

*King County*, Decision 11223 (PECB, 2011)

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

TEAMSTERS LOCAL 117,

Complainant.

vs.

KING COUNTY SECURITY GUILD,

Respondent.

CASE 24108-U-11-6168

DECISION 11223 - PECB

TEAMSTERS LOCAL 117,

Complainant,

vs.

KING COUNTY,

Respondent.

CASE 24110-U-11-6170

DECISION 11224 - PECB

FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND ORDER

*Spencer Nathan Thal*, General Counsel, for Local 117.

*Megan Pedersen*, Labor Negotiator, for the employer.

*Jared C. Karstetter*, Attorney at Law, for the Security Guild.

On July 12, 2011, Teamsters Local 117 (Local 117) filed two complaints charging unfair labor practices, naming both King County (employer) and King County Security Guild (Security Guild) as respondents. Local 117 is the exclusive bargaining representative for a bargaining unit of security officers, security dispatch officers, and security sergeants. The employer and Local 117 are parties to a collective bargaining agreement dated January 1, 2009, through January 31, 2010.

Local 117's complaint against the employer alleged that the employer refused to bargain by making a unilateral change concerning access to employer facilities and bargaining unit employees by Local 117 representatives. The complaint further alleged employer domination or assistance of a union, employer interference, and employer discrimination related to a representation petition filed by the Security Guild on June 29, 2011.<sup>1</sup>

Local 117's complaint against the Security Guild alleged that it interfered with employee rights by denying or limiting access of Local 117 representatives to bargaining unit employees. The complaint further alleged that the Security Guild induced the employer to commit an unfair labor practice by requesting the employer deny or limit access of Local 117 representatives to employer facilities and bargaining unit employees.

On July 21, 2011, preliminary rulings were issued, finding causes of action against both the employer and the Security Guild, and consolidating the complaints. A blocking charge was also issued on the same day under WAC 391-25-370, which suspended the representation proceedings pending the outcome of these unfair labor practice complaints. On July 27, 2011, Local 117 filed amended complaints with additional factual claims. The complaints were assigned to Examiner Lisa A. Hartrich on July 28, 2011. The Examiner issued an amended preliminary ruling on July 29, 2011. The employer and Security Guild filed timely answers to the amended preliminary ruling.

On September 30, 2011, the Security Guild filed an unsolicited amended answer, admitting to all facts in Local 117's amended complaint, and stipulating to all requested remedies, with the exception of attorney fees. On October 5, 2011, the employer also filed an unsolicited amended answer, admitting to all facts and allegations in Local 117's amended complaint, and stipulating to all requested remedies, with the exception of attorney fees.<sup>2</sup>

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<sup>1</sup> Case 24078-E-11-3655.

<sup>2</sup> Parties may stipulate or admit to facts in a complaint. However, parties cannot stipulate to findings of fact, conclusions of law, or remedies, unless outside the purview of the Commission, *e.g.* in a settlement agreement.

On October 17, 2011, the Security Guild filed a motion for summary judgment, based on the assertion that both the Security Guild and the employer fully admitted to all facts and charges. On October 25, 2011, Local 117 filed a response to the Security Guild's motion for summary judgment.

### ISSUES PRESENTED

1. Are there genuine issues of material fact in dispute which would prevent granting summary judgment?
2. Did the employer make a unilateral change concerning the access of Local 117 representatives to employer facilities and bargaining unit employees without providing an opportunity to bargain?
3. Did the employer dominate or assist the Security Guild by denying or limiting access of Local 117 representatives to employer facilities and bargaining unit employees, and by showing a preference between unions competing to represent its employees?
4. Did the employer interfere with employee rights by threats of reprisal or force or promises of benefit made to bargaining unit employees by denying or limiting access to bargaining unit employees by Local 117 representatives?
5. Did the employer interfere with employee rights by expressing or indicating a preference between competing organizations seeking to represent its employees during the pendency of a representation petition?
6. Did the employer discriminate by denying or limiting access of bargaining unit employees to Local 117 representatives in reprisal for protected union activities?

7. Did the Security Guild interfere with employee rights by threats of reprisal or force or promises of benefit by denying or limiting, or seeking to deny or limit, the access of Local 117 representatives to bargaining unit employees?
8. Did the Security Guild induce the employer to commit unfair labor practices by requesting that the employer deny or limit access of Local 117 representatives to employer facilities and bargaining unit employees?

The Examiner grants the motion for summary judgment after considering the amended complaints, the amended answers and admissions, and Local 117's response to the motion for summary judgment.

The Examiner finds the employer committed refusal to bargain, unlawful assistance, interference, and discrimination unfair labor practices as described in Issues 2 through 6 above. The Examiner finds the Security Guild committed interference and inducement of the employer unfair labor practices as described in Issues 7 and 8 above.

### ISSUE 1 – MOTION FOR SUMMARY JUDGMENT

#### Applicable Legal Standards

A motion for summary judgment may be granted if there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. WAC 10-08-135. The Commission has consistently noted that granting a motion for summary judgment should not be taken lightly, as summary judgment involves making a decision without a full evidentiary hearing and record. *City of Orting*, Decision 7959-A (PECB, 2003).

