



A-2

STATE OF NEW JERSEY

In the Matters of Sonya Bell,	:	
Eduardo Rodriguez, Archie Williams,	:	FINAL ADMINISTRATIVE ACTION
and Charles Lyons	:	OF THE
City of Camden (CONSOLIDATED)	:	CIVIL SERVICE COMMISSION
	:	
	:	
	:	
	:	
	:	
CSC DKT. NOS. 2011-3275, 2011-	:	
3024, 2012-166 and 2011-3923	:	

OAL DKT. NOS. CSV 02791-11,	ISSUED: SEPTEMBER 16, 2015	BW
09149-11 and 04096-11		

The appeals of Sonya Bell, Eduardo Rodriguez, Archie Williams, and Charles Lyons, City of Camden, of the good faith of their layoffs effective January 18, 2011, for reasons of economy and efficiency, was heard by Administrative Law Judge Robert Bingham II, who rendered his initial decision on August 24, 2015. Exceptions were filed on behalf of Charles Lyons.

An additional five employees appealed the good faith of their layoffs. However, the appeals of Barbara Bellamy-Johnson, Alfred Dansbury, Stephanie Holmes, William Lutz, and Dwaine Williams were dismissed by the Administrative Law Judge for failure to appear at a prehearing conference.

Having considered the record and the Administrative Law Judge's initial decision, and having made an independent evaluation of the record, the Civil Service Commission, at its meeting on September 16, 2015, accepted and adopted the Findings of Fact and Conclusion as contained in the attached Administrative Law Judge's initial decision.

The Civil Service Commission finds that the action of the appointing authority in laying off the appellants for reasons of economy and efficiency was justified. The Commission therefore affirms that action and dismisses the appeals of Sonya Bell, Eduardo Rodriguez, Archie Williams, and Charles Lyons.

Re: Sonya Bell, Eduardo Rodriguez, Archie Williams, and Charles Lyons

The Commission also notes the dismissal of the appeals of Barbara Bellamy-Johnson, Alfred Dansbury, Stephanie Holmes, William Lutz, and Dwaine Williams

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
SEPTEMBER 16, 2015



Robert M. Czech
Chairperson
Civil Service Commission

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State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

(CONSOLIDATED)

**IN THE MATTER OF SONYA G. BELL
AND EDUARDO RODRIGUEZ,
CITY OF CAMDEN.**

OAL DKT. NO. CSV 02791-11
AGENCY DKT. NO. 2011-3275

And

**IN THE MATTER OF ARCHIE F. WILLIAMS,
CITY OF CAMDEN.**

OAL DKT. NO. CSV 09149-11
AGENCY DKT. NO. 2012-166

And

**IN THE MATTER OF CHARLES E. LYONS, JR.,
CITY OF CAMDEN.**

OAL DKT. NO. CSV 04096-11
AGENCY DKT. NO. 2011-3923

Sonya Bell, appellant, pro se

Phillip F. Drinkwater III, Esq.,¹ for appellant Eduardo Rodriguez

Archie F. Williams, appellant, pro se

Jacqueline M. Vigilante, Esq., for appellant Charles E. Lyons, Jr.

¹ **Phillip F. Drinkwater III**, Esq., represented appellant Eduardo Rodriguez at the hearing; however, upon information and belief, he has since discontinued his law practice.

John C. Eastlack, Jr., Esq., for respondent City of Camden (Weir & Partners LLP,
attorneys)

BEFORE ROBERT BINGHAM II, ALJ:

Record Closed: July 8, 2015

Decided: August 24, 2015

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Appellants Sonya Bell, Eduardo Rodriguez, Archie F. Williams, and Charles E. Lyons, Jr., appeal from their respective layoffs by respondent, the City of Camden (the City or Camden), effective January 18, 2011, contending that the layoffs were done in bad faith. Camden claims that the layoffs were for purposes of economy and efficiency. The cases were transmitted to the Office of Administrative Law (OAL), where they were separately filed for determination as contested cases on March 15, 2011 (Dkt. No. CSV 2791-11 (Bell and Rodriguez)), April 7, 2011 (Dkt. No. CSV 4096-11 (Lyons)), and August 3, 2011 (Dkt. No. CSV 9149-11(Williams)). N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -13.

Pursuant to written notice dated September 22, 2011, an in-person prehearing conference was held on October 28, 2011, when respondent moved to dismiss several related appeals.² By Orders dated January 24, 2012, respondent's motions to dismiss were granted as to appellants who had failed to appear without good cause, but the dismissal motion relative to appellant Archie F. Williams, who demonstrated good cause, was denied. By Order dated January 26, 2012, the matters of Sonya Bell, et al. (Dkt. No. CSV 2791-11) and Archie F. Williams (Dkt. No. CSV 9149-11) were consolidated. By Order dated May 10, 2012, the related matter of Charles E. Lyons, Jr. (Dkt. No. CSV 4096-11) was consolidated with that of Sonya Bell, et al. (Dkt. No. CSV

² At that time, respondent moved to dismiss the appeals of appellants Barbara J. Bellamy-Johnson, Alfred J. Dansbury, Sr., Stephanie N. Holmes, William E. Lutz, Dwayne J. Williams, and Archie F. Williams for failure to appear. By letter dated October 28, 2011, Archie F. Williams was the only absent appellant to demonstrate good cause for failure to appear.

2791-11) and Archie F. Williams (Dkt. No. CSV 9149-11). By Order dated June 14, 2012, hearing dates were scheduled in August, September, and October 2012.³

The hearing was held on multiple dates between September 2012 and September 2013.⁴ However, on February 20, 2013, appellants applied for sanctions against respondent for failure to comply with discovery obligations, and this tribunal requested a certification of time and expenses.

Appellant Williams submitted a written application and supporting statement of expenses, dated July 28, 2013. By certification dated July 31, 2013, counsel for appellant Lyons outlined a series of delays and related expenses resulting from outstanding discovery due from respondent. In summary, respondent failed to provide discovery as scheduled in August 2012, resulting in hearing delays in August and September 2012. On February 7, 2013, witness testimony revealed that discovery was incomplete, resulting in the adjournment of the proceedings (half-day). Incomplete (inoperable CD-ROM) and delayed discovery (day before hearing) again resulted in aborted proceedings on February 14, 2013 (half-day), when appellant Williams noted his objection on the record. Respondent was ordered to complete discovery by February 15, 2013, at which time it provided a large quantity of unmarked and incomplete documents. Additional documents were also requested, and some provided for the first time, after that time.

Respondent's counsel filed a brief and certification, dated September 26, 2013, in opposition to appellants' application for sanctions.⁵ Respondent asserts that there had been a diligent search for documents, and any delay in production was

³ Those dates were August 10, September 10, 14, and 19, and October 2, 2012.

⁴ Those dates were September 19 and October 2, 2012, as well as February 7, 14, 20, 22 and 25, March 6, May 30, June 10, July 19, and August 8, 2013. Additional hearing dates were held regarding evidentiary exhibits, rather than additional testimony, on September 18 and 27, 2013.

⁵ Respondent's counsel, John C. Eastlack, Jr., Esq., first appeared as co-counsel for respondent on February 14, 2013, prior to which time Camden was solely represented by Brian Turner, Esq.

unintentional. Further, there has been no prejudice to the appellants, who have not expended time or resources not otherwise required, based upon the timing of production. Appellants Bell and Rodriguez ultimately withdrew their application for sanctions, leaving only that of appellants Lyons and Williams.

On September 27, 2013, the last hearing date, the record remained open for disposition of appellants' motion and for receipt of transcripts and written submissions. The parties were given forty-five days following receipt of all transcripts within which to file closing submissions, and were granted until July 28, 2014, to do so. After the receipt of transcripts, the parties submitted written briefs, the last of which was filed by appellant Rodriguez on September 5, 2014, following an extension. The record closed at that time, but reopened due to the need for the ALJ to request additional transcripts, and this matter was finally closed on July 8, 2015, following the receipt of those transcripts.

FACTUAL DISCUSSION

Prior to and including 2010, the City of Camden (Camden or the City) experienced economic distress. Historically, it had depended upon the State for financial aid. In 2010, Camden operated under the Municipal Rehabilitation and Economic Recovery ACT, (MRERA) and the process for the receipt of State funding was through the Transitional Aid Program.⁶ (R-5.)

By Resolution MC-10:939, dated April 27 and approved April 28, 2010, Camden implemented temporary layoffs in the form of mandatory furloughs for twenty-six days between June 4 and November 24, 2010, citing a severe fiscal crisis for fiscal years 2010 and 2011 due to reduction in State aid and despite reductions in spending and the pursuit of additional revenues. (R-1.)

⁶ In testimony, the Transitional Aid to Localities application process was described as being one that was "more like a competitive grant process for aid." (Tr. of September 19, 2012 ("T1") at 24:16.)

Camden was obliged to balance its budget annually. On or about August 10, 2010, Camden introduced its fiscal year 2011 (FY 2011) budget, which provided a 24 percent reduction of expenses in all departments. (J-4.) In preparation of the proposed FY 2011 budget, the Finance Department (Finance) had prepared maximum budget allocations for each of Camden's departments, and determined the need for the reductions. At the request of the business administrator (BA), department heads completed and submitted an "Essential Functions and Supporting Dependencies Worksheet" (R-47) and a proposed budget. (R-45.)

On September 28, 2010, Camden submitted to the New Jersey Department of Community Affairs (DCA) a certified application for Transitional Aid to Localities (TAL) for fiscal year 2011 that requested \$54 million, citing an FY 2011 introduced budget of \$138 million that included 24 percent in reductions and anticipated \$54 million in TAL, as well as a 3 percent maximum tax increase. (R-3b.) The application also indicated that without the requested TAL, Camden would have \$84 million in revenue to operate, less than one-half of the fiscal year 2010 budget, and its capacity would be reduced to "approximately 50% thereby placing the sovereignty of the City of Camden in immediate jeopardy." (Ibid.)

By letter dated October 28, 2010, from Camden's mayor to the director of the DCA (R-4), Camden requested an additional \$21.8 million in TAL: \$8.3 million for "reductions in layoffs," and \$13.5 million "to avoid further cuts to the FY 2011 budget—beyond the very substantial 24% reduction reflected in the initial budget" and cover costs for "pension, cash deficit, reserve for uncollected taxes and public works needs." (R-4.) The letter indicated that, to avoid certain layoffs, the \$8.3 million included \$4.2 million for sixty uniformed police; \$2.1 million for thirty fire department members; and "for all other departments, in order to save fifty (50) positions, \$2 million is needed." (Ibid.)

By letter dated November 8, 2010, while appellants were its employees, Camden filed a layoff plan with the Civil Service Commission (CSC). (R-5.) Copies were provided to all collective bargaining units. (J-1.) The layoff plan described "a severe fiscal crisis for the fiscal year ending June 30, 2011, and a more systemic crisis for the

next several years.” (R-5.) It further described the anticipated receipt of \$54 million in TAL and, despite that, a budget shortfall of at least \$28 million, necessitating the reduction of salary and wages in all departments as “the only solution the City has to achieve a balanced budget.” (Ibid.) The layoff plan indicated that it was designed for economy and efficiency and “to implement the reductions in the FY 2011 budget,” and it described alternatives pursued by the City, including consultation with collective-bargaining units, as well as a prior wage and hiring freeze. (Ibid.)

