

Supreme Court of Pennsylvania

Court of Common Pleas Civil Cover Sheet

Huntingdon

County

For Prothonotary Use Only:

Docket No:

2021-688

TAKE STAMP

The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

SECTION A

Commencement of Action:

- ☒ Complaint ☐ Writ of Summons ☐ Petition
☐ Transfer from Another Jurisdiction ☐ Declaration of Taking

Lead Plaintiff's Name:
Chris Taylor

Lead Defendant's Name:
Pennsylvania State Corrections Officers Association

Are money damages requested? ☐ Yes ☒ No

Dollar Amount Requested: ☒ within arbitration limits
(check one) ☐ outside arbitration limits

Is this a Class Action Suit? ☐ Yes ☒ No

Is this an MDJ Appeal? ☐ Yes ☒ No

Name of Plaintiff/Appellant's Attorney: Danielle R. Acker Susanj and Nathan J. McGrath

☐ Check here if you have no attorney (are a Self-Represented [Pro Se] Litigant)

SECTION B

Nature of the Case: Place an "X" to the left of the ONE case category that most accurately describes your **PRIMARY CASE**. If you are making more than one type of claim, check the one that you consider most important.

TORT (do not include Mass Tort)

- ☐ Intentional
☐ Malicious Prosecution
☐ Motor Vehicle
☐ Nuisance
☐ Premises Liability
☐ Product Liability (does not include mass tort)
☐ Slander/Libel/ Defamation
☐ Other:

MASS TORT

- ☐ Asbestos
☐ Tobacco
☐ Toxic Tort - DES
☐ Toxic Tort - Implant
☐ Toxic Waste
☐ Other:

PROFESSIONAL LIABILITY

- ☐ Dental
☐ Legal
☐ Medical
☐ Other Professional:

CONTRACT (do not include Judgments)

- ☐ Buyer Plaintiff
☐ Debt Collection: Credit Card
☐ Debt Collection: Other

☐ Employment Dispute:
Discrimination
☐ Employment Dispute: Other

☐ Other:

REAL PROPERTY

- ☐ Ejectment
☐ Eminent Domain/Condemnation
☐ Ground Rent
☐ Landlord/Tenant Dispute
☐ Mortgage Foreclosure: Residential
☐ Mortgage Foreclosure: Commercial
☐ Partition
☐ Quiet Title
☐ Other:

CIVIL APPEALS

- Administrative Agencies
☐ Board of Assessment
☐ Board of Elections
☐ Dept. of Transportation
☐ Statutory Appeal: Other

- ☐ Zoning Board
☐ Other:

MISCELLANEOUS

- ☐ Common Law/Statutory Arbitration
☒ Declaratory Judgment
☐ Mandamus
☐ Non-Domestic Relations
Restraining Order
☐ Quo Warranto
☐ Replevin
☐ Other:

**COURT OF COMMON PLEAS OF PENNSYLVANIA
HUNTINGDON COUNTY**

CHRIS TAYLOR,

Plaintiff,

v.

PENNSYLVANIA STATE CORRECTIONS OFFICERS
ASSOCIATION,

Defendant.

Case No. 2021-488

NOTICE TO DEFEND

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

**YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT
HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW.
THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A
LAWYER.**

**IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO
PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER
LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.**

Huntingdon County Court Administration
Huntingdon County Courthouse
223 Penn Street, 2nd Floor
Huntingdon, Pennsylvania 16652
814-643-5078
Monday through Friday 8:30 a.m. – 4:30 p.m.

The Original of the Document has
been filed in the Office of the
Prothonotary/Clerk of Court on

JUN 23 2021

**COURT OF COMMON PLEAS OF PENNSYLVANIA
HUNTINGDON COUNTY**

CHRIS TAYLOR,

Plaintiff,

v.

PENNSYLVANIA STATE CORRECTIONS OFFICERS
ASSOCIATION,

Defendant.

Case No. _____

**COMPLAINT—ACTION FOR
DECLARATORY JUDGMENT**

JURY TRIAL DEMANDED

AND NOW comes Plaintiff Chris Taylor, by and through his undersigned counsel, and brings the following action for declaratory judgment against Defendant Pennsylvania State Corrections Officers Association (“PSCOA”):

SUMMARY OF THE CASE

1. Plaintiff brings this action for declaratory judgment pursuant to 42 Pa.C.S. § 7531 *et seq.*, to address Defendant’s ongoing and threatened failure to fairly represent certain employees in the bargaining unit.

