

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

ANJELITA LONGORIA FORNARA, Complainant, vs. WASHINGTON STATE DEPARTMENT OF CHILDREN, YOUTH, AND FAMILIES, Respondent.	CASES 139115-U-24 and 139363-U-24 DECISION 13876-B - PSRA ORDER OF DISMISSAL
ANJELITA LONGORIA FORNARA, Complainant, vs. WASHINGTON FEDERATION OF STATE EMPLOYEES, Respondent.	CASES 139114-U-24 and 139362-U-24 DECISION 13876-B - PSRA ORDER OF DISMISSAL

Anjelita Longoria Fornara, the complainant.

Edward Earl Younglove III, Attorney at Law, Younglove Coker & Rhodes, P.L.L.C., for the Washington Federation of State Employees.

Cheryl L. Wolfe, Senior Counsel and *Jessica M. Erickson*, Assistant Attorney General, Attorney General Robert W. Ferguson, for the Washington State Department of Children, Youth, and Families.

On June 10, 2024, Anjelita Longoria Fornara (complainant) filed an unfair labor practice complaints against the Washington Federation of State Employees (union) and the Washington State Department of Children, Youth, and Families (employer). The complaints were docketed as cases 139114-U-24 (against the union) and 139115-U-24 (against the employer). On July 16, 2024, Fornara filed a second set of unfair labor practice complaints against the union and employer. The

complaints were docketed as cases 139362-U-24 (against the union) and 139363-U-24 (against the employer). All four complaints were reviewed under WAC 391-45-110.¹ A deficiency notice issued on July 23, 2024, notified Fornara that causes of action could not be found for any of the complaints. Fornara was given a period of 21 days in which to file and serve amended complaints that specifically identified any new unfair labor practices committed by either the union or employer that occurred within six months of the date the respective complaints were filed or face dismissal of the case.

On August 13, 2024, Fornara filed amended complaints for each case. The amended complaints failed to identify any new facts that constitute timely unfair labor practices and are dismissed.

BACKGROUND

Between May 18, 2022, and July 16, 2024, Fornara filed multiple unfair labor practice complaints against the union and employer. Although this decision only concerns Fornara's June 10, 2024, and July 16, 2024, complaints, these complaints reference Fornara's earlier complaints, some of which have been litigated to final agency order. A summation of the other filings is necessary to place this decision in its proper context.

Case 135103-U-22

On May 18, 2022, Fornara filed a complaint alleging the employer committed unfair labor practices by discriminating against Fornara in retaliation for her exercise of protected rights. Examiner Christopher Casillas conducted a hearing on the record and dismissed the allegations in the complaint. Fornara filed a timely appeal and on September 19, 2023, the Commission affirmed

¹ At this stage of the proceedings, all of the facts alleged in the complaint or amended complaint are assumed to be true and provable. The question at hand is whether, as a matter of law, the complaint states a claim for relief available through unfair labor practice proceedings before the Public Employment Relations Commission.

the Examiner's decision to dismiss the complaint, and the case was closed. *Washington State Department of Children, Youth, and Families*, Decision 13647-A (PSRA, 2023).

Case 136327-U-23

On March 22, 2023, Fornara filed a second complaint against the employer. This complaint alleged the employer discriminated against Fornara in retaliation for her exercising protected rights. Examiner Elizabeth Snyder conducted a hearing on the record on January 9, 2024, and the parties filed briefs to complete the record.

On February 9, 2024, and prior to Examiner's Snyder issuing a decision, Fornara filed a notice of intent to file a motion for temporary relief. On March 4, 2024, Fornara filed a formal request for temporary relief. The Commission denied that request on April 16, 2024. *Washington State Department of Children, Youth, and Families*, Decision 13820 (PSRA, 2024).

On June 13, 2024, Examiner Snyder dismissed the allegations in Fornara's complaint and Fornara filed a timely appeal which is currently pending before the Commission.

On June 26, 2024, Fornara filed a second request for temporary relief. On August 6, 2024, the Commission denied Fornara's second request for temporary relief in this matter. *Washington State Department of Children, Youth, and Families*, Decision 13876-A (PSRA, 2024).

