

ARBITRATION CLASS 1

August 26, 2009

INTRODUCTION

- WHO ARE YOU?
- WHY ARE YOU INTERESTED IN THIS?
- WHO AM I?

CLASS RULES

PARTICIPATION

- I REALLY ENCOURAGE PARTICIPATION
- I CAN EASILY LECTURE FOR THE ENTIRE 2 HOURS
- DON'T MAKE ME DO IT!
- SAVE ME FROM MYSELF—PLEASE!
- OH, YEAH, IT WILL BE PART OF YOUR GRADE

MORE RULES

- ATTENDANCE

- ◆ YES IT'S IMPORTANT
- ◆ SIGN IN SHEETS
- ◆ IF YOU AREN'T GOING TO MAKE IT SEND ME AN EMAIL
- ◆ I TAKE ATTENDANCE SERIOUSLY—REALLY
- ◆ I WILL LOWER GRADES FOR MULTIPLE MISSES OF CLASS

- GRADING

- ◆ QUALITY OF PARTICIPATION IN THE MOCK ARBITRATION
- ◆ HIGH QUALITY PARTICIPATION IN CLASS WILL ALSO HELP
- ◆ BAD ATTENDANCE WILL HURT

CONTACTING ME

- I DON'T LIVE IN EUGENE SO:
 - ◆ EMAIL WORKS BEST
 - miketlaw@miketlaw.com
- OFFICE HOURS
 - ◆ WEDNESDAYS 2-4
 - ◆ BY APPOINTMENT-
 - ◆ THIS WORKS BEST FOR ME
- I REALLY ENCOURAGE CONTACT

SCHEDULING

- The class is scheduled to begin on Wednesday's at 8:30 am.
- There will be no class on November 4 and 11.
- The mock arbitrations for the class will be held on, November 13 and 20.
- Participation in the mock arbitration on one of these days is mandatory.

MOCK ARBITRATION

- SEPTEMBER 9–FORMATION OF TEAMS
- SEPTEMBER 30–SUBMISSION OF PRELIMINARY WITNESS AND EXHIBIT LISTS AND DRAFT HEARING STATEMENT
- OCTOBER 14– SUBMISSION OF DRAFT OPENING STATEMENTS
- OCTOBER 28–SUBMISSION OF DRAFT WITNESS QUESTIONS–CROSS AND DIRECT AND SUBMISSION OF DRAFT CLOSING ARGUMENTS

CLASS EMPHASIS

- LABOR RELATIONS
- WHY? BECAUSE THAT IS WHAT I DO
- IT IS THE MOST COMMON FORM--
 - ◆ Well that's my rationale and I am sticking with it.

WHAT IS AN ARBITRATION?

- ADJUDICATIVE MECHANISM FOR
 - ◆ PRIVATE AGREEMENTS
- JUDICIAL IN NATURE
- ENFORCEMENT OF AWARDS IS AN ISSUE THAT HAS BEEN WRESTLED WITH SINCE ARBITRATION BEGAN

HISTORICAL RESISTANCE TO

- CIVIL COURTS WERE HISTORICALLY HOSTILE TO THE IDEA OF ARBITRATION
- JURY SYSTEM PROPONENTS ALSO HAVE BEEN HISTORICALLY HOSTILE

EARLY COURT CASES ON

- REACHED THE COURT SYSTEM THROUGH EITHER
 - ◆ ASKING THE COURT TO COMPEL ARBITRATION PURSUANT TO A PRIVATE AGREEMENT, OR,
 - ◆ ASKING THE COURT TO ENFORCE AN ARBITRATION DECISION

THE EARLY JUDICIAL VIEW

- EQUITY WILL NOT DO AN INJUSTICE:
 - ◆ SO IF AN ARBITRATION DOES AN INJUSTICE IT WILL NOT BE ENFORCED.
 - ◆ ARBITRATION DEPRIVES PARTIES OF THEIR RIGHTS UNDER THE LAW

WHAT AUTHORITY DOES THE

- THE ARBITRATOR HAS NO INHERENT AUTHORITY
- THE ARBITRATOR CAN'T:
 - ◆ ADMINISTER THE OATH
 - ◆ COMPEL WITNESSES
 - ◆ COMPEL DOCUMENTS

EARLY CASES: THE ROLE OF

- THE COURT IS UNCOMFORTABLE WITH THE CONCEPT OF PRIVATE JUSTICE
- THERE IS A CONCERN THAT ONE PARTY WILL GETTING TAKEN ADVANTAGE OF
 - ◆ THIS IS STILL A CONCERN TODAY IN ARBITRATION
 - ◆ EXCEPT FOR LABOR ARBITRATION

WHY IS ARBITRATION

- WHY IS THIS DIFFERENT FROM CONTRACTING WITH AN ARTIST TO PAINT A PICTURE
- WHY IS A PERSONS FREEDOM TO CONTRACT SO THREATENING TO THE SYSTEM
- ARE THERE CIRCUMSTANCES WHERE IT SHOULD BE?

US ARBITRATION FACT (FAA) AND UNIFORM ARBITRATION ACT

- DEAL WITH ARBITRATIONS ARISING OUT OF CONTRACTS OF COMMERCE
 - ◆ EXCLUDES LABOR AGREEMENTS
 - ◆ INTENDS TO BE A MODEL ACT

ARBITRATION/MEDIATION

- ◆ FINAL V. ADVISORY
- ◆ FORMAL AUTHORITY V. NO AUTHORITY
- ◆ DECIDING THE CASE V. MAKING THE DEAL



VARIETY OF DECISION

- SINGLE V. PANEL ARBITRATION
- PANELS USUALLY INCLUDE MULTIPLES ADVOCATES AND A NEUTRAL
 - ◆ SINGLE IS PREFERRED
 - ◆ CHEAPER
 - ◆ SCHEDULES EASIER

SELECTING AN ARBITRATOR

- MUTUAL SELECTION
- PERMANENT PANELS
- SELECTION OF LISTS
 - ◆ EMPLOYMENT RELATIONS BOARD
 - ◆ AMERICAN ARBITRATION ASSOCIATION
 - ◆ FEDERAL MEDIATION SERVICE
 - ◆ OTHER PRIVATE PANELS



Oregon

Thosias B. Katsigoras, Governor

Employment Relations Board

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March 20, 2007

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Re: City of Roseburg / IAFF Local 1100
Non-Emergency Overtime Grievance

Gentlemen:

Pursuant to Irik Rinzert's request received yesterday, I am pleased to submit the following list of arbitrators:

Philip K. Kienast
Timothy D.W. Williams
Nancy E. Brown
Katrina L. Borchelder
Alan R. Krebs
David M. Blair
Kathryn T. Whalen

Please notify the arbitrator of his/her selection and arrange with him/her for a mutually convenient time and place for the hearing.

Please advise this office of your selection.

Very truly yours,

Sandra Elliott
Administrative Specialist

enclosures

c: Eric Swanson (w/o enclosures)
Irik Rinzert (w/o enclosures)