

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MAINE

DANIEL B. LOCKE, ET AL.)
)
Plaintiffs,)
)
v.)
)
EDWARD A. KARASS, STATE)
CONTROLLER, ET AL.,)
)
Defendants.)
_____)

Civil Action No. 2:05-112-GZS

DECLARATION OF MARY LABBE

Mary Labbe, on penalty of perjury, deposes and says:

1. My name is Mary Labbe. I am over the age of 18. I make this Declaration in connection with Defendant Maine State Employees Association’s (“MSEA’s”) Response to Plaintiffs’ Renewed Motion For Class Certification and Appointment of Counsel. Unless otherwise indicated, the declaration is based on my own personal knowledge or on information obtained from MSEA business records.

2. Since February 9, 1989, I have been employed as the Systems Administrator of the Maine State Employees Association (“MSEA” or “Union”). MSEA is a labor union representing approximately 14,000 workers throughout Maine. MSEA is the exclusive collective bargaining representative of approximately 10,000 employees of the executive branch of Maine state government in the (1) Administrative, (2) Operations Maintenance and Support, (3) Professional and Technical; and (4) Supervisory bargaining units of the State (hereinafter “the Maine Executive Branch Bargaining Units”). I understand that MSEA, as the exclusive bargaining representative of the Maine Executive Branch Bargaining Units, is required by law to

represent the interests of all of the employees in these units, and must provide contract administration services, such as collective bargaining and grievance processing, for all such employees, regardless of whether they are members of the union.

3. My duties as MSEA Systems Administrator include maintaining the membership records of employees in the bargaining units represented by MSEA, including the Maine Executive Branch Bargaining Units. MSEA's membership records indicate those employees who have joined MSEA as dues-paying members, those who have not joined MSEA as members and who pay fair share service fees (either by automatic payroll deduction or by separate payment to MSEA), and those who have not joined MSEA as members and who have been billed for their fair share service fees, but who have not paid fees to the Union.

4. As of December 1, 2005, in the Maine Executive Branch Bargaining Units there are 6,972 dues-paying members and 2582 bargaining unit employees subject to fair share fee obligations. A substantial number of current MSEA dues-paying members in the Maine Executive Branch Bargaining Units were previously fair share fee payers.

a. Of those who are currently dues-paying members in the Maine Executive Branch Bargaining Units, 624 were treated as fee payers at some point prior to April 2005 under the applicable 2003-2005 collective bargaining agreement, but joined as members prior to April 11, 2005, and therefore were never subject to paying fair share fees pursuant to the applicable 2005-2007 collective bargaining agreement.

b. Of those who are currently dues-paying members in the Maine Executive Branch Bargaining Units, 468 joined as members at some time after mid-April 2005, when the initial fair share notice to fee payers was distributed. Two hundred and eighty-two (282) of these members were "grandparented" employees who did not have any

obligation to become fee payers prior to the applicable 2005-2007 collective bargaining agreement. Those members are not being required to pay fair share fees pursuant to the applicable 2005-2007 collective bargaining agreement, and the grandparented employees have never paid any fair share fees to the Union.

5. In conjunction with issuing the revised fair share notice of July 12, 2005, MSEA sent a memo to all employees in the Maine Executive Branch Bargaining Units who had become dues-paying members subsequent to receiving the April fair share notice, informing the employees of their right to resign their membership and to return to the status of fair share fee payers. A true and correct copy of the memo is attached hereto as "Attachment A" of my declaration. After receiving copies of the Attachment A memorandum, 56 employees who had become members subsequent to the beginning of April 2005 resigned their membership and are currently among the 2582 bargaining unit employees subject to fee payers in the Maine Executive Branch Bargaining Units.

6. Accordingly, although there are currently 2,582 nonmembers in the Maine Executive Branch Bargaining Units that are subject to the fair share fee obligations described by the fair share notice issued in July 2005, there are also 1,092 employees who at one time were subject to paying a fair share fee, but who have chosen to become members and are not now subject to paying any fair share fee. These former nonmembers have never paid any fair share fees pursuant to any 2005-2007 collective bargaining agreement or any notice issued for the 2005 fair share year, but currently pay full union dues as MSEA members.

7. Of these 2,582 employees obligated to pay a fair share fee pursuant to the applicable 2005-2007 collective bargaining agreement in a Maine Executive Branch Bargaining Unit, 1,030 have elected to pay their fees through payroll deduction, and 1,552 are being billed

directly by MSEA. To date, all of the fees collected by MSEA from fee payers are being deposited in an interest-bearing escrow account. Of those who are being billed directly by MSEA, 1,193 have not tendered any fees, and are delinquent in their obligations under the irapplicable 2005-2007 collective bargaining agreement.

8. Of the 20 named plaintiffs in the *Locke* lawsuit, none has elected to pay his or her fees through payroll deduction; only one, Daniel Locke, has paid any of his fees. Accordingly, the other 19 named plaintiffs are delinquent in their obligations under the applicable 2005-2007 collective bargaining agreement.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and is based on my personal knowledge. Executed this 13th day of December, 2005 at Augusta, Maine.

 /s/ Mary Labbe
Mary Labbe