

237A

STATE OF MICHIGAN  
DEPARTMENT OF CONSUMER & INDUSTRY SERVICES  
MICHIGAN EMPLOYMENT RELATIONS COMMISSION  
ACT 312, PUBLIC ACTS OF 1969 AS AMENDED

*In the Matter of the Act 312  
Arbitration Between:*

OAKLAND COUNTY AND THE  
OAKLAND COUNTY SHERIFF'S OFFICE

Employer  
-and-

MERC Act 312  
MERC Case No. D09 G-0806

OAKLAND COUNTY COMMAND  
OFFICERS ASSOCIATION AND COMMAND  
OFFICERS ASSOCIATION OF MICHIGAN

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**ARBITRATION PANEL OPINION AND AWARDS**

**George T. Roumell, Jr., Chairman  
Thomas Eaton, County Delegate  
Kenneth E. Grabowski, Union Delegate**

**APPEARANCES:**

FOR THE COUNTY OF OAKLAND AND  
THE OAKLAND COUNTY SHERIFF'S  
OFFICE:

Malcolm Brown, Attorney

FOR OAKLAND COUNTY COMMAND  
OFFICERS ASSOCIATION AND  
COMMAND OFFICERS ASSOCIATION  
OF MICHIGAN:

William Birdseye, Advocate

**Background**

The Command Officers Association of Michigan represents the Command Officers of the Oakland County Sheriff's Office which consists of approximately 89 Officers holding the rank of Sergeant, Lieutenant and Captain, respectively.

The most recent contract between the County, on behalf of the Oakland County Sheriff's Office, and the Command Officers Association of Michigan ("COAM") covers the period from October 1, 2008 through September 30, 2009, paralleling the County's fiscal year which runs from October 1 to September 30.

The parties have advised the Chairman that as part of this proceeding the parties have agreed as follows: that the Labor Contract shall be considered properly terminated effective October 1, 2009<sup>1</sup>; that the Award herein shall cover the time period October 1, 2009 through September 30, 2012; and that any Award concerning wages shall not be retroactive, regardless of whether there is a wage increase or decrease.

#### **The Issues**

After consulting with the Chairman, the issues between the parties were as follows:

1. Wages for:
  - FY 2010 (October 1, 2009 to September 30, 2010)
  - FY 2011 (October 1, 2010 to September 30, 2011)
  - FY 2012 (October 2, 2011 to September 30, 2012)
2. Health care insurance contributions;
3. The three hundred (\$300) dollar County matching contribution to the §457 Plan.

#### **The Criteria**

Pursuant to Section 9 (MCLA 423.239) of Act 312 of Public Acts of 1969, as amended, the Legislature has set forth the following criteria that an Act 312 Panel is to follow when issuing an Act 312 Award. The criteria is:

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<sup>1</sup> This has been the subject of an unfair labor practice complaint. Since this Award resolves the issue raised by the unfair labor practice complaint, the County has agreed to withdraw that complaint at the request of the Chair.

Where there is no agreement between the parties, or where there is an agreement but the parties have begun negotiations or discussions looking to a new agreement or amendment of the existing agreement, and wage rates or other conditions of employment under the proposed new or amended agreement are in dispute, the arbitration panel shall base its findings, opinions and order upon the following factors, as applicable.

- (a) The lawful authority of the employer.
- (b) Stipulations of the parties.
- (c) The interests and welfare of the public and the financial ability of the unit of government to meet those costs.
- (d) Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally.
  - (i) in public employment in comparable communities.
  - (ii) In private employment in comparable communities.
- (e) The average consumer prices for goods and services, commonly known as the cost of living.
- (f) The overall compensation presently received by the employees including direct wage compensation, vacations, holidays and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
- (g) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- (h) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact finding, arbitration or otherwise between the parties, in the public service or in private employment.

Although the Panel has considered all the Act 312 criteria, there are two dominant criteria involved in this dispute. Economics have dominated the County's concern. As a result, the County has adopted certain cost saving measures that it has negotiated with its non-Act 312

eligible bargaining units. This comparable is based upon the County's economics and addresses in particular health care contributions.

