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MEA Loses Round On PAC Donations

Teachers won't be able to have political contributions deducted from their paychecks, according to a Court of Appeals decision written Thursday.

The plaintiff in the case, the Michigan Education Association (MEA), is reviewing the decision and hasn't decided whether to appeal.

"Teachers, who are voters, are not allowed to participate in the electoral process through the First Amendment, so that's a problem," said MEA Lobbyist Ed **SARPOLUS**.

Some of the MEA's collective bargaining agreements, including the one between the Kalamazoo County Education Association/Gull Lake Education Association and Gull Lake Public Schools, have a requirement that the district has a payroll deduction plan for contributions to the MEA political action committee (PAC).

The MEA offered to pay in advance the district's costs for administering the deduction plan. It filed a request for a declaratory ruling from the Secretary of State on Aug. 22, 2006. Two months later, the SOS nixed the idea and the union filed suit. An Ingham County judge ruled for the MEA and allowed the deduction systems to go forward.

The 2-1 decision signed by Appellate Judges Peter **O'CONNELL** and Kurtis **WILDER** reversed the lower court, writing that the Michigan Campaign Finance Act (MCFA) prohibits government funds to make political donations.

"We also find that reimbursement, advance or otherwise,

does not prevent an otherwise illegal expenditure from ever becoming an expenditure because 'there is no transfer of value,'" the appeals court judges wrote. "Contrary to the trial court's reasoning, a transfer of value has occurred because there is time spent by employees that monetary reimbursement cannot return."

Judge William **WHITBECK** dissented, writing that the administrative costs of Gull Lake Schools for collecting and delivering MEA member contributions do not constitute an expenditure as the MCFA defines the word.

"To me, this is relatively straightforward, and I am at a loss to understand how simply following the explicit language of the definitions contained in the MCFA turns it upside down or inside out, even concurrently or sequentially," he wrote.

Whitbeck used the analogy of the "self-contained looking-glass," even devoting his second footnote to explaining the Humpty Dumpty reference in Lewis **CARROLL**'s *Through the Looking Glass*. He said that this case should be a jumping off point for resolving questions about the MCFA's "hall of mirrors."

The defendants were the Secretary of State, Michigan Chamber of Commerce, Michigan State AFL-CIO, Change to Win, Mackinac Center for Public Policy, Senate Majority Leader Mike **BISHOP** (R-Rochester), Majority Floor Leader Alan **CROPSEY** (R-DeWitt) and Sen. Michelle **McMANUS** (R-Lake Leelanau). The case is *MEA v Secretary of State* (No. 280792).