IN THE MATTER OF CONCILIATION

INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, LOCAL 1144
AFL-CIO

STATE EMPLOYMENT RELATIONS BOARD
2004 DEC 22 P 12: 58

-AND-

CITY OF BAY VILLAGE

SERB CASE NUMBER: 03-MED-09-1019

CONCILIATOR'S FINDINGS
CONCILIATOR: DAVID M. PINCUS
DATE: DECEMBER 17, 2004

APPEARANCES

For the City

Gregory Jackson	Fire Chief
Steve Presley	Finance Director
Gary Ebert	Law Director
Gary C. Johnson	Attorney

For the Union

James Watts	Local President
Christopher Lyons	Negotiation Committee Member
Martin Garvey	Negotiation Committee Member
John Bidlake	Negotiation Committee Member
Brandon Dimacchia	Negotiation Committee Member
Tom Boatwright	Negotiation Committee Member

BACKGROUND OF CONCILIATION

The bargaining unit, Local 1144 of The International Association of Firefighters (hereinafter referred to as the "Union") is involved in the present dispute. The bargaining unit represents all full time employees occupying the positions of Firefighter, Lieutenant, and Captain, working in the City of Bay Village (hereinafter referred to as the "City" or "Employer") Division of Fire. There are appropriately twenty-five (25) members in this bargaining unit.

Bernadette Marczely held a fact-finding hearing on March 17, 2004. The record indicates ten (10) issues at impasse; which she was asked to resolve via articulated and well-

reasoned recommendations. Fact-finder Marczely rejected the Employer's pattern arguments by failing to rely on the negotiated outcomes realized by AFSCME Lodge 8 and Ohio Labor Council (FOP) in their most recent negotiations. It should be noted the Employer rejected Marczely's report causing the conciliation stage of the dispute resolution process. Since the aforementioned fact-finding hearing, the parties have not met nor negotiated to resolve the issues in dispute.

A conciliation hearing was held on July 27, 2004. Prior to the formal phase of the hearing, the parties were able to resolve several issues in dispute. Article XVI – Injury leave and Article XVIII – Uniform Maintenance Allowance. As a consequence, the following issues remained in dispute: Article XIII – Holidays, Article XX – Rates of Pay (Wages) and Article XX-Rates of Pay (Paramedic Pay).

These disputed matters were reviewed by this Conciliator by employing criteria specified in Ohio Revised Code Section 4117.14 (c)(4)(e), Section 4117.14(G)(7) and Section 4117.14(G)(7)(a)-(f). These guidelines include in pertinent part:

1. Past collectively bargained agreements, if any, between the parties;

2. Comparison of the issues submitted to final offer settlement relative to the employees in the bargaining unit involved with those uses related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;

3. The interests and welfare of the public, the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standard of public service;

4. The lawful authority of the public employer;

5. The stipulations of these parties;

6. Such other factors, not confined to those listed in this section, which are normally or traditionally taken into consideration in the determination of the issues submitted to the

final offer settlement through voluntary collective bargaining, mediation, fact-finding, or other impasse resolution procedures in the public service or in private employment.

Each of the above-mentioned factors were considered and given appropriate weight when deemed relevant by the Conciliator.

Per the parties' mutual agreement, all existing non-altered articles and tentative agreement reached during negotiations or prior to the formal portion of the conciliation hearing are hereby formally incorporated into this Conciliator's report. In addition, the parties entered into an Extension and Retroactivity Agreement (Joint Exhibit 1), which waived all limitations on the Conciliator's power as provided in Ohio Revised Code Section 4117.14(G)(11). They, more specifically, agreed that increases in rates of compensation and other matters with cost implications awarded by the Conciliator shall be effective in the 2004 calendar year and thereafter.

The following reflects the evidence and testimony presented by the parties, and the application of the relevant guidelines previously described. The subsequent portions of this award shall summarize the parties' arguments and evidence pertaining to the issues at impasse; followed by this Conciliator's findings.

