

# BUTZEL LONG

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*a professional corporation*

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September 8, 2020

VIA MERC E-File – [MERC-ULPS@Michigan.gov](mailto:MERC-ULPS@Michigan.gov)

Sydney McBride  
Interim Director  
Michigan Bureau of Employment Relations  
Cadillac Place  
3026 W. Grand Boulevard  
Suite 2-750  
P.O. Box 02988  
Detroit, MI 48202-2988

Re: Unfair Labor Practice Charge Filed Against Graduate Employees Organization

Dear Mr. McBride:

Enclosed please find an Unfair Labor Practice Charge filed by the University of Michigan against Respondent, the Graduate Employees Organization, and a proof of service. A copy of the Charge has been served on the Respondent. An original and four (4) copies will also be mailed to the Commission.

Very truly yours,  
Butzel Long

*Craig S. Schwartz*  
Craig S. Schwartz

CS:ks  
Enclosures

Cc: Sumeet Patwarden ([president@GEO3550.org](mailto:president@GEO3550.org))  
Gloria Hage (GHage@umich.edu)

Ann Arbor    Bloomfield Hills    Detroit    Lansing    New York    Washington D.C.  
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# CHARGE

Michigan Department of Labor and Economic Opportunity  
Employment Relations Commission (MERC)  
Labor Relations Division  
313-456-3510

Authority: P.A. 380 of 1965, as amended.

**INSTRUCTIONS:** File an original and 4 copies of this charge (including attachments) with the Employment Relations Commission at: Cadillac Place, 3026 W. Grand Boulevard, Suite 2-750, PO Box 02988, Detroit MI 48202-2988 or 503 W. Allegan, Mason Building, Garden Level, PO Box 30015, Lansing, MI 48909. The Charging Party must serve the Charge on the opposing side within the applicable statute of limitations, and must file a statement of service with MERC. (Refer to the "How to File a Charge" document under the "Forms" link at [www.michigan.gov/merc](http://www.michigan.gov/merc).)

**Complete Section 1** if you are filing charges against an employer and/or its agents and representatives. —or—  
**Complete Section 2** if you are filing charges against a labor organization and/or its agents and representatives.

## 1. EMPLOYER AGAINST WHICH THE CHARGE IS BROUGHT

Check appropriate box: ☐ Private ☐ Governmental

Name and Address:

## 2. LABOR ORGANIZATION AGAINST WHICH THE CHARGE IS BROUGHT

Name and Address:

## 3. CHARGE

Pursuant to the Labor Mediation Act (LMA) or Public Employment Relations Act (PERA) (*cross out one*), the undersigned charges that the above-named party has engaged in or is engaging in unfair labor practices within the meaning of the Act.

**On an attached sheet** you must provide a clear and concise statement of the facts which allege a violation of the LMA or PERA, including the date of occurrence of each particular act and the names of the agents of the charged party who engaged in the complained of conduct. The charge should describe who did what and when they did it, and **briefly** explain why such actions constitute a violation of the LMA or PERA.

The Commission may reject a charge for failure to include the required information. However, it is not necessary to present your case in full at this time. Documentary material and exhibits ordinarily **should not** be submitted with this charge form.

See Attachment A

4. Name and Address of Party Filing Charge (Charging Party)  
(if labor organization, give full name, including local name and number)

Telephone Number:

(      )

5. List ALL related MERC case(s) (if any): \_\_\_\_\_  
(Name of parties)

Case No.: \_\_\_\_\_ Judge: \_\_\_\_\_

Case No.: \_\_\_\_\_ Judge: \_\_\_\_\_

**I have read this charge and it is true to the best of my knowledge and belief.**

Email:

/s/ Gloria Hage

Telephone/Cell No.:

Signature of Representative/Person Filing Charge

Print Name and Title:

Fax No.:

Street Address:

City:

State:

Zip Code:

The Department of Labor and Economic Opportunity will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, marital status, disability, or political beliefs. If you need assistance with reading, writing, hearing, etc., under the Americans with Disabilities Act, you may make your needs known to this agency.

