

**ORIGINAL**

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File the **original and three copies** of the complaint and all attachments and the **\$300** filing fee with the Board at:

528 Cottage St NE,  
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**STATE OF OREGON  
EMPLOYMENT RELATIONS BOARD**

**UNFAIR LABOR PRACTICE  
COMPLAINT  
Public Employment**

For Board Use Only

Case No. UP-009-16

**RECEIVED**

Date Filed \_\_\_\_\_

**MAR - 9 2016**

**EMPLOYMENT  
RELATIONS BOARD**

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| <p><b>COMPLAINANT</b><br/>Name, address, phone number, and e-mail address</p> <p>INTERNATIONAL ASSOCIATION OF<br/>FIREFIGHTERS, LOCAL 4619<br/>c/o Sarah K. Drescher<br/>Tedesco Law Group<br/>3021 NE Broadway<br/>Portland, OR 97232<br/>866-697-6015 x702<br/>sarah@miketlaw.com</p> | <p><b>COMPLAINANT'S REPRESENTATIVE</b><br/>Name, address, phone number, and e-mail address, if applicable</p> <p>Sarah K. Drescher<br/>Tedesco Law Group<br/>3021 NE Broadway<br/>Portland, OR 97232<br/>866-697-6015 x702<br/>sarah@miketlaw.com</p>     |
| <p><b>RESPONDENT</b><br/>Name, address, phone number, and e-mail address</p> <p>CENTRAL OREGON COAST FIRE &amp; RESCUE<br/>DISTRICT<br/>145 East Alsea Hwy<br/>Waldport, OR 97394<br/>(541) 563-3121</p>  | <p><b>RESPONDENT'S REPRESENTATIVE</b><br/>Name, address, phone number, and e-mail address, if applicable</p> <p>Ray Woodruff, Board Chair<br/>Central Oregon Coast Fire &amp; Rescue<br/>145 East Alsea Hwy<br/>Waldport, OR 97394<br/>(541) 563-3121</p> |

Complainant alleges that Respondent has committed unfair labor practices under ORS 243.672(1)(a), (b), and (c) of the Public Employee Collective Bargaining Act. The following is a clear and concise statement of the facts involved in each alleged violation, followed by a specific reference to the section and subsection of the law allegedly violated.

1.

Complainant International Association of Firefighters, Local 4619 (“Local 4619” or “the Association”) is a labor organization as defined in ORS 243.650(13). Local 4619 is the exclusive representative of certain fire suppression and prevention employees employed by Respondent.

2.

Respondent Central Oregon Coast Fire & Rescue District (“the District”) is a public employer as defined in ORS 243.650(20).

3.

On June 10, 2015, Local 4619 was certified by this Board as the exclusive representative of all full-time and part-time paid employees of the District, except for supervisory, clerical, stipend volunteers, and confidential employees. The parties have been engaged in negotiations for an initial contract since that time.

4.

Zach Akin was employed by the District as a firefighter from approximately May 7, 2014 until March 1, 2016, at which time he was laid off from his employment. Firefighter Akin was a member of the bargaining unit represented by Local 4619, an executive officer of Local 4619, and actively participated in negotiations for an initial contract until the time of his layoff.

5.

Ray Woodruff is the Chair of the District’s Fire Board, which is the governing body for the District. Because the District has been operating without a Fire Chief since the former

Chief resigned on July 28, 2015, Woodruff has also taken an active role in managing District operations.

**Count 1**

**(1)(a) “Because of” violation and “in the exercise of” derivative violation**

6.

On January 20, 2016, around 1:00pm, Firefighter Zach Akin was on shift at the District’s facility when Fire Board Chair Woodruff entered the facility and began complaining about the District’s finances. Firefighter Akin stated that it was convenient for the District to be suffering financial problems at the exact same time the parties were negotiating compensation at the bargaining table. Woodruff became agitated, started yelling and using profanity, and accused Firefighter Akin of calling Woodruff a liar. Firefighter Akin denied the accusation and explained that morale was low amongst bargaining unit members and that if the District did not make certain changes, bargaining unit members would leave the District to seek employment elsewhere. Woodruff responded to Firefighter Akin by stating, “If you don’t want to work here, then leave.” Woodruff continued to yell and use profanity throughout this conversation that addressed issues related to contract negotiations. Firefighter Adam Wilkinson, a now former member of the bargaining unit, was present during this conversation.

7.

Later in the day on January 20, 2016, around 5:00pm, Firefighter Akin was still on shift at the District’s facility and having a conversation with Tom Sakaris, the Fire Chief for Seal Rock Rural Fire Protection District. Because the District has been operating without a Fire Chief, Sakaris has been considered as a possible Fire Chief for the District. Among other things, Firefighter Akin was discussing workplace issues affecting low morale at the District and other

issues related to contract negotiations for an initial contract. Woodruff entered the facility, interrupted the conversation between Firefighter Akin and Sakaris, and told Akin, “If you keep talking to people, I’m going to cut your balls off.”