On or about November 30, 2010, the CSC approved Camden’s layoff plan, pursuant to Civil Service rules and regulations. The plan identified 383 positions for reduction across all departments, including the following titles: management information systems specialist in Administration (eleven total); principal payroll clerk typist in Finance (ten total); laborer, heavy, in Public Works (thirty-seven total); and chief of planning and project execution in Development and Planning (four total).⁷

On December 2, 2010, the City Council approved the layoff plan by passing Resolution MC-10:1351, which indicated that the City’s FY 2011 budget provided a 24 percent reduction of all City departments. It indicated that the City applied to the DCA for TAL, first for \$54 million and subsequently for \$75.8 million, and the State awarded \$69 million in TAL. It also indicated that the City needed further reductions, through permanent layoffs, in order to balance the budget despite efforts to address its fiscal crisis, including: “reducing spending and pursuing additional revenues, implementing a plan for temporary layoffs in the form of mandatory furloughs . . . , and engaging in good faith discussions with all the City’s non-uniformed and uniformed unions to seek solutions to mitigate the effects of layoffs.” (J-4.)

On December 14, 2010, the City Council authorized a Memorandum of Understanding (MOU) with the DCA for receipt of \$69 million in TAL. (J-3.) By MOU dated December 15, 2010, the DCA awarded \$69 million to Camden in TAL funding. (R-10.) Camden did not submit a revised layoff plan.

⁷ By email dated November 29, 2010, Camden’s business administrator submitted a correction relative to a typographical error that “does not impact the plan relative to the number of firefighters remaining,” specifically, 107, rather than 97.

In December 2010, pursuant to civil-service rules, Camden sent notice to employees who were subject to the layoff, and appellants thus received notice of a potential layoff for reasons of economy. Respondent's layoff actions against appellants were confirmed by letter from CSC, dated January 5, 2011. The layoff plan took effect on January 18, 2011, at which time appellants were separated from their employment with the City. (J-1.)

Although Bell had been demoted from the title of principal payroll clerk, typing (Finance), she was ultimately rehired into her former position. Rodriguez, who was laid off from the title of laborer, heavy, (Public Works) was ultimately rehired as laborer. Williams was laid off from the title of management information systems specialist (Administration), and he retired. Lyons, was laid off from the title of chief of planning and project execution (Planning and Development) and was not rehired.

I FIND AS FACT all of the above, which is uncontested.

Testimony

Christine Tucker, Camden's business administrator (BA), testified that she heads the Administration Department,⁸ but performs her duties as directed by the mayor. As appointing authority, Tucker signed documentation that was submitted to the CSC to implement personnel actions, including termination, suspensions, layoffs and furloughs. She thus was the person responsible for Camden's layoff plan and process at all times. Tucker helped prepare and did review the entire layoff plan.⁹ But she did not influence department heads or participate in their decision as to which titles should

⁸ Tucker explained that the Department of Administration supports all other departments, and consists of the following divisions: fleet, procurement, information technology (IT), the print shop, and personnel. Tucker described Administration as being "like the GSA were support services for the City." (T1 at 82:23.)

⁹ In that regard, Tucker identified her role as including the following responsibilities: reviewing pertinent regulations regarding layoffs; consulting with the CSC regarding pre-layoff procedures; coordinating and facilitating preliminary steps such as site audits; working with the mayor; and (primarily) typing the layoff plan. Tucker also signed both a general notice of layoff plan and an individual notice of layoff plan.

be affected, and she denied that she would have made such decisions as appointing authority. She merely reviewed the selection of those positions, along with the City attorney and the mayor, who made the final decision, by signing the layoff plan. Further, Civil Service makes the ultimate determination, and it also determines whether someone is hired as a new hire or a reemployed worker pursuant to an established special reemployment list. Further, the DCA must first grant permission before the City can reemploy.¹⁰

I. Layoffs Generally

A. *Economy*

Tucker explained that the layoffs were necessary due to an insufficient municipal tax base¹¹ and the fact that over two-thirds of the City's budget depends on State aid. The City had suffered financial distress for a number of years, and a reduction in State aid had been forecast in 2010. At that time, approximately two-thirds to 80 percent of the budget, a "controllable portion," consisted of salary and wages, though Tucker did not know the exact percentage. Tucker conceded, however, the recognition that budget cuts alone would not achieve economic self-sufficiency, and a staff reduction in Planning and Development, in particular, would potentially negatively impact efficiency and economy, as that department was responsible for economic development.

Camden's TAL application for FY 2011 (R-3b) indicates a budget of \$138 million, including a 24 percent workforce reduction and an anticipated \$54 million in TAL, without which the City would only have \$84 million in revenue. It was thus anticipated that with the \$54 million in State aid, the City would meet its projected budget of \$138 million.

¹⁰ The process involves the department head making a recommendation for hire, which must be signed off by the City attorney, the finance director, BA Tucker and the mayor. It then goes to the DCA, and then to Civil Service.

¹¹ For instance, 52 percent of real estate in Camden is tax exempt, yet the City must still provide services.

By letter dated October 28, 2010, (R-4) Camden increased the aid requested from the DCA to \$75.8 million, as it had expected “a cash deficit from the prior fiscal year of \$4,256,555.14, which would have to be raised in the budget,” thus increasing the shortfall. (T1 at 57:22 to 58:25.) In that supplemental aid application, the City included additional costs of which it had been unaware, and there was also the need to continue public safety. Yet, the \$26 million budget gap was accurate at the time of the original application, but it was possible that it could have been more because all the revenues that were coming into the City were not exactly known. Admittedly, revenues did not change significantly in the two- to four-week period when the layoff plan, TAL application and supplemental aid application were generated, though costs may have increased. According to Tucker, Camden’s main motive regarding the layoff plan was closing a budget gap of \$26 million. The reason for the layoffs was that “the City is obligated to have a balanced budget so [it] had to undertake cost-cutting measures, drastic cost-cutting measures.” (Tr. of October 2, 2012 (“T2”) at 55:15.)

According to Tucker, the layoff plan sent to the CSC indicated a need to lay off 373 people due to a \$26 million gap. However, the plan (R-5), actually indicated a \$28 million shortfall.¹² Yet, admittedly, Camden did not tell the CSC that it had applied for more Transitional Aid, and it also did not inform the CSC that it actually had received more Transitional Aid at any point in time before the layoffs. (T2 at 66:16 to 67:4.)

Though the mayor’s freeze on promotions was never lifted, there have been promotions in some departments since the layoff, which could be for any number of reasons, such as a vacancy created by a retirement or resignation. Nonetheless, some employees still remained laid off or demoted, based upon need. Further, the mayor’s freeze on overtime has not yet been lifted, so if overtime is needed it must be pre-approved. Yet, in general, it is possible that overtime during layoffs can be economical.

Also, the CSC creates a special re-employment list, such that the laid-off employee’s name whose position fits the description of an open title would appear on

¹² The plan also indicates that 383 people were proposed for layoff.

the list. The City then takes the employees as listed in order of seniority. A number of individuals were hired from the special re-employment list. (AL-10.)¹³ So, 318 of the 373 reductions have been rehired, but not everyone was restored to their former position (280 from the police and fire departments combined, plus an additional 38 non-uniformed employees). Thus, the City found the money to bring back 318 people.¹⁴

Regarding reemployment or reassignment in particular, since the layoff, appellant Sonya Bell was hired as a principal payroll clerk in the police department pursuant to a special re-employment list. Also, police officers and firefighters were rehired as well.

In Planning and Development, four positions were slated for reduction,¹⁵ and two (keyboarding clerk 1) were created and filled after the layoff, despite the appearance of three names on the list of positions filled. (AW-10.) One of the eliminated positions, relocation officer, had functions that could be carried out by others, including the City clerk, the City attorney and the business administrator. However, the City did not reassign those responsibilities to any other City employee after the layoff process.

B. Alternatives to Layoff/Pre-Layoff Actions

Furloughs were among remedial options that were considered, and they had been implemented, for non-uniformed employees (that is, excluding police and fire departments) in FY 2010 (ending June 30, 2010) and the beginning of FY 2011 (July 1, 2010), as a means to continue services while reducing expenses. Although furloughs, which had been approved by the CSC, had really resulted in a savings of 20 percent of overall salary budget, they could not be continued, because (1) they were “in the nature

¹³ Neither of two particular employees, Tasha McCoy nor Rhoda Thomas, was hired from either the special reemployment list or through any Civil Service test. According to Tucker, their positions fell under Civil Service provisions that allow a mayor a certain number of aides. Thomas had retired as a police officer.

¹⁴ Tucker added that there was also a regular employment list.

¹⁵ They were project coordinator, redevelopment; chief of planning and project execution; data control clerk; and relocation officer.

of a temporary layoff,” and (2) the unions objected, though Tucker did not recall a specific meeting where they posed an objection. (T1 at 50 to 51.)

The administration had met with various unions for their input and had also pursued a reduction of wages and salary through negotiation of its collective bargaining agreements, which had expired at the time of layoff plan. (R-5; T2 at 58 to 59.) And although the plan states that economic concessions were being sought from collective-bargaining agreements, no such agreements were achieved until quite recently. Nonetheless, the City had been bound to honor provisions of the expired collective-bargaining agreements.

As appointing authority, Tucker is familiar with the regulatory requirement that the appointing authority implement alternatives to lessen the impact of potential layoffs.¹⁶ The language of the pertinent regulation indicates that the appointing authority “should” consider “voluntary alternatives” and, to Tucker, it suggests rather than requires “any number of measures,” including the City’s use of furloughs and collective-bargaining negotiations. (T2 at 58:1–25.) But the reduction of work hours that could be deemed a temporary layoff or furlough was not voluntary.

In that regard, the layoff plan (R-5) correctly reflects that the City did not take any action to separate non-permanent employees, and it is silent as to eliminating provisional employees. It is also silent as to the City having made any efforts to grant permanent employees leave without pay instead of layoffs. Similarly, it does not address (1) potentially allowing voluntary reduction in work hours, including job share, or (2) the option of taking a temporary demotion in title. Admittedly, some things really were not done according to the civil-service statute. The City did not return all provisional employees to their permanent titles and it did not lessen the impact of layoffs on permanent employees by first placing non-permanent employees, and those with the least seniority, in positions being vacated or reclassified or abolished.¹⁷ To Tucker’s

¹⁶ In particular, she acknowledged her familiarity with N.J.A.C. 4A:8-1.2.

¹⁷ The City separated some, but not all, non-permanent employees from employment.

understanding, the City is not required to remove provisional employees before instituting the layoff plan. The option of a demotion was beyond her authority and would have to have gone through collective bargaining. There were no economic concessions, at least with the union to which appellant Williams belonged. As to a number of other measures, proposed by appellant Williams (AW-3), the City took action with regard to furloughs and raising taxes.

C. *The Layoff Process*

1. Generally

The layoff process required each department head to generate a plan for reducing the budget of his or her department by 20 percent in order to meet the City's \$28 million budget shortfall, including identification of positions—not individual employees—and related salaries to cut, while preserving public services. The layoff plan was formulated from the information provided by various department heads to the mayor, as to which positions were recommended for elimination. The department heads identified the positions for reduction, but had neither decision-making power nor input in the final decision. CSC determined who would be laid off based upon civil service records and seniority considerations.¹⁸ An internal "checks and balances" of the plan was a review by the mayor, the City attorney, and Tucker herself.