BER\_\_\_\_ (5/27)

**Attachment “A” to ULP Charge**

University of Michigan,

Charging Party

v.

Case No.

Graduate Employees Organization,  
American Federation of Teachers Local 3550,

Respondent.

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Attorneys for Charging Party  
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**STATEMENT OF UNFAIR LABOR PRACTICE CHARGE  
AGAINST RESPONDENT GRADUATE EMPLOYEES ORGANIZATION**

1. Respondent Graduate Employees Organization (“GEO”) is the collective bargaining representative of Graduate Student Instructors and Graduate Staff Assistants of the University of Michigan (“University”). The GEO and the University are parties to a collective bargaining agreement with a term of April 16, 2020 – May 1, 2023.
2. Article III “No Interference” of the collective bargaining agreement contains broad and stringent no-strike commitments by the GEO. This article provides, in pertinent part:

Article III; No Interference

The Union, through its officials, will not cause, instigate, support or encourage, nor shall any Employee take part in, any concerted action against or any concerted interference with the operation of the University, such as the failure to report for duty, the absence from one’s position, the stoppage of work, or the failure, in whole or part, to fully, faithfully, and properly perform the duties of employment. Nothing in this paragraph, however, shall be construed to limit participation of individuals in an activity that is unrelated to their employment relationship. In the event of any such action or interference and on notice from the University, the Union, through its officials, will immediately disavow such action or interference. Further, the Union will instruct in writing (email will suffice) and in a timely

matter (e.g., prior to the action or interference when notice from the University is provided prior to the interference) any and all Employees to cease their misconduct and inform them that this misconduct is a violation of the Agreement, which subjects them to disciplinary action, including discharge.

3. Article XXIV “Waiver” of the collective bargaining agreement is what is commonly known as a “zipper clause”. This clause expressly waives the obligation of either party to bargain collectively during the term of the collective bargaining agreement, particularly with regard to matters actually negotiated at the bargaining table. This article provides in pertinent part:

“Article XXIV: Waiver

The University and the Union acknowledge that during the negotiations which resulted in this Agreement each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining, and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement.

Therefore, the University and the Union, except as provided in Article XXVI, Term of Agreement, each voluntarily and unqualifiedly waives the right, and agrees the other shall not be obliged, to bargain collectively with respect to any subject or matter referred to or covered in this Agreement, or with respect to any subject or matter not specifically referred to or covered in this Agreement, even though such subject or matter may not have been within the knowledge or contemplation of either or both parties at the time that they negotiated or signed this Agreement.”

4. Since July, 2020, the GEO has demanded mid-contract term bargaining on certain demands for the University. These demands include non-mandatory and/or illegal subjects of bargaining, including:
  - A defunding of the University’s Division of Public Safety, involving a reduction of 50% of their annual budget and a reallocation of the funds to “community-based justice initiatives”.
  - A demand that the University of Michigan “cut all ties” with police, including the Ann Arbor Police Department, and the Immigration and Customs Enforcement Agency of the United States government.
  - “Demilitarization” of University Public Safety employees, including the prohibition of the use of “lethal weapons”; elimination of military funding; force standards for campus policing and restrictions on the use of surveillance technology;
  - Additional support for international students (regardless of whether they are University employees and within the bargaining unit) and repeal of a \$500

international student fee and document shipping fee. GSIs and GSSAs do not pay this fee, per the Article XX of the parties' Agreement;