8.

Firefighter Akin felt threatened and intimidated by the statements made by Woodruff on January 20, 2016.

9.

On February 26, 2016, an emergency meeting of the Fire District Board was called by Fire Board Chair Woodruff. At that meeting, the Fire District Board decided to layoff Firefighter Akin in a special emergency Board meeting. Firefighter Akin was laid off from the District effective March 1, 2016.

10.

By participating in collective bargaining negotiations, engaging in discussions about those negotiations and workplace issues related to those negotiations, all while serving as an executive officer of Local 4619, Firefighter Zach Akin was engaged in activities protected by ORS 243.662.

11.

By threatening to “cut off his balls” if he continued to talk to people about contract negotiations and workplace issues related to those negotiations; by intimidating him and threatening his job security; and by laying him off from his employment, the District has restrained, coerced or interfered with Firefighter Akin in and because of the exercise of rights protected by ORS 243.662, in violation of ORS 243.672(1)(a).

**Count 2**

**1(a) Stand alone “in the exercise of” violation**

12.

Paragraphs 1- 11 are re-alleged as if fully set forth herein.

13.

The natural and probable effect of the District’s conduct, viewed under the totality of the circumstances, would tend to interfere with employees’ exercise of protected rights. As a result, the District has restrained, coerced or interfered with bargaining unit employees in the exercise of rights protected by ORS 243.662, in violation of ORS 243.672(1)(a).

**Count 3**

**(1)(c) Discrimination in regard to hiring, tenure or terms of employment**

14.

Paragraphs 1-11 are re-alleged as if fully set forth herein.

15.

By laying off Firefighter Zach Akin, the District has discriminated against Firefighter Akin in regard to a term or condition of employment for the purpose of discouraging membership in an employee organization, in violation of ORS 243.672(1)(c).

**Count 4**

**(1)(a) “Because of” violation and “in the exercise of” derivative violation**

16.

Paragraphs 1-5 are re-alleged as if fully set forth herein.

17.

Dustin Joll is a Fire Captain employed by the District and a member of the bargaining unit represented by Local 4619. Captain Joll has been actively engaged in the negotiations for an initial contract.

18.

On approximately January 30, 2016, Captain Joll created a post in his Facebook account in which he discussed District operations in the context of negotiations for an initial contract. Captain Joll's post was in response to a Facebook post created by Jiah Quayle, a member of the District's Fire Board. In his post, Captain Joll praised certain services of the District but expressed that certain things had made the District "unsustainable." Captain Joll's post highlighted that Captain Joll and Fire Board member Jiah Quayle had been "crunching numbers" as part of contract negotiations. Captain Joll's post indicated that, to assist the parties in negotiations over an initial contract, it would be helpful to know what emergency services members of the community valued. This post received several questions and comments and both Captain Joll and Fire Board Member Quayle participated in an electronic discussion on Facebook related to this post, in which they answered questions and provided information related to District operations and contract negotiations.

19.

Shortly after Captain Joll posted on Facebook on January 30, 2016, Fire Board Chair Ray Woodruff began calling, texting, and emailing Captain Joll, demanding that Captain Joll remove the Facebook post. Woodruff falsely accused Captain Joll of acting in violation of state law by creating the Facebook post described above. Captain Joll was ultimately so intimidated and

threatened by Woodruff's accusation and incessant demands to remove the post, that he removed the post from his Facebook account and ceased participating in the discussion.

20.

By participating in collective bargaining negotiations and engaging in Facebook discussions about those negotiations and workplace issues related to those negotiations, Captain Dustin Joll was engaged in activities protected by ORS 243.662.

21.

By ordering Captain Joll to remove his Facebook post and falsely accusing him of violating state law for posting on Facebook, the District has restrained, coerced or interfered with Captain Joll in and because of the exercise of rights protected by ORS 243.662, in violation of ORS 243.672(1)(a).

#### **Count 5**

##### **1(a) Stand alone "in the exercise of" violation**

Paragraphs 1- 5 and 17-21 are re-alleged as if fully set forth herein.

22.

The natural and probable effect of the District's conduct, viewed under the totality of the circumstances, would tend to interfere with employees' exercise of protected rights. As a result, the District has restrained, coerced or interfered with bargaining unit employees in the exercise of rights protected by ORS 243.662, in violation of ORS 243.672(1)(a).

#### **Count 6**

##### **(1)(c) Discrimination in regard to hiring, tenure or terms of employment**

23.

Paragraphs 1-5 and 17-21 are re-alleged as if fully set forth herein.

24.