**Issues**

**Health Care**

The County has obtained the following health care contributions from its non-Act 312 eligible employees represented by unions. These contributions are based on 2009 rates. The contributions, based upon the 2009 rates, are as follows:

		<u>Employee Contribution</u>	<u>Deductible</u>	<u>Office Visit</u>	<u>Rx Co-Pay</u>
		Individual/Two Person/Family			
Proposed	PPO	\$832/\$1690/\$1950	\$200/\$400	\$20	\$5/\$10/\$25
	CCM	\$208/\$520/\$832	\$350/\$700	80%/20%	\$5/\$10/\$25
Hired before 1/1/2010	HAP	\$1352/\$2314/\$2444	None	\$20	\$5/\$10/\$25
Hired before 1/1/2000	BCBS Trad	\$1352/\$2314/\$2444	\$200/\$400	90%/10%	\$5/\$10/\$25

The County proposes that the employee contribution rates be adopted as its Last Best Offer for the Sheriff Command Unit. The Chairman agrees. There is nothing unusual or unique in providing health care for Sheriff Department sworn Officers and Command and other County employees. There is no basis for the Command to be treated any differently than the vast majority of County employees. Under these circumstances, the Chairman, joined by the County Delegate, will adopt the County's Last Best Offer as to health care based upon the above stated 2009 employee contribution rates.

**Wages**

The FY 2009 Agreement (October 1, 2008 to September 30, 2009) provided as to wages in Appendix A as follows:

APPENDIX A

**I. SALARIES FY 2008**

The following bi-weekly salary schedule shall prevail effective and retroactive to September 29, 2007:

<u>Classification</u>	<u>Base</u>	<u>1 Year</u>	<u>2 Year</u>
Captain	3155.03	3260.30	3365.80
Lieutenant	2883.14	2971.46	3059.83
Sergeant	2668.46	2722.30	2781.65

**FY09**

The following bi-weekly salary schedule shall prevail effective and retroactive to September 27, 2008:

<u>Classification</u>	<u>Base</u>	<u>1 Year</u>	<u>2 Year</u>
Captain	3186.58	3292.90	3399.46
Lieutenant	2911.97	3001.17	3090.43
Sergeant	2695.14	2749.52	2809.47

Effective with the O.C.D.S.A. 's 312 decision, the differential at the 2 year step of the Sergeant for FY 2008 will be 14% and for FY 2008 will be 15% at a minimum above the 5 year step of the 312 Eligible Deputy II rate (including road bonus.) The 10% differential will continue between the top step of each classification in this bargaining unit - any increase for FY2008, and/or FY2009, will be retroactive to the beginning of the first pay period of the respective fiscal year.

**II. CAPTAIN WEEKEND DUTY PAY**

The one Captain designated to be on-call during a week, including non-office hours on weekdays and on Saturday and Sunday, and who shall be on-call and shall work scheduled or called, shall be compensated \$700.00 per week of such schedule. Captains are no longer required to report to the Sheriffs Office on Holidays but will be on call.

Thus, the wages of the Command were tied into the wages of the Sheriff Deputies who were Act 312 eligible.<sup>2</sup> The County has obtained a 2 ½% reduction in wages for FY 2010 (October 1, 2009 to September 30, 2010) from all of its non-Act 312 eligible bargaining units,

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<sup>2</sup> The Act 312 Award between the County and the OCDSA was issued on September 11, 2009 and the above wage rates were subsequently adjusted.

including the Correction Officers in the Sheriff's Department. The County has indicated that the County is seeking such a reduction among the Deputies and the Command. In addition, the County is seeking an additional 1 ½% further reduction from its employees including the Deputies, Correction Officers and the Command for FY 2011 (October 1, 2010 to September 30, 2011). Thus, the County, by the second year of the contract in dispute here, namely, October 1, 2010 through September 30, 2011, would be paying Command 4% less than the wages that the Command were receiving as of September 30, 2009. For fiscal year 2012 (October 1, 2011 to September 30, 2012), the Arbitrator is to decide a wage decrease, increase or status quo (0%).

