

## **2002 - 2006**

The number of cases filed with the Board decreased dramatically during the years 2002 through 2006. The average annual average of cases filed was 57, 30 percent lower than the annual average from the preceding fifteen years. The primary reason for the decrease was that the number of grievances dropped almost by half. The average annual number of grievances filed was 25 during the period, compared to 46 during the preceding five years. The substantial decrease in grievances was particularly pronounced with respect to grievances filed on behalf of state employees. The cumulative effect of a large body of precedents contributed to the parties devoting efforts to resolving issues without Board involvement.<sup>1</sup>

During 2002 – 2006, grievances represented 45 percent of case filings, compared to 58 percent during the preceding five years. Unit determination / representation cases constituted 26 percent of filed cases, compared to 17 percent from 1997-2001. Unfair labor practice charges also were 26 percent of filings, compared to 22 percent during the preceding five years. Miscellaneous cases constituted the remaining 3 percent.<sup>2</sup>

Union representation elections were at similar decreased levels to the preceding five years. The annual average number of elections was 9 during this period, compared to 8.4 from 1997 to 2001. Unions prevailed in 86 percent of the elections, compared to 98 percent from 1997-2001.<sup>3</sup>

The lower number of filed cases during the period did not always translate into a reduction in workload on cases. This is because there was an increasing time commitment required for the average case. Factors contributing to this were a trend towards increased use of discovery by attorneys coming before the Board, more

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<sup>1</sup> 2002 – 2006 Annual Reports, Vermont Labor Relations Board.

<sup>2</sup> Id.

<sup>3</sup> Id.

difficult cases, and periods where there were more *pro se* cases which typically required additional resources and time due to the self-represented employee's unfamiliarity with Board processes.<sup>4</sup>

The trend of a much higher number of case closings by settlement or withdrawal, which developed during 1997-2001, continued during the years 2002 through 2006. Case closings by settlement or withdrawal were nearly double the closings by decision during this period.<sup>5</sup>

The percentage of Board decisions appealed to the Supreme Court continued at low levels. 20 percent of decisions were appealed during this period, compared to 17 percent during the preceding five-year period. The Board continued to improve its rate of success in having decisions affirmed by the Court during the period. The Board was affirmed in 90 percent of decisions, partially affirmed in 5 percent, and reversed in only 5 percent. Also, the numbers of appeals of Board decisions pending at the Court dropped to unprecedented lows.<sup>6</sup>

Board Chairperson Catherine Frank, the first woman to serve on the Board and second-longest serving Board member in Board history, stepped down from the Board in 2002 after serving more than 16 years. She served as Chairperson for the last seven years of her tenure. Joan Wilson of St. Albans was appointed to succeed her as Board member. The Board elected Richard Park, who has served on the Board since 1995, as Board Chairperson to replace Frank. Park served as Chairperson for two years. The Board elected Edward Zuccaro to succeed Park as Chairperson in 2004. The Board re-elected him for a two-year term in 2006.<sup>7</sup>

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<sup>4</sup> 2002 – 2003 Annual Reports, Vermont Labor Relations Board.

<sup>5</sup> 2002 – 2006 Annual Reports, Vermont Labor Relations Board.

<sup>6</sup> Id.

<sup>7</sup> Id.

There were significant changes in the composition and structure of the Board in 2006. Carroll Comstock, the third-longest serving Board member in Board history, stepped down in 2006 after serving on the Board more than sixteen years.<sup>8</sup> Also, the structure of the Board was changed in 2006. The Board expanded to six members serving six-year staggered terms. The appointment of Board members changed from selection based on political party to a tripartite structure with two members with neutral backgrounds, two members with labor backgrounds and two members with management backgrounds. A review panel was set up to submit to the governor a list of nominees whom the panel determined to be qualified for membership on the board. The panel system of three members hearing cases was maintained.<sup>9</sup>

The completion of Comstock's tenure and the statutory structural changes in the Board led to Governor Douglas making appointments of two new members to the Board in 2006. Leonard Berliner of Quechee and James Dunn of Burlington joined Chairperson Zuccaro, Richard Park, John Zampieri and Joan Wilson on the Board.<sup>10</sup>

The Board continued its publication of annual volumes of decisions during this period. It annually updated its *Guide to Vermont Labor Relations Statutes*, and revised its *Practice and Procedure Manual*. The Board discontinued its newsletter, concluding that its usefulness had considerably diminished with the expansion and updating of the Board's website.

The Board continued to be involved in offering labor relations practitioners regular labor relations conferences. The Board was actively involved in the New England Consortium of State Labor Relations Agencies throughout the period. It

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<sup>8</sup> 2006 Annual Report, Vermont Labor Relations Board.

<sup>9</sup> Act No. 187 (2005 Adj. Sess.).

<sup>10</sup> 2006 Annual Report, Vermont Labor Relations Board.

participated in the planning and conducting of training sessions and annual summer labor relations conferences offered by the Consortium which attracted labor relations practitioners from throughout New England and New York. The Board also sponsored one state labor relations conference during this period.<sup>11</sup>

Further, the Board Executive Director continued to be the trainer for two or three training sessions offered annually during this period. The training sessions for labor relations practitioners were on presenting unit determination/representation and unfair labor practice cases to the Board, and on dealing with difficult substantive and procedural issues that arise in discipline and other cases in administering collective bargaining contracts.<sup>12</sup>

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<sup>11</sup> Id.

<sup>12</sup> Id.