SOME PRELIMINARY COMMENTS

Critical to the analysis which follows is a discussion of pattern bargaining and its impact on public sector negotiations, with special emphasis placed on the views held by most seasoned and experienced Fact-Finders and Conciliators. Clearly, pattern bargaining can become a critical feature of any analysis concerning disputed negotiated outcomes. To minimize its importance would destroy the very fiber of public sector dispute resolution and directly violate the guidelines contained in Ohio Revised Code Section 4117.14(G)(7)(a)-(f). Pattern bargaining arguments, more specifically, permeate several of the articulated guidelines; guidelines which must be

considered by any neutral accepting a SERB appointment. Items #1, #2, #3, and #6 anticipate the possible tendering of pattern bargaining arguments by either party. They also empower valid consideration, when appropriate, by neutrals engaged in public sector dispute resolution proceedings. As such, pattern arguments are only one of many plausible arguments available to either party.

In a report filed by Fact-Finder Dworkin in 1997, he underscored an axiom held by most interest arbitrators, "the burden is on the union to prove the necessity of defeating a bona fide pattern." This Conciliator, moreover, concurs with his reasoning regarding what must be proved if a bargaining unit hopes to successfully challenge a pattern argument proposed by any employer. These include, in pertinent part, the following standards:

1. That the employer's position does not derive from a true pattern.
2. The pattern argument is an attempt to abolish unique rights and privileges achieved by a bargaining unit.
3. Patterns should not be imposed if they are antithetical to the functions or history of the bargaining unit. Mere inappropriateness is not enough to overcome a practice.
4. A genuine pattern should not be recommended if it ruins the integrity, privacy, or power of a bargaining unit or its chosen representative.
5. An economic offer that is strikingly insufficient to compensate a particular group of employees equitably will not supplant a fair settlement no matter how many other units have ratified the pattern.

These principles should clearly indicate that "patterns' are vitally important aspects to be considered in any dispute resolution. And yet, they should not be viewed as the sole determining element, but must be reviewed on an issue by issue basis in conjunction with the other previously articulated guidelines. Application of these pattern principles serve as important safety values which protect both parties' interests. Without such understandings, an employer could easily whipsaw other unions by bargaining concessions from one of the

smaller units; and using these concessions to justify similar concessions from the larger bargaining units. In a like fashion, smaller bargaining units cannot bargain something substantially different than the majority; unless it deals with matters uniquely tied to the interest of the smaller bargaining unit.

An alternative perspective would merely reflect a pedestrian and uninformed view of public sector bargaining. Guidelines contained in the Ohio Revised Code have never been interpreted as excluding the possibility of pattern bargaining arguments. In fact, the previous analysis lends credence to this anticipated possibility. SERB's role in determining "the appropriate bargaining" unit does not diminish these conclusions. It appears relatively unreasonable to assume that unit determination outcomes by SERB would somehow trump clear and unambiguous guidelines codified in Ohio Revised Code Section 4117.14(G)(7)(a)-(f). Practices and custom, moreover, do not suggest that per se pattern arguments are the Union's sole jurisdiction. Either party may raise this argument based on strategic and tactical consideration.

This Conciliator, based on the analysis contained herein, is therefore unwilling to place undue reliance on Fact-Finder Marczely's findings and recommendations. Her reasoning is clearly defective based upon her misreading and misapplication of Ohio Revised Code Section 4117.14(G)(7)(a)-(f). Within this context, the deference theory proposed by the Union is considered unpersuasive. The matters in dispute are clearly elements of a de novo record to be reviewed by the Conciliator.

ARTICLE XIII - HOLIDAYS[1]

Section 13.03

Current Language

The existing provision compensates employees at the rate of time and one half (1½) for working five (5) particular days. These designated days include: New Year's Day, Memorial Day, 4th of July, Thanksgiving Day, and Christmas Day.

The Union's Position

At the Fact-Finding hearing, the Union proposed adding Labor Day and Veteran's Day as holidays paying time and one-half, if worked. This demand, however, was modified to reflect a staggered approach for the purpose of the conciliation hearing. The Union's new demand would add Veteran's Day as a holiday benefit effective January 1, 2004, while Labor Day would be added effective January 1, 2005. By January 1, 2006, therefore, a total of two (2) additional days would be added to the existing benefit.

The Union noted Fact-Finder Marczely had recommended the original proposal. As such, the newly modified proposal should be selected by the Conciliator since it represents a more economically manageable approach. Any economic impact, caused by the inclusion of this proposal, would be minimized by the staggered approach.

The Union relies extensively on a series of external comparables (Union Exhibit 2) in support of its premise regardless of the comparables chosen for analysis. The bargaining unit's present condition falls short of the average number of holidays paid at the overtime rate if worked. Even the comparables proposed by the Employer (Employer Exhibit 1) support this notion.

