



State of Ohio  
 State Employment Relations Board  
 65 East State Street, 12<sup>th</sup> Floor  
 Columbus, Ohio 43215-4213  
 (614) 644-8573

<http://www.serb.state.oh.us/2000%20forms/ULP/ULPC.PDF>

Case No.  
 2013 - ULP - 08 - 0258

STATE OF OHIO  
 RELATIONS BOARD

W/ AH

2013 AUG 30 A 10:08

**UNFAIR LABOR PRACTICE CHARGE**

**INSTRUCTIONS:** File *one original and one copy* of this form with the State Employment Relations Board at the above address. Serve *one copy* on the party against whom the charge is brought. See Ohio Administrative Code Rule 4117-1-02. If more space is required for any item, attach additional sheets; please number the items accordingly.  
**NOTE:** If you wish to file unfair labor practice charges against both the employer and the union, then separate Unfair Labor Practice Charge forms must be filled out. For the form(s) to be filed against the union, fill out all sections of this form. For the form(s) to be filed against the employer, fill out all sections except section four, which is used to identify the employer for charges filed against the union or its representative(s).

**1. Party Filing Charge: (Check One)**  
 Employee Organization/Union     Employee     Employer     Other \_\_\_\_\_

Name:  
 Cleveland State University Chapter of the American Association of University Professors  
 Address: 1836 Euclid Avenue, Suite 244  
 Telephone: work (216)687-4694  
 home (    )  
 City, County, State, Zip: Cleveland, Cuyahoga, OH 44115  
 E-mail: fkarem@roadrunner.com

**2. Name of Person Representing the Party Filing Charge:**  
 (Representative must file a Notice of Appearance form.)  
 Susannah Muskovitz/William E. Froehlich  
 Address: 1621 Euclid Avenue, Suite 1750  
 Telephone: (216)621-2020  
 City, State, Zip: Cleveland, OH 44115  
 E-mail: froehlich@mlabor.com  
 muskovitz@mlabor.com

**3. Party Against Whom This Charge is Brought: (Check Only One)**  
 Employee Organization/Union     Employee     Employer     Other \_\_\_\_\_  
 Name:  
 Dean Craig M. Boise  
 Address: College Of Law, 2121 Euclid Avenue, LB 108  
 Telephone: (216)687-2300  
 City, County, State, Zip: Cleveland, Cuyahoga, OH 44115  
 E-mail: craig.boise@law.csuohio.edu

**4. Employer: (If different from item 1 or 3)**  
 Cleveland State University  
 Address: 2121 Euclid Avenue  
 Telephone: (216)687-2233  
 City, County, State, Zip: Cleveland, OH 44115  
 E-mail:

**5. Basis of Charge:** The party against whom this charge is brought was engaged in or is engaged in unfair labor practices within the meaning of Ohio Revised Code Section 4117.11. (Check appropriate subsections only.)  
 Charges against employers: (A)(1)  (A)(2)  (A)(3)  (A)(4)  (A)(5)  (A)(6)  (A)(7)  (A)(8)   
 Charges against unions or employees: (B)(1)  (B)(2)  (B)(3)  (B)(4)  (B)(5)  (B)(6)  (B)(7)  (B)(8)

**6. Statement of Facts:** Provide a clear and concise statement of the facts constituting the alleged unfair labor practice(s), including the names of individuals involved and the dates and places of the occurrences giving rise to the charge. (If more space is required, add additional sheets.)

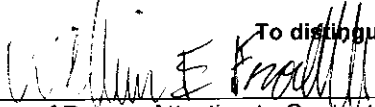
See Attached

A failure to provide the above information could result in the charge being dismissed for failure to provide a clear and concise statement.

**DECLARATION**

I declare that I have read the contents of this Unfair Labor Practice Charge and that the statements it contains are true and correct to the best of my knowledge and belief.

To distinguish originals, please do not use black ink for signatures.



August 29, 2013

Date

Signature of Person Attesting to Content of Form

Susannah Muskovitz/William E. Froehlich

Print or Type Name

**THIS UNFAIR LABOR PRACTICE CHARGE WILL NOT BE ACCEPTED FOR FILING UNLESS THE PROOF OF SERVICE IS FULLY COMPLETED AND BEARS AN ORIGINAL SIGNATURE OF A REPRESENTATIVE OF THE PARTY FILING THE CHARGE.**

**PROOF OF SERVICE**

I certify that an exact copy of the foregoing Unfair Labor Practice Charge has been sent or delivered to:

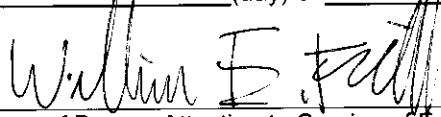
Dean Craig M. Boise, College of Law, 2121 Euclid Avenue, LB 108, Cleveland, OH 44115

(Name and complete address of party against whom this charge is brought)

Sonali B. Wilson, General Counsel, CSU, 2121 Euclid Avenue, AC 327, Cleveland, OH 44115

By  Regular U.S. Mail     Certified U.S. Mail     Hand Delivery     Other \_\_\_\_\_

this 29th (day) of August (month), 2013 (year).



