

*Washington State Ferries (Marine Engineers' Beneficial Association)*, Decision 14086-A (MRNE, 2025)

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

WASHINGTON STATE FERRIES,  Employer.	
JEREMY GREENE,  Complainant,  vs.  MARINE ENGINEERS' BENEFICIAL ASSOCIATION,  Respondent.	CASE 142020-U-25  DECISION 14086-A - MRNE  ORDER GRANTING MOTION FOR SUMMARY JUDGMENT

*Jeremy Greene*, the complainant.

*Jack Holland*, Attorney at Law, Scholnick Thorne Holland, for the Marine Engineers' Beneficial Association.

On February 10, 2025, the complainant, Jeremy Greene,<sup>1</sup> filed an unfair labor practice (ULP) complaint with the Washington State Public Employment Relations Commission (PERC) against the Marine Engineers' Beneficial Association (union or MEBA). The employer, Washington State Ferries, is not a party to this proceeding and is listed for jurisdictional purposes only. The allegations in the ULP complaint involved union discrimination and violations of the collective bargaining agreement (CBA). On March 5, 2025, PERC issued a partial deficiency notice, finding the union discrimination claim stated a cause of action but that PERC lacked jurisdiction to hear the allegations over the violations of the CBA. The complainant was provided 21 days to cure any deficiencies, but an amended complaint was not filed. On April 2, 2025, a final decision was issued

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1 There is no evidence that Greene is an employee of Washington State Ferries, as the term is defined in RCW 47.64.011(6). The union has asserted an affirmative defense denying that Greene is an employee.

dismissing the allegation of a CBA violation and stating a cause of action for union discrimination. The case was docketed for further processing and assigned to Hearing Examiner Christopher Casillas.

The union filed an answer on April 23, 2025, and, among other defenses, asserted insufficiency of service by the complainant. A pre-hearing conference was held between the parties on May 23, 2025. Following the pre-hearing conference, the parties agreed upon a hearing date of November 21, 2025, in Olympia, Washington. A formal hearing notice was sent to the parties on June 10, 2025.

On July 11, 2025, the union filed a motion to dismiss. The basis of the union's motion was a lack of service of the complaint filed with PERC. Pursuant to WAC 391-08-155, if a hearing date has been established, all dispositive prehearing motions are required to be filed with the presiding officer at least 65 days before the established hearing date. Once filed, the nonmoving party may file and serve a response to the motion within 21 days from the date on which the motion was filed. The complainant did not file any response to the union's motion.

### ISSUES

1. Did the complainant properly serve the complaint on the union and document service consistent with the requirements in WAC 391-08-120?
2. Should the union's motion to dismiss be granted?

From the evidence presented pursuant to the union's motion to dismiss, there are no genuine issues of material fact that show service was effectuated in a timely fashion. The sufficiency of service of the complaint has also been challenged, and the complainant has made no showing of proof of service consistent with the requirements of WAC 391-08-120(6). The failure to properly serve and provide proof of service necessitates dismissal of the complaint.

## BACKGROUND

The complainant filed the ULP complaint in this matter on February 10, 2025, through PERC's electronic filing system. In the electronic filing, the complainant listed Kevin Cross, branch agent for MEBA, as the designated representative of the union. Cross's email address was listed under the section for contact information. PERC's electronic filing system can be used to serve listed representatives, but the complainant elected not to use the electronic filing system for this purpose. The decision to opt out of using PERC's electronic filing system to serve the listed parties is documented on the docketing sheet generated with the submission of the complaint.

Accompanying the union's motion to dismiss was a signed declaration from Cross. In the declaration, Cross stated that he had never received a copy of the complaint filed by the complainant on February 10, 2025. In fact, as of the date of the declaration, July 11, 2025, Cross affirms that neither he, nor anyone at the union, has ever been served with a copy of the complaint. The first time that Cross learned that a complaint in this matter was filed was upon receiving an email on March 5, 2025, from PERC with the email subject, "Partial Deficiency Notice – 142020-U-25, Washington State Ferries/Jeremy M. Greene." Representatives for the union did not receive a copy of the complaint until its legal counsel emailed PERC on April 8, 2025, requesting a copy of the complaint.

The union's motion to dismiss was filed and served through email on July 11, 2025. Under WAC 391-08-155(2)(a), once a hearing date is established, if a dispositive prehearing motion is filed at least 65 days before the established hearing date, the nonmoving party is afforded 21 days to file a response to the motion. The complainant failed to file any response to the union's motion.