[1] The Union referenced in its submission a potential dispute involving a potential dispute involving Section 13.01. Yet during the course of the hearing, it appeared the parties agreed to current language. With no other representations in the record, the Conciliator rules that current language shall be retained.

The economic impact of this benefit, if selected, has been exaggerated by the Employer. The Employer's theory would be realized only if each member of the bargaining unit received the two (2) holiday increase, and was able to work on the holidays in question. Present conditions prevent this situation. Only a portion of the bargaining unit would work on each holiday.

The Employer's Position

The Employer seeks to retain the status quo. There is no reasonable justification to modify this existing benefit. The suggested adjustment ransacks the notion of internal consistency and is not supported by external comparables.

The Fact-Finder's recommendation, and the related Union's proposal, ignore an established pattern leading to inequitable outcomes. Both AFSCME and the FOP are paid time and one-half (1½) for hours worked on five (5) holidays. Acceptance of the Union's proposal would add an available forty-eight (48) hours to an already significant difference based on the Firefighters work schedule. A status quo outcome would retain an existing patterned difference. Five (5) days of overtime opportunity provide the Firefighters one hundred and twenty (120) hours, while the other bargaining units merely realize forty (40) hours.

Data provided by the Union in support of comparability arguments were defective and somewhat incomplete. Union Exhibit 2 contains outcomes, which on several occasions, failed to properly average overtime holiday data, causing exaggerated differences between specified "average" comparisons with the status quo.

The Conciliator's Finding and Ruling

From the evidence adduced at the hearing and a review of arguments and relevant documents, this Conciliator concludes the status quo shall be maintained. The Employer's proposal is accepted by the Conciliator.

The Union was unable to properly rebut the pattern argument raised by the Employer. In fact, it solely relied on external comparisons to justify the demand requested and never addressed the existing difference specified in the Agreement, let alone its supplemental request. Relying entirely on the Fact-Finder's pattern determination, without offering an argument in the alternative, weakened this proposed outcome dramatically.

At the hearing, the Union admitted statistics (Union Exhibit 2) offered in support of external comparables were sometimes in error based on averaging miscalculations. These errors, when identified, reduced the discrepancy between the specified average and the status quo. Even though some discrepancies still remained, the differences in question do not properly rebut the established pattern in this municipality. It would further exacerbate an existing difference based on hours worked and bargaining unit scheduling differences.

Any external comparable analysis is frayed with some "error of measurement." Contract language may be different to interpret and may lead to inaccurate appraisals. The broader the comparison group, regardless of the characteristic used to aggregate the data (i.e. ranking by compensation, medium family income), the greater error potential because of the diverse factors impinging on any particular negotiated outcomes. So, comparisons based on contiguous groupings reduce error inherent in the process.

The listing (Employer Exhibit 1) provided by the Employer appears to more closely approximate this axiom. The listed municipalities are for the most part contiguous to Bay

Village. As such, they are equally impacted by similar market conditions and economic exigencies. Out of seven comparable municipalities, there appears to be four with benefits exceeding the Employer's proposal, with three municipalities realizing less in terms of number of days at time and one-half.[2] In my view, this outcome does not represent a significant difference necessitating a deviation from the existing internal pattern. Relevant comparisons in the Union's favor, moreover, are made more difficult because rates of pay and method of payment differ depending on the municipality. Hours worked are sometimes paid at a straight time or one and a quarter (1¼) time rate. Other municipalities compensate bargaining unit members by providing for time off for any hours worked on holidays.

ARTICLE XX – RATES OF PAY

The Union's Position

The Union seeks to increase the current wage scale by 3.5% for each of the three (3) years of the newly negotiated collective bargaining agreement. It, therefore, proposes the following:

Effective January 1, 2004 – 3.5%
Effective January 1, 2005 – 3.5%
Effective January 1, 2006 – 3.5%

This proposal, moreover, represents the wage increases recommended by Fact-Finder Marczely.

The Union is merely attempting to move the existing rate of pay toward the average rate of pay enjoyed by the proposed comparables. If the rate of pay proposal is accepted by the Conciliator, the average will still be unattained. The result, however, would move this

[2] A re-reading of Union 10 which deals with the City of Fairview Park's holiday benefit did not result in an interpretation in the Union's favor.

benefit in the right direction toward the average. This premise easily supports the reasonableness of the Union's demands.