2. Plaintiff’s action arises because Defendant has instituted a policy that discriminates against and differentially treats nonmembers of the bargaining unit represented by Defendant, as compared to union members, in violation of state law.

3. Plaintiff therefore seeks a declaratory judgment holding Defendant’s policy to be unlawful and an order enjoining the policy.

JURISDICTION AND VENUE

4. “[B]reach of the duty of fair representation . . . is within the exclusive jurisdiction of the courts of common pleas.” *Dailey v. PLRB*, 148 A.3d 920, 924 (Pa. Cmwlth. 2016).

5. This court has jurisdiction to award relief on this declaratory action under 42

Pa.C.S.A. § 7531 *et seq.*

6. Venue is proper in Huntingdon County, because Defendant regularly conducts business within the county, and the events out of which this cause of action arise took place in the county. *See* Pa. R. Civ. P. 2179(a)(2)–(4).

PARTIES

7. Plaintiff Chris Taylor is an employee of the Commonwealth of Pennsylvania in the Department of Corrections at SCI-Huntingdon in a bargaining unit represented by Defendant, and a “public employe” for purposes of the Public Employe Relations Act (“PERA”), 43 P.S. § 1101.301(2).

8. Defendant PSCOA is a labor union with a principal place of business at 2421 North Front Street, Harrisburg, Pennsylvania. PSCOA is an “employe organization” and Plaintiff’s exclusive representative for purposes of PERA, 43 P.S. §§ 1101.301(3), 1101.606.

FACTUAL ALLEGATIONS

9. Defendant is Plaintiff’s exclusive representative for purposes of collective bargaining.

10. Defendant is a party to the collective bargaining agreement (“CBA”) that governs the terms and conditions of Plaintiff’s employment with the Commonwealth of Pennsylvania. The term of that CBA is July 1, 2017 to June 30, 2020, but on information and belief, it remains in effect.

11. Plaintiff is not a member of PSCOA, but was a member until his resignation in 2019.

12. Plaintiff, along with several colleagues, resigned his membership in PSCOA via letter in June 2019, and subsequently filed a federal lawsuit, *Weyandt v. PSCOA*, No. 1:19-cv-01018-JEJ (M.D. Pa. 2019), seeking to have PSCOA acknowledge him as a nonmember.

13. Following Plaintiff’s resignation, in approximately July 2019, PSCOA instituted a policy of discrimination against nonmembers of PSCOA (“Nonmember Discrimination Policy”).

14. The policy discriminates against nonmembers of PSCOA, even though nonmember

employees are part of the bargaining unit for whom PSCOA is the exclusive representative pursuant to state law.

15. As part of its Nonmember Discrimination Policy, in or about July 2019, PSCOA provided to Plaintiff a “Non Member Fees” Schedule that purports to state the “scheduling fees for grievance and heart and lung arbitrations.” *See* Exhibit A, attached and incorporated by reference herein.

16. This Non Member Fees Schedule requires nonmembers of PSCOA to pay PSCOA in order to pursue a grievance.

17. Before this policy, PSCOA would not charge bargaining unit nonmembers to pursue a grievance on their behalf.

18. The Non Member Fees Schedule makes no exceptions for any type of grievance, which means that PSCOA is forcing or threatening to force nonmembers to pay in order to have PSCOA file any grievance on their behalf, as provided for in Article 35 of the CBA, even for grievances related to enforcement of employees’ rights under the CBA.

19. The Non Member Fees Schedule also applies to heart and lung arbitrations, which are considered grievances under Article 35, Section 3 of the CBA.

20. On information and belief, under the Non Member Fees Schedule, PSCOA will refuse to file a grievance on behalf of a nonmember without first receiving payment.

21. The Non Member Fees Schedule threatens that PSCOA will charge nonmembers thousands of dollars for PSCOA to file grievances and to secure union representation throughout grievances.

22. PSCOA has instituted fees for filing each step of a grievance and for providing presentation at each step of the grievance process.

23. PSCOA has instituted hourly fees for work done by PSCOA agents or officials and

attorneys during the grievance process.

24. PSCOA has instituted the Non Member Fees Schedule even though nonmembers have no right to select their own representation.