Tucker described guidance to the department heads on how to select positions for layoff as follows. She, the City attorney, and the mayor met with all department heads and they were instructed to (1) identify positions that would meet the fiscal goals of the layoff plan, to reduce the budget by 20 percent, (2) try to avoid positions that would cause substantial interference with the delivery of essential services, and (3) choose those positions in accordance with law and City policy, and not based upon

¹⁸ It is not known which individuals will actually be impacted when it goes through Civil Service because of seniority. To Tucker's knowledge, other factors include the classification and "what titles fall in the same ladder," and, for public safety workers, time and grade. According to Tucker, the hire dates of employees were irrelevant in her selection of titles for layoffs.

personal preference. Tucker admittedly does not recall there being any written guidelines given to the department heads as to how to select the positions. In some cases there clearly was only one person holding the title in jeopardy. For instance, in Planning and Development, there was but one relocation officer, and one chief of planning and project execution.

Admittedly, before the layoffs in January 2011, the City did not submit a supplemental plan informing Civil Service that it had received an additional \$15 million in TAL, for a total of \$69 million rather than the \$54 million indicated in the layoff plan. Tucker was not aware as to whether a supplement to the TAL application was required to be sent to Civil Service. But, according to Tucker, the CSC was so informed after the layoffs, when (she believes) the City requested the rehire of police. Admittedly, the additional aid would have reduced the \$28 million shortfall to \$13 million.

As to whether there was a process to evaluate whether the layoffs were done in a fair, efficient and economical manner, Tucker reiterated that the layoff was undertaken to achieve \$28 million of reductions in the budget, without personal considerations. Admittedly, there is no process in place to evaluate whether department heads met those budgetary objectives without personal considerations.

However, the administration had discussed not terminating anyone based upon race, disability, or retaliation. Thus, no title was selected based upon individual characteristics of the employee. Those titles identified or proposed for elimination are listed in the layoff plan that was submitted to the CSC, which autonomously decides who will be laid off from titles proposed in the layoff plan, considering seniority. Ultimately, the layoff plan (R-5) was implemented due to a budget shortfall of \$28 million and actions that were necessary regarding salary and wages in order to balance the budget.

2. Administration

As director of Administration, which includes the Bureau of Information Technology (IT), Tucker personally assembled a list of employees in IT for layoff, but

her criteria to meet the requested “20%” reductions was “department-wide.”¹⁹ The actual final reduction for Administration was approximately 22 percent. In IT, reductions occurred for “one management information specialist, senior data processing programmer, the GIS specialist, a clerk, and [possibly] a clerk typist.” (T1 at 104:20.)

Tucker reiterated that her decision as to specific positions to be eliminated was driven by concern for the impact of the reductions and how they would affect police and fire services. When asked whether she had documentation of her analysis or criteria used in determining those reductions, Tucker initially indicated “yes,” but then said she utilized “just [her] knowledge and understanding of what [her] department does and the budget documents.” After repeatedly saying, “I did my analysis department-wide,” she then answered the question as to documentation, “I don’t—it may have just been some scribbles on a budget sheet. I don’t know. I don’t know. When I was trying to figure out how to add up the salaries It is documented. It’s documented in the budget, Mr. Williams.” Tucker explained that she considered the budget, the TAL application, and the role and responsibility of her department. Also, she informed the bureau or division heads what she was considering regarding proposed layoffs and listened to their reaction, but she unilaterally made the decision because it was her responsibility.

Regarding rehired employees, at least three persons who had retired were rehired part-time shortly after layoffs.²⁰ In IT specifically, Tasha McCoy, who was laid off, was rehired in March 2011 as a “new hire,” into the unclassified position of aide to the mayor. (AW-11.) No one in IT was offered the position of computer service technician, for which the City was currently advertising. (AW-13.) Although Tucker must sign off on personnel actions citywide, as BA, she was unable to say how two particular employees, Ray Calubayan and Jose Suarez, were hired, or how their titles changed.²¹

¹⁹ She thus could not say what percentage was reduced in IT.

²⁰ They were Debbie Beasley, a purchasing agent, Robin Johnson, an affirmative action officer, and Rhoda Thomas, a police officer who was rehired as aide to the mayor.

²¹ Tucker denied asking Williams to assist Calubayan in securing a promotion.

II. Individual Layoffs

A. *Appellant Williams*

Regarding Archie Williams, Tucker informed him of her decision regarding layoffs without first consulting with him as head of IT. Her selection was by position rather than by individual, but she knew that Williams was the only person in the position of management information system (MIS) specialist at the time. Williams had more seniority citywide, except for one other individual. Additionally, the City would owe health benefits to a retiree with twenty-five years of service, but would not owe health benefits to an employee laid off with less than twenty-five years of service. Tucker was aware that Williams had filed a case regarding recovery of (retirement) health benefits, but posited that he was not entitled because at the time he had not retired. She was also aware, however, that a summary judgment awarded him those benefits from the City.²² Tucker was aware that Williams installed network time clocks and trained support personnel, and that he repaired personal computers and printers in-house, but she denied the work's economic value, as well as any awareness of a number of his other purported accomplishments.

B. *Appellant Bell*

Tucker was aware of Steve DePompo, an employee who assisted the fire department with payroll and scheduling.

C. *Appellant Lyons*

As the appointing authority and BA, Tucker was aware that appellant Lyons utilizes a wheelchair for mobility, and that he (and others) had lodged concerns or

²² She was unaware whether the City appealed.

complaints regarding accessibility to City Hall. (AL-5.) Tucker admittedly had such an awareness prior to his layoff.

Glynn Jones, Camden's director of Finance, who had previously worked for the DCA, testified that his responsibilities include maintaining the budget office. Jones was involved in the entire layoff process and had prepared the budgets for each department.

I. Layoffs Generally

A. *Economy*

Jones described that by July 2010, Camden had experienced a structural deficit for years. He explained the purpose of the layoff plan as follows.

Beginning in March 2010, there was an \$8 million budget hole after the State rescinded a "Port PILOT" agreement, but Camden found \$4 million in savings by cutting overtime and instituting furloughs for six months, and the State redistributed \$4 million of the \$8 million back to the City. Also, three aid pools (Special Municipal Aid, Extraordinary Aid, and Capital City Aid) were reduced to one (Transitional Aid), causing deficit reductions going into fiscal year 2011. In March 2010 the State reduced the pool of aid from approximately \$200 million to \$149 million, resulting in a budget shortfall that required cutting "everyone's" budget by 24 percent, which totaled approximately \$28 million. The deficit was in the current fund budget, which included salary, benefits, pension, statutory expenses and workmen's compensation; however, for various reasons, pension, healthcare, and workmen's compensation could not be "touched" in making the cuts. The furloughs, which occurred in March 2010 before Jones arrived, were meant to address the \$8 million gap for fiscal year 2010 and only saved \$1.5 to \$2 million.²³ So, the layoffs were based strictly on economics, and efficiency played some role in assuring how his own office would run. The City estimated a savings of \$26.5 million dollars through the layoff plan.

²³ The furloughs were implemented each Friday for six months.

On August 10, 2010, and at the time of layoff plan, the budget for fiscal year 2011 was introduced as \$138 million (though it ended up at approximately \$170 million by June 30, 2011). But Jones's analysis indicated that a cut of 24 percent from each (departmental) budget would result in a savings of approximately \$28 million. By comparison, the budget for fiscal year 2012 (submitted August 2011) was approximately \$150 million, and the budget for fiscal year 2013 (submitted August 2012) was approximately \$153 million, but neither of them included layoffs.

Camden had depended on State aid for many years,²⁴ hence the initial TAL application requesting \$54 million. The supplemental TAL application was filed after the State provided the pension bills in the fall; the City did not have those figures to include by its August 10 budget deadline. The \$69 million in Transitional Aid that Camden ultimately received had been preceded in FY 2010 by approximately \$62 million, which was a combination of Extraordinary Aid, Special Municipal Aid, and Capital City Aid. And Camden did not have layoffs in fiscal year 2010. However, for FY 2011 there was approximately a \$7.5 million drop in "contra and energy tax receipts," so the City received more in Transitional Aid than it had received in Special Municipal Aid in FY 2010, when it had approximately \$7 million more in energy and contra tax receipts.

To Jones's knowledge, the supplemental aid application was not presented to CSC and he was not aware of any requirement to do so. The increased request for \$78.5 million was to maintain Camden's operation, to cover pension bills and retain additional positions.

Jones would have been, but was unaware of, any refunds to employees from furloughs. Also, there were a number of retirements that prevented layoffs, but all 383 positions slated for reduction resulted in layoffs. Further, any salary increases or promotions that were made were purely voluntary and not legally mandated.

²⁴ For example, for fiscal year 2013 Camden's budget was \$153 million, but it only had \$24 million in taxes.

B. Alternatives to Layoff/Pre-Layoff Actions

Alternatives undertaken to prevent layoffs consisted of negotiations with the unions, as that was all that could be done. In July 2010 the labor negotiations involved discussions of fiscal issues and contract issues (municipal contracts had expired), but, admittedly, Camden never met with the unions to exclusively discuss avoidance of layoffs. So, those talks did not result in any concessions before the layoffs and, in fact, only in the month prior to Jones's testimony was there any settlement with civilian unions.

The six-month furloughs that had already been instituted had cut the civilian salary by 20 percent. Had the City extended that furlough plan, it would have saved an additional 20 percent, but would not have yielded the required savings. In any event, that option was not considered.

Further, reductions in hours, demotions, or "job sharing" would not have saved \$26.5 million, and they were not considered.²⁵ The City also did not consider returning provisional employees to their permanent titles or reassigning employees or duties in an effort to save salaries. And it did not consider granting voluntary furloughs to employees willing to take them, or granting leaves of absence without pay to consenting permanent employees.

The CSC ultimately approved of the layoff plan without requiring further actions by Camden.

²⁵ For example, if the approximately 1,000 employees each had a \$5,000 demotion, a high estimate, only \$5 million in savings would result.

C. *The Layoff Process*

1. Generally

As for the layoff process, the basic approach was to cut each department by 24 percent. That goal included reduction of salary, healthcare costs, and other expenses,²⁶ but Jones had instructed the department heads simply to cut 24 percent and to focus on salaries. In a meeting with the department heads, it was discussed that each would determine how to reduce their respective budgets by 24 percent.²⁷ Jones did not individually meet with them to demonstrate what savings could be made within the category of salaries,²⁸ and, to his knowledge, there were no instructions as to how they should go about executing the layoff plan. The business administrator did not provide, thus Jones did not use, any spreadsheet or written document providing instruction on how to undertake the layoff analysis. And to his knowledge, there was no mandate or suggestion as to whether departments were supposed to balance layoffs across all bureaus. Also, the department heads met with the BA after submitting to her their individual plans which, for Jones, was a spreadsheet containing all titles in his department.

Ultimately, the department heads submitted their selections to the business administrator, who then submitted them to Jones, probably in spreadsheet format that may not have been uniform. Jones looked over the list of titles, by department, and reviewed those salaries to ensure they were within budget. According to Jones, everyone had “hit the magic number” of 24 percent. Jones’s financial analysis was not submitted to the CSC, only the layoff plan was.