Case 136580-U-23c

On August 30, 2022, Fornara filed a complaint alleging the union breached its duty of fair representation owed to Fornara by failing to respond to Anjelita Longoria Fornara's July 19, 2022, information request. Case 135763-U-22. On March 22, 2023, Fornara filed a second complaint alleging the union committed an unfair labor practice by discriminating against Fornara in retaliation for her filing an unfair labor practice against the union. Case 136328-U-24. Both complaints were consolidated and assigned to Examiner Page Todd. Case 136580-U-23c.

On January 29, 2024, Examiner Todd dismissed the allegations in the consolidated complaints on summary judgment. *Washington State Department of Children, Youth, and Families*,

Decision 13774 (PSRA, 2024). On February 9, 2024, Fornara filed a letter stating her intent to appeal the decision and her intent to file a motion for temporary relief. On February 12, 2024, Fornara appealed Examiner Todd's decision. On March 4, 2024, Fornara filed a motion for temporary relief and motion for summary judgment with supporting affidavits.

On April 16, 2024, the Commission denied Fornara's motion for Temporary relief. *Washington State Department of Children, Youth, and Families*, Decision 13774-A (PSRA, 2024). On May 15, 2024, the Commission affirmed Examiner Todd's decision to dismiss the consolidated complaints. *Washington State Department of Children, Youth, and Families*, Decision 13774-B (PSRA, 2024),

Case 138764-U-24

On March 12, 2024, Fornara filed a third complaint alleging the union committed unfair labor practices by discriminating against Fornara in retaliation for her filing an unfair labor practice against the union. Specifically, Fornara alleged the union declined to forward a grievance concerning her termination to arbitration and the cause of action captures that factual allegation. The cause of action statement for this complaint specifically noted that "Fornara's attempt . . . to 'resubmit all previous cases, decisions, and documents' from previously filed complaints as facts supporting her instant complaint is disregarded" and the cause of action was limited to facts alleged in the March 12, 2024, complaint. This complaint is pending before Examiner Jessica Bradley.

On June 26, 2024, Fornara filed a request for temporary relief in this matter. On August 6, 2024, the Commission issued *Washington State Department of Children, Youth, and Families*, Decision 13876-A (PSRA, 2024), denying Fornara's request for temporary relief.

Case 138881-U-24c

On December 6, 2023, Fornara filed a third complaint alleging the employer discriminated against her in retaliation for her exercise of protected activity. At the time this complaint was filed, Fornara was still employment at the Department of Children, Youth, and Families. Case 138047-U-23. On March 12, 2024, Fornara filed another new complaint alleging the employer discriminated against her in retaliation for her exercise of protected activity by terminating her employment.

Case 138765-U-24. These matters were consolidated and are pending before Examiner Erin Slone Gomez. Case 138881-U-24c.

On February 26, 2024, Fornara filed a motion requesting temporary relief seeking to have the Commission invoke its authority to have Fornara's employment reinstated. On April 16, 2024, the Commission issued *Washington State Department of Children, Youth, and Families*, Decision 13819 (PSRA, 2024), denying Fornara's request for temporary relief. On July 10, 2024, Fornara filed a petition for judicial review of the decision denying temporary relief in Yakima County Superior Court.

On June 26, 2024, Fornara filed a second request for temporary relief in this matter. On August 6, 2024, the Commission issued *Washington State Department of Children, Youth, and Families*, Decision 13876-A (PSRA, 2024), denying Fornara's second request for temporary relief for case 138881-U-24c.

ANALYSIS

The July 23, 2024, Deficiency Notice

Fornara's complaints in cases 139114-U-24, 139115-U-24, 139362-U-24, and 139363-U-24 were reviewed under WAC 391-45-110. On July 23, 2024, a deficiency notice was issued for all four cases. The deficiency notice informed Fornara that the factual allegations in cases 135103-U-22, 136327-U-23, and 136580-U-23c, which were realleged in the June 10, 2024, and July 16, 2024, complaints, have been litigated and cannot form the basis of a new cause of action in any subsequent filing before this agency. Fornara was also told that to the extent the June 10, 2024, and July 16, 2024, complaints attempt to relitigate the factual allegations found in cases 135103-U-22, 136327-U-23, and 136580-U-23c, those allegations would be dismissed.