25. PSCOA has instituted the Non Member Fees Schedule even though grievances may involve enforcement of terms or rights under the CBA that PSCOA, as the exclusive representative, negotiated and is legally charged with enforcing.

26. One PSCOA official stated to Plaintiff that he would “need this,” referring to the Non Member Fees Schedule, which confirms that PSCOA is actively enforcing, or threatening to enforce, the fees.

27. PSCOA, by and through its agents or officials, represents that nonmembers of PSCOA will not be represented as well as members.

28. On information and belief, PSCOA instituted the Non Member Fees Schedule in order to discourage nonmembers of PSCOA from filing grievances or otherwise incurring costs to PSCOA.

29. On information and belief, PSCOA instituted the Nonmember Discrimination Policy, and in particular the Non Member Fees Schedule, in order to discourage employees such as Plaintiff from exercising their statutory rights under PERA, including their right to refrain. *See, e.g.*, 43 P.S. § 1101.401.

30. On information and belief, PSCOA instituted the Nonmember Discrimination Policy in response to and/or retaliation for the decision of Plaintiff and his coworkers to resign their union memberships and file a federal lawsuit regarding their attempts to resign.

31. In instituting the Nonmember Discrimination Policy, PSCOA is acting in bad faith, arbitrarily, and discriminatorily toward nonmembers of PSCOA.

32. In sum, PSCOA’s Nonmember Discrimination Policy causes, is causing, or will cause

nonmembers, including Plaintiff, to receive lessened representation in their employment or as to their employer, including in any negotiations or interactions PSCOA has with the employer or in any interactions Plaintiff may have with his employer.

33. PSCOA's Nonmember Discrimination Policy, and particularly the Non Member Fees Schedule, requires nonmembers such as Plaintiff to pay before grievances will be filed, and therefore discourages nonmembers, including Plaintiff, from pursuing the enforcement of their rights under the CBA.

34. PSCOA's Nonmember Discrimination Policy also attempts to intimidate nonmembers such as Plaintiff in the exercise of rights under state law.

CAUSE OF ACTION

Action for Declaratory Judgment: Breach of Duty of Fair Representation

35. The foregoing paragraphs are incorporated by reference as if set forth fully herein.

36. Because the "[u]nion has assumed the role of trustee for the rights of its members and other employees in the bargaining unit" and employees are "beneficiaries of fiduciary obligations owed by the [u]nion[,] . . . the [u]nion bears a heavy duty of fair representation to all those within the shelter of its protection." *Falsetti v. Loc. Union No. 2026, United Mine Workers of Am.*, 161 A.2d 882, 895 (Pa. 1960). Accordingly, unions must "act in good faith, in a reasonable manner and without fraud." *Id.*

37. "Plainly, the duty is violated whenever the union's handling of a grievance is influenced by union memberships or activities, union politics, the exercise of political rights, or sheer favoritism." *Id.* at 895 n.21 (quoting Cox, *Individual Enforcement of Collective Bargaining Agreements*, 8 Lab. L.J. 850, 858–59 (1957)).

38. Similarly, "[t]he union must not have declined to press the grievance out of laziness or prejudice, or out of unwillingness to expend money on behalf of non-members." *Falsetti*, 161

A.2d at 895 n.21 (quoting Hanslowe, *Individual Rights in Collective Labor Relations*, 45 Corn. L.Q. 25, 46–47 (1959)).

39. Defendant, as Plaintiff’s exclusive representative, owes the duty of fair representation to Plaintiff.

40. Defendant’s duty of fair representation extends to the enforcement, including through the grievance process, of the CBA Defendant negotiated with the Commonwealth. *See Miles v. FOP Lodge #5*, 217 A.3d 892, 898–99 (Pa. Cmwlth. 2019) (“A union has the duty to fairly represent its members throughout any grievance and arbitration process provided for by a collective bargaining agreement.”).

41. Defendant is breaching, or is threatening to imminently breach, its duty of fair representation to Plaintiff by failing to “act in good faith, in a reasonable manner and without fraud.” *Falsetti*, 161 A.2d at 895.

42. Defendant is breaching, or is threatening to imminently breach, its duty of fair representation to Plaintiff by instituting and following a policy of discrimination against nonmembers of PSCOA, discussed above.