By requiring Captain Joll to remove his Facebook post and cease engaging in discussions related to contract negotiations, the District has discriminated against Firefighter Akin in regard to a term or condition of employment for the purpose of discouraging membership in an employee organization, in violation of ORS 243.672(1)(c).

**Count 7**

**(1)(b) Dominate/interfere with formation, existence or administration of union.**

25.

On February 19, 2016, the parties met for a bargaining session over an initial contract. At that meeting, the parties tentatively agreed to nearly all of the terms for an initial contract. The next bargaining session was scheduled for March 15, 2016, at which time the parties intended to complete negotiations for an initial contract.

26.

On February 26, 2016, at a special emergency meeting, the District's Fire Board voted to layoff two members of the bargaining unit: Firefighter Zach Akin and Firefighter Adam Brinager. Firefighters Akin and Brinager were actively involved in negotiations for an initial contract and Firefighter Akin served as an executive officer of the Association. By laying off two members of the bargaining unit, the District reduced the size of the bargaining unit from four (4) employees to just two (2) employees, cutting the bargaining unit in half.

27.

The District's decision to layoff half of the bargaining unit, including an executive officer of the Association, was done without any advance notice to the Association or the employees. It was done just two weeks prior to when the parties anticipated settling their initial contract and

after several months of highly contentious and inflammatory negotiations. It was also done following a long series of unlawful threats and actions by Board Chair Woodruff.

28.

By laying off half of the bargaining unit, including an officer of the Association, immediately prior to settling the contract, without notice to the Association or employees, and following a long series of unlawful threats and action by the District's Board Chair, the District has dominated and interfered with the formation, existence or administration of Local 4619, in violation of ORS 243.672(1)(b).

**Count 9**

**(1)(a) "Because of" violation and "in the exercise of" derivative violation**

Paragraphs 1-5 and 25-27 are re-alleged as if fully set forth herein.

29.

By laying off half of the bargaining unit, including an officer of the Association, immediately prior to settling the contract, without notice to the Association or employees, and following a long series of unlawful threats and action by the District Board Chair, the District has restrained, coerced or interfered with bargaining unit employees in and because of the exercise of rights protected by ORS 243.662, in violation of ORS 243.672(1)(a).

**Count 10**

**(1)(a) Stand alone "in the exercise of" violation**

30.

Paragraphs 1-5 and 25-27 are re-alleged as if fully set forth herein.

31.

The natural and probable effect of the District's conduct, viewed under the totality of the circumstances, would tend to interfere with employees' exercise of protected rights. As a result, the District has restrained, coerced or interfered with bargaining unit employees in the exercise of rights protected by ORS 243.662, in violation of ORS 243.672(1)(a).

**Count 11**

**(1)(c) Discrimination in regard to hiring, tenure or terms of employment**

32.

Paragraphs 1-5 and 25-27 are re-alleged as if fully set forth herein.

33.

By laying off Firefighters Zach Akin and Adam Brinager, the District has discriminated against Firefighters Akin and Brinager in regard to a term or condition of employment for the purpose of discouraging membership in an employee organization, in violation of ORS 243.672(1)(c).

**REQUEST FOR CIVIL PENALTY**

34.

Pursuant to ORS 243.676(4)(a) and OAR 115-035-0075(1)(a), Local 4619 requests that the Board order a civil penalty against the District, in addition to the request for relief set forth below. A civil penalty is appropriate in this case because the District's conduct, when viewed under the totality of circumstances, is egregious. The evidence at hearing will show that the District's Board Chair engaged in a series of unlawful threats and conduct intended to intimidate bargaining unit members and derail contract negotiations. The evidence will further show that after lengthy, contentious negotiations for an initial contract, and just immediately prior to

ratification of that contract, the District's Board decided to layoff half of the bargaining unit without notice to the Association or its members. This egregious conduct warrants a civil penalty.

35.

The District maintains e-mail addresses for all Local 4619 members and routinely uses its e-mail system to communicate with members about job-related matters.

WHEREFORE, the Association requests an order:

- A. Requiring the District to cease and desist its unlawful actions;
- B. Reinstating Firefighters Akin and Brinager to their former positions and making them whole for any losses suffered as a result of the District's unlawful conduct;
- C. Requiring the District to post notices stating that the District has been found in violation of the PECBA. This requirement for posting should include e-mail notification to all Local 4619 members through the District's e-mail system;
- D. Reimbursing the Association's filing fee under OAR 115-035-0075(3);
- E. Awarding the Association its reasonable representation costs and attorney fees under ORS 243.676(2)(d) and OAR 115-035-0055; and
- F. Awarding a civil penalty, as described herein; and
- G. Awarding any other relief deemed just and equitable by the Board.

I certify that the statements in this complaint are true to the best of my knowledge and information.

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By:



Sarah K. Drescher, Tedesco Law Group

Attorney for Complainant

Title

3/8/16

Date