²⁶ Other expenses were described to include equipment, copy paper, coffee machine, water, and service agreements.

²⁷ Initially, there had been a retreat where Jones, in his first week on the job, introduced himself and informed his fellow department heads that the budgets had to be cut by 24 percent, but he did not distribute budgets until perhaps a week later.

²⁸ According to Jones they may, however, have met with the BA.

Jones is not aware of seniority, pursuant to union contracts,²⁹ having binding force upon the department heads' decisions. To his understanding, seniority did not play a role in executing the layoff plan. Jones never considered anything other than a monetary amount when making that decision, and specifically did not consider seniority, promotion scale or employee records because that was the job of the CSC. Jones acknowledged that the City's personnel manual regarding seniority described seniority, computed in accordance with State law, as an important consideration in making personnel decisions, including promotions, layoffs, assignments, and allocation of overtime. However, he admittedly did not follow that policy during the layoff process, and to his knowledge it was never "brought out as an important factor in the determination of layoffs of positions." (T2 at 176:1 to 177:8.)

The goal of a 24 percent reduction was reached overall, though some departments may have done more and some a little less. Jones could not recall specifically which departments were over or under, except Code Enforcement, which exceeded the mark.

Jones acknowledged that documentation should be available showing the percentage reached in each department, as the department heads had presented that in writing to the business administrator, with whom the layoff goals were discussed at a meeting. However, he had not maintained such documentation, and does not believe that any other such documentation used to compile the layoff plan was maintained, as the layoff plan [itself] became the document. (Tr. of February 14, 2013 ("T4") at 20:13 to 21:21.)

The initial TAL application (R-3b) submitted on September 28, 2010, requested \$54 million; a supplemental application submitted on October 28 (R-4) requested \$75.8 million, \$8.3 million of which would be used to reduce layoffs. The layoff plan (R-5), dated November 8, 2010, is silent to the fact that the City was applying for an additional

²⁹ As most of the budget is salary and wages, negotiations with the unions had ensued ever since July 2010.

\$21.5 million, and \$8.3 million would be used to reduce layoffs. At that time, the City already knew what its pension costs were because it had already submitted its supplemental aid application.

2. Finance

Jones made the decision which titles to choose for layoff in his department (Finance), and made cuts across all bureaus (including Payroll), regardless of size, because it would not be prudent to eliminate one or two entire bureaus to achieve the goal. The criteria that he used to choose the titles consisted of consideration of positions that were statutorily required, as well as redundancies, or multiple employees in a title.³⁰ There were no bureau or division heads laid off in Jones's department.

Jones denied taking into account the status, seniority, or personnel records of any employees in making his selection. At the time, Jones did not know employees' job history or seniority status. As to whether it was economical to retain two higher paying supervisor titles, while Bell earned less and had more seniority, Jones stated, "it was economical in the sense that we get the 24 percent mark." As to why he "did not get into any of those things" in selecting titles, he replied, "I'll be honest. I didn't have time . . . I just looked at the titles." (T2 at 168:21 to 169:1.) Unlike then, Jones now knows that, with almost twenty-eight years of service, Bell had more seniority, and concedes that her new supervisor, Latifa Chandler, has only four-and-a-half years of service. However, he denies that Chandler's assumption of some of Bell's former responsibilities equates to bad faith, analogizing the situation to having fewer employees left within a unit who then must assume some responsibilities of the laid-off worker. But, as to whether it was fair to eliminate an employee who was crucial, in terms of seniority and work experience, Jones stated, "nothing about this whole process was fair." (T2 at 162:2.)

³⁰ By State law and City ordinance, certain titles could not be cut, such as CFO, tax collector, and tax assessor.

According to Jones, accountability as to relevancy, or proof why the title would no longer be needed, was not a concern because having the savings was paramount. The savings took precedence over the functions of employees who remained.

II. Individual Layoffs

A. *Appellant Bell*

Since the layoffs, employees in centralized payroll, where Bell worked, have used comp time to complete the additional work that was left. Jones conceded that it is not economical to pay overtime to employees to perform additional work due to a layoff from their department. As to whether it was efficient to pay overtime, for two years now, to the two remaining employees, Jones said that it was not the goal to give overtime to a particular bureau. Further, Jones did recommend promotions after the layoffs, as in the case of one employee who had obtained a certification and sought advancement. But no more than a small part of Bell's salary was put toward that promotion.³¹

When Bell was reemployed through the police department (rather than Finance), Jones may have said words to the effect that her title of principal payroll clerk typist was not needed in Finance.³² Yet, Chandler, who performed payroll for the police department, recently transferred into Finance as senior budget examiner,³³ but still performs payroll duties for both the police and fire departments. Jones did not recall attempting to transfer Chandler and another employee into Finance while telling Bell that she was not needed there. At the time of Jones' testimony, Bell's (then former) title of principal payroll clerk typist was still laid off from Finance.³⁴

³¹ Jones explained that there had been ten people laid off, out of forty people in the department.

³² He had acknowledged that if the police department disbanded, her position could be lost.

³³ According to Jones, that is not a crucial position that is required by either State law or ordinance.

³⁴ And the reason that her title was temporarily assigned to Finance, but not officially under Finance's budget, was because the City still had a police department.

B. Appellant Lyons

As for other departments or divisions, Jones acknowledged that budget line items in Planning and Development included salary, longevity, some components of overtime, and very minimal other (“O and E”) expenses.

C. Appellant Williams

Jones could not recall any division heads besides Williams, in IT, who were laid off.

Patrick Keating, director of Public Works and veteran City employee,³⁵ testified that he is responsible for overseeing most of the essential functions of the City.³⁶ In his former capacity as a finance director, his responsibilities had included overseeing revenue collection, accounting for expenditures, and controlling means and disbursements, including taxes, as well as accounts and controls.

I. Layoffs Generally

A. Economy

By way of background, Keating explained that Camden has been under some form of State oversight since 1981, when the Distressed Cities Act set revenue criteria for municipalities. In or about 2002 or 2003, Camden came under the purview of the

³⁵ Keating began as a clerk in the business administrator's office in 1971, and has held the following positions: senior auditor, Department of Public Safety (1973) and Department of Administration (1976); assistant business administrator (1980) and business administrator, Department of Administration (1986); finance director (1994). In July 1997 he left to work for the City of Gloucester, but returned to Camden in August 2003 as Public Works director, and served for four months as interim chief financial officer. He served as director of both Public Works and Finance between 2008 in 2010, since which time he has directed Public Works. For most of his tenure, Administration and Finance were combined. Currently, Keating also serves as the deputy emergency management coordinator, and chairman of the municipal insurance fund.

³⁶ Those include recycling, sewer and water utility, potholes, traffic signals, building and parks maintenance, and street cleaning

Municipal Rehabilitation and Economic Recovery Act (MRERA), which empowered a chief operating officer, employed by the State, to oversee the daily operations, finances, and functions of the City; hiring and firing required his or her approval. At that time, approximately 80 percent of Camden's budget came from the State. Over the years, there were various statutory formulas for the provision of municipal aid, but in 2010 the MRERA was amended and the Transitional Aid Program became the vehicle that controlled new formulas for providing aid to municipalities.

As for his department, Public Works lost the Division of Capital Improvements, which was transferred to Planning and Development, by ordinance dated September 14, 2010 (R-18), thus becoming part of that department's budgetary responsibilities. Either the BA or the finance director requested a new layoff plan for his department based upon a projected need for further reductions. So, Keating submitted a second layoff plan proposing a cut of seventy-eight employees. However, it still included Capital Improvements, so Keating placed an asterisk to indicate that the eight employees from Capital Improvements might not remain in the department.³⁷ The bottom line was that Capital Improvements was not in Keating's budget for FY 2011. However, that information was not actually included in the layoff plan.

B. The Layoff Process

1. Generally

The department heads were directed to prepare budgets for FY 2011 that were 24 percent less than the FY 2010 budget. Within the department, information was reviewed to assess needs and costs.

A memo from Finance director Jones, dated July 29, 2010, (R-45) instructed that department heads provide essential-services functions on an essential functions and

³⁷ Keating noted that four top employees had already retired.

supporting dependencies worksheet,³⁸ and produce a proposed budget by August 3. The memo had been issued while the furloughs were continuing.³⁹ Keating viewed the essential-functions worksheet as both a useful guide for determining staffing and budgeting needs, and a potential tool to aid analysis, so as to meet the goal of maintaining essential services of each department. He thus received a blank essential-functions worksheet (R-47), but the BA did not give any accompanying instructions on how to use it.⁴⁰ To his recollection, neither the BA nor the finance director provided written guidance on how to accomplish the budget reduction, though he had received a budget manual for fiscal year 2011 (R-46) that included entries regarding particular budget expenses and proposals for fiscal year 2011. It did not indicate whether cuts would strictly come from salary and benefits. The supporting-dependencies worksheet contained a list of each of the functions and the department heads' decision as to the priority of each, "and then the processes that you use for those services, the responsibility for the process, and the impact of functions that were eliminated." (Tr. of February 20, 2013 ("T5") at 55:3-8.)⁴¹ Keating reviewed and submitted the requested essential-services document. (R-48.) The information utilized to determine various line

³⁸ The essential-functions worksheet originated as an academic exercise for assessing how departments were scheduling and prioritizing work.

³⁹ According to Keating, the furloughs lasted from June until November 2010. Thus, the layoff analysis occurred while furloughs were ongoing.

⁴⁰ Keating did not know whether the document was expected from each department head as part of the layoff analysis but, having been a business administrator, would not expect that there were different procedures utilized in different departments. He subsequently conceded, however, knowledge that by virtue of an email (R-49), all department heads were expected to submit the essential-functions worksheet.

⁴¹ For example, in the initial column, Keating described the essential functions of the department. In a second column, titled "basis for essential determination," he assigned a number that correlated to specific reasons, printed on the bottom of the form, as to why something could be essential, including: (1) legal requirements; (2) protection of life, health and property; (3) exposure to fines, penalties or lawsuits; (4) generates revenue; (5) key function to the City's overall mission; (6) absence of the function would cause economic, legal, or administrative losses; and (7) function requires two or more departments. On Keating's worksheet, in some cases he assigned more than one numerical basis to support his conclusion as to why a particular function was essential. The third column, "dependency, process or services that support essential functions," would describe "what actions or part of the department actually depends upon or is depended upon to perform those functions." (T5 at 58:21 to 59:3.) The next column, "department responsible or dependency process," Keating interpreted to reference the primary person or entity responsible for that particular function. The final column, "impact of the elimination of the function on the public or businesses in the city," would describe how elimination of the essential function would impact services provided by the department.

items that were budgeted was obtained internally, through either payroll, contract records, or budget records.

Identification of a position for layoff with the goal of retaining essential functions of the department involves a review of the department's positions and available levels of response, in terms of skill. So, the elimination of titles takes into account assuring that one has "those folks who are the most versatile available to you" (T5 at 71:14–17), such that, on the basis of skill, Keating retained certain titles—not individuals—deemed necessary to perform the department's functions.

The process utilized followed a general format for a budget request, whereby the director makes a proposal, though it may vary from year to year. Keating sent his final budget, for \$7,827,515.19, to Director Jones and BA Tucker. Though the budget remained the same, "some actions had to change during the course of the fiscal year." (T5 at 9:19.) In other words, additional layoffs occurred to make up for an over-expenditure, because the layoffs were originally slated for November 2010 rather than January 2011.