43. Defendant is breaching, or is threatening to imminently breach, its duty of fair representation to Plaintiff by charging and/or threatening to charge Non Member Fees to nonmembers of PSCOA, including Plaintiff, and to refuse to file grievances provided for by the CBA on behalf of nonmembers unless they first pay money to PSCOA.

44. Defendant’s actions and policy are arbitrary, discriminatory, and/or in bad faith, because Defendant treats nonmembers differently because of their status as nonmembers.

45. Defendant’s actions and policy are arbitrary, discriminatory, and/or in bad faith, because Defendant instituted the discrimination policy to retaliate against Plaintiff and other employees who choose to exercise their right not to be members of PSCOA.

46. Defendant's actions and policy are arbitrary, discriminatory, and/or in bad faith, because they demonstrate an unwillingness by Defendant to expend money on the representation of nonmembers, including Plaintiff, in the enforcement of the CBA that controls the terms and conditions of Plaintiff's, and other nonmembers' employment, including through the grievance process.

47. As a result of the foregoing, Plaintiff is in imminent danger of, or is actively experiencing, a violation of the duty of fair representation owed to Plaintiff by Defendant, and has suffered and will continue to suffer a loss of confidence in Defendant's ability to fairly represent Plaintiff's interests.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter the following relief:

- a) Declaring that Defendant's policy of differential treatment of union nonmembers in the enforcement of its CBA, or any other interactions with Plaintiff's employer, and particularly its "Non Member Fees" Schedule, Ex. A, violates its duty of fair representation under state law;
- b) Declaring that Plaintiff owes no payment to Defendant in order to file or pursue any grievance through Defendant;
- c) Enjoining Defendant's policy of differential treatment of union nonmembers and its enforcement of its "Non Member Fees" Schedule; and
- d) Ordering any other relief as the Court deems appropriate.

JURY DEMAND

Plaintiff demands a trial by jury on all matters triable by jury pursuant to Pennsylvania Rule of Civil Procedure 1007.1.

Respectfully submitted,

THE FAIRNESS CENTER

Dated: June 23, 2021

By:

A handwritten signature in blue ink, appearing to read "Danielle Acker Susanj", written over a horizontal line.

Danielle Acker Susanj

Pa. Attorney I.D. No. 316208

E-mail: drasusanj@fairnesscenter.org

Nathan J. McGrath

Pa. Attorney I.D. No. 308845

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THE FAIRNESS CENTER

500 North Third Street, Suite 600B

Harrisburg, Pennsylvania 17101

Telephone: 844.293.1001

Facsimile: 717.307.3424

Counsel for Plaintiff

VERIFICATION

I, Chris Taylor, hereby verify that I am a plaintiff in this action and subject to the penalties of 18 Pa.C.S.A. § 4904, relating to unsworn falsification to authorities, hereby state that the facts set forth in Plaintiff's complaint are true and correct to the best of my knowledge, information and belief.

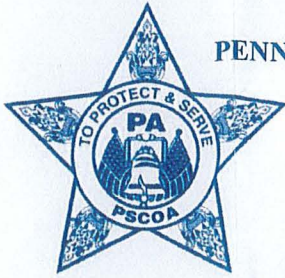
Date: 06/14/21

By:

Chris Taylor

Exhibit A

Non Member Fee Schedule



PENNSYLVANIA STATE CORRECTIONS OFFICERS ASSOCIATION

2421 North Front Street
Harrisburg, PA 17110-1110

(717) 364-1700 Phone

(717) 364-1705 Fax

Patrolling the Toughest Blocks in the State

WWW.PSCOA.ORG

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NON MEMBER FEES

Scheduling Fees for Grievance and Heart and Lung Arbitrations

Grievance Process

Step 1: Filing fee \$50.00

Step 2: Filing fee \$100.00

Panel cost of 3 Business Agents @ 40.00 per hour

Representation from local-Local VP @ \$200.00 per day plus travel and lodging

Step 3: Filing fee/Cost of Arbitrator \$3000.00

Lawyer @ \$250.00 per hour plus travel and
lodging Business Agent @ \$40.00 per hour

Executive Officers @ \$85.00 per hour

Heart and Lung Process (Denial or termination of benefit)

Filing fee \$225.00

Cost of Arbitrator \$3000.00

Lawyer @ \$250.00 per hour plus travel and lodging

Medical Reports and Depositions – Cost varies (\$1000.00 to
\$4000.00) Average cost is \$5000.00 and up