging Party's business agent for signature. The draft provided the contract was effective January 1, 2006 and would be in full force and effect until December 31, 2008. After further negotiations, the business agent signed the contract on September 19, 2006. The parties continued to negotiate over certain provisions, and the agreement was not ratified and signed by all parties until November 8, 2006. The new contract included the language in the draft that provided the contract became effective January 1, 2006. After the contract was signed on November 8, 2006, Respondent paid employees wage increases retroactive to January 1, 2006.

On September 15, 2006, Respondents discharged a bargaining unit member. Charging Party filed a grievance over the discharge on September 20, 2006. Respondents denied the grievance, arguing that since the discharge occurred after the expiration of the 2003-2005 contract and prior to the execution of the 2006-2008 contract it was not covered by the "just cause" provisions of either collective bargaining agreement. Upon notification by the Union that it intended to pursue the matter to arbitration, Respondents refused to submit the grievance to arbitration.

The Commission agreed with the ALJ that the grievance in question was arguably arbitrable under the 2006-2008 contract. The Commission considered the

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MICHIGAN (CONTINUED)

MICHIGAN—MERC (Continued from page 17)

contract provision stating an effective date of January 1, 2006 and evidence that Respondents had applied that effective date to other provisions of the contract, such as retroactive wage increases. Respondents argued that during the final phase of contract negotiations, Respondents' counsel sent communications to Charging Party asserting that grievances filed after the expiration of the 2003-2005 contract would not be arbitrated. Respondents contended that these communications became part of the parties' agreement. However, these communications were not expressly incorporated into the 2006-2008 contract. Therefore, the Commission agreed with the ALJ that the grievances were arguably arbitrable under the new contract and therefore, Respondents violated their duty to bargain in good faith under Section 10(1)(e) by refusing to submit the grievance to arbitration.

In response to Respondents' exception that the ALJ erred by *sua sponte* raising the point that the 2006-2008 contract contained an effective date of January 1, 2006, the Commission held that Rule 172(2) of the General Rules of the Michigan Employment Relations Commission, 2002 AACS, R 423.172(1), requires that an ALJ inquire fully into the facts involved in the matter before him or her. This stipulation includes the reading of exhibits and the application of the law to facts derived from those exhibits. Thus, the Commission held that the ALJ properly considered the facts in the record that led her to conclude that the grievance was arguably arbitrable.

Finally, the Commission explained that finding the grievance is arguably arbitrable is sufficient to resolve the issue before it, the question of the grievance's actual arbitrability must be left to the arbitrator or the courts.

This case is currently on appeal to the Michigan Court of Appeals. ⌘

[1] Summaries prepared by D. Lynn Morison of the Michigan Bureau of Employment Relations. Appreciation is extended to Sidney McBride, Lee A. Powell, Jr., Matthew Bedikian, Trina Pridgeon, and John Camp for their assistance with the preparation of these case summaries.

GOT PHOTOS?

Send us your conference photos and they may appear in an upcoming issue of *The ALRA Advisor.*

ABOVE:
Waterfront in Newark, NJ.
(Photo by Josée Dubois)

LEFT:
Members of the Professional Development Committee *and the* Program Committee *hard at work planning the 59th Annual ALRA Conference to be held this July in Ottawa.*

CANADA INDUSTRIAL RELATIONS BOARD (CIRB)

Re-Appointments

Messrs. **Lecavalier, Charbonneau** and **Rivard** have been reappointed to the CIRB as full-time representative Members for a term of three years.

Mr. André Lecavalier *(term effective December 18, 2009).*

Mr. Daniel Charbonneau *(term effective March 29, 2010)*

Mr. Norman Rivard *(term effective January 15, 2010)*

FEDERAL MEDIATION AND CONCILIATION SERVICE

Appointment

FMCS Director, George H. Cohen announced the appointment of **Allison Beck** as Deputy Director with primary responsibility for National and International Programs, effective March 2, 2010.

Allison Beck and George H. Cohen

Ms. Beck has had an outstanding career of major achievement in the field of labor-management relations. From 1989 to 2009, she served as General Counsel of the International Machinists and Aerospace Workers, AFL-CIO after serving as Associate General Counsel from 1980 to 1989.

Prior to joining the IAM, Ms. Beck served as an appellate court attorney at the National Labor Relations Board and a legislative aide on employment issues to Senator Alan Cranston (D-CA) and the Senate Committee on Labor and Public Welfare's Special Subcommittee on Human Resources. Ms. Beck graduated with honors from Goucher College and the Columbus School of Law at Catholic University. She has been a frequent speaker and trainer at American Bar Association meetings, labor conferences and other programs.

Call them Gen Y or the Millennials – either way a change is gonna come

Just take a look at the numbers: "American baby boomers born between 1946 and 1964 number 78.5 million. Generation Xers born between 1964 and 1977 number 48 millions. Enter the Generation Y horde numbering 80 million."

"Generations, like people, have personalities, and Millennials – the American teens and twenty-somethings currently making the passage into adulthood – have begun to forge theirs: confident, self-expressive, liberal, upbeat and receptive to new ideas and ways of living." Read the most recent research available on the Millennials (generation Y) from PEW Research and the Boston College Center for Corporate Citizenship.

PEW Research Centre, February 2010: MILLENNIALS: A Portrait of Generation Next: Confident, Connected, Open to Change (149 pages, PDF).

Executive Summary, February 24, 2010: Millennials: Confident, Connected, Open to Change (*Source: Perry Week (May 3, 2010))*

We forgot to include references for the article titled: Grievance Mediation 101—Paul D. Roose (*ALRA Advisor*—January 2010, page 8). This article first appeared in the November 2007 issue of the *California Labor & Employment Law Review*, and was reprinted with kind permission of the State Bar of California and the California Labor & Employment Law Review. Our apologies for this oversight.

thanks...

... to all 2009-10 Committee Members for their help, especially with the 59th Annual Conference held in OTTAWA, Canada

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... to all 2008-09 Committee Members for their help. especially with the 58th Annual Conference held in OAKLAND, U.S.A.

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...we couldn't have done it without you.

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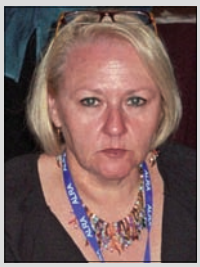

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discover OTTAWA

July 24-28, 2010

Welcome to the Nation's capital

Photo courtesy of Ottawa Tourism

Elgin Street and Confederation Square at night in Ottawa

Boehmer © photo

Dow's Lake

Photo courtesy of Ottawa Tourism

National Gallery of Canada

Photo courtesy of Ottawa Tourism

White water rafting on the Ottawa River

Photo courtesy of Ottawa Tourism

Royal Canadian Mounted Police on Parliament Hill

Photo courtesy of Ottawa Tourism

Enjoying breakfast at the Fairmont Château Laurier overlooking the Rideau Canal Locks, the Bytown Museum and the Ottawa River