A series of submitted comparables, all distinguished by relevant comparison criteria, indicate the legitimacy of the Union's demands. Analyses were conducted by Population (Union Exhibit 4), West Side Suburbs (Union Exhibit 5), Top 15 Suburbs (Union Exhibit 5), Cuyahoga County Suburbs (Union Exhibit 5), and Solon Fact Finding Cities (Union Exhibit 5). These analyses indicate that the Employer's proposed raised would result in below average increases. The Union's proposed raises would only improve relative standing, but would not reach the "average" standard.[3] Overtime, the Employer's proposal would continue to erode the Union's quest toward achieving and/or exceeding the average rate of pay negotiated by the comparable groupings (Union Exhibit 6).

The Employer's proposal is unreasonable based on SERB's Annual Ten Year Wage Settlement Data for 1993-2002 (Union Exhibit 9). Data was categorized by Region (Cleveland), Jurisdiction (City) and Unit (Fire). All relevant categories evidence that the Employer's current proposal engenders a wage settlement, which is truly unreasonable. Municipalities nested within the previously mentioned categories realized wage settlements in excess of the Employer's proposal. A similar deficiency surfaces when analyzing data based on Contract Year. Again, the Employer's proposal fails to reach the wage increases realized in each of the contract years during the period in question.

Several arguments submitted by the Union deal with the pattern bargaining issue. The statewide data in the SERB report (Union Exhibit 9) fails to disclose any similar results

[3] The West Side Suburbs Comparison would exceed the average for the contract term 2004 if North Olmsted was included in the analysis. Subsequent years would still result in less than average outcomes.

between the Fire and Other categories. If pattern bargaining was indeed a well-established trend, average wage increase rates should have been closer.

Pattern bargaining also necessitates certain parity with other employees regardless of bargaining unit status. The Fire Chief and other administrative officials have been awarded 3.75% increases for 2004, 2005 and 2006 (Union Exhibit 7). Equity principles require an equal application regardless of status distinctions. Here, the gap lacks a reasonable justification.

Wage rate erosion will be heightened by the health insurance plan mutually agreed to by the parties prior to the Conciliation hearing. If the Employer's rate of pay argument was accepted, the healthcare offset would significantly reduce the net wage rate increase (Union Exhibit 8). Also, the net result would further frustrate the Union's attempt to reach the "average" wage rate standard.

Economic conditions, in general, and those enjoyed by the City of Bay Village, support the view that the wage proposal could easily be funded. Several Articles were introduced showing that the national economy has reached a growing and self-sustaining phase of expansion (Union Exhibit 11).

The Employer's economic condition appears to be equally healthy. It was able to maintain a Moody's bond rating of Aa3. This reflects a satisfactory financial position, moderately growing tax base with above average wealth levels and favorable debt position (Union Exhibit 3). A recently audit report (Union Exhibit 14) for the year ended December 31, 2002, further reflects solid financial conditions. Revenues exceeded expenditures and the excess was transferred to fund special revenue departments and capital improvements.

The Employer's Position

The Employer seeks the following percentage raises over the three (3) years of the collective bargaining agreement:

Effective January 1, 2004 – 3.25%
Effective January 1, 2005 – 3%
Effective January 1, 2006 – 3%

These rates were accepted by the AFSCME and FOP bargaining units without the use of any dispute resolution mechanism.

The Employer emphasizes it never proffered an inability to pay argument. Rather, ending fund balances have been reduced (Employer Exhibit 5), as have general fund balances (Employer Exhibit 6, Pg. 3). The primary reason for this lessened financial condition is the new police headquarters that is in the process of being constructed.

The wage rate proposal is viewed as extremely reasonable in light of the comparables. The proposed wage rate, more specifically, closely approximates the average paid in the surrounding communities (Employer Exhibit 2). These communities, moreover, have been used by the Employer since 1982 as significant comparables during prior negotiations. In fact, these locals are so interdependent that a Joint Dispatch Center for all fire services is being developed. Bargaining Unit members realize a combined hourly rate which exceeds the average (Employer Exhibit 2). Further underscoring the reasonableness of the Employer's proposal is the overtime worked by employees. Each bargaining unit member earns approximately $10,000 per year for overtime worked (Employer Exhibit 3); further enriching the Employer's total compensation package.