Despite Camden's obligation to honor an expired union contract, demotional or "bumping" rights based upon seniority were controlled by the CSC. Seniority does not play a role in determining positions to be laid off; rather, it plays a role in who in those positions get laid off.

Keating did not recall the amount of the initial TAL request, or having been informed that the City received an additional \$15 million in TAL to reduce layoffs. However, he would like to have been so informed and have had the opportunity to reduce his layoffs.

2. Public Works

Keating explained that the department's budget was reduced because the City anticipated that State aid would be cut and it would have a loss in revenue. "They gave us a preliminary number, which told us that we had to reduce the budget by 24%." (Tr.

5 at 10:24.) The 24 percent target was given to Keating on a spreadsheet, rather than the memo that he received from the finance director. (R-45.) For his department, it actually appeared on a portion of the overall budget. (The fiscal year 2010 budget of \$10 million was reduced by \$2.4 million; so, the 2011 proposed budget was \$7.8 million [sic], which included the 24 percent reduction. That was achieved by a review of titles and making cuts where perceived to be appropriate, based upon his own recommendations.

To Keating's recollection, no one from Finance or Administration reviewed with him the essential-functions worksheet for his department. Keating's worksheet does not indicate which positions could be eliminated based upon his analysis of the essential functions. According to Keating, he did not utilize it "directly" in determining which positions could be laid off, but did utilize it "indirectly" to explain each function and the potential impact when he "had to actually make decisions." (T5 at 60:18 to 61:2.)

Keating evaluated the operations of the department and gauged what staffing levels would be needed to perform basic services. Only "titles and divisions" were considered; it "had nothing to do with who particularly held the title." (T5 at 11:11.) In Public Works, some individuals were reduced in title, or "bumped back into lower positions [by the CSC] through the layoff process", as opposed to a reduction in pay. (T5 at 13:8.) But Keating's considerations were all based on "job titles and functions." (T5 at 14:11.)

The criteria for selecting certain titles to accomplish the budgetary objectives was as follows. Keating said that he

laid out the functions of each of the divisions and evaluated the staff that we had on hand and what had happened in the department in the past ten years because, remember, as I testified last week, we were in a hiring freeze and a promotion freeze for most of those ten years. So our staff has been dwindling greatly. So based upon who had already left, who was pending retirements, I put together an organization that I thought we would be able to respond to our most basic needs.

[T5 at 23:22 to 24:6.]

Subjective criteria was not used, in terms of job performance, seniority or other personal considerations; the CSC determined individual rights to a position.

By memo dated August 3, 2010, Keating had submitted his fiscal year 2011 budget request for Public Works. (R-39.) According to Keating, he met his goal of 24 percent and agreed that it would not make sense for a department head to exceed that goal, stating, "We're all so shorthanded as it is." (T5 at 62:5.) Keating's proposed budget made cuts beyond salary, benefits, and wages. Keating's initial proposal (R-39) kept ninety-two employees, and his later proposal showed a retention of seventy-eight employees.⁴² Keating did not recall a specific meeting with the BA after submission of his plan, but he believes that she accepted the plan.⁴³

II. Individual Layoffs

A. *Appellant Rodriguez*

Eduardo Rodriguez was employed in Public Works when Keating became its director in 2003. His "title" changed from equipment operator to "laborer, heavy," as a result of a required civil-service examination in which he did not place among the top three.⁴⁴ To Keating's best knowledge, Rodriguez's change of title from equipment operator to laborer, heavy, represented a return to his permanent title. With regard to

⁴² The difference included: eight less in Neighborhood Districts, three less from Parks and Open Spaces, one out of Facility Maintenance, and one out of the Electrical Bureau.

⁴³ Keating agreed that records of the layoff analysis were important to maintain and, as financial records, their maintenance would be mandated.

⁴⁴ According to Keating, the CSC determines qualifications with regard to the duties of equipment operator through testing under established criteria. Generally, the top three candidates for a position qualify unless a preference for a veteran or a residency requirement applies, depending on whether the test was an open competitive or promotional exam. In the case of a vacancy, the department may promote someone to a professional appointment pending a civil-service exam that would produce a certified list of eligible candidates, from which the department is to conduct interviews and make a selection based upon "veteran status, the rule of three, and the other criteria that's provided to us." (T5 at 19:17-24.)

job performance, the department's supervisors conduct internal evaluations that are not reported to Civil Service.⁴⁵ Keating did not know where Rodriguez ranked in seniority at the time of the layoffs. Keating, who has personally observed Rodriguez's work, considers him to be a good, perhaps almost excellent, employee.

The Department of Public Works had 118 employees who were working at the time of the layoff. At the time of Keating's testimony, it currently had 84 employees, including some rehires.⁴⁶

B. Appellant Bell

On cross-examination by appellant Bell, Keating testified that the personnel payroll function is listed under the staffing section of Keating's department and there was one layoff in the director's office, which employs the person that performs the payroll function in the department. That individual, who now holds the title of principal payroll clerk,⁴⁷ was not laid off. And Keating did consider her function to be crucial to his department.

C. Appellant Williams

On cross-examination by appellant Williams, Keating testified that the division heads in Keating's department did not participate in the layoff plan; he did not want to burden them with that responsibility. None of the division heads were laid off due to past attrition of top staff and Keating's decision to maintain all supervisors, for the integrity of the department's ability to respond to its functions.

⁴⁵ Rodriguez's supervisor was and is Jacquez Russell.

⁴⁶ Keating requested approximately twelve rehires in his budget submissions for 2012 and 2013, and six were approved.

⁴⁷ At the time, she did not have a payroll title.

Keating was aware that Williams was the City's project coordinator for the IT portion of the Newport construction, and that he worked with the Superior Court and the New Jersey Administrative Office of the Courts on that project, as well. He was also aware that Williams had set up all network drives for the City, and was known to always respond to any technology issue or emergency. Keating agreed that during Williams's tenure, there had been technological advances.

Edward Carl Williams, director of the Department of Planning and Development, and zoning officer for the City, was called as a witness by appellant Lyons. He transitioned from deputy director to become director of Planning and Development on July 1, 2010. He has held numerous positions since he first became employed by Camden in August 1987.⁴⁸ But he has been neither the director of finance, nor a business administrator or assistant business administrator, for Camden, and is not responsible for Camden's overall budget.

Director Williams testified that his duties as director of Planning and Development included oversight of the following divisions/bureaus: Planning and Zoning, Housing Services, the Urban Enterprise Zone, Capital Improvements, Project Management, and City Properties (until 2011 when City Properties was re-designated

⁴⁸ He has served as director of the Department of Planning and Development since July 1, 2010 (currently an at-will employee), and has held the position of zoning officer, a part-time position, for twenty-three years. He had previously served as the director of the Division of Planning and Zoning, within the department, and retained that position upon becoming also the assistant director of the Department of Planning and Development. In all, he had worked together with appellant Lyons since approximately 1988 or 1989. Director Williams's civil-service titles have included his current position as zoning officer and the former title of planning director. His position as director of the Department of Planning and Development, though a civil-service title, is an appointed position by the mayor. He has never held the civil-service title of chief of planning and project execution. Otherwise, his actual civil-service job would be planning director, a position that he still holds. Director Williams began his tenure with the City in August 1987, when he held his first position as assistant planner.

Director Williams identified himself as Dr. Edward Carl Williams and testified that he received a doctorate degree in organizational leadership and behavior from Regent University in Virginia. Dr. Williams testified that he holds a bachelor's degree in urban studies and urban planning from Rutgers in Camden, a master's of science degree in urban planning and development, a graduate certificate in project management from NJIT, an advance master's degree in organizational leadership from Regent University, and the aforementioned doctorate degree. He has been licensed as a certified planner in the State of New Jersey for sixteen years.

under the Law Department).⁴⁹ As director of Planning and Development, Director Williams is in charge of the Division of Planning and Zoning, which is now comprised of four titles: zoning officer, administrative clerk, senior clerk typist, and clerk typist. Prior to the layoffs in 2011, the division also contained the additional titles of chief of planning and project execution, data processing clerk, relocation officer, and (another) clerk typist.⁵⁰ Director Williams testified that there were no restrictions on him as a department head that prevented making recommendations to the BA regarding promotions, demotions, or provisional titles to enhance operations of the department.

I. Layoffs Generally

A. *Economy*

Director Williams described the City's economic status overall as "dire." According to him, the departments were surviving on quarterly emergency appropriations from Finance, though he did not know the specific source of those funds. However, he was aware that the great majority of the City's budget was funded through the State, as well as federal grants. And it was his understanding that department heads had been requested to cut their budgets by 24 percent because the State had indicated a reduction in State aid. He described Planning and Development's operation prior to the layoffs as running neither fat nor lean, just "[bare] bones." (T6 at 77:24.)

According to Director Williams, the City was not looking at layoffs as an ultimate resolution to its budgetary problems, as BA Tucker indicated that the furloughs would negate the need for layoffs. The 2010 furloughs, which continued through that summer, were designed to save budget money and avoid layoffs. At some point, Director Williams received information that the furloughs were not completely effective and

⁴⁹ Williams does not dispute the ordinance regarding organization of the Department of Planning and Development. (AL-21.)

⁵⁰ Williams was not sure whether the administrative clerk to the zoning board was under the planning budget.

layoffs would be required. He does know that his department's grant funds for administrative costs were drastically reduced by the Department of Finance.⁵¹

Since the layoffs, there has been a minor reduction in staff size. However, layoffs did not affect any department heads, to his knowledge. According to Director Williams, there was an effort to assist affected employees during both the furlough and layoff process.⁵²

B. Alternatives to Layoff/Pre-Layoff Actions

According to Director Williams, he did meet with and request and obtain documentation from his staff relative to "cost-cutting" ideas during the layoff process. Appellant Lyons submitted written suggestions, by memo dated August 3, 2010, but Williams did nothing to implement them, and stated, "that was not my responsibility." (T6 at 11:7.) Instead, they "should have been sent to the BA," but Director Williams does not recall doing so and does not recall whether they were discussed at meetings with the BA and the mayor.

Director Williams also gave no consideration to whether his employees could be demoted to lower paying positions, because that was not his directive. As a department head he did not have the ability to demote someone within his department, as no job action could be taken without State approval. And he did not consider whether Lyons could be reassigned provisionally to the position of zoning code enforcement officer,

⁵¹ Williams described that the appropriated amount for the director's office for salary and wages was \$95,000 "and change" in (fiscal year) 2009, and \$146,451 in 2010. In the Division of Planning, salary and wages were \$500,000 and change in 2009, reduced to \$448,548 in 2010. Notably, the Division of Housing is covered mostly under federal grants and is thus not in the salary and wage portion, but likely under a separate category in the City's budget. But its salaries were far greater than indicated in the original proposed budget for 2011. The Division of Housing Services did, however, tend to generate a surplus through "project income" generated from particular projects that was subject to strict guidelines. Though he could not say how that money was utilized, to the best of his knowledge it could not be used "to underwrite a person's salary who [is] not performing the CDBG-related functions," or to fund unrelated positions. (Tr. of February 22, 2013 ("T6") at 76:11-23.)

