

**STATE OF NEW MEXICO
PUBLIC EMPLOYEE LABOR RELATIONS BOARD**

In re:

**COMMUNICATIONS WORKERS
OF AMERICA, AFL-CIO, CLC,**

Complainant,

v.

PELRB Case No. 115-18

STATE OF NEW MEXICO,

Respondent.

ORDER

THIS MATTER comes before the Public Employee Labor Relations Board (“Board”) on request by the Communications Workers of America, AFL-CIO, CLC and the State of New Mexico for approval of the parties’ Settlement Agreement.

At its regularly scheduled meeting on June 4, 2019, Director Griego presented the Board with the Settlement Agreement reached between the parties for approval by the Board. The Board being sufficiently advised and with a vote of 3-0 approve the Settlement Agreement.

THEREFORE THE BOARD Orders Director Griego to close the case.

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

6/10/19
DATE


DUFF WESTBROOK, BOARD CHAIR

STATE OF NEW MEXICO
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

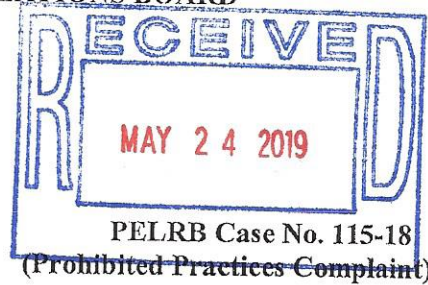
COMMUNICATIONS WORKERS
OF AMERICA, AFL-CIO, CLC,

Complainant,

v.

STATE OF NEW MEXICO,

Respondent.



*Email
5/23/19
HAA*

05-24-19:08:33 RCVD

STIPULATED MOTION TO DISMISS OR WITHDRAW

COME NOW the Complainant, Communications Workers of America, AFL-CIO, and the Respondent, State of New Mexico, through their respective counsel of record, and for their Stipulated Motion to Dismiss or Withdraw, state as follows:

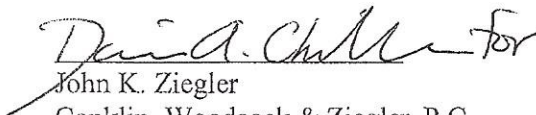
1. The Complainant filed the above-numbered Prohibited Practices Complaint with the Public Employees Labor Relations Board ("PELRB") on August 10, 2018.
2. A merits hearing was held before PELRB Executive Director Thomas J. Griego on November 28, 2018, but no decision has as-of-yet been issued by the PELRB.
3. The parties have engaged in good-faith settlement discussions and have negotiated a mutually-acceptable agreement to resolve the pending Complaint and related disputes.
4. A copy of the executed settlement agreement is attached hereto as Exhibit A.

WHEREFORE, pursuant to NMAC 11.21.3.15(D), the parties respectfully request that the PELRB and/or its Director/Hearing Examiner approve of the parties' negotiated agreement and dismiss, or allow withdrawal of, the pending Prohibited Practices Complaint with prejudice.

Respectfully Submitted,



Stanley M. Gosch
Rosenblatt & Gosch, PLLC
8085 East Prentice Avenue
Greenwood Village CO 80111
P: 303-721-7399 F: 720-528-1220
sgosch@cwa-union.org
Counsel for Complainant




John K. Ziegler
Conklin, Woodcock & Ziegler, P.C.
320 Gold Ave. SW, Suite 800
Albuquerque, NM 87102
P: 505-224-9160 F: 505-224-9161
[jkz@conklinfirm.com](mailto:j kz@conklinfirm.com)
Counsel for Respondent

CERTIFICATE OF SERVICE

I hereby certify that on the 23 May, a true and correct copy of the foregoing Stipulated Motion to Dismiss or Withdraw was served on all parties listed below via electronic mail and U.S. Mail.

Thomas Griego, Executive Director
Public Employees Labor Relations Board
2929 Coors N.W., Suite 303
Albuquerque, NM 87120
Tom.Griego@state.nm.us

Stanley M. Gosch
William R. Reinken
Rosenblatt & Gosch, PLLC
8085 East Prentice Avenue
Greenwood Village, CO 80111
Telephone: 303-721-7399
sgosch@cwa-union.org
wreinken@cwa-union.org



John K. Ziegler

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (the "Agreement") is made between the State of New Mexico ("Employer") and the Communications Workers of America, AFL-CIO ("CWA").