#### Analysis

The employer and Security Guild stipulated to all of the facts alleged in Local 117's amended complaints. The facts as they appear in the amended complaints are as follows:

Security Guild's Admitted Facts<sup>3</sup>

2.1 At or around 1:45 p.m. on July 6, 2011, [Local 117 business representative Thomas] Wray arrived at the King County Regional Justice Center to conduct a routine shop visit. Upon arriving, Wray called down to Security Dispatch and informed [Security Guild president Todd] Fast of his arrival and his intent to briefly visit with members and inspect working conditions. This was an important visit as members had raised safety concerns as a result of recent unilateral changes made by the employer, including without limitation, restrictions on members' use of defensive tools, such as pepper spray and expandable batons.

2.2 Fast stated that the Justice Center was short staffed and that Wray would not be allowed to access the facility or talk with members.

2.3 Understanding the need to not interfere with operations, Wray informed Fast that the intent of Wray's visit was to introduce himself to any officers that he had not seen during his June 2011 visit. Wray explained that he would not disrupt the flow of operations and that Wray would only stay a few minutes to answer any questions that employees might have.

2.4 Fast stated that he was agreeable to the purpose and duration of Wray's visit, and told Wray to "come down."

2.5 Fast was not present when Wray arrived at the entrance to the Security Dispatch area. Wray waiting for approximately ten (10) minutes before approaching the King County District Court customer service window. Wray asked the customer service employee to call over to Security Dispatch and inform them that he was waiting at the door.

2.6 The customer service employee called and an individual on the other end of the phone told the customer service employee that he or she was on his or her way to open the door.

2.7 Upon hearing that the door would be opened, Wray returned to the secured door and waited for another ten (10) minutes before Fast approached the secured door.

2.8 Fast opened the door, stepped out, and stated that the Dispatch Center was short staffed and that Wray could not enter the facility to conduct his visit.

2.9 Wray took the opportunity to introduce himself to Fast, and explained to Fast that he (Wray) was the bargaining unit's new business representative. Wray then gave Fast his business card. Wray once again explained to Fast that the sole intent of his visit was to briefly check-in

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<sup>3</sup> The facts appear as formatted and described in the amended complaints. Only the insertions in brackets [ ] were added by the Examiner for clarification.

with members, and make sure that working conditions were safe and consistent with the terms of the CBA [collective bargaining agreement].

2.10 Fast once again refused Wray access to the dispatch room, and stated that, as a King County Security Officer, Fast had the right to deny Wray entry into the dispatch room.

2.11 Wray explained to Fast that during his June 2011 visit, he was permitted to enter the dispatch room and visit with Union members. Wray also explained that due to the ongoing negotiations between Union members and the County, it was important that Wray have the ability to access the facility and answer questions.

2.12 Fast once again refused and threatened to have Wray escorted off the property.

2.13 Wray attempted to explain his general legal visitation rights as a union representative. Wray explained that as a business representative he had the right to access members whenever and wherever they were working. Fast stated, "not today," and closed the door.

2.14 Wray left the King County Regional Justice Center at around 2:20 p.m., without being allowed to visit with members, inspect working conditions, or provide information regarding the current state of bargaining between the County and Local 117.

2.15 On July 15, 2011, Wray attempted to visit Local 117 members at the Chinook building in downtown Seattle to update the members on the status of ongoing negotiations and to discuss a letter the Union had recently sent to the County demanding bargaining over various safety-related issues. Wray handed the letter to one of the officers but before he had a chance to read it, Fast grabbed the letter and told Wray that the matter was over and Wray should leave. Fast then led the other officers who were present away from Wray and into an area closed to the public. Fast and the other officers were gone for approximately 20 minutes. When Fast returned he threatened to have Wray escorted off the property if he showed up again without first notifying Fast.

2.16 Core and central to the Union's function is access to the members and a visible presence at shop facilities. Without access to members, Local 117 is unable to adequately address members' concerns and represent their interests.

2.17 The denial of access to facilities and members promotes the appearance that Local 117 is not working to advance the interests of Union members.

2.18 Fast and/or the Guild's purposeful denial of access to facilities and members was designed to make the Union appear ineffectual in representing its membership.

2.19 Fast and/or the Guild was attempting to make the Union appear ineffectual, at least in part, because he purports to run a competing labor organization that has filed for representation of the Union's members.

2.20 By denying Local 117 access to members and facilities, Fast and/or the Guild has interfered, restrained, and/or coerced bargaining unit members' ability to exercise their rights guaranteed by RCW 41.56.

2.21 By denying Local 117 access to members and facilities, Fast and/or the Guild limited bargaining unit members' ability to organize and designate representatives of their own choosing.

2.22 By denying Local 117 access to members and facilities, Fast and/or the Guild discriminated against bargaining unit members' (sic) that have expressed interest in their continued representation through Local 117 representatives.

2.23 By denying Local 117 access to members and facilities, Fast and/or the Guild exercised authority over fellow members and prevented members from freely choosing their own representatives.

2.24 By denying Local 117 access, Fast and/or the Guild caused or induced the County to commit an unfair labor practice.

2.25 By implicitly granting Fast the ability to deny access to Local 117, the County either authorized or is compliant in Fast and/or the Guild's violations of the law.

2.26 These violations occurred during the critical pre-election period.

#### Employer's Admitted Facts

3.1 At roughly 10:30 AM on July 7, 2011, [Local 117 business representative Mark] Manning and Wray conversed with [King County Labor Relations Negotiator Bob] Railton regarding the [representation] Petition. During this conversation, Railton raised the issue of limitations on visitation rights.

3.2 Railton stated that he needed to inform Manning and Wray of the County's policy regarding visitation rights. Railton claimed that Local 117 does not currently, and never has had, access to the members without first seeking permission from management.