⁵² For example, a Ms. Johnson assisted Dwayne Williams to move from his laid-off position to new employment at Camden Redevelopment Agency. For his part, Williams gave a number of recommendations whenever possible.

denying that he had unilateral authority to make a provisional assignment, or that he could have made such a recommendation. Further, he has no knowledge as to whether any supplemental TAL was utilized to alleviate any of the layoffs. But Williams verbally asked BA Tucker not to make cuts in his department because he could not operate with any cuts at all. He did not, however, speak to her about keeping any particular title, because he wanted to keep them all.

Williams also agreed that the layoffs were originally scheduled to be started in or about September 2010, but were postponed for reasons unknown to him. Williams testified that it is possible that his department would have eliminated fewer positions had the layoffs occurred earlier, but he could not say one way or the other.

C. *The Layoff Process*

1. Generally

In the summer of 2010, Director Williams attended the mayor's retreat for departmental directors, intended as a gathering to "put together a game plan for the next year, though there had only been rumors of layoffs at that point. (T5 at 105:20 to 106:2.) Also in attendance were outside consultants who provided training on developing "a City-wide communication plan and preparing the City for possible cutbacks"; at that time applications for TAL were being organized and the department heads had advance information of a possibility of reduction in State aid. (T5 at 106:19.)

The retreat training instructed use of the essential functions and supporting dependencies worksheet for the identification of essential functions, or basic operations, in the event of impending layoffs. Each department head was to examine the essential functions in his or her department and complete the worksheet.⁵³ Each division or bureau that had a fiscal responsibility was responsible for completing it, as well. The

⁵³ Williams maintained a file relative to the layoff process (AL-22) that included a memo from the Finance director, Glynn Jones, requesting his preparation and submission of an essential-functions and supporting-dependencies worksheet (similar in appearance to R-47) for the fiscal 2011 budget.

BA had specifically instructed in writing that they consider functions that were not critical to the functioning of the department. In other words, perform a functional analysis to determine the positions without which the department could operate. The spreadsheet, presumably created by Finance, was provided as a guide in determining noncritical functions. The spreadsheet included information as to all functions, activities, and whether those functions and activities were linked to central department functions.

Director Williams does not recall anyone from Finance consulting with him to determine what was critical. Williams followed his own understanding of the process of preparing the layoff recommendations, without any feedback as to whether it was done correctly, and he is unaware of the process used by other directors. He also confirmed his understanding that the proposals for layoff and the reductions were going to be substantially higher because of the delay in implementation of the layoffs. In terms of criteria, according to Williams, more tenured employees have higher salaries and employee costs, and the City considered longevity, as well as benefits, for the budget reduction.⁵⁴

Regarding the TAL application, the BA prepared and distributed to the department heads narratives regarding various departmental functions, though he did not recall budget projections or figures.⁵⁵ The narrative was attached to the TAL application, and the department heads were merely asked to make comments or corrections as to that document. Director Williams provided a list of projects and initiatives from various development agencies throughout the City as his contribution to the "economic development" narrative. It was designed to demonstrate to the State that the City was reducing its reliance on State aid.⁵⁶

⁵⁴ Williams described longevity as a benefit package that goes to employees who, after certain time, receive (lump sum) a percentage of their annual salary each December.

⁵⁵ Williams noted that there were a number of organizations engaged in economic development in the city, including the Camden Redevelopment Agency and the Camden Housing Authority.

⁵⁶ Williams clarified that there was one email series between the BA and him, a two-page document, wherein he recommended titles that could be laid off from his department, but did not provide any commentary. And in a second email relative to Transitional Aid, he reviewed a narrative that had been prepared and mailed to him from the BA's office, and he merely provided some comments to it. And his commentary included sections that dealt with economic development. Director Williams also reiterated

Director Williams learned at some point that the City had received additional TAL funds, but does not recall either being told by administration that it would result in fewer layoffs, or that additional funds were made available to him as the director in order to alleviate some of the layoffs.

2. Planning and Development

Director Williams had requested that his division heads review their respective budgets and consider cost savings based on titles and functions, and provide him the information from which cumulative lists were sent to the BA, based upon financial targets that had been given.⁵⁷ Specifically, Williams was asked to reduce the budget from \$1.3 million (FY 2010) to approximately \$980,000, the budget that had been presented to Williams for his department for FY 2011, inclusive of benefits and longevity and not just straight salary.⁵⁸ Williams agreed that he was instructed to reduce his budget by 24 percent, which he did, based on the \$54 million of expected Transitional Aid.

Williams explained,

I'm sharing with you that was the target we were given. It was told in meetings that we should reduce our budgets upwards to 24 percent, but when the Finance director [Jones] gave us our target points, each department head was given a budget and given a number which were exclusive of benefits in which we had to cut our budget by. So, again it was a number. We developed the number [that] was given to us.

[T3 at 37:3–10.]

that, regarding the TAL (application) document, he had received a prepared narrative in the form of an emailed Word document; he provided commentary and returned it. Williams agreed that, possibly, such documentation would be saved in the network, and therefore accessible unless deleted.

⁵⁷ Williams met with his division heads and/or key staff at least every other week, for approximately six to eight weeks, and discussed the layoff plan and how it would be accomplished.

⁵⁸ According to Williams, there was a specific directive to account for benefits as well as salary, which made it more difficult.

In summary, he said, “we were given a budget, given a number.”

So, each division head in Planning and Development reviewed his respective budget and completed a worksheet, though the format did not contain the prepared numerical basis for exclusion, as did the blank worksheet previously identified (R-28).⁵⁹ The division heads gave Director Williams the titles, and those titles were then given to the BA or the finance director. But he does not know whether they were used in connection with the layoffs or whether the finance director was the person who selected the titles for elimination from his department. Williams described the worksheet that listed recommended titles as “an accumulation of the titles recommended by various individuals.” (T5 at 161:24–25.)⁶⁰

Director Williams explained his use of the functional-analysis worksheet in determining which positions would be recommended for elimination as follows. Within the Division of Planning and Zoning, he looked at those functions that he felt would sustain the operation of the department in the event of a layoff. For redevelopment planning, the dependency was redevelopment studies and plans (triggered by developers), a function that could be contracted out, and designated as low-impact.⁶¹

So, elimination of the chief of planning, Division of Planning, required that someone else take up those oversight and management responsibilities, as the City has the obligation to manage and oversee those plans. However, that management and oversight was not a central function of Planning and Development because it is not the only agency involved in redevelopment (referencing the Camden Redevelopment

⁵⁹ Williams could not account for the dissimilar version.

⁶⁰ For instance, principal clerk typist was recommended by “that person in charge of the budget,” Robin Johnson. The impact if payroll were eliminated would be that no services would be provided to residences and businesses, as was written by the chief, Candace Jefferson, who, according to Williams, was the only person in the office who knew the function well. In other words, she completed the essential-functions worksheet for her position.

⁶¹ A number of redevelopment plans that were contracted out were financed by grants, rather than at a cost to the City. In any event, during 2010–2011 a number of redevelopment plans involving varying responsibilities of Williams’s department were in one stage or another.

Agency). Admittedly, however, there was no ordinance directing that CRA have authority over studies and plans for redevelopment in the city. Williams listed the following essential functions for the office of director: Kronos timekeeping system, payroll, and City Council requests; yet, he did not deem them so essential as not to be subject to layoff. Dependencies included the personnel office, the payroll office, and administration personnel.

By email dated October 7, 2010, Director Williams sent to the BA a compiled list of nine titles for reduction (AL-18),⁶² four of which were actually reduced: (1) control clerk, Zoraida Pagan; (2) chief of planning, Charles Lyons; (3) relocation officer, Al Dansbury (from his part-time position); and (4) project coordinator, redevelopment, Dwayne Williams. He explained that his division heads with budget responsibilities had submitted recommended titles, and there was an effort to have consideration given to those titles that were grant funded, namely, loan advisor and senior clerk typist.⁶³ The others were all subject to layoff, and the administration did not give any clarity regarding the grant-funded titles.

Director Williams explained that he advocated to maintain all nine titles, and felt that any reduction in staff would be very detrimental to operations of the office. However, administration made the decision to ultimately reduce the staff by four, and he does not know what analysis was undertaken in that reduction. But he did not pick the four, and there was no consultation with him by the BA.

⁶² The nine were: (1) control clerk, Zoraida Pagan, Division of Planning; (2) chief of planning, Charles Lyons, Division of Planning; (3) clerk typist, Lorraine Johnson, Director's Office; (4) project coordinator, redevelopment, Dwayne Williams, office of the director; (5) loan advisor, Tina Morales, Division of Housing Services; (6) senior clerk typist, Ruth Martinez, Division of Health Services; (7) principal clerk typist, Linda Hawkins, City Properties; (8) relocation officer Al Dansbury, Division of Planning Budget; and (9) coordinator monitoring evaluation, Joe DiTaranto, Division of Health Services.

⁶³ Williams noted that "before the edict came out," he had supplied as many positions as possible from various division heads that had special responsibilities. And the case was made that most of the titles were grant funded, so there was an effort to retain them on the budget.

Williams estimated that \$296,000 was the savings resulting from elimination of the four titles.⁶⁴ The administration would not allow the request to reduce operating expenses.

According to Williams, it is possible that all of the titles that he recommended would have reduced the budget by \$322,000, or possibly more; he could not say for sure. Though uncertain, Williams testified that layoffs of the four people from his department may have been below the 24 percent reduction goal, as there were “a number of activities going,” such as retirements, that “affected the balance of the list for departments.” (T3 at 69:7–10.)

As to the layoff plan (R-5), Director Williams did not recall exactly when he became familiar with it, but he did not prepare the section identifying reduction of titles under Planning and Development (R-5 at section 15), and he did not contribute to that narrative. His only responsibility was to provide the BA with a list of possible titles for layoff. Though he disagreed with the layoff plan’s narrative (because he did not write it) that reduction would interfere with the City’s ability to attract and support economic development, and thus stifle economic self-sufficiency, Williams reiterated that his department was always thin-staffed and any loss would impact the department. However, he agreed that eliminating one clerical position in each division would have less (negative) impact than eliminating a division head. The list that he provided to the BA included at least four clerk or typist positions, and in total it exceeded the target of 24 percent issued by the Department of Finance.

Recommendations that he made to the BA concerning layoffs⁶⁵ were based on job titles rather than anyone individually, as he (and other department heads) had been given specific instructions to focus on the title and the functions. He did not waver from

⁶⁴ Benefits came to approximately 48 percent of everyone’s salary.

⁶⁵ As to recommendations that he had made after having received “an email regarding layoffs,” Williams described his recommendations as merely listing titles, but he does not recall any narrative comment in that communication. And he was not aware of any writing or memorandum directing that he not consider grant-funded positions for layoff.

that instruction, and no one in either Finance or the BA's office ever directed him to list any specific individual for layoff. And he recalls no such instruction at any meeting that administration had with the department heads; rather, they had been told to focus on just titles.

According to Director Williams, the layoffs resulted in approximately a 17 to 20 percent reduction in budget for 2011, as is probably reflected in the fiscal year 2012 budget. Ultimately, Director Williams understood that he was to provide titles that could result in a 24 percent reduction of the department's budget, rather than having to provide a budget that was 24 percent less than the fiscal year 2010 budget.