RECITALS

WHEREAS, CWA filed Prohibited Practice Charge No. 115-18 with the New Mexico Public Employees Labor Relations Board ("PELRB");

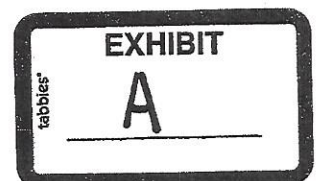
WHEREAS, the parties held a hearing before PELRB Executive Director Thomas J. Griego on November 28, 2019 and submitted post-hearing briefs on January 18, 2019;

WHEREAS, the Union filed a grievance in case no. 2018-SNM-004 and appealed that case to arbitration in FMCS case no. 191012-00431. The arbitration hearing is pending;

NOW, THEREFORE, in consideration of the mutual promises and undertakings set forth below, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

AGREEMENT

1. The Parties in the interest of closure and the mutual resolution of their differences seek to enter into this Agreement.
2. The Employer agrees to pay CWA \$40,000.00 as a lump sum payment.
3. The Employer agrees to send an email to all bargaining unit employees to formally rescind the August 3, 2018 letter from former SPO Director Justin Najaka to bargaining unit employees and to rescind the "Payroll Withholding Modification" form in which employees were required to state that they "voluntarily waive my First Amendment rights" to become or remain a member of CWA. The parties shall reach agreement on the language of the email rescinding the August 3, 2018 letter and attached Payroll Withholding Modification form.
4. In making this Agreement, the Employer is not making any admissions that it has violated the Public Employees Bargaining Act ("PEBA"), 1978 NMSA §§10-7e-1, *et seq.* The Employer is not conceding any admission of the facts alleged in PELRB case no. 115-18. Rather, this Agreement seeks resolution of a disputed claim in order to minimize costs and resources. No admission, concession, or concurrence as to the Employer's liability should be inferred from this Agreement.
5. CWA agrees to withdraw Prohibited Practice Charges No. 115-18 following the execution of this Agreement.
6. CWA agrees to withdraw grievance no. 2018-SNM-004 and the arbitration in



FMCS case no. 191012-00431 following the execution of this Agreement.

4/11/19



Date

STATE OF NEW MEXICO

April 3 2019



Date

COMMUNICATIONS WORKERS
OF AMERICA, AFL-CIO

DRAFT EMAIL

Dear State Employees,

We apologize for any confusion caused by the letter to you dated August 3, 2018, after the Supreme Court's ruling in *Janus v. AFSCME, Council 31*, from the former Director of the State Personnel Office. That communication included new Payroll Withholding Modification forms. Those forms stated that by electing to remain a member of CWA, you were "voluntarily and affirmatively" waiving your First Amendment Rights.

Please know that you have the right to be a member of CWA as guaranteed by the Public Employee Bargaining Act, and this administration will take no steps to discourage you from exercising that right.

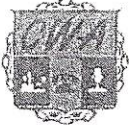
We have rescinded the Payroll Withholding Modification Form and will follow the Collective Bargaining Agreement as it relates to membership and dues. Attached please find the CWA-approved membership application.

We regret any confusion caused by our prior communication. Thank you for your service to the citizens and State of New Mexico.

Best,
Pam

Pamela D. Coleman
Director
NM State Personnel Office
Pamela.Coleman@state.nm.us
505.570.7567

This email, including all attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. If you are not the intended recipient, please contact the sender and destroy all copies of this message.



Communications Workers of America Local 7076

MEMBERSHIP APPLICATION - State of New Mexico

Yes, I want Communications Workers of America to be my collective bargaining representative, and I accept membership in the Union. I authorize you to deduct Union dues from my pay and send them to CWA.

Signature:	_____	Date:	Choose today's date.
Print Name:	Enter Last, First, Middle.	Agency:	Enter Agency.
Division/Bureau:	Enter Division/Bureau.	Job Title:	Enter Job Title.
Work Address:	Enter Work Address.	Work Phone:	xxx-xxx-xxxx
Work City:	Enter Work City. State: xx Zip: xxxxx		
Home Address:	Enter Home Address.	Home Phone:	xxx-xxx-xxxx
Home City:	Enter Home City. State: xx Zip: xxxxx	Cell Phone:	xxx-xxx-xxxx
Home Email:	Enter Home Email.	Work Email:	Enter Work Email.

It is also understood that I may cancel such deductions, by providing written, signed notice during the first two (2) full calendar weeks of December of any year.

MAIL TO: CWA 7076
Suite 1001
460 St. Michael's Drive
Santa Fe, NM 87505

FAX TO: 505-983-1867

EMAIL TO: officemanager@cwa7076.org

Look up your Steward and Contract at: www.CWA7076.org

Thank you for joining. There's no UNION without U.

YOU ARE ENTITLED TO A VOICE IN HOW YOUR DUES ARE SPENT. GET INVOLVED.

Phone: 505-955-8534