What became the issue is that at the time these proceedings are being conducted, the County almost simultaneously is engaged in an Act 312 proceeding with the Deputies and, for that matter, a fact finding proceeding with the Correction Officers.

To avoid two separate Act 312 awards, recognizing that the Command wages are a differential of the Deputies, the County has proposed that as to wages for fiscal year 2010 (October 1, 2009 to September 30, 2010) and fiscal year 2011 (October 1, 2010 to September 30, 2011) the Command should receive the same differential based upon the Deputies' wages, whatever those wages may be, whether they be a reduction that the County is maintaining or otherwise. As to the wages for fiscal year 2012, the County has proposed a 0% increase, with the 15% wage differential suspended for FY 2012 and remaining suspended until a new labor contract is negotiated or an Act 312 Award issued between the parties for a new labor contract for FY 2013 (October 1, 2012 to September 30, 2013).

The County has proposed that any changes in the wage rates for fiscal years 2010 and 2011 would be based upon the percentage increase or decrease in the Act 312 wage award for the

Deputy Union. With the County's Delegate in support of this proposal and the Union Delegate dissenting, the Chairman adopts the County's proposal for fiscal year 2010 (October 1, 2009 to September 30, 2010) and fiscal year 2011 (October 1, 2010 to September 30, 2011). For fiscal year 2012, the Panel, with the Union Delegate dissenting, awards 0% with the wage differential suspended until a new labor contract for FY 2013 (October 1, 2012 to September 30, 2013) is negotiated by the parties or an Act 312 Award is issued between the parties.

#### 457 Contribution

The County has matched employees' contributions to the employee's 457 plan up to \$300 per year on a calendar year basis. However, the County stopped making its contribution for the Command in the year 2010. The County did this because it had ceased making contributions to other bargaining units either by negotiations or otherwise.

This position of the County was part of the County's cost saving efforts.

The County for calendar year 2010 has agreed to continue to match up to \$300, but to eliminate it for the calendar year 2011. The Chairman agrees with the County on its Last Best Offer with the Union Delegate dissenting. The reason the Chairman agrees is that the County has taken this position County-wide and, therefore, there is no basis to treat the Command any differently than a majority of the County employees.

#### Other Terms

The Panel agrees that all other terms of the contract remain in effect that were in effect in the 2008-2009 contract except as modified herein.

The Awards that follow are based upon the above analysis. The Awards that follow may be signed on separate pages and the signatures will be valid as if signed on one document.

Duration

The duration of the Collective Bargaining Agreement shall be three years – October 1, 2009 through September 30, 2012.

A W A R D S

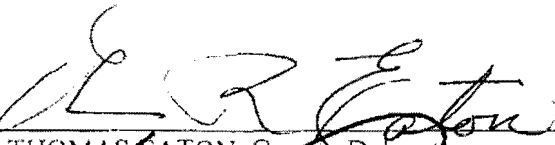
1. Effective the date of this Award, the employee health care contributions of the members of the bargaining unit shall be as follows:

		<u>Employee Contribution</u>	<u>Deductible</u>	<u>Office Visit</u>	<u>Rx Co-Pay</u>
		<u>Individual/Two Person/Family</u>			
Proposed	PPO	\$832/\$1690/\$1950	\$200/\$400	\$20	\$5/\$10/\$25
	CCM	\$208/\$520/\$832	\$350/\$700	80%/20%	\$5/\$10/\$25
Hired before 1/1/2010	HAP	\$1352/\$2314/\$2444	None	\$20	\$5/\$10/\$25
Hired before 1/1/2000	BCBS Trad	\$1352/\$2314/\$2444	\$200/\$400	90%/10%	\$5/\$10/\$25