## ANALYSIS

### Applicable Legal Standard(s)

#### *Summary Judgment*

Summary judgment is properly granted if there are no material issues of fact and the moving party is entitled to judgment as a matter of law. *Spokane County*, Decision 13510-B (PECB, 2022) (citing *Washington Federation of State Employees v. State*, 127 Wn.2d 544, 551 (1995)); WAC

10-08-135. A material fact is one upon which the outcome of the litigation depends. *Id.* (citing *Clements v. Travelers Indemnity Co.*, 121 Wn.2d 243, 249 (1993)). The trier of fact must consider the facts submitted and all reasonable inferences from those facts in the light most favorable to the nonmoving party. *Id.* The motion should be granted if, from all the evidence, a reasonable person could reach but one conclusion. *Id.*

The party moving for summary judgment has the burden of demonstrating the absence of any genuine issue as to a material fact. “A summary judgment is only appropriate where the party responding to the motion cannot or does not deny any material fact alleged by the party making the motion. . . . Entry of a summary judgment accelerates the decision-making process by dispensing with a hearing where none is needed.” *Pierce County*, Decision 7018-A (PECB, 2001) (citing *City of Vancouver*, Decision 7013 (PECB, 2000)). Pleadings and briefs can be sufficient to determine if there is a genuine issue of material fact. *Id.* (citing *City of Seattle*, Decision 4687-A (PECB, 1996)). When the moving party shows that there are no genuine issues as to any material fact, the nonmoving party bears a responsibility to present evidence demonstrating that there are material facts in dispute. *Washington State Liquor and Cannabis Board (Washington Federation of State Employees)*, Decision 13333 (PSRA, 2021), *aff’d*, Decision 13333-A (PSRA, 2021) (citing *City of Seattle (Seattle Police Management Association)*, Decision 12091 (PECB, 2014)).

The Commission applies the same standards in ruling on motions for summary judgment as do Washington courts. *Id.* (citing *State – General Administration*, Decision 8087-B, PSRA, 2004). Consistent with Civil Rule 56, if the nonmoving party fails to [respond], summary judgment may then be appropriate. *Id.*; *Atherton Condominium Apartment-Owners Association Board of Directors v. Blume Development Co.*, 115 Wn.2d 506 (1990). Civil Rule 56(e) specifically states the following:

When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of a pleading, but a response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If the adverse party does not so respond, summary judgment, if appropriate, shall be entered against the adverse party.

The Commission does not grant summary judgment motions lightly since doing so involves making a final determination without the benefit of a hearing. *City of Orting*, Decision 7959-A (PECB, 2003) (citing *Port of Seattle*, Decision 7000 (PECB, 2000)).

#### *Service Requirements*

WAC 391-45-030 requires the party filing a complaint to serve a copy of the complaint on each party named as respondent. The rules for effectuating service and how to show proof of service are contained in WAC 391-08-120. WAC 391-08-120(3) specifies that documents filed with the agency shall be served upon all parties on the same day. Service shall be upon counsel and the representative of record or upon their agents so designated.

WAC 391-08-120(4) provides that service is complete upon the completion of one, or a combination, of five different methods. Those methods include (1) the PERC e-filing system; (2) email; (3) U.S. mail; (4) a commercial parcel delivery company; or (5) hand delivery. On the same day of filing and service of documents, the person completing service must take one of the following actions under WAC 391-08-120(6): (1) obtain the confirmation of filing and service generated by the agency's e-filing system; (2) make a certificate stating that the person signing the certificate completed service; or (3) obtain acknowledgment of service from the person who accepted personal service. Where the sufficiency of service is contested, WAC 391-08-120(7) provides that a confirmation of filing obtained under subsection (6)(a), a certificate of service under subsection (6)(b), or acknowledgment of service obtained under subsection (6)(c) shall constitute proof of service.

The Commission's rules are in place to encourage effective communication between all parties and to nurture the orderly resolution of disputes. Timely and effective service is enforced to ensure due process is afforded to all parties. *City of Mabton*, Decision 9992-A (PECB, 2008). Failure to provide proof of service will result in the dismissal of a complaint. *Pangborn Memorial Airport*, Decision 12550-A (PECB, 2016); *Washington State University*, Decision 12396 (PSRA, 2015); *City of Kirkland*, Decision 8822-A (PECB, 2005) (citing *Mason County*, Decision 3108-B (PECB, 1991)).

Unfair labor practice complainants need not be represented by legal counsel, but a pro se claimant may be treading on unfamiliar ground in presenting a case on his or her own. While leniency towards a pro se litigant is sometimes appropriate, we must also be mindful of statutory requirements and the rights of other parties. *Tacoma School District*, Decision 5337-B (PECB, 1995). Parties who choose to appear pro-se are not thereby excused from compliance with fundamental due process requirements found in the rules duly promulgated by the Commission and published in the Washington Administrative Code. *Id.*.

#### Application of Standard(s)

Summary judgment is appropriate in this matter because there are no genuine issues of material fact in dispute, and the moving party is entitled to judgment as a matter of law. The uncontested evidence demonstrates that the complainant filed a ULP complaint with PERC on February 10, 2025, utilizing PERC's electronic filing system. In that filing, the complainant listed the name and contact information for the union, but the complainant elected not to use PERC's electronic filing system to serve the union. There is no record of the complainant attempting to serve the union by any other means, such as by email or personal service. The union was never served a copy of the complaint through any of its representatives. The union only obtained a copy of the complaint after emailing PERC directly with a request, nearly two months after the complainant filed the complaint in this matter.

The failure to serve the union with the complaint necessitates dismissal of the case. The Commission has previously found some leniency toward pro se complainants who are generally unfamiliar with the complexities of the legal system. However, the Commission has also clearly recognized that such leniency cannot impair the legitimate due process rights of all parties over which it has jurisdiction. The filing and service rules, while technical in nature, ensure that parties have clear and timely notice of any allegations against them so that they may adequately prepare a defense against such charges. PERC's administrative regulations provide an array of options for parties to file complaints and serve parties. The complainant, in this case, failed to exercise any of those options with respect to serving the union with the complaint. The complaint must be dismissed.

CONCLUSION

The union's motion to dismiss is granted. There is no factual dispute concerning the complainant's failure to properly serve the union in this case. Service must be effectuated in any matter detailed in WAC 391-08-120(4), and proof of service must be completed through any of the methods detailed in WAC 391-08-120(6). The complainant failed to serve the union or obtain proof of service. The lack of service necessitates dismissal of the complaint.

FINDINGS OF FACT

1. Washington State Ferries is an employer as defined in RCW 47.64.011(4).
2. The Marine Engineers' Beneficial Association is a ferry employee organization as the term is defined in RCW 47.64.011(7).
3. The complainant filed the ULP complaint in this matter on February 10, 2025, through PERC's electronic filing system. In the electronic filing, the complainant listed Kevin Cross, branch agent for MEBA, as the designated representative of the union. Cross's email address was listed under the section for contact information.
4. The complainant elected not to use the PERC electronic filing system for the purpose of serving the designated representative of the union with a copy of the complaint. The complainant's decision to opt out of using PERC's electronic filing system to serve the listed parties is documented on the docketing sheet generated with the submission of the complaint.
5. In a sworn declaration submitted by Cross, he states that he had never received a copy of the complaint filed by the complainant on February 10, 2025. In fact, as of July 11, 2025, the date of the declaration, Cross affirms that neither he, nor anyone at the union, has ever been served with a copy of the complaint. The first time that Cross learned that a complaint in this matter was filed was upon receiving an email on March 5, 2025, from PERC with the email subject, "Partial Deficiency Notice – 142020-U-25, Washington State Ferries/Jeremy M. Greene." Representatives for the union did not receive a copy of the

complaint until its legal counsel emailed PERC on April 8, 2025, requesting a copy of the complaint.

6. The union's motion to dismiss was filed and served through email on July 11, 2025. Under WAC 391-08-155(2)(a), once a hearing date is established, if a dispositive prehearing motion is filed at least 65 days before the established hearing date, the nonmoving party is afforded 21 days to file a response to the motion. The complainant failed to file any response to the union's motion or to produce any evidence demonstrating proof of service of the complaint.

### CONCLUSIONS OF LAW

1. As described in findings of fact three through six, there are no material facts in dispute and the moving party is entitled to judgment as a matter of law.
2. As described in findings of fact three through six, the complainant failed to properly serve the union, or prove sufficiency of service, with the complaint filed in this matter with PERC on February 10, 2025.

### ORDER

The complaint charging unfair labor practices filed in the above-captioned matter is dismissed. The hearing scheduled for November 21, 2025, is cancelled.

ISSUED at Olympia, Washington, this 3rd day of September, 2025.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



CHRISTOPHER J. CASILLAS, 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.