3.3 Railton stated that Union representatives are only allowed to speak to Union members while those members are not working, or on a break. Railton emphasized that Union representatives cannot speak with employees while those employees are working.

3.4 Railton explained that although the County had been lax about enforcing this policy in the past, there were limitations on the ability of Local 117 representatives to access facilities and members.

3.5 Manning responded by stating that Local 117 currently has, and always has had, the right to visit its members at any time and any place that those members are working, no matter where the County assigns those members to work.

3.6 Manning stated that he was not going to surrender union access rights and the ability to communicate with Union members.

3.7 Manning emphasized Local 117's commitment to serving its members while also ensuring that Union representatives did not disrupt or prevent members from working.

3.8 Railton stated that he was letting Local 117 know the County's position on the matter, and mentioned that he was not going to personally monitor Local 117's site visits. Railton inferred that he was passing on a message as a result of demands made by Fast and/or the Guild through its attorney to restrict Local 117's access.

3.9 An hour after the initial phone conversation ended, Railton called Wray at Local 117's office. Wray was on another call, so he was unable to answer.

3.10 Almost immediately after Railton called Wray, Manning called Railton back. Railton clarified that the County would not attempt to restrict Local 117's access to Security Officer posts that are generally accessible to the public, such as the Chinook lobby post. The inference was that the County would now restrict access to other non-public areas where members work, and where Local 117 representatives had previously visited without restrictions.

3.11 During the course of these conversations, Railton was speaking to Manning and Wray as a representative and agent of King County.

3.12 Fast, a purported representative of the King County Security Guild and/or the County, was permitted to restrict Local 117's access to County facilities. Meanwhile Fast was permitted to have unfettered access to fellow employees.

3.13 Railton has since continued to restrict Local 117 representatives' access to its members.



3.14 The County's refusal to grant access to Local 117 representatives conveys the message that the County prefers the King County Security Guild to Local 117.

The above stipulated facts were copied in total from Local 117's amended complaints in order to display the magnitude and scope of the admissions by the employer and Security Guild.

Even though the employer and Security Guild admitted to the facts above, and despite the fact that the Guild filed a motion for summary judgment and, in effect, admitted to severe allegations advanced by Local 117, Local 117 still opted to contest the summary judgment motion. Local 117 argues that a hearing is needed in order to determine whether the unfair labor practices committed were egregious enough to warrant extraordinary remedies, including attorney fees.

### Conclusion

The employer and Security Guild admitted to all the facts in the amended complaints. Therefore, the Examiner concludes there is no genuine issue as to any material fact, and grants the motion for summary judgment. A hearing is not necessary to determine the level of severity of the conduct, as it is evident based on the amended complaints and answers contained in the record.

## ISSUE 2 – UNILATERAL CHANGE

### Applicable Legal Standards

RCW 41.56.140(4) prohibits an employer from making a unilateral change to a mandatory subject of bargaining until the employer has satisfied its collective bargaining obligations. Furthermore, WAC 391-25-140(2) prohibits changes to the status quo concerning wages, hours or other terms and conditions of employment during the period that a representation petition is pending before the Commission.<sup>4</sup>

### Analysis

Local 117 alleges the employer changed the ability of Local 117 representatives to access employer facilities and bargaining unit employees without providing an opportunity to bargain.

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<sup>4</sup> Generally, the Commission is not asked to rule on the conduct of a party prior to the tally of ballots in a representation proceeding. Most often, a party files objections to improper conduct after an election occurs. However, the representation case rules governing objectionable conduct under Chapter 391-25 WAC provide guidance to determine whether violations have occurred under RCW 41.56.140. *See King County (Public Safety Employees Union)*, Decision 10184-A (PECB, 2011).

Local 117 claims it always had the right to visit its members at any time or place while members were working.

In a letter filed with the Examiner on September 29, 2011, the employer admitted that, in early July 2011, it changed the existing practice concerning access to the workplace by Local 117 representatives. In its unsolicited amended answer, the employer admitted it restricted Local 117's access to non-public areas where bargaining unit members work, and that it continues to restrict access.

### Conclusion

Based on the employer's admission that it changed its existing practice concerning access to the workplace by Local 117 representatives without fulfilling its collective bargaining obligations, the Examiner concludes that the employer committed an unfair labor practice violation under RCW 41.56.140(4) and WAC 391-25-140(2).

## ISSUE 3 – EMPLOYER DOMINATION

### Applicable Legal Standards

Under RCW 41.56.140(2), it is an unfair labor practice for an employer to control, dominate or interfere with a bargaining representative. This is also known as an "unlawful assistance" claim, and requires proof the employer intended to assist one union to the detriment of another. *King County*, Decision 2553-A (PECB, 1987); *State – Corrections*, Decision 7870-A (PSRA, 2003). Additionally, under WAC 391-25-140(3), the employer is prohibited from expressing or otherwise indicating any preference between competing organizations during a representation proceeding.

### Analysis

An unlawful assistance violation requires proof of employer intent to assist one bargaining representative to the detriment of another. In previous Commission decisions, this has been a high bar to clear. However, in the instant case, the employer admitted that it permitted the Security Guild's representative (Fast) to restrict access to the employer's facilities by Local 117 representatives, while permitting Fast unfettered access to fellow bargaining unit employees.

