

**STATE OF MINNESOTA
IN COURT OF APPEALS**

In the Matter of a Petition for
Determination of an Appropriate Unit and
Certification as Exclusive Representative

Regents of the University of Minnesota,
Relator,

v.

Service Employees International Union,
Local 284,

and

Bureau of Mediation Services,
Respondents.

**RELATOR’S MOTION FOR STAY
OF AGENCY PROCEEDINGS**

Court of Appeals Case No.: A16-1985

BUREAU OF MEDIATION SERVICES
CASE NO. 16-PCE-0644

DATE OF UNIT DETERMINATION
ORDER: September 20, 2016, as
amended by Ruling on Request for
Reconsideration dated November 29,
2016

Pursuant to Minnesota Rules of Civil Appellate Procedure 108.02, Subd. 6, 115.03, Subd. 2(b), and 127, Relator Regents of the University of Minnesota (the “University”) respectfully moves the Court of Appeals for an Order staying all proceedings before the Bureau of Mediation Services (the “Bureau”). The University seek appellate review of the Bureau’s September 20, 2016 Unit Determination Order - Community of Interest (the “Unit Determination Order”) and the Bureau’s November 29, 2016 order denying the University’s request for reconsideration. The Unit Determination Order moved the non-faculty job classifications of Lecturer, Teaching Specialist, Senior Lecturer and Senior Teaching Specialist (collectively, the “Disputed Teaching Classifications”) to the Twin Cities faculty bargaining unit described at Minn. Stat. § 179A.11, Subd. 1(8) (“Unit 8”) for the purposes of a union representation election. The

University filed this appeal on December 15, 2016 and sought a stay from the Bureau pending this appeal, which was denied On January 3, 2017. This Motion is supported by the accompanying Memorandum of Law, affidavit, and exhibits.

The Bureau continues to press for an election in the disputed bargaining unit at the earliest possible date. Since issuing the Unit Determination Order, the Bureau has required the parties to submit statements of their positions on numerous issues, ordered the University to produce extensive amounts of data and other information, ordered the parties to attend pre-hearing conferences, and held informal meetings and telephone conferences with the parties' attorneys. Resolution of the many open issues that must be determined before an election is conducted requires the University to submit additional data to identify eligible voters, review of the data by the Bureau and the Union to determine whether to challenge any of the University's determinations, hearings and written briefs on these and related issues, and a final identification of eligible voters. Once eligible voters are identified, the Bureau issues an order for election, prepares ballots and lists of eligible voters, and ultimately certifies the results of the election. The results are then subject to challenge.

If the proceedings are not stayed at this juncture, the Bureau will proceed with these undertakings and issue an order providing for an election in the bargaining unit that it artificially created. The proceedings that remain before the Bureau are inextricably intertwined with conducting an election.

A stay of the proceedings before the Bureau is necessary now so that a determination on the legality of the Unit Determination Order can be made before

additional time and public resources are spent moving forward with a union election that may well be overturned because the bargaining unit in which it was conducted does not comport with state law. Proceeding with an election in which the results may be invalidated is wasteful of resources, compromises the University's ability to conduct its academic operations, and overlooks the confusion that may result for University employees and their families. It is fundamentally unfair to ask employees to vote on union representation without knowing which job classifications are appropriately and lawfully included in their bargaining unit.

Because of these harms, any relief provided by this Court would be illusory without a stay. A stay will allow this Court to consider the important question of public policy this case raises—whether the Bureau has the authority to reconfigure University bargaining units that reflect the Legislature's understanding of the role of University faculty—before ballots are cast.

[Signature block on following page]

Dated: January 27, 2017

Respectfully submitted,

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