The deficiency notice also notified Fornara that her June 10, 2024, and July 16, 2024, complaints appeared to reallege factual allegations that received causes of action in cases 138764-U-24 and 138881-U-24c. The deficiency notice explained that new causes of action would not be issued for facts that already received causes of action. Fornara was instructed to amend her complaints to

clearly identify and explain any new facts constituting timely unfair labor practices that had occurred since filing cases 138764-U-24 and 138881-U-24c.

Fornara's Amended Complaints

On August 13, 2024, Fornara filed amended complaints. The amended complaints did not identify any new facts that constitute timely unfair labor practices since filing cases 138764-U-24 and 138881-U-24c. Rather, the amended complaints continued to allege that the previous decisions were incorrectly decided and needed to be revisited by the agency, including the Commission's decisions denying Fornara's motions for temporary relief.

As noted in the July 23, 2024, deficiency notice, cases 139114-U-24 and 139115-U-24 were filed on June 10, 2024, and only those new facts which occurred on or after December 10, 2023, would be considered timely for those complaints. Similarly, cases 139362-U-24 and 139363-U-24 were filed on July 16, 2024, and only those new facts which occurred on or after January 16, 2024, would be considered timely for those complaints. Because the amended complaints fail to allege timely facts that constitute new unfair labor practices, they must be dismissed.²

² Res judicata refers to “the preclusive effect of judgments, including the re-litigation of claims and issues that were litigated, or might have been litigated, in a prior action.” Philip A. Trautman, Claim and Issue Preclusion in Civil Litigation in Washington, 60 Wash. L. Rev. 805 (1985). The doctrine of *Res Judicata* is designed to prevent the relitigation causes of action that have already been decided and to curtail multiplicity of actions and harassment in the courts. *City of Seattle*, Decision 5852-C (PECB, 1998) (citing *Loveridge v. Fred Meyer, Inc.*, 125 Wn.2d 759 (1995)). For the doctrine to apply, a prior judgment must have a concurrence of identity with a subsequent action in (1) subject matter, (2) cause of action, (3) persons and parties, and (4) the quality of the persons for or against whom the claim is made. *Id.* Because Fornara has not pled any timely allegations, it is not necessary to apply the doctrine of *Res Judicata* to the remaining allegations in Fornara's amended complaints.

ORDER

The amended complaints charging unfair labor practices in the above-captioned matters are DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 28th day of August, 2024.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



DARIO DE LA ROSA, Unfair Labor Practice Administrator

This order will be the final order of the agency unless a notice of appeal is filed with the Commission under WAC 391-45-350.



RECORD OF SERVICE

ISSUED ON 08/28/2024

DECISION 13876-B - PSRA has been served by mail and electronically by the Public Employment Relations Commission to the parties and their representatives listed below.

BY: DEBBIE BATES

CASE 139114-U-24, 139115-U-24, 139362-U-24, and 139363-U-24

EMPLOYER: WASHINGTON STATE DEPARTMENT OF CHILDREN, YOUTH, AND FAMILIES

REP BY: CHERYL L. WOLFE
OFFICE OF THE ATTORNEY GENERAL
1116 W RIVERSIDE AVE STE 100
SPOKANE, WA 99201-1106
cheryl.wolfe@atg.wa.gov

GINA L. COMEAU
OFFICE OF FINANCIAL MANAGEMENT
INSURANCE BUILDING
PO BOX 43113
OLYMPIA, WA 98504
labor.relations@ofm.wa.gov

JESSICA M. ERICKSON
OFFICE OF THE ATTORNEY GENERAL
7141 CLEANWATER DR SW
PO BOX 40145
OLYMPIA, WA 98504-0145
jessica.erickson@atg.wa.gov

PARTY 2: ANJELITA LONGORIA FORNARA

REP BY: ANJELITA LONGORIA FORNARA
2406 SUMMITVIEW AVE
YAKIMA, WA 98902
anjie5557@aol.com

PARTY 3: WASHINGTON FEDERATION OF STATE EMPLOYEES

REP BY: EDWARD EARL YOUNGLOVE III
YOUNGLOVE COKER & RHODES, P.L.L.C.
1800 COOPER PT RD SW BLDG 16
PO BOX 7846
OLYMPIA, WA 98507-7846
edy@ylclaw.com