3. Other Departments/Divisions

The list that Director Williams provided to the BA did not, however, include any titles from either Capital Improvements or the Urban Enterprise Zone (UEZ) office, two agencies being brought into the department at or about the time of the layoffs. (AL-4.)⁶⁶ He did not recommend layoffs from either Capital Improvements or UEZ because he was uncomfortable making recommendations of titles when he was not familiar with their functions. He did not know whether there were layoffs from those divisions before they transferred into his department, but at least seven people from those divisions joined his department after the beginning of 2011.

II. Individual Layoffs

A. *Appellant Lyons*

Regarding economy or efficiency, Director Williams determined that one of the four titles deemed not critical to the functioning of the department was the chief of planning and project execution position held by appellant Lyons, within the Bureau of

⁶⁶ Capital Improvements became a separate division within the department, as did the UEZ, a grant-funded office.

Redevelopment and Planning. (AL-8.)⁶⁷ In making that determination, he considered that the “function of Redevelopment Planning is a function that is not critical to the department. Important, yes. Critical, no.” (Tr. of February 7, 2013 (“T3”) at 52:1–5.)⁶⁸ Director Williams defined a critical function as one that, if it were absent, would disable functioning of the whole department. And, at that time, the Camden Redevelopment Agency’s (CRA) principal function was redevelopment planning and project implementation.⁶⁹ Though Williams was aware of another employee at the CRA who performed planning functions at that agency, he admittedly did not investigate and could not say whether they were the same functions performed by Lyons.

According to Director Williams, he, and not Lyons, was the person responsible to ensure that developers follow rules, regulations, restrictions, and guidelines of the Planning Board. As chief of planning and project execution, Lyons was responsible for managing the development of redevelopment plans, either through managing consultants or his own production of work and documents. After Lyons was laid off, Director Williams assumed that important function, in addition to being the department head and the zoning officer.⁷⁰ Williams testified that Lyons’s position actually fell within the Division of Planning, which lists Williams as zoning officer, unlike depicted in the department’s organizational chart. (AW-8.)

The Bureau of redevelopment and planning as a function
that was on the books but never had its own separate

⁶⁷ Prior to Dr. Williams becoming director, the Department of Planning and Development also included the Camden Redevelopment Agency, which separated and became a separate entity controlled primarily by the City Council. In or about 2010, the name of the department changed from Development and Planning to Planning and Development, and at some point, its then director, Sandra Johnson, became director of the Camden Redevelopment Agency. According to Director Williams, one type of project handled under the chief of planning and project execution involved managing consultants who would produce redevelopment studies and plans. Urban renewal fell under the purview of the Camden Redevelopment Agency, which had been separated from the Department of Development and Planning within six months before the layoffs.

⁶⁸ The transcript incorrectly bears the date of February 8, 2013.

⁶⁹ In or about July or September 2010, just prior to layoff plan, the CRA was separated from the department. Williams did not know whether any of that agency’s employees were affected by the layoffs, but could confirm that following the layoffs an employee named Dwayne Williams took a position there.

⁷⁰ Williams testified that he did not receive any additional salary for taking on those added responsibilities.

budget, never had its own separate list of O and E, operation in supply and materials. All salaries of the Bureau of Planning, Redevelopment Planning, was under the Division of Planning and Zoning budget. So it never had a separate budget on its own. The only divisions that function that had separate budgets were all with the exception of the Bureau of Redevelopment and Planning. [It] never had its own separate budget. All this salaries, operate materials came out of the Division of Planning and Zoning's budget, thereby, all the salaries for that division were inclusive of those functions within the Bureau of Redevelopment and Planning.

[T3 at 81:6–20.]

The 2011 layoffs eliminated the position of chief of planning and project execution that had been held by appellant Charles Lyons. Another employee, Zoraida Pagan, whose position as data processing clerk was also eliminated, was reemployed by the City in another capacity. A third employee, Al Dansbury, held the part-time position of relocation officer that was eliminated, but he remained employed in a second, full-time, position as administrative analyst in the Division of Housing Services within the department. Another individual, Dwayne Williams, lost the position of project coordinator redevelopment, which was under the office of the director, but became reemployed under the Camden Redevelopment Agency.

Regarding appellant Lyons's handicap, Director Williams also is aware of and does not dispute that Lyons, who is disabled, had made requests for reasonable accommodations from the City from time to time, and Williams supported his requests that were reasonable. Director Williams himself had occasionally complained over the accessibility of the City's facilities. He did not consider Lyons's disability in any way in connection with the layoff plan that he submitted. Lyons was the only chief position that Williams had identified for layoff, but a comparable position that he also recommended for layoff was that of project coordinator, redevelopment, then held by Dwayne Williams, who became employed by the Camden Redevelopment Agency shortly after his layoff.

On cross-examination by appellant Williams, Director Williams confirmed that only division heads that had budgetary responsibilities within his department participated in the layoff planning and recommendation. No division heads in the

department were laid off, as none of their titles had been recommended for layoff. Director Williams recalls appellant Williams expressing to him, during the layoffs, concerns about being laid off and being denied health benefits. Director Williams recalls being concerned for him, but does not recall stating that the denial of health benefits sounded like it was personal.

Arthur Thompson, assistant director of the Department of Human Services since 2008, testified (for Lyons) that in that capacity in 2010 he was responsible for five bureaus or divisions within the department.⁷¹ In particular, he had administrative and financial responsibilities, including preparation of budgets, and he handled program planning and minor disciplinary matters, as well. Thompson had no involvement with 2011 budgetary reductions for the departments of Planning and Development, Public Works, Finance, and IT. His knowledge is strictly limited to his department.

I. Layoffs Generally

At an October 7, 2010, meeting there had been a discussion regarding doubling the proposed cuts in all departments because a delay in implementing the layoff plan resulted in increased expenses that required a larger cut. However, the mayor's office did not explain why the delay should result in doubling the proposed cuts, and there was no discussion for cutting less. Thompson felt that rationale did not apply to his department, however. There were thirty-one people in his department just before the layoffs. Two employees were laid off and there are currently twenty-six employees in the department, the additional reduction resulting from attrition.

A. *Economy*

As assistant director, Thompson attended meetings regarding the layoffs. The process began sometime in the summer 2010, and the mayor's office or the BA had

⁷¹ They were: Neighborhood Services, Human Services, Recreation, Office of the Director, and Senior and Emergency Services (Office on Aging).

given the department heads, as a benchmark, a percentage of their budgets that needed to be pared.

Thompson recalled being presented with the essential-functions worksheet (R-47) at a retreat for senior staff. Economizing was discussed, rather than any direct discussion of reduction in force. As Thompson understood it, the spreadsheet related to organizing the department and identifying which functions were essential and which were non-essential, but there was no understanding that it would be utilized for any formal purpose. Further, it did not clarify for him which positions in his department were unnecessary. Though some of the titles within the department were outdated or unnecessary, all of the personnel were essential, as many staff "wore several hats." However, Thompson personally completed the spreadsheet for each bureau in his department. From the instructions given, he believed that "it was something that was supposed to be coming from the department heads" and that the task was appropriate for only a department head, in a department the size of his. (Tr. of June 10, 2013 ("T10") at 19:23; 21:6.) He submitted it to the BA, but not in connection with the layoff plan. Thompson was unable to say whether the information on his essential-functions worksheet was utilized by others to determine a reduction in force; however, it was not used by him.

Thompson described a memo dated October 7, 2010, from him to BA Tucker (AL-23) as being intended to help the City meet financial goals, by identifying where cuts would come from, rather than help it achieve a layoff. It was not Thompson's understanding that all of the departments were supposed to engage in the same process to accomplish budgetary reductions. As to whether different departments were permitted to engage in different processes to achieve reductions, he replied, "we were not instructed as to the process only to the result." (T10 at 51:6.) Thompson's cuts were not heavily weighted by personnel layoff. Yet, three titles were identified for reduction, of which two were selected for layoff and the third employee retired.

B. Layoff Process

Thompson testified that on annual basis he receives documentation from the director of Finance, in the form of a worksheet or spreadsheet for his department, indicating what his (department's) budget is. His understanding was that it represented his entire budget, including salary and operating expenses.

Referencing documentation from one of the meetings (AL-22), he recalled that the goal for budgetary cuts for his department was 24 percent, to achieve a monetary goal of \$508,799.31. He understood that cuts to salaries as well as other expenses (supplies, professional services, and operating expenses) could be made, based simply upon the BA's instruction to cut the budget. So, the savings in wages for fiscal year 2011 was approximately \$45,000, far short of the goal of \$508,799.31. Thompson accounted for the balance by explaining that since the proposed budget in July, he had lost other staff, which included their full benefits that were estimated higher than they actually were. The budget had been \$2.1 million, excluding fringe benefits. A number of unfilled and retired positions, and the associated benefits, greatly contributed to Thompson's ability to cut the budget by the requested amount.

Regarding the fact that benefits had not been included in Thompson's budget, he explained: "Well, we were given that number by Finance through that document So now it was part of my budget. But it's not something that I'm responsible for budgeting. . . . They summarized to that, gave us an estimate what that would be, and put that in the dollar amount, attributed a certain amount to each employee so you can calculate what the reduction would be based upon salary." (T10 at 28:18 to 29:5.) So, the budget that he had been given included items not normally in his budget, but rather were expenses associated with his department.

Thompson estimated the savings resulting from two retirements and elimination of the three proposed positions at 28.32 percent, or \$621,480.34, according to his memo. The document states that the numbers were achieved by reductions (also) resulting from planned furlough days. In explaining how he achieved the 28 percent reduction of \$621,000 and change, with the two employees laid off and one retiring,

Thompson indicated that he eliminated those employees in terms of salary, wages and benefits. And there were a couple of other positions that were unfilled and thus did not require funding. And but a nominal portion of the reduction came from cutting operating costs.⁷²

Thompson did not know what percentage had been reduced from his budget or how much savings had been achieved after the layoffs, because he had control over certain costs that were estimated by someone else, such as medical, fringe benefits, or FICA. In Thompson's opinion, those costs were inflated; he believed they had been based upon the number of people in the department's budget, when it did not actually have those people.⁷³

Thompson described the process that he used to identify the three positions for reduction by simply stating, "Need. . . . In order to meet my objectives, I had to identify staff or they would be identified for me." (T10 at 36:9–12.) In his memo (AL-23 at 2), Thompson also attempted to delineate the impact of losing those positions. Of the three employees in the identified positions: In his memo (AL-23 at 2), Thompson also attempted to delineate the impact of losing those positions. Of three employees in the identified positions, two of them were laid off and one retired; none were rehired. Thompson did not recommend the layoff of any bureau or division head, as they were essential to operations of the department.

Thompson submitted his memo to the BA, but she did not respond in any way to disallow operating expenses. So, Thompson made cuts "across the board" in "other expenses," the biggest category used by his department (unlike Public Works or the Police Department), which provides services. Also, there was no communication from

⁷² Thompson testified that he previously had prepared a spreadsheet, but neither is it presently available as an attachment to AL-22, nor had he provided it to the City's attorney. Upon counsel's request, it was ordered that the witness produce the spreadsheet before the next hearing date.

⁷³ So, for instance, the calculation of benefits at 48 percent of salary and wages (approximately \$1.3 million) was too high. According to Thompson, "The amount that we needed to cut from the budget is what they requested us to cut," but he cut in excess of 24 percent from his budget (AL-22) "based on the numbers they provided us." (T10 at 35:12–18.) And that budget was "not necessarily what [his] budget was."

the BA's office to discuss why the titles proposed for reduction in his memorandum should or should not be eliminated, and to his knowledge, they merely accepted the recommendation and eliminated two of the titles.