The Employer's primary focus relies on the notion of pattern bargaining as it relates to the present dispute over rates of pay. Again, it seeks to have the pattern followed.

Rates of pay, when based on percentage increases, rectify the issue raised by the Fact-Finder. Even though the percentage increase is standardized, the dollar increase is commensurate with the salaries established for each bargaining unit. As such, pattern bargaining does not ignore the difference in bargaining units protected by law.

The wage pattern currently in existence has retained internal comparability for a significant period of time. Firefighter wages are commensurate with wages received by Police Patrolmen. In 2003, a Patrolman received one thousand twenty five dollars ($1,025) less than a Firefighter Paramedic. If the Conciliator ruled in the Union's favor by deviating from the pattern, the existing differential would be altered, which would modify a long term practice codified in prior collective bargaining agreements.

The Union's reliance on the healthcare offset is viewed as unpersuasive. Both AFSCME and the FOP accepted the healthcare changes along with the pattern pay increases. An additional accommodation, therefore, seems unwarranted and excessive. Data relied upon to compensate the offset was improperly calculated. The six hundred dollars ($600) referred to by the Union amounted to multiple excess credits causing defective conclusions regarding the offset's impact. The Firefighters, moreover, are less likely to be negatively impacted based on their early retirement age and the probability of using the entire offset within the allotted time.

The Conciliator's Finding and Ruling

The Conciliator accepts the Employer's rates of pay proposal and it shall be incorporated into the newly negotiated collective bargaining agreement. As such, the relevant portions of Article XX – Rates of Pay shall incorporate the following ruling:

Effective January 1, 2004 – 3.25%
Effective January 1, 2005 – 3%
Effective January 1, 2006 – 3%

The Conciliator's prior discussion regarding the pattern bargaining dispute is equally pertinent to the present issue and does not have to be repeated. Many Fact-Finders and Conciliators apply the following principle on a case-by-case basis. A pattern, once established, places a heavy burden on a Union, which seeks some form of deviation. Here, the Union was unable to overcome the burden, thus the pattern must be maintained.

A review of the comparables submitted by the Union and the Employer clearly reveal interesting results. Union Exhibit 4 contains deviation from the average, which fail to significantly justify deviating from the pattern. This outcome is especially true when one focuses on the wage portion of the various comparisons. Similar findings appear when one analyzes the total compensation data. When analyzing the Employer's comparables (Employer Exhibit 2), which the Conciliator deems more appropriate because these municipalities are contiguous and succumb to similar labor market and economic conditions, this issue clearly tilts in the Employer's favor.

The Union's healthcare offset argument is unpersuasive. All other AFSCME and FOP employees agreed to the offset and accepted the wage pattern. To carve out an exception for this particular bargaining unit, when the data fails to support a significant deviation from the norm or average would cause an unjustified benefit. The data (Union Exhibit 8) regarding the offset's impact on negotiated wage rates is a bit misleading. A cleaner and more substantial analysis would have factored similar offsets against negotiated wage rule outcomes in other comparable municipalities. Also, the application of the six hundred dollar ($600) offset over a three-year period for a bargaining unit with early retirement potential overstates the potential impact of these concessions.

Granted, the Employer never tendered an inability to pay argument, but the funds discussed by the Employer seem to be less robust than in the recent past. The Union failed to rebut the Police Department's new construction project and relied for the most part on audited findings for the period ending December 31, 2002 (Union Exhibit 14). Even though the Employer's submissions (Employer Exhibits 5 and 6) were more of a snapshot, they were more recent and timely than the Union's submission.

ARTICLE XX – RATES OF PAY (PARAMEDIC PAY)[4]

The Union's Position

At the hearing, the Union decided to modify its proposal, which reflects the following elements:

20.08 Effective in the first pay period in January, 2004 each employee certified as a paramedic shall receive a paramedic pay bonus as a bi-weekly pro-rata adjustment on their base salary as follows:

Job Title	Wages	Prob.	1 year	2 years	3 years
Firefighter		$1115	$1195	$1300	$1425
Lieutenant	$1425				
Captain	$1425				

20.09 Current language except that the various amounts of Paramedic Pay shall be increased by $400 effective the first full pay period in January, 2005.