The employer admitted that its refusal to grant workplace access to Local 117 representatives conveyed the message that the employer preferred the Security Guild over Local 117. The employer admitted that its agent, Railton, inferred that the employer was restricting Local 117's access as a result of demands made by the Security Guild through its attorney.

### Conclusion

Based on the admissions in the employer's unsolicited amended answer, the Examiner finds the employer committed an unfair labor practice by intentionally assisting the Security Guild to the detriment of Local 117 in violation of RCW 41.56.140(2) and WAC 391-25-140(3).

## ISSUE 4 – EMPLOYER INTERFERENCE – DENYING/LIMITING ACCESS

### Applicable Legal Standards

Under RCW 41.56.140(1), it is an unfair labor practice for an employer to interfere with, restrain, or coerce public employees in the exercise of their collective bargaining rights. The test for an interference violation is whether a typical employee could, in similar circumstances, reasonably perceive the employer's actions as discouraging his or her union activities. *City of Wenatchee*, Decision 8802-A (PECB, 2006). Proof of employer intent to interfere is not required. *Northshore Utility District*, Decision 10534-A (PECB, 2010).

Under WAC 391-25-140(2), the employer is prohibited from changing the status quo while a representation petition is pending before the Commission. Changes made by an employer during a pending representation petition can improperly affect the "laboratory conditions" necessary to allow employees to freely exercise their right to vote. *State – Fish and Wildlife*, Decision 9975 (PSRA, 2008). When an employer makes changes to the status quo affecting those conditions, it commits an unfair labor practice. *Emergency Dispatch Center*, Decision 3255-B (PECB, 1990); *City of Issaquah (Issaquah Police Services Association)*, Decision 9255 (PECB, 2006).

### Analysis

Prior to July 2011, Local 117 representatives had the ability to visit employees at work facilities, provided that representatives did not disrupt or prevent employees from working. On July 7, 2011, the employer informed Local 117 that it did not have access to employees without first

seeking permission from management, and stated the employer had been lax about enforcing that policy in the past. The employer restricted Local 117's access to non-public areas, and continues to do so.

The employer admitted that, in July 2011, it changed its existing practice concerning access to the workplace and bargaining unit employees by Local 117 representatives. This change occurred after a representation petition had been filed in violation of WAC 391-25-140(2).

### Conclusion

The employer changed its existing practice of allowing access to the workplace and bargaining unit employees by Local 117 representatives during a pending representation petition. Such an action could lead a typical employee to reasonably perceive the employer was discouraging the right of employees to organize and designate representatives of their own choosing. Therefore, the Examiner concludes the employer committed an interference violation under RCW 41.56.140(1) and WAC 391-25-140(2).

## ISSUE 5 – EMPLOYER INTERFERENCE – ORGANIZATIONAL PREFERENCE

### Applicable Legal Standards

Under RCW 41.56.140(1), it is an unfair labor practice for an employer to interfere with, restrain, or coerce public employees in the exercise of their collective bargaining rights. (See ISSUE 4 above.)

An employer is prohibited from expressing or indicating a preference between competing organizations, where two or more employee organizations are seeking to represent its employees. WAC 391-25-140(3). If an employer expresses or indicates a preference between competing organizations while a representation petition is pending, it commits an unfair labor practice. *Renton School District*, Decision 1501-A (PECB, 1982).

### Analysis

The employer admitted that it permitted the Security Guild's representative (Fast) to restrict access to the employer's facilities by Local 117 representatives, while permitting Fast unfettered

access to fellow bargaining unit employees. The employer admitted that its refusal to grant workplace access to Local 117 representatives conveyed the message that the employer preferred the Security Guild over Local 117.

### Conclusion

Based on these admissions, the Examiner concludes that a typical employee could reasonably perceive the employer's preference for the Security Guild over Local 117 as discouraging the right of employees to organize and designate representatives of their own choosing, in violation of RCW 41.56.140(1) and WAC 391-25-140(3).

## ISSUE 6 – EMPLOYER DISCRIMINATION

### Applicable Legal Standards

RCW 41.56.140(1) prohibits an employer from discriminating in reprisal for the exercise of employee rights protected by the collective bargaining statute. The test for discrimination requires the union to set forth a prima facie case showing that: (1) one or more employees exercised protected union activity, or communicated to the employer an intent to do so, (2) one or more employees were deprived of some ascertainable right, status, or benefit, and (3) a causal connection exists between the protected union activity and the employer's action. *Educational Service District 114*, Decision 4361-A (PECB, 1994).

If the union makes its prima facie case for discrimination, the employer must articulate non-discriminatory reasons for its actions. If the employer provides non-discriminatory reasons, the union bears the burden of proof to show that the employer's reasons were pretexts to conceal the employer's true motivation, or that the protected activity was a substantial motivating factor for the action. *Tacoma-Pierce County Employment and Training Consortium*, Decision 10280-A (PECB, 2009).

### Analysis

The employer admitted that it restricted Local 117's access to the workplace and bargaining unit employees. Conversely, bargaining unit employees who may have expressed interest in

continuing representation by Local 117 were deprived of their ability to meet with those representatives. The employer did not provide any non-discriminatory reasons or explanations for its actions, and in fact admitted to the allegations asserted by Local 117.

### Conclusion

By restricting access of bargaining unit employees to Local 117 representatives, the employer discriminated against bargaining unit employees in violation of RCW 41.56.140(1).

