



**PERB**  
California Public Employment  
Relations Board

Los Angeles Regional Office  
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January 9, 2023

Charles Goldwasser, General Counsel  
Law Offices of Charles Goldwasser  
1607 North Sycamore  
Santa Ana, CA 92701

Peter J. Brown, Attorney  
Alexander C. Volberding, Attorney  
Victor Gonzalez, Attorney  
Liebert Cassidy Whitmore  
6033 W. Century Blvd., 5th Floor  
Los Angeles, CA 90045

Re: *Santa Ana Police Officers Association v. City of Santa Ana*  
Unfair Practice Charge No. LA-CE-1620-M  
**COMPLAINT**

Dear Parties:

The Office of the General Counsel has issued the enclosed COMPLAINT in the above-entitled matter. The Respondent is required to file an **ANSWER** within twenty (20) calendar days from the date of service of the COMPLAINT, pursuant to PERB Regulation 32644. The required contents of the **ANSWER** are described in PERB Regulation 32644(b). Until noticed otherwise, direct all inquiries, filings and correspondence to the undersigned.

Sincerely,

A handwritten signature in black ink that reads "Yaron Partovi". The signature is written in a cursive, flowing style.

Yaron Partovi  
Senior Regional Attorney

Enclosure

STATE OF CALIFORNIA  
PUBLIC EMPLOYMENT RELATIONS BOARD



SANTA ANA POLICE OFFICERS  
ASSOCIATION,

Charging Party,

v.

CITY OF SANTA ANA,

Respondent.

Case No. LA-CE-1620-M

COMPLAINT

It having been charged by Charging Party that Respondent engaged in unfair practices in violation of Government Code section 3500 et seq., the General Counsel of the Public Employment Relations Board (PERB), pursuant to Government Code sections 3509(b), 3541.3(i) and 3555.5(c)(1) and California Code of Regulations, title 8, section 32640, issues this COMPLAINT on behalf of PERB and ALLEGES:

1. Respondent is a public agency within the meaning of Government Code section 3501(c) and PERB Regulation 32016(a). Respondent is also a “public employer” within the meaning of Government Code section 3555.5(a).
2. Charging Party is an exclusive representative, within the meaning of PERB Regulation 32016(b) and Government Code section 3555.5(b)(1), of a bargaining unit of both sworn and non-sworn personnel employed at Respondent’s Police Department (hereafter, Unit).
3. Charging Party and Respondent are parties to a memorandum of understanding (MOU) that expired in June 2021, but was extended by mutual agreement to December 31, 2021. MOU, Article 14.1 provides for full-time release from duty for Charging Party’s President provided that 100% of the salary cost is

reimbursed to Respondent by Unit members donating their floating holiday to the Respondent. The President's salary also includes a "Confidential Premium" paid by Respondent but reimbursed by Unit members through their floating holidays. Article 14.1 also provides 60 hours per year of release time for Charging Party's representatives to conduct "Union business" and grievance processing. This negotiated policy under Article 14.1 had been in effect for at least 30 years.

4. In late 2021 or early 2022, the parties began negotiations for a successor MOU. Charging Party declared impasse in late August or early September 2022, and while a mediation session with State Mediation and Conciliation Service was held on December 5, 2022, no resolution was reached.

5. Respondent's City Council held a December 20, 2022, public hearing and voted 4-3, to approve Respondent's September 8 Last, Best and Final Offer (LBFO) that amends the MOU to eliminate the full-time release assignment of Charging Party's President, substituting in its place a bank of 1040 hours beginning every January 1 "to be used by Association Board members, including the President, to conduct Association business." It further provides that Unit members wishing to use the leave must obtain the approval of the Executive Director of Human Resources 72 hours in advance, with Respondent reserving the right to rescind approval if there are "significant operational reasons that require the employee to be at work or in cases of emergency."

#### **RELEASE TIME DENIAL UNDER PUBLIC EMPLOYEE COMMUNICATION CHAPTER (PECC) AND MEYERS-MILIAS-BROWN ACT (MMBA)**

6. On December 22, 2022, Charging Party's President Gerry Serrano (President Serrano) requested leave time in the amount of 1040 hours beginning January 1, 2023.

7. On December 27, 2022, Respondent's Executive Director denied the

request by stating:

“The City is not willing to establish a precedent that an Association board member can request the full 1,040 hours (or any substantive period of time) in one or a few requests. Moreover, it is unrealistic to assume that the Association will not be conducting any union business in the second half of the calendar year.”

8. By the acts and conduct described in paragraph 7, Respondent violated Government Code section 3558.8(a) and committed an unfair practice under PERB Regulation 32610(f) and (g).

9. By the acts and conduct described in paragraph 7, Respondent also violated Government Code section 3505.3 and committed an unfair practice under Government Code section 3509(b) and PERB Regulation 32603(b) and (g).

10. By committing the violation described in paragraph 9, Respondent derivatively interfered with the rights of bargaining unit employees to be represented by Charging Party in violation of Government Code sections 3506 and 3506.5(a), and thereby committed an unfair practice under Government Code section 3509(b) and PERB Regulation 32603(a).

