

STATE OF FLORIDA
PUBLIC EMPLOYEES RELATIONS COMMISSION

WALTER E. HADLEY, JR., MIAMI
LODGE #20, FRATERNAL ORDER
OF POLICE, INC.

Charging Party,

Case No. CR-2017-001
(Relates to CA-2010-119)

v.

CITY OF MIAMI,

Respondent.

MOTION TO INTERVENE

The following current and former City of Miami Police Officers: **WILFREDO ABASCAL**; ANA AGULAR; JORGE AGULAR; FRANCISCO ALFONSO; JOSE ALFONSO; GLADYS AMATO; **BRENDA ARCHER**; ALBERTO BAZAN; SHARONE EDWARDS BARFIELD; **CHRISTOPHER BROWN**; LUIS CABRERA; **AQILES CARMONA**; RAYMOND CARVIL; **EUNICE COOPER**; SONIA CRESPO; KEITH CUNNINGHAM; MANUEL DIAZ; **GLORIA DOUTHETT**; **JORGE FERNANDEZ**; RICARDO FERNANDEZ; CHRISTOPHER FRANCIS; ERVENS FORD; RAFAEL FUENTES; RICHARD GENTRY; RAYNARD GILBERT; JORGE GONZALEZ; JOSE GONZALEZ; CHRIS GRIFFIN; **HARRIS HENDERSON**; RAMON HERNANDEZ; RICARDO HERNANDEZ; VINCENT LARICCI; **LAMEL LATTIMORE**; TRACY MARTIN; JAMES MARSHALL; OSVALDO MAZZIERI; SANDRA MCARTHUR; CRAIG MCQUEEN; MARIO MEDINA; JULIUS NELSON; DONOVAN NICOLSON; **EVELIO NOGUES**; ALEJANDRO OLIVA; SERAFIN ORDONEZ; VICTOR PALACIOS; **RODERICK PASSMORE**; DAVID PATTON; BENJAMIN PAYEN; MARCOS PEREZ; SANDRA POLK; **DWAYNE PRATT**; PETER REYNOLDS; DANIEL RICHARDS; MARIO RODRIGUEZ; **ARIEL ROJAS**; **MARIO ROMAN**; ARMANDO ROJAS; FRANCISCO SALLANO; MARVIN SANDERS; ROBIN STARKS; ALLEXIEN STEVENS; **EROL STEWART**; BERTHA SOTOAGUILAR; CARLOS SUAREZ; EMILIANO TAMAYO; LUIS TABORDA; **TOMMY TRUJILLO**; **CARLOS VALDES**; MOISES VELAZQUEZ; ORLANDO VILLAVERDE; move the Hearing Officer for an order permitting them to intervene because they have substantial interest in the outcome and relief sought:

In 2017, the Florida Supreme Court held that the paycuts and benefits cuts that the City of Miami unilaterally imposed on its police force on October 1, 2010 were unlawful. See Headley v. City of Miami, 215 So.3d 1 (2017). All of the intervening officers in this motion were affected. They all continued to serve after October 1, 2010. Their pay and benefits were unlawfully cut. At

this time, all of these officers have either separated or are scheduled to separate on September 25, 2017.

This motion is necessary because the intervening officers are uncertain if the Fraternal Order of Police intends to (1) claim and advocate for damages on behalf of those officers who retired and separated from the police department after 10/1/10; and (2) claiming and advocating for damages on behalf of those officers who are currently in the DROP program and are about to separate. And if so, what specific damages is the FOP seeking on behalf of these officers?

This uncertainty first arose in a July 17, 2017 email from the FOP President, Javier Ortiz, where the intentions were not exactly clear:

“The Fraternal Order of Police has every intention to settle this lawsuit amicably which would affect those that are in process of retiring as well as those that have already retired. There is case law that states that once you separate from the bargaining unit, you’re not entitled to negotiations, there’s no doubt that our retirees need to be taken care of also. What case law states and what happened in negotiations are two completely different things.”

See Ortiz Email, Exhibit A.

Counsel for the proposed intervenors attempted to clarify this matter with FOP counsel. However, those communications have not resulted in any clear communication that the FOP will protect and advocate on behalf of those who have separated or for those who are due to separate. See Correspondence, Exhibits A and B.

Finally, 53 of the proposed intervenors have filed a separate action concerning pension benefits against the pension trust and its board. *Castro v. The City of Miami Firefighters’ and Police Officers’ Retirement Trust & Plan, et al.* Miami-Dade Circuit Court Case No. 14-007987-CA-01. In that case, which has been quite litigious, the pension trust and board are both represented by the very same counsel that represent the FOP here.

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Consequently, the 53 officers have little faith that the lawyers fighting *against* them in the pension case will actually fight *for* them in this case.

The intervenors support the Supreme Court decision in Headley and the Hearing Officer's Supplemental Recommended Order, dated July 20, 2017. The movant has conferred with all other parties. The FOP and the City of Miami object/do not object to the motion.

WHEREFORE, under §447.503(b) and 28-106.205, FAC, and all other applicable law, the Hearing Officer and Commission should permit these current and former officers to intervene in the proceeding.

Robert d. Klasuner, Plantation; Paul A. Daragjati, Jacksonville; Ronald J. Cohen, Fort Lauderdale; and Osnat K. Rind, Miami, attorneys for charging party.

Michel Mattimore, Tallahassee; Luke C. Savage, Coral Gables; and Victoria Mendez, Kevin R. Jones, and John A Greco, Miami, attorneys for respondent.

RIX, hearing officer.

Respectfully submitted,

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CERTIFICATE OF SERVICE

WE CERTIFY that a true and correct copy of the foregoing **was emailed and/or mailed** to the individuals on the attached Service List on this _____ of September, 2017.

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