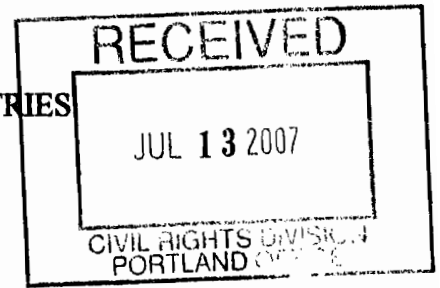


OREGON BUREAU OF LABOR AND INDUSTRIES
DISCRIMINATION CHARGE

JOE DINICOLA



COMPLAINANT

Joseph M. DiNicola
PO Box 1002
Salem, OR, 97308-1002

Case #:

ST-EM-WB-070713-41086

ATTORNEYS

Kevin Lafky
Larry Linder
Lafky & Lafky
429 Court St. NE
Salem, OR 97301
Phone: (503) 585-2450

COPY

RESPONDENTS:

Service Employees International Union (SEIU)
1800 Massachusetts Avenue NW
Washington, DC 20036

Phone: 202-730-7000

Contact: Andy Stern

Service Employees International Union (SEIU) Local 503
1730 Commercial Street SE
PO Box 12159
Salem, OR 97309-0159

Phone: 503-581-1505

Fax: 503-581-1664

Contact: Leslie Frane

State of Oregon
Department of Revenue
955 Center Street NE
Salem, OR 97301

Phone: 503-378-4988

Fax: 503-945-8738

Contact: Elizabeth Harchenko

County: Marion County

Charges of discrimination and retaliation based on assertion of wage claim (exercise of rights to overtime pay under state law and the Fair Labor Standards Act (FLSA)).

I, Joseph DiNicola, being first duly sworn, do depose and say as follows:

1. General Allegations: I allege employment discrimination and/or retaliation for filing wage claims. While this complaint is intended to allege discriminatory and retaliatory acts by Respondents, it is not intended to be inclusive of every such discriminatory or retaliatory act

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engaged in by Respondents or their agents or employees. The exclusion of specific acts in this complaint is in no way intended to limit the claims that I may bring when I file a lawsuit regarding discrimination or retaliation by Respondents after the administrative investigation.

2. The Oregon Department of Revenue (“ODR”) is an agency of the government of the State of Oregon, with its headquarters located in Marion County, Oregon. I am currently employed by ODR and have been employed there for several years.
3. I am a “non-exempt” hourly employee subject to the overtime provisions of the FLSA and Oregon wage and hour laws. I am entitled under those laws to receive overtime compensation in the amount of 1.5 times my regular rate of pay for all hours worked in excess of 40 hours in any given workweek. During my term as union President, I have accumulated over 2500 such hours.
4. During the term of my employment with ODR, I have been a member of Service Employees International Union (SEIU) Local 503. SEIU Local 503 is a local union comprising a constituent part of an international union - SEIU.
5. Since at least November 20, 2004, I have served as President of SEIU Local 503 and have been on paid release from my duties with ODR to perform my duties as union President. A contract exists between ODR and SEIU Local 503 in which both entities promise that I will continue to receive all salary and benefits, including overtime, to which I am entitled by virtue of my position as an employee of ODR.
6. During my term as union President, I have accumulated more than 2500 hours of unpaid overtime compensation. As described above, I am entitled to that compensation under Oregon law and the FLSA.
7. I have asserted wage claims in various formats in an attempt to collect this unpaid overtime compensation, including:
 - A. Filing a lawsuit in Marion County Circuit Court on or about May 8, 2007 (attached as Exhibit A). That lawsuit asserts claims under the Fair Labor Standards Act (FLSA) 29 USC §§ 207 and 216(b), Oregon state wage and hour laws, and Oregon contract law to recover unpaid overtime wages, liquidated damages, penalty wages, civil penalties, and attorney fees.
 - B. Pursuant to ORS 30.275, timely filing a tort claims notice within 180 days of the date each of my claims accrued. A copy of that tort claims notice is attached as Exhibit B.

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- C. Pursuant to ORS 652.150, sending ODR written notice of the unpaid wages underlying my claims. A copy of that notice is attached as Exhibit C.**
- D. Discussing my claims for unpaid overtime wages with SEIU 503 Executive Director Leslie Frane on or about February 27, 2007, and at various times thereafter.**
- E. Discussing with various union officers, union members, union staff, union counsel, and others my claims for unpaid wages, the fact that I consulted an attorney about my wage claims, and the fact that I submitted inquiries to ODR about my wage claims. It is my understanding that SEIU 503 and those individuals are aware of the existence of my above-described lawsuit and its substantive allegations. A partial list of those individuals is set forth below:**

Elizabeth Harchenko, Director, ODR

Eva Corbin, DAS Deputy Administrator, Labor Relations Unit

Sandy McLernan, ODR Director Human Resources

Leslie Frane, Executive Director, SEIU Local 503, Vice President SEIU

Marc Stefan, Supervising Attorney, SEIU Local 503

Robert Weinberg, Attorney with Bredhoff and Kaiser, Washington DC

Alice O'Brien, Attorney with Bredhoff and Kaiser, Washington DC

Linda DeLauder, Human Resources Director, SEIU Local 503

Maureen Crawford, Assistant to Executive Director, SEIU Local 503

Kathie Best, Senior Communications Organizer, SEIU Local 503

Joe Schaeffer, Organizer, SEIU Local 503

Roxanne Barnstead, Organizer SEIU Local 503

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Lane Toensmeier, Organizer, SEIU Local 503

Aurora Prestholt, Payroll Department, SEIU Local 503

**Sonya Reichwein, SEIU Local 503 Statewide Vice President, Oregon
Driver and Motor Vehicles**

**Linda Burgin, SEIU Local 503 Statewide Secretary-Treasurer, Oregon
Department of Education**

**Star Holmberg, SEIU Local 503 Board of Directors member (District 3S
Director), University of Oregon**

**Gina Santacroce, SEIU Local 503 Board of Directors member (District 1
Director), Oregon Department of Human Services**

**Barbara Casey, SEIU Local 503 Board of Directors member (District 1
Director), Department of Human Services**

**John Hawkins, SEIU Local 503 Board of Directors member (Retirees
Local) and President SEIU Local 503 Retirees Local 001, retired.**

**Dawn Morgan, SEIU Local 503 Alternate Board Member and Vice
President, SEIU Local 503 Retirees Local 001, retired.**

**Lew Cronenberg, President SEIU Local 503 OSH Local 392, Oregon State
Hospital**

**Jim Harvey, President SEIU Local 503 ODFW Local 109, Oregon
Department of Fish and Wildlife**

**Robert Gourley, Secretary, Treasurer SEIU Local 503 Retirees Local 001,
retired**

**Cory McIntosh, Statewide Chief Steward SEIU Local 503 DMV Local
735, Oregon Driver and Motor Vehicles**

**Dan Smith, Steward SEIU Local 503 OSH Local 392, Oregon State
Hospital**

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Randy Davis, Steward SEIU Local 503 OSH Local 392, Oregon State Hospital

Deborah Low, Member SEIU Local 503 OSU, Local 083, Oregon State University

Hector Godoy, BOLI Civil Rights Investigator, Portland office

8. Because of my wage claims, I have been subjected to discrimination and retaliation. SEIU Local 503 (and its members, agents, and officers) have facilitated (or attempted to facilitate) the following:
- A. Systematic discrimination and retaliation;
 - B. Attempts to have me "blacklisted;"
 - C. Dissemination of defamatory information in order to damage my good name and reputation, including but not limited to allegations that I have violated State and Federal law;
 - D. Initiation of disciplinary proceedings against me with respect to my position as President of SEIU Local 503 and my union membership;
 - E. Deprivation of my right to due process;
 - F. Attempts to discharge me from my position as statewide President of SEIU Local 503;
 - G. Initiation and dissemination of petitions seeking my removal as President of SEIU Local 503 and a "no confidence" vote relating to my performance in that office;
 - H. Threats aimed at persuading me to abandon my wage claims;
 - I. Demands that I either abandon my wage claims or resign from my position as President of SEIU Local 503 and/or forfeit my union membership.
9. ODR has been directly linked to some or all of above-described conduct, including (but not limited to) the following:
- A. Dan Smith is employed at Oregon State Hospital and has used the OSH/state email system to retaliate against me for filing a wage claim;
 - B. ODR employees disseminated negative emails relating to me and/or my wage claim, using the state email system under the terms of the Department of Administrative Services (DAS)/SEIU contract granted union leaders.
 - C. State management and human resources personnel routinely monitor the union use of the email system utilized by the state and its various departments and agencies. For example, my email communications have been subject to such monitoring. As

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an additional example, Paula Allen (ODR chief union steward and union Statewide Chief Steward) stated it took "about 30 seconds" for her to hear from ODR Director Sandy McLernan about alleged "misuse" of the state email system. Sandy McLernan reports directly to ODR Agency Director Elizabeth Harchenko, and they are both aware of my wage claim.

- D. Eva Corbin (a state employee with DAS Labor Relations Unit) administers the DAS/SEIU contract, and she is aware of my wage claim.
- E. An individual identifying himself as BOLI Civil Rights Investigator Hector Godoy used his BOLI state email address in negative email and stated that he didn't want me to "get additional wages" for work performed as part of my duties.

The investigation into these facts and claims is ongoing; this complaint contains facts known to me at this time. The exclusion of any fact potentially relevant to this matter, and the omission of naming any potential claim, should not be construed to suggest that I do not intend to rely on such facts or pursue such claims at a later time.

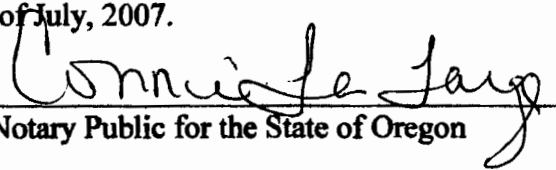
I swear or affirm that I have read this complaint and that it is true to the best of my knowledge, information and belief.

Signed:



JOE DINICOLA

SIGNED and SWORN before me this 12 day of July, 2007.



Notary Public for the State of Oregon