William E. Froehlich

Signature of Person Attesting to Service of Form

Print or Type Name

## STATEMENT OF FACTS

As will be shown, the Cleveland State University College of Law (“CM Law”) has retaliated against members of the bargaining unit for engaging in protected, concerted activities and rights guaranteed pursuant to Chapter 4117. CM Law has violated R.C. 4117.11(A)(1) and (A)(3).

The charging party, Cleveland State University Chapter of the American Association of University Professors (“AAUP”) represents all faculty at Cleveland State University whose primary appointment is with the College of Law with the rank of Assistant Professor, Associate Professor, Professor, Legal Writing Professor and Clinical Professor. AAUP and CM Law are not parties to a collective bargaining agreement. SERB only recently—on June 6, 2013—certified AAUP as the exclusive representative of the bargaining unit. *See* SERB Case No. 2012-REP-11-0130.

Annually, CM Law awards “merit pay” increases to faculty based on a “raise pool” for each fiscal year. For example, for Fiscal Year 2012 CM Law’s raise pool was .75% of aggregate payroll for the entire faculty; for Fiscal Year 2013 CM Law’s raise pool was approximately 2.0% of aggregate payroll for the entire faculty; for Fiscal Year 2014 CM Law’s raise pool was 2.0% of aggregate payroll for the entire faculty. Once the raise pool is determined, CM Law’s administration allocates merit increases amongst all faculty members. Faculty receive varying merit wage increases.

In correspondence addressed to all CM Law faculty, Dean Craig M. Boise claimed he reviewed faculty performance for the 2011 and 2012 calendar years. Dean Boise claimed he considered the following factors in issuing merit raises: scholarship and scholarly influence—forty percent (40%); teaching as measured by student evaluations—forty percent (40%); and, service through committee work and other activities—twenty percent (20%). Dean Boise appears to purposefully misstate his actual calculations, neglecting to mention a fourth category titled “other” was used as a factor for merit pay increases. Moreover, Dean Boise neglects to mention that he downgraded faculty members who assisted with Union organization efforts. Nearly all faculty members who assisted with Union organization efforts received either no raise, or a six-six-six raise.

CM Law’s documentation regarding merit wage increases shows that faculty generally received one of the following merit raises: \$5,000, \$3,000, \$666, \$0. Dean Boise manipulated early drafts of CM Law’s merit raise increases in order to 1) downgrade AAUP organizers; and 2) award the bulk of AAUP organizers a six-six-six wage increase. Even though many AAUP organizers have exemplary scholarship and teaching scores, AAUP’s organizers received merit raises of \$0 or \$666:

| <b>Union Organizer</b>    | <b>Merit Raise</b> |
|---------------------------|--------------------|
| Cherry, April L           | 666                |
| Daiker-Middaugh, Pamela A | 0                  |
| Falk, Patricia J          | 666                |
| Gelman, Sheldon           | 666                |

|                        |     |
|------------------------|-----|
| Glassman, Brian A      | 0   |
| May, Claire C Robinson | 666 |
| Mika, Karin            | 666 |
| Wilson, James G        | 666 |

In effect Dean Boise has called AAUP’s organizers and AAUP Satan. Dean Boise’s actions are a poorly veiled threat in opposition to AAUP’s organizing and concerted activities. Dean Boise’s manipulation of the merit wage increases provides clear evidence of CM Law’s antiunion animus and CM Law’s retaliation against bargaining unit members for exercising their rights to organize and bargain under Chapter 4117.

Dean Boise’s manipulation of the merit wage increase pool and his failure to be forthcoming about his methods for calculating the merit wage increases constitute retaliation for engaging in activity protected by Chapter 4117. Further, Dean Boise’s actions—taken on behalf of CM Law—are clear anti-union animus. Dean Boise’s actions were unlawful, and were taken in violation of R.C. 4117.11(A)(1) and (A)(3).

Muskovitz  
Lemmerbrock LLC  
ATTORNEYS AT LAW

William E. Froehlich

froehlich@mllabor.com

August 29, 2013

**VIA UPS NEXT DAY AIR**

State Employment Relations Board  
65 East State Street, 12<sup>th</sup> Floor  
Columbus, Ohio 43215-4213

STATE EMPLOYMENT  
RELATIONS BOARD  
2013 AUG 30 A 9:09

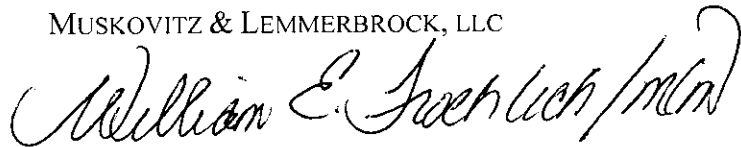
RE: American Association of University Professors, CSU Chapter and  
Cleveland State University

Dear Sir/Madame:

Please find enclosed an original plus two (2) copies of an Unfair Labor Practice Charge to be filed in the above referenced matter. Please return a stamped copy of the ULP in the self-addressed stamped envelope provided. Thank you.

Very truly yours,

MUSKOVITZ & LEMMERBROCK, LLC



William E. Froehlich

WEF: mlm102/42/10  
Encl.

cc: Dr. Jeff Karem, President, CSU-AAUP  
Dean Craig M. Boise, College of Law, Cleveland State University  
Sonali B. Wilson, General Counsel, Cleveland State University