## ISSUE 7 – UNION INTERFERENCE – DENYING/LIMITING ACCESS

### Applicable Legal Standards

Under RCW 41.56.150(1), it is an unfair labor practice for a bargaining representative to interfere with, restrain, or coerce public employees in the exercise of their collective bargaining rights. Included in those protected rights is the right of employees to change or decertify their exclusive bargaining representative. However, any organizing to pursue changing or decertifying a bargaining representative cannot impede the ability of the incumbent union from conducting its business as the exclusive bargaining representative. *Community College District 13 – Lower Columbia (Washington Federation of State Employees)*, Decision 8117-B (PSRA, 2005).

The test for an interference violation is whether a typical employee could, in similar circumstances, reasonably perceive the competing union's actions as a threat of reprisal or force or promise of benefit related to his or her pursuit of lawful collective bargaining rights. *City of Issaquah (Issaquah Police Services Association)*, Decision 9255 (PECB, 2006).

### Analysis

The Security Guild admitted that Fast, president of the Guild, refused to give Local 117 representative Wray access to bargaining unit employees, and threatened to have Wray escorted off the property on more than one occasion. The Security Guild admitted that purposefully denying access to employees and facilities promoted the appearance that Local 117 was not working to advance the interests of bargaining unit employees, and was designed to make Local

117 appear ineffectual in representing its membership. The Security Guild admitted that, without access to members, Local 117 was unable to adequately address members' concerns and represent their interests.

### Conclusion

Based on the Security Guild's admissions, the Examiner concludes that a typical employee could reasonably perceive that, when the Security Guild denied Local 117's access to bargaining unit employees and threatened to have a Local 117 representative escorted off the property, the Security Guild interfered with the ability of employees to freely choose a bargaining representative under RCW 41.56.150(1).

## ISSUE 8 – UNION INDUCEMENT OF EMPLOYER

### Applicable Legal Standards

Under RCW 41.56.150(2), a bargaining representative commits an unfair labor practice when it induces a public employer to commit an unfair labor practice. A union may induce an employer to commit any unfair labor practice, including interference, assistance of a union, discrimination, and refusal to bargain. In order to meet the threshold for illegal inducement, the union must request the employer to do something unlawful. A union commits an inducement violation simply by asking the employer to do something unlawful, even if the employer refuses the request. *City of Issaquah (Issaquah Police Services Association)*, Decision 9255 (PECB, 2006).

### Analysis

The Security Guild admitted that by denying Local 117 access to employees and facilities, it caused or induced the employer to commit an unfair labor practice. The Security Guild admitted that by implicitly granting Fast the ability to deny access to Local 117, the employer either authorized or was compliant in the Guild's violation of the law.

### Conclusion

By inducing the employer to deny or limit Local 117's access to bargaining unit employees, the Security Guild committed an unfair labor practice under RCW 41.56.150(2).

## REMEDY

Local 117 requested typical remedies, including orders finding that the employer and Security Guild violated the various statutes and rules as described above, notice postings, and cease and desist orders. In addition, Local 117 requested attorney fees and costs.

Local 117 also requested that the Examiner dismiss the pending representation petition filed by the Security Guild, or in the alternative, suspend processing of the petition for an appropriate period of time, given the nature of the violations. However, this decision addresses the unfair labor practice allegations. The matter of the pending representation petition is properly before the Executive Director in accordance with WAC 391-25-370.

The Commission has broad authority to issue remedies necessary to effectuate the purposes of the collective bargaining statute. *City of Seattle*, Decision 10249-A (PECB, 2009). When an unfair labor practice violation is found, an examiner has authority under RCW 41.56.160(1) “to issue appropriate remedial orders.” The object of the order is to place the injured party back in the position it would have occupied if the unfair labor practice had not been committed.

The Commission has the authority to impose extraordinary remedies. *State – Corrections*, Decision 7870-A (PSRA, 2003). For example, attorney fees have been awarded as a punitive remedy in response to egregious conduct, recidivist conduct, or to frivolous defenses asserted by a party. *See City of Tukwila*, Decision 10536-B (PECB, 2010).

In *Renton School District*, Decision 1501-A (PECB, 1982), where the employer’s conduct during a representation campaign could have been reasonably construed by employees to indicate the employer preferred one organization over another, the employer was required to post notices to employees to “clear the air.” Accordingly, the order in this decision requires the employer and the Security Guild to post or mail notices stating they committed unfair labor practices.

## FINDINGS OF FACT

1. King County (employer) is a public employer within the meaning of RCW 41.56.030(12).



2. Teamsters Local 117 (Local 117) is a bargaining representative within the meaning of RCW 41.56.030(2), and is the exclusive bargaining representative for a bargaining unit of security officers, security dispatch officers, and security sergeants.
3. The employer and Local 117 are parties to a collective bargaining agreement dated January 1, 2009, through January 31, 2010.
4. The King County Security Guild (Security Guild) is a bargaining representative within the meaning of RCW 41.56.030(2).
5. On June 29, 2011, the Security Guild filed a petition for investigation of a question concerning representation, docketed as case 24078-E-11-3655.
6. On July 6, 2011, Local 117 business representative Thomas Wray went to the King County Regional Justice Center to conduct a worksite visit with bargaining unit employees. Todd Fast, president of the Security Guild, refused to allow Wray access to the dispatch room to visit with bargaining unit employees, and threatened to have Wray escorted off the property. Wray left the worksite.
7. On July 7, 2011 Local 117 business representative Mark Manning and Wray conversed with the employer's Labor Relations Negotiator Bob Railton. During the conversation, Railton informed Manning and Wray that the employer's policy on access to bargaining unit employees required Local 117 to first seek permission from the employer, and then only speak to employees while they were not working. Railton stated that the employer had been lax about enforcing its visitation policy in the past. Railton inferred that he was passing on a message as a result of demands to restrict Local 117's access to employees made by Fast and/or the Security Guild through its attorney.
8. On July 7, 2011, an hour after the phone call referenced above, Railton called Wray at Local 117's office. Wray was unavailable. Manning called Railton back. Railton told Manning that the employer would not attempt to restrict Local 117's access to areas

generally accessible to the public, but inferred that access would be restricted in non-public areas where Local 117 representatives had previously visited without restrictions.