11. By committing the violation described in paragraph 9, Respondent also derivatively denied Charging Party its right to represent bargaining unit employees in violation of Government Code sections 3503 and 3506.5(b), and thereby committed an unfair practice under Government Code section 3509(b) and PERB Regulation 32603(b).

#### **PER SE BREACH OF THE DUTY TO BARGAIN IN GOOD FAITH**

12. In implementing the LBFO's release time provisions as described paragraph 5, Respondent effectively waived Charging Party's statutory rights under Government

Code section 3558.8(a).

13. In implementing the LBFO's release time provisions as described paragraph 5, Respondent also effectively waived Charging Party's statutory rights under Government Code section 3505.3.

14. By the acts and conduct described in paragraphs 12 or 13, Respondent failed and refused to bargain in good faith with Charging Party in violation of Government Code sections 3505 and 3506.5(c), and committed an unfair practice under Government Code section 3509(b) and PERB Regulation 32603(c).

15. This conduct also interfered with the rights of bargaining unit employees to be represented by Charging Party in violation of Government Code sections 3506 and 3506.5(a), and is an unfair practice under Government Code section 3509(b) and PERB Regulation 32603(a).

16. This conduct also denied Charging Party its right to represent bargaining unit employees in violation of Government Code sections 3503 and 3506.5(b), and is an unfair practice under Government Code section 3509(b) and PERB Regulation 32603(b).

### **DISCRIMINATION**

17. President Serrano is a public employee within the meaning of Government Code section 3501(d) and within PERB's jurisdiction.

18. At all times relevant herein, President Serrano exercised rights guaranteed by the Meyers-Milias-Brown Act as follows: (a) he served as Charging Party's elected union officer while using released time; (b) he participated and was involved in labor negotiations with Respondent; and (c) he represented Unit members in their employment relations with Respondent.

19. On or about December 2022, Respondent, acting through its agents, took adverse action against President Serrano by: (a) prohibiting his continued use of release time on a full-time basis;; (b) ordering President Serrano to report for peace-officer duties effective January 1, 2023 and denying him full release time as described in paragraph 7; and (c) eliminating the “confidential premium,” for President Serrano, a benefit that increased his normal pay by about 30%.

20. Respondent took the actions described in paragraph 19 because of the employee's activities described in paragraph 18, and thus violated Government Code sections 3502.1, 3506 and 3506.5(a), and committed an unfair practice under Government Code section 3509(b) and PERB Regulation 32603(a) and (g).

21. This conduct also interfered with Charging Party's right to represent employees in violation of Government Code sections 3503 and 3506.5(b), and is an unfair practice under Government Code section 3509(b) and PERB Regulation 32603(b).

### **INTERFERENCE WITH EMPLOYEE RIGHTS**

22. By the acts and conduct described in paragraph 19, Respondent independently interfered with employee rights guaranteed by the Meyers-Milias-Brown Act in violation of Government Code sections 3506 and 3506.5(a), and committed an unfair practice under Government Code section 3509(b) and PERB Regulation 32603(a).

23. This conduct also denied Charging Party its right to represent employees in violation of Government Code sections 3503 and 3506.5(b), and is an unfair practice under Government Code section 3509(b) and PERB Regulation 32603(b).

## **DOMINATION/INTERFERENCE WITH UNION ADMINISTRATION**

24. By the acts and conduct described in paragraph 19, Respondent dominated or interfered with the administration of Charging Party in violation of Government Code sections 3502 and 3506.5(d), and committed an unfair practice under Government Code section 3509(b) and PERB Regulation 32603(d).

25. This conduct interfered with the rights of bargaining unit employees to be represented by Charging Party in violation of Government Code sections 3506 and 3506.5(a), and is an unfair practice under Government Code section 3509(b) and PERB Regulation 32603(a).

26. This conduct also denied Charging Party its right to represent bargaining unit employees in violation of Government Code sections 3503 and 3506.5(b), and is an unfair practice under Government Code section 3509(b) and PERB Regulation 32603(b).

Any amendment to the complaint shall be processed pursuant to California Code of Regulations, title 8, sections 32647 and 32648.

DATED: January 9, 2023

J. Felix De La Torre  
General Counsel

By   
Yaron Partovi  
Senior Regional Attorney

## PROOF OF SERVICE

I declare that I am a resident of or employed in the County of Los Angeles, California. I am over the age of 18 years and not a party to the within entitled cause. The name and address of my residence or business is Public Employment Relations Board, Los Angeles Regional Office, 425 W. Broadway, Suite 400, Glendale, CA, 91204-1269.


On January 9, 2023, I served the Complaint and Cover Letter regarding Case No. LA-CE-1620-M on the parties listed below by ☒ Electronic service (e-mail).

Charles Goldwasser, General Counsel  
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Email: sstclair@santa-ana.org

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on January 9, 2023, at Glendale, California.

\_\_\_\_\_  
Michael Friedlander  
(Type or print name)

\_\_\_\_\_  
  
(Signature)