20.10 Current language except that the various amounts of Paramedic Pay shall be increased by $400 effective the first full pay period in January, 2006.

The modifications, more specifically, caused the submission of a proposal identical to one originally proposed during Fact-Finding. As a consequence, the Union did not adapt Fact-Finder Marczely's more incremental approach.

[4] Some of the arguments dealing with this disputed matter are identical to those discussed by the parties in the prior portion of this Award. As such, they will not be reiterated when reviewing the parties' position. They may, however, play a role in the ultimate determination. If they do, the Conciliator will identify them when appropriate.

Paramedic pay should be viewed as an economic component unique to the job of Firefighter. This element of the wage bargain, should therefore, be insulated from any wage pattern argument.

Beyond this philosophical outlook, comparable data support the reasonableness of this proposal, which should cause a ruling in the Union's favor.

Various comparisons disclosed by the comparables (Union Exhibit 4) support the Union's position. Virtually all of the comparables, regardless of the comparable criterion selected for review, show that the Employer's proposal is below average.

The Employer's Position

The Employer seeks to retain the status quo at the existing benefit level. It cites in support, the existing custom regarding pattern bargaining and wage differentials, as well as benefit realities in contiguous public sector settings.

Current language provides Paramedics with a form of wage supplement consisting of two specific elements. The collective bargaining agreement specifies a base wage for Paramedics that is seven hundred and ninety dollars ($790) greater than the base wage for an EMT. In addition, another contractual provision provides Paramedics with a designated premium of one thousand twenty-five dollars ($1,025). It is this premium which should remain fixed throughout the next three (3) years. The base wage differential will continue to climb as annual wage increases materialize.

A ruling in the Union's favor would shatter the Employer's attempt to sustain parity within its safety force's bargaining unit. Historically, wages paid to Firefighters have been commensurate with wages paid to Police Patrolmen. The base wage of a Firefighter Paramedic and a Class A Patrolman are identical. A Firefighter Paramedic, however, earns more than a

a Class A Patrolman is identical. Any increase in the premium would ruin the planned geometry for a considerable period of time.

Comparables (Employer Exhibit 2) introduced by the Employer easily overcame the Union's assignations. The Paramedic pay premium presently enjoyed by the bargaining unit reflects favorably as opposed to other employees receiving similar benefits in contiguous municipalities.

The Conciliator's Finding and Ruling

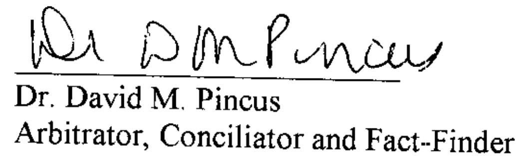
The Conciliator rejects the Union's proposal and affirms the Employer's offer. The statistics offered by the Union, as opposed to those presented by the Employer, were defective in terms of calculation, which detrimentally impacted the analysis used by the Union to support its proposal.

Averaging compensation data to use as a threshold for distinguishing status quo conditions requires inclusion of all data, even if some municipalities do not enjoy a particular benefit. By failing to include data, the Union discarded valuable information which directly skewed the "average" statistic. This in turn led to wider perceived gaps; gaps which were artificially skewed in the Union's favor.

Once the error was eliminated by recomputing the average, the Union's comparable averages (Union Exhibit 4) failed to exhibit a significant and consistent difference between the average and the status quo. Prior to the recalculation, all five (5) comparables indicated the average exceeded the status quo on the basis of Paramedic pay. Afterward, the data indicated the market average exceeded the status quo three to two. In the Conciliator's opinion, this result does not justify a deviation from the pattern. Also, the recalculations marginalized the existing distinctions because the differences shrunk dramatically.

The Employer's "premium" argument was never properly rebutted at the hearing. Here, internal consistency has been fashioned through the years over a series of bargaining terms. A practice and custom recognized and adopted by the parties through their actions and negotiated outcomes.

Remember, as a Conciliator, I must select the offer of one party over another without modification. The comparables (Union Exhibit 4 and Employer Exhibit 2) support the view that acceptance of Union's Paramedic pay demand would have created a benefit in excess of the average for the contiguous cities and other cities enjoying certain critical characteristics.



December 17, 2004
Moreland Hills, Ohio
Cuyahoga County

Dr. David M. Pincus
Arbitrator, Conciliator and Fact-Finder