9. The employer allowed Fast, as a representative of the Security Guild, to restrict Local 117's access to employees and have unfettered access to fellow employees.
10. On July 15, 2011, Wray went to another worksite to visit bargaining unit employees. Fast told Wray to leave and threatened to have Wray escorted off the property if he showed up again without first notifying Fast.

#### CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter under Chapter 41.56 RCW and Chapter 391-45 WAC.
2. There are no genuine issues of material fact in dispute, and therefore the Security Guild's motion for summary judgment is granted under WAC 10-08-135.
3. By making a unilateral change concerning access of Local 117 representatives to employer facilities and bargaining unit employees without providing an opportunity to bargain as described in Findings of Fact 7 and 8, the employer refused to bargain in violation of RCW 41.56.140(4) and (1) and WAC 391-25-140(2).
4. By denying or limiting access of Local 117 representatives to employer facilities and bargaining unit employees, and by showing a preference between unions competing to represent employees as described in Findings of Fact 7, 8, and 9, the employer provided unlawful assistance to the Security Guild in violation of RCW 41.56.140(2) and WAC 391-25-140(3).
5. By denying or limiting access of Local 117 representatives to bargaining unit employees as described in Findings of Fact 7 and 8, the employer interfered with employee rights in violation of RCW 41.56.140(1) and WAC 391-25-140(2).

6. By expressing or indicating a preference between competing organizations during a pending representation petition as described in Findings of Fact 7 and 9, the employer interfered with employee rights in violation of RCW 41.56.140(1) and WAC 391-25-140(3).
7. By denying or limiting access of bargaining unit employees to Local 117 representatives in reprisal for union activities protected by Chapter 41.56 RCW as described in Findings of Fact 7 and 8, the employer discriminated against employees and violated RCW 41.56.040 and RCW 41.56.140(1).
8. By denying or limiting the access of Local 117 representatives to bargaining unit employees as described in Findings of Fact 6 and 10, the Security Guild interfered with employee rights in violation of RCW 41.56.150(1).
9. By inducing the employer to deny or limit Local 117's access to bargaining unit employees as described in Finding of Fact 7, the Security Guild committed an unfair labor practice under RCW 41.56.150(2).

ORDER – Case 24110-U-11-6170

*King County*, its officers and agents, shall immediately take the following actions to remedy its unfair labor practices:

1. CEASE AND DESIST from:
  - a. Denying or limiting access of Teamsters Local 117 representatives to employer facilities and bargaining unit employees.
  - b. Expressing or indicating a preference between competing organizations during a pending representation petition.
  - c. In any other manner interfering with, restraining or coercing its employees in the exercise of their collective bargaining rights under the laws of the state of Washington.

2. TAKE THE FOLLOWING AFFIRMATIVE ACTION to effectuate the purposes and policies of Chapter 41.56 RCW:
  - a. Restore the *status quo ante* by reinstating the wages, hours and working conditions which existed for the employees in the affected bargaining unit prior to the unilateral change in Teamsters Local 117's access to employer facilities and bargaining unit employees found unlawful in this order.
  - b. Give notice to and, upon request, negotiate in good faith with Teamsters Local 117 before denying or limiting access of Local 117 representatives to employer facilities and bargaining unit employees.
  - c. Post copies of the notice provided by the Compliance Officer of the Public Employment Relations Commission in conspicuous places on the employer's premises where notices to all bargaining unit employees are usually posted. These notices shall be duly signed by an authorized representative of the employer, and shall remain posted for 60 consecutive days from the date of initial posting. The employer shall take reasonable steps to ensure that such notices are not removed, altered, defaced, or covered by other material.
  - d. Read the notice provided by the Compliance Officer into the record at a regular public meeting of the King County Council, and permanently append a copy of the notice to the official minutes of the meeting where the notice is read as required by this paragraph.
  - e. Notify the complainant, in writing, within 20 days following the date of this order, as to what steps have been taken to comply with this order, and at the same time provide the complainant with a signed copy of the notice provided by the Compliance Officer.
  - f. Notify the Compliance Officer, in writing, within 20 days following the date of this order, as to what steps have been taken to comply with this order, and at the

same time provide the Compliance Officer with a signed copy of the notice he provides.