Johanna Conyer, director of finance for the Camden Redevelopment Agency, testified (for Lyons) that she has been employed at the CRA since 2004, and has been its director since 2007. Serving under the executive director, Saundra Johnson, her duties include management of the agency's capital and liquid assets, and responsibility for human resources, procurement, and information compliance. She is also responsible for the budget.

The CRA is a civil-service agency and has been its own separate entity since splitting from the City, specifically, the Department of Planning and Development, in or about the summer of 2010.⁷⁴ Before the split, the CRA had fourteen employees and received approximately \$200,000 of its budget from City funds; however, Conyer could not say what percentage of the CRA's budget that accounted for, as she did not recall the overall budget for the CRA.

The CRA does not receive any of its revenue from the City now, and has not received such funding since its severance from Planning and Development. Rather, it currently receives funding from various sources grouped according to land sales, project-management fees, redevelopment fees, escrow fees, and grants. And it presently has approximately eleven employees, none of whom are current employees of Planning and Development. Conyer does not know the reason that the CRA split from Planning and Development, but the impact was that the CRA's executive director no longer has authority over that department, although Planning and Development still interfaces with the CRA as before. Planning and Development develops and monitors redevelopment plans and studies, and the CRA implements those plans but has no

⁷⁴ The CRA had functioned as one organization with Planning and Development and shared the same director, who held the title of both director of Planning and Development and executive director of the CRA. The last person to have simultaneously held those positions was John Kromer, who was the predecessor to Saundra Johnson. The split did not affect the office location.

authority to approve them. And that role is the same now as it was in 2010 when the CRA was a part of that department. Conyer is unaware of whether the CRA transferred any of its functions back to the City when it split from Planning and Development.

The CRA did not engage in any layoffs. The lack of necessity was not due to the CRA's split from the City at that time. Rather, the CRA did not have to reduce the number of its employees or execute a reduction in force because, for budgetary reasons, it was not necessary.⁷⁵

At one time, the CRA did share employees with Planning and Development, namely, Zoraida Pagan and Candice Jefferson. At that time, Conyer was director of Finance. Pagan held a civil-service position with the CRA, which paid Pagan's salary and health benefits, to which the City did not contribute, although she was also a City employee. That payment arrangement continued until she resigned (from the CRA); she continued as a City employee and the City then paid her salary and benefits. And she continued to work for the City after the CRA split from Planning and Development. In subsequent testimony, Conyer said that Pagan was a City employee "on loan" to the CRA, "so she really was not a CRA employee. She really was a City of Camden employee at the time." But she did continue to work for the CRA after it split from the City. Conyer is unaware of whether Pagan was affected by the layoffs. When Pagan did "return" to work for the City, the position she left at the CRA was subsequently filled by a new hire who had not previously worked for the City. That position has been held by a few people now, and is presently filled.

Regarding payment of salary from the City, Candice Jefferson had received a stipend. In 2010, Jefferson was a part-time executive assistant with the CRA. After the split from Planning and Development, she and Pagan continued to occupy the same space. Jefferson is currently a part-time project manager, still receiving a stipend,

⁷⁵ Conyer testified that, through furloughs, the CRA did participate in the City's 2010 reduction in force to reduce the City's budget. She clarified, however, that the CRA was required to participate in the furloughs in order to reduce expenses and to have an effect on its own budget, not because it was part of the City's budget at that time. The CRA had faced a budget crisis because anticipated revenues had not been received as expected. The CRA's furloughs, which were in the summer and lasted for a few months, resulted in a sufficient decrease to balance the CRA budget.

responsible for assisting the director of economic development, James Harveson, but it is not a civil-service position.

After the City's layoffs were effectuated, the CRA hired Dwayne Williams as a construction manager, a civil-service title and new position that was created. He did not fill a vacancy at the CRA. His hiring process was managed by the executive director,⁷⁶ and, though his title is civil service, he is a contract employee under a particular grant. Civil service has not notified the CRA regarding a determination on his civil-service questionnaire that was submitted for that title. Conyer had been aware that a construction manager position was needed at the CRA because the executive director had informed her approximately six months earlier. Within that six months, Conyer had not taken any steps to have the position created or approved by the CSC, and could not say how long such a process would take, as the CSC had never approved of any CRA civil-service position.

According to Conyer, CRA employees, who are enrolled in the pension system, are subject to civil-service rules and regulations, and they occupy civil-service titles even without such approvals. (T10 at 51:6.) Dwayne Williams continues to work for the CRA as a construction manager. Conyer has no knowledge as to whether the City gave any guidance, or participated in the interview process, with respect to the hiring of Dwayne Williams.

Conyer added that the CRA did not employ any planners on its staff, but a former employee, Josh Warner, had held the position of geographical information systems specialist.

Notably, after completion of her testimony, Conyer was recalled, having requested through counsel an opportunity to clarify her testimony. (T10 at 78 to 80.) Conyer then testified that Pagan, who Conyer previously identified as having been on loan to the CRA, and receiving her salary from the CRA, actually received two stipends

⁷⁶ The executive director conducted the interview and informed Conyer that he would be joining the CRA.

from the CRA and her main salary and health benefits were paid for by the City.⁷⁷ Her CRA position was a civil-service title, but she did not fill it as a civil-service employee. Her civil-service employment was with the City. The CRA has been a civil-service agency since its inception, by law.

Candice Jefferson, chief clerk for Planning and Development, Office of the Director, testified (for Lyons) that she has been employed with the City since 1990 and has held her current title since 2004.⁷⁸ She also holds a part-time position with the CRA as project manager, under the Division of Economic Development, a position she has held since May 2011. From 2007 to April 2011, she was part-time executive assistant to the executive director, the most recent executive director being Saundra Johnson, and she had been assigned to that position when the CRA was part of Planning and Development.

As chief clerk, her duties include handling all matters involving the Office of the Director, including payroll, time, and purchase requisitions. Jefferson described herself as the head of the director's office who reports to the director. She does not supervise employees currently, but before the 2011 layoffs, she supervised clerical employees in the department. Jefferson did not have any role in recommending any position for layoff, and was not told by the director of her department, Director Williams, what the goal was in terms of reducing the overall budget to comply with the layoff requirement. She did not compile or type the information on the essential-functions worksheet (R-28) and did not know how the titles had been selected for layoff. In 2010, Jefferson did not participate in the process of identifying positions for layoff within her department. Director Williams did not ask her to prepare any documents to help him identify positions for layoff.

⁷⁷ One of the stipends was for the position of secretary to the board of commissioners for the CRA. The second stipend was for part-time finance clerk to the CRA.

⁷⁸ She previously held the title of supervising clerk typist, Planning and Development, from approximately 2000 to 2004, prior to which time she was a clerk typist, the position she was hired into.

I. Layoffs Generally

A. *Economy*

In late 2010, Planning and Development had to reduce the number of its employees due to the layoffs, but Jefferson does not recall exactly how she became aware. Planning and Development laid off three full-time employees, namely, Zoraida Pagan, Charles Lyons, and Dwayne Williams, and a part-time position that was occupied by Albert Dansbury (who kept his full-time position). Dwayne Williams obtained another position with the CRA, rather than the City, and Zoraida Pagan obtained another position with the City. Lyons did not return to employment with the City. As a result of layoffs, the Bureau of Redevelopment was essentially removed from the department because it was no longer staffed. The function of redevelopment then fell to Director Williams.

According to Jefferson, an employee under Mr. Lyons's supervision, Lorraine Johnson, was assigned to him under the Office of the Director. Having refreshed her recollection (AL-22), she then testified that she herself supervised Pagan and Lorraine Johnson, both of whom assisted with daily operations in the Office of the Director.⁷⁹ Jefferson had no role in recommending that Pagan's position be eliminated in the layoffs, and she does not know who made that recommendation. Jefferson was unaware of the details concerning Pagan's resignation from the CRA.

Jefferson also identified Dwayne Williams as someone she had worked with at Planning, but she is unaware of how he became employed with the CRA, sometime in 2011. She did not assist with any documentation creating the position of construction manager, and she was not aware of a need for a construction manager before he was hired into that role. She was not aware, when his position was identified for layoff, that he would be moving to the CRA, a development that occurred after he was laid off.

⁷⁹ Pagan began working in the department around 2005 or 2006 as a data control clerk. At one point she worked as board secretary, from 2006 until the 2011 layoffs.

The CRA was separated from Planning and Development, from what Jefferson had heard, because the mayor wanted to take it in a different direction. There were no layoffs from the CRA when it separated from Planning and Development. She does not know whether the CRA was required to participate in furloughs while under Planning and Development, although it did. The CRA had approximately thirteen to fifteen employees while it was still a part of Planning and Development. None of those employees were laid off.

In late 2010, the Urban Enterprise Zone (UEZ) was included under Planning and Development; however, the UEZ employees are not included on the list of employees that were in that department in 2010. (AL-22, at 2.) Further, the employees of Capital Improvements were transferred over to the department later in 2010, but they are not indicated on that roster either. According to Jefferson, employees of the UEZ and Capital Improvements divisions were not considered for layoffs from Planning and Development because at the time the layoff was prepared, neither division was within the department; they were transferred in the later part of 2010. The two divisions would have totaled approximately eight employees.

B. Layoff Process—Planning and Development

Planning and Development was headed by Edward Williams, who was also its assistant director in 2010, and it separately contained the Division of Planning. On behalf of Planning and Development, Director Williams attended meetings with the mayor or BA regarding reduction in force or budget cuts, but Jefferson did not attend. Jefferson recalls staff meetings with division heads in her department and discussions about the layoffs, but she does not recall creating documents. She cannot recall any meeting with division heads to determine how layoffs would be accomplished and where they would come from within the department.

She recognized an essential-functions worksheet that referred to the Office of the Director and had been handed out during a staff meeting (R-28), but she does not know

who prepared it.⁸⁰ Other than herself, only Director Williams could have had the responsibility of identifying essential functions, but she could not say whether he prepared the worksheet. However, she was sure that he was the one who had instructed the division heads to complete those essential-functions worksheets, and she would have been the one who made copies and distributed the worksheet to division or bureau heads. As for particulars, she only recalled that each division head was supposed to complete it. She did not recall anyone giving any instruction as to what information should be included, or how the information would be used. She was not sure whether she had to complete one, as she did not recall filling it out; the director may have completed the form for the Office of the Director. And she does not recall any subsequent meeting where the forms were collected. To her knowledge, Mr. Lyons was not asked to complete an essential-functions worksheet because his division did not have a budget; rather, it fell under the Planning division.

II. Individual Layoffs—Appellant Lyons

As chief clerk of the director's office who had responsibility for administrative matters affecting Planning and Development employees, Jefferson was aware that Lyons had difficulty accessing the building for a period of time due to issues with the chairlift, and he had been told to use the freight elevator. And there were times when he was unable to work due to inability to access the building; it had happened often. He did not have to seek official leave for paid time off, however, because he essentially received an approved absence.⁸¹ Jefferson was not aware of any complaints that Director Williams made regarding Lyons's attendance relative to building access; he did not make such complaints to her. According to Jefferson, the City did not control the lift with which Lