

OREGON BUREAU OF LABOR AND INDUSTRIES
DISCRIMINATION CHARGE

JOE DINICOLA

STEMWB080304-40555

COMPLAINANT

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

Case #: _____

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ATTORNEYS

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

RESPONDENTS:

Service Employees International Union (SEIU) Phone: 202-730-7000
1800 Massachusetts Avenue NW
Washington, DC 20036 Contact: Andy Stern

Service Employees International Union (SEIU) Local 503 Phone: 503-581-1505
1730 Commercial Street SE Fax: 503-581-1664
PO Box 12159 Contact: Leslie Frane
Salem, OR 97309-0159

State of Oregon and all agencies (State) Phone: 503-378-3104
Department of Administrative Services Fax: 503-373-7643
155 Cottage St., NE, U20 Contact: Kris Kautz,
Salem OR 97301-3972 Interim Director

Oregon University System (OUS) Phone: 541-346-5700
University of Oregon Campus Fax: 541-346-5764
Susan Campbell Hall, Rm 111 Contact: George Pernsteiner
Eugene, OR 97401 Chancellor

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)).

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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 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 since 1987.
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.
4. During the term of my employment with ODR, I have been and continue to be an active member of Service Employees International Union (SEIU) Local 503 OPEU. SEIU Local 503 is a local union comprising a constituent part of an international union - SEIU.
5. Since approximately November 20, 2004, I have served as the elected President of SEIU Local 503 and have been assigned to perform my union duties directly related and central to the collective bargaining relationship as union President, pursuant to a written agreement between the State and SEIU Local 503. ODR continues to pay my wages during the term of this agreement.
6. During my term as union President, I have accumulated more than 2800 hours of unpaid overtime compensation. I am entitled to compensation for that overtime under relevant 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 asserting 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,

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providing written affidavits, oral testimony and a deposition in that case related to the denial of my overtime compensation.

- B. Pursuant to ORS 30.275, timely filing tort claims notices.
- C. Filing a previous BOLI complaint.
- 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 State and OUS employees, 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 include but are not limited to:

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

Marc Stefan, Supervising Attorney, SEIU Local 503

Judy Scott, General Counsel, SEIU

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 Barnstadt, Organizer SEIU Local 503

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Lane Toensmeier, former 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

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

8. Because of my wage claims, I have been subjected to continuing discrimination and retaliation. State and OUS employees and SEIU Local 503 (and its members, agents, and officers) have facilitated, or attempted to facilitate, (using State, OUS and union resources) the following, including during union, State and OUS worktime and otherwise:
- 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.
 - J. Attempts to prevent me from carrying out my duties as President of SEIU Local 503.
 - K. Failure of State and OUS supervisors and managers to prevent retaliation in the workplace and/or on work time, and/or using State or OUS resources.
 - L. Threats and discrimination against numerous other individuals employed by the State and OUS aimed at intimidating anyone who has testified or might testify in the above Marion County Court case filed May 8, 2008. The threats have been made to dissuade individuals from speaking in support of my right to make a good faith claim for unpaid overtime compensation or to attempt to force individuals to join in the retaliation and discrimination against me because I have filed a claim for unpaid overtime compensation.
 - M. Threats of physical violence and apparent stalking behavior against me by at least one union officer because I made a claim for unpaid overtime compensation.

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9. I have attempted to mitigate and stop the retaliation and discrimination against me in numerous ways and have been subject to further discrimination and retaliation because of my actions to mitigate the retaliation.

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.

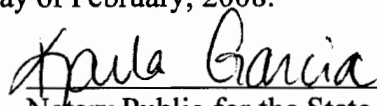
I swear or affirm that I have read this complaint and that it is true to the best of my knowledge, information and belief.

Signed:



JOE DINICOLA

SIGNED and SWORN before me this 17th day of February, 2008.



Notary Public for the State of Oregon