ORDER – Case 24108-U-11-6168

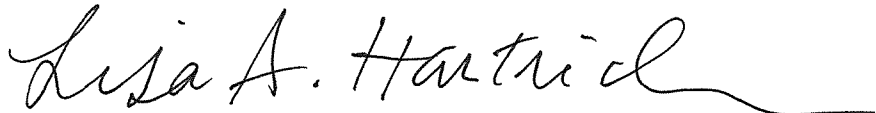
*King County Security Guild*, its officers and agents, shall immediately take the following actions to remedy its unfair labor practices:

1. CEASE AND DESIST from:
  - a. Denying or limiting access of Teamsters Local 117 representatives to employer facilities and bargaining unit employees.
  - b. Inducing the employer to deny or limit Teamsters Local 117's access to bargaining unit employees.
  - c. In any other manner interfering with, restraining or coercing bargaining unit employees in the exercise of their collective bargaining rights under the laws of the state of Washington.
2. TAKE THE FOLLOWING AFFIRMATIVE ACTION to effectuate the purposes and policies of Chapter 41.56 RCW:
  - a. Mail a copy of the notice provided by the Compliance Officer of the Public Employment Relations Commission to the place of residence of all bargaining unit employees. These notices shall be duly signed by an authorized representative of the Security Guild.
  - b. Read the notice attached to this order at a regularly scheduled Security Guild meeting.

- c. Notify the complainant, in writing, within 20 days following the date of this order, as to what steps have been taken to comply with this order, and at the same time provide the complainant with a signed copy of the notice provided by the Compliance Officer.
  
- d. Notify the Compliance Officer, in writing, within 20 days following the date of this order, as to what steps have been taken to comply with this order, and at the same time provide the Compliance Officer with a signed copy of the notice he provides.

ISSUED at Olympia, Washington, this 10<sup>th</sup> day of November, 2011.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

A handwritten signature in black ink that reads "Lisa A. Hartrich". The signature is written in a cursive style and extends to the right with a long, thin horizontal line.

LISA A. HARTRICH, Examiner

This order will be the final order of the agency unless a notice of appeal is filed with the Commission under WAC 391-45-350.



**PUBLIC EMPLOYMENT RELATIONS COMMISSION**

# NOTICE

**STATE LAW GIVES YOU THE RIGHT TO:**

- **Form, join, or assist an employee organization (union)**
- **Bargain collectively with your employer through a union chosen by a majority of employees**
- **Refrain from any or all of these activities except you may be required to make payments to a union or charity under a lawful union security provision**

**THE WASHINGTON PUBLIC EMPLOYMENT RELATIONS COMMISSION CONDUCTED A LEGAL PROCEEDING AND RULED THAT KING COUNTY COMMITTED AN UNFAIR LABOR PRACTICE AND ORDERED US TO POST THIS NOTICE TO EMPLOYEES:**

WE UNLAWFULLY denied or limited access of Teamsters Local 117 representatives to employer facilities and bargaining unit employees.

WE UNLAWFULLY expressed or indicated a preference between competing organizations during a pending representation petition.

WE UNLAWFULLY interfered with the collective bargaining rights of bargaining unit employees.

**TO REMEDY OUR UNFAIR LABOR PRACTICES:**

WE WILL NOT deny or restrict access of Teamsters Local 117 representatives to employer facilities and bargaining unit employees.

WE WILL NOT express or indicate a preference between competing organizations during a pending representation petition.

WE WILL NOT, in any other manner, interfere with, restrain, or coerce our employees in the exercise of their collective bargaining rights under the laws of the State of Washington.

WE WILL post this notice in conspicuous places on the employer's premises where notices to all bargaining unit employees are usually posted.

WE WILL read this notice at a regular public meeting of the King County Council.

**DO NOT POST OR PUBLICLY READ THIS NOTICE.**

**AN OFFICIAL NOTICE FOR POSTING AND READING  
WILL BE PROVIDED BY THE COMPLIANCE OFFICER.**

The full decision is published on PERC's website, [www.perc.wa.gov](http://www.perc.wa.gov).



**PUBLIC EMPLOYMENT RELATIONS COMMISSION**

# NOTICE

**STATE LAW GIVES YOU THE RIGHT TO:**

- **Form, join, or assist an employee organization (union)**
- **Bargain collectively with your employer through a union chosen by a majority of employees**
- **Refrain from any or all of these activities except you may be required to make payments to a union or charity under a lawful union security provision**

**THE WASHINGTON PUBLIC EMPLOYMENT RELATIONS COMMISSION CONDUCTED A LEGAL PROCEEDING AND RULED THAT KING COUNTY SECURITY GUILD COMMITTED AN UNFAIR LABOR PRACTICE AND ORDERED US TO POST THIS NOTICE TO EMPLOYEES:**

WE UNLAWFULLY denied or limited access of Teamsters Local 117 representatives to employer facilities and bargaining unit employees.

WE UNLAWFULLY induced the employer to deny or limit access of Teamsters Local 117 representatives to employer facilities and bargaining unit employees.

WE UNLAWFULLY interfered with the collective bargaining rights of bargaining unit employees.

**TO REMEDY OUR UNFAIR LABOR PRACTICES:**

WE WILL NOT deny or restrict access of Teamsters Local 117 representatives to employer facilities and bargaining unit employees.

WE WILL NOT, in any other manner, interfere with, restrain, or coerce our employees in the exercise of their collective bargaining rights under the laws of the State of Washington.

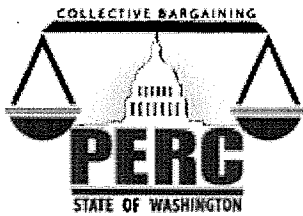
WE WILL mail a copy of this notice to the place of residence of all bargaining unit employees.

WE WILL read this notice at a regularly scheduled King County Security Guild meeting.

