

STATE OF MICHIGAN

COURT OF CLAIMS

SCHOOL DISTRICT OF THE CITY OF DETROIT V DETROIT FEDERATION OF  
TEACHERS, LOCAL 231, ET AL.,

Case No. 16-000013-MZ

---

Order

At a session of said Court held,  
Detroit, Wayne, Michigan, on

April 13, 2016

The parties prepared and the court signed an Order granting in part and denying in part Motions for dismissal and summary disposition on March 3, 2016. This Order is intended to clarify and correct that order and give guidance for further proceedings.

**MCL 380.1806 Count II**

Per the Order the remaining counts in the complaint filed by The School District of Detroit against Ms. Conaway and Mr. Conn seek injunctive relief for Violation of MCL 432.202 and MCL 380.1806. Since MCL 380.1806 imposes no duty on these defendants and the essence of the claimed violation is that the defendants engaged in a work stoppage and acted with others to do so, the count is dismissed as redundant.

**Paragraph 81 Allegations**

Throughout the proceedings the plaintiff has asserted that the defendants also violated paragraph 3 of the Emergency Manager Order of January 15, 2016 (EM 1-15). The order prepared by the parties omits this allegation. While a portion of that order addressed MCL423.201 et seq., it also sought to

restrain the defendants from “other any activity directed at inducing other employees to violate PERA”. This separate allegation is still before the Court.

### **Nature of the May 16 Hearing**

Regarding MCL 432.202 there are questions of fact whether the real reason for their absences on the given days were part of concerted action “for the purpose of inducing, influencing, or coercing a change in employment conditions, compensation, or the rights, privileges, or obligations of employment.” MCL 423.206(1). The scope of relief may extend to persons who are not parties to the suit because, MCR 3.310(C)(4) provides that an order granting an injunction “is binding only on the parties to the action, their officers, agents, servants, employees, and attorneys, and on those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise.”

Regarding the claim that the defendant’s violated paragraph 3 of the EM 1-15 there are also questions of fact. The focus of the May 16 hearing is on claimed violations of provision 3:

3. No employee of the School District of the City of Detroit shall engage in any activity directed at inducing any other employee to participate in a strike or any other unauthorized work stoppage.

The issue here is whether the defendants engaged in conduct which was in violation of the EM 1-15 but protected by the First Amendment. *Michigan State AFL-CIO v Michigan Employment Relations Comm*, 212 Mich App 472, 492; 538 NW2d 433 (1995), aff’d 453 Mich 362; 551 NW2d 165 (1996). The act states:

(2) This act does not limit, impair, or affect the right of a public employee to the expression or communication of a view, grievance, complaint, or opinion on any matter related to the conditions or compensation of public employment or their betterment as long as the expression or communication does not interfere with the full, faithful, and proper performance of the duties of employment. [MCL 423.201(2)].

**Procedure**

1. Notice is hereby given that the parties shall appear **on Monday May 16, 2016 at 12:00 p.m. in courtroom #1211, located on the 12<sup>th</sup> Floor, of the Wayne County Probate Court** to present witnesses. If necessary, the hearing will continue on the following day Tuesday May 17, 2016 at 10:00 a.m.
2. The parties shall exchange proposed exhibits by no later than April 29, 2016.
3. The parties shall then present a joint exhibit list by May 6, 2106 which shall list each exhibit and whether there are stipulations as to authenticity and admission. On that same date they shall file final witness lists noting on which of the remaining issues in this case each witness will be providing testimony.
4. The Court will allow the broadcast and recording of this hearing using video media subject to the rules provided in Administrative Order 1989-1. Whichever media requests such permission first shall allow pooling of their video coverage to other broadcasters as ordered by this court pursuant to Administrative Order 1989-1(4).



Judge Cynthia Diane Stephens



A true copy entered and certified by Jerome W. Zimmer Jr., Clerk, on

April 13, 2016

Date



Jerome W. Zimmer Jr.  
Clerk