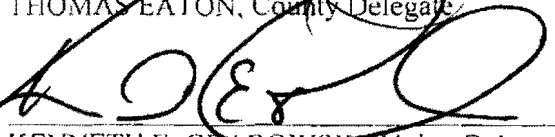
7-6-11  
Dated

  
GEORGE T. ROUMELL, JR., Chairman

7-6-11  
Dated

  
THOMAS EATON, County Delegate

7-6-11  
Dated

  
KENNETH E. GRABOWSKI, Union Delegate  
Dissenting

2. Wages. Appendix A of the contract as to wages for FY 2010 and FY 2011 shall read:

APPENDIX A

1. The following bi-weekly salary schedule shall prevail except



it shall be applied as noted in the Chairman's discussion set forth in the paragraph below that begins with the words "This means ...":

<u>Classification</u>	<u>Base</u>	<u>1 Year</u>	<u>2 Year</u>
Captain	3301.30	3411.44	3521.84
Lieutenant	3016.80	3109.21	3201.69
Sergeant	2792.17	2848.50	2910.61

Effective with the O.C.D.S.A. 's Act 312 decision, the differential at the 2 year step of the Sergeant for FY 2010 and 2011 will be 15% at a minimum above the 5 year step of the 312 Eligible Deputy II rate (including road bonus.) The 10% differential will continue between the top step of each classification in this bargaining unit.

**II. CAPTAIN WEEKEND DUTY PAY**

The one Captain designated to be on-call during a week, including non-office hours on weekdays and on Saturday and Sunday, and who shall be on-call and shall work scheduled or called, shall be compensated \$700.00 per week of such schedule. Captains are no longer required to report to the Sheriffs Office on Holidays but will be on call.

This means that the differential between the Command and the Deputies shall continue for FY 2010 and FY 2011 at 15% and no more and shall be based on the Deputies' wages, even if there is a reduction in wages. Any reduction in wages received by the 312 eligible Deputies will be applied to the Command Officer Unit. The parties have agreed that any wage increase or decrease shall not be retroactive.

For FY 2012 (October 1, 2011 to September 30, 2012), there shall be no wage decrease or increase (0%) for the Command Union, regardless of any Act 312 Award received by the OCDSA Deputies or any increase or decrease in wages negotiated by the OCDSA Deputies. The wage differentials set forth in Appendix A-I of the Command Labor Contract shall be suspended for FY 2012 and shall remain suspended until a new Labor Contract beginning October 1, 2013 is negotiated by the parties or an Act 312 Award is issued for a new Labor Contract beginning October 1, 2013.

7-6-11  
Dated

*George T. Roumell, Jr.*  
GEORGE T. ROUMELL, JR., Chairman

7-6-11  
Dated

*Thomas Eaton*  
THOMAS EATON, County Delegate

7-6-11  
Dated

*Kenneth E. Grabowski*  
KENNETH E. GRABOWSKI, Union Delegate  
Dissenting

3. The County's contribution to the 457 Plan shall continue to be applied for the calendar year 2010, but thereafter, namely, for the calendar year 2011, the matching obligation shall cease.

7-6-11  
Dated

*George T. Roumell, Jr.*  
GEORGE T. ROUMELL, JR., Chairman

7-6-11  
Dated

*Thomas Eaton*  
THOMAS EATON, County Delegate

7-6-11  
Dated

*Kenneth E. Grabowski*  
KENNETH E. GRABOWSKI, Union Delegate  
Dissenting

4. Other Terms. The terms of the 2008-2009 contract not changed by this Award or otherwise changed by agreement of the parties shall continue for FY 2010, 2011 and 2012.


7-6-11  
Dated

*George T. Roumell, Jr.*  
GEORGE T. ROUMELL, JR., Chairman

7-6-11  
Dated

*Thomas Eaton*  
THOMAS EATON, County Delegate

7-6-11  
Dated


  
KENNETH E. GRABOWSKI, Union Delegate

5. Duration. The contract shall be for three years – October 1, 2009 through September 30, 2012.


7-6-11  
Dated

  
GEORGE T. ROUMELL, JR., Chairman

7-6-11  
Dated

  
THOMAS EATON, County Delegate

7-6-11  
Dated

  
KENNETH E. GRABOWSKI, Union Delegate