**DO NOT POST OR PUBLICLY READ THIS NOTICE.  
AN OFFICIAL NOTICE FOR POSTING AND READING  
WILL BE PROVIDED BY THE COMPLIANCE OFFICER.**

The full decision is published on PERC's website, [www.perc.wa.gov](http://www.perc.wa.gov).





## PUBLIC EMPLOYMENT RELATIONS COMMISSION

112 HENRY STREET NE SUITE 300  
PO BOX 40919  
OLYMPIA, WASHINGTON 98504-0919

MARILYN GLENN SAYAN, CHAIRPERSON  
PAMELA G. BRADBURN, COMMISSIONER  
THOMAS W. McLANE, COMMISSIONER  
CATHLEEN CALLAHAN, EXECUTIVE DIRECTOR

### RECORD OF SERVICE - ISSUED 11/10/2011

The attached document identified as: **DECISION 11223 - PECB** has been served by the Public Employment Relations Commission by deposit in the United States mail, on the date issued indicated above, postage prepaid, addressed to the parties and their representatives listed in the docket records of the Commission as indicated below:

PUBLIC EMPLOYMENT RELATIONS  
COMMISSION

BY:  ROBBIE DUFFIELD

CASE NUMBER: 24108-U-11-06168 FILED: 07/12/2011 FILED BY: PARTY 2  
DISPUTE: ER MULTIPLE ULP  
BAR UNIT: SECURITY  
DETAILS: Todd Fast  
COMMENTS:

EMPLOYER: KING COUNTY  
ATTN: JAMES JOHNSON  
500 4TH AVE RM 450  
SEATTLE, WA 98104-2372  
Ph1: 206-205-5321 Ph2: 206-296-8556

REP BY: MEGAN PEDERSEN  
KING COUNTY  
ADM EX 450  
500 4TH AVE ROOM 450  
SEATTLE, WA 98104  
Ph1: 206-205-0493

PARTY 2: TEAMSTERS LOCAL 117  
ATTN: TRACEY THOMPSON  
14675 INTERURBAN AVE S STE 307  
TUKWILA, WA 98168-4614  
Ph1: 206-441-4860

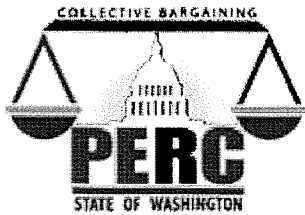
REP BY: SPENCER NATHAN THAL  
TEAMSTERS LOCAL 117  
14675 INTERURBAN AVE S STE 307  
TUKWILA, WA 98168  
Ph1: 206-441-4860

PARTY 3: KING CO SECURITY GLD  
ATTN: TODD FAST

28621 72ND DR NW  
STANWOOD, WA 98292  
Ph1: 425-516-2848

REP BY:

JARED C KARSTETTER JR  
LAW OFFICES OF KARSTETTER  
TRIAD LAW GROUP  
209 DAYTON ST STE 105  
EDMONDS, WA 98020-8402  
Ph1: 425-774-0138 Ph2: 206-396-9742



## PUBLIC EMPLOYMENT RELATIONS COMMISSION

112 HENRY STREET NE SUITE 300  
PO BOX 40919  
OLYMPIA, WASHINGTON 98504-0919

MARILYN GLENN SAYAN, CHAIRPERSON  
PAMELA G. BRADBURN, COMMISSIONER  
THOMAS W. McLANE, COMMISSIONER  
CATHLEEN CALLAHAN, EXECUTIVE DIRECTOR

### RECORD OF SERVICE - ISSUED 11/10/2011

The attached document identified as: **DECISION 11224 - PECB** has been served by the Public Employment Relations Commission by deposit in the United States mail, on the date issued indicated above, postage prepaid, addressed to the parties and their representatives listed in the docket records of the Commission as indicated below:

PUBLIC EMPLOYMENT RELATIONS  
COMMISSION

BY: S. ROBBIE DUFFIELD

CASE NUMBER: 24110-U-11-06170 FILED: 07/12/2011 FILED BY: PARTY 2  
DISPUTE: ER MULTIPLE ULP  
BAR UNIT: SECURITY  
DETAILS: -  
COMMENTS:

EMPLOYER: KING COUNTY  
ATTN: JAMES JOHNSON  
500 4TH AVE RM 450  
SEATTLE, WA 98104-2372  
Ph1: 206-205-5321 Ph2: 206-296-8556

REP BY: MEGAN PEDERSEN  
KING COUNTY  
ADM EX 450  
500 4TH AVE ROOM 450  
SEATTLE, WA 98104  
Ph1: 206-205-0493

PARTY 2: TEAMSTERS LOCAL 117  
ATTN: TRACEY THOMPSON  
14675 INTERURBAN AVE S STE 307  
TUKWILA, WA 98168-4614  
Ph1: 206-441-4860

REP BY: SPENCER NATHAN THAL  
TEAMSTERS LOCAL 117  
14675 INTERURBAN AVE S STE 307  
TUKWILA, WA 98168  
Ph1: 206-441-4860

PARTY 3: KING CO SECURITY GLD  
ATTN: TODD FAST

28621 72ND DR NW  
STANWOOD, WA 98292  
Ph1: 425-516-2848

REP BY:

JARED C KARSTETTER JR  
LAW OFFICES OF KARSTETTER  
TRIAD LAW GROUP  
209 DAYTON ST STE 105  
EDMONDS, WA 98020-8402  
Ph1: 425-774-0138 Ph2: 206-396-9742