- Certain benefits for graduate students who are not University employees or bargaining unit members, including
    - extensions to degree timelines and funding;
    - a \$2,500 unconditional emergency grant;
    - rent freezes and flexible leases for on-campus housing and a promise to exert pressure on local landlords to extend the desired UM rent freeze across Ann Arbor.
5. Certain other demands of the GEO do relate to the compensation and terms and conditions of employment of the bargaining unit, specifically relating to employment issues raised by the COVID-19 pandemic. The Union has, however, declined to seek a resolution of such issues through the grievance and arbitration procedures of the collective bargaining agreement.
  6. Some of the foregoing demands referenced in paragraphs 4 and 5 above were union proposals that were made in the recent contract negotiations, but were withdrawn by the GEO as a condition of settling the collective bargaining agreement on April 16, 2020. Included in the three year contract settlement were pay increases of 3.0% (year one), 3.4% (year two) and 3.7% per year (year three), agreed to by the University at the same time it announced a pay and hiring freeze for the rest of the University.
  7. The University bargained in good faith, but has declined to accept all of the GEO's demands. In response on September 8<sup>th</sup> the GEO has initiated an unlawful work stoppage among members of its bargaining unit, and has encouraged and authorized and organized the illegal work stoppage.
  8. The work stoppage is, in part, for the purpose of inducing, influencing or coercing a change in employment conditions and compensation, which constitutes a prohibited "strike", in violation of Section 2 of the Michigan Public Employment Relations Act, MCLA 423.202 ("MPERA"). By initiating an illegal strike during the term of the collective bargaining agreement in furtherance of its demands, and by organizing, encouraging and authorizing such strike among members of its bargaining unit, Respondent has violated its duty to bargain and Section 10(1)(e) of PERA, MCLA 423.210 (1)(e).
  9. By initiating a strike and work stoppage during the term of the collective bargaining agreement in furtherance of its demands, and by organizing, encouraging and authorizing such strike and work stoppage among members of its bargaining unit, Respondent has repudiated sections of the collective bargaining agreement between the parties (specifically Article III, "No Interference", and Article XXIV "Waiver"), in violation of Section 10(1)(e) of PERA. This violation is further evident in GEO striking and instituting a work stoppage in furtherance of bargaining demands made but withdrawn at the bargaining table in settlement of the collective bargaining agreement.

10. By initiating a work stoppage in furtherance of demands that are non-mandatory and/or illegal subjects of bargaining, and by organizing, encouraging, and authorizing such work stoppage among members of its bargaining unit, Respondent has further violated its duty to bargain and Section 10(1)(e) of PERA.

WHEREFORE, THE UNIVERSITY OF MICHIGAN requests that the Commission:

- 1) Order Respondent and its officers and agents to cease and desist from unlawfully striking or conducting a work stoppage against the University of Michigan, or from organizing, authorizing or engaging in such action;
- 2) Order Respondent to cease and desist from repudiating its collective bargaining agreement with the University; and
- 3) Order Respondent to cease and desist from violating its duty to bargain collectively under PERA, including demanding bargaining on mandatory and/or illegal subjects of bargaining over the University's objections.

Respectfully submitted,

Butzel Long, a Professional Corporation    University of Michigan  
Attorneys for Charging Party

By: Craig S. Schwartz  
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By: /s/ Gloria Hage  
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MICHIGAN DEPARTMENT OF LABOR AND ECONOMIC OPPORTUNITY  
EMPLOYMENT RELATIONS COMMISSION (MERC)  
LABOR RELATIONS DIVISION

University of Michigan,

Charging Party

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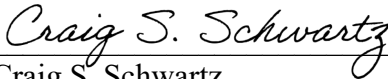
**PROOF OF SERVICE**

Craig S. Schwartz states that on September 8, 2020, he served Charging Party's Unfair Labor Practice Charge (with attachment) together with this Proof of Service upon:

Sumeet Patwarden – President  
Graduate Employees Organization  
American Federal of Teachers Local 3550  
339 East Liberty Street, Suite 340  
Ann Arbor, MI 48104

[president@geo3550.org](mailto:president@geo3550.org)

via e-mail and by enclosing said document in an envelope addressed to the above-referenced individual with postage fully prepaid and by depositing said envelopes in the United States mail, Bloomfield Hills, Michigan.

  
\_\_\_\_\_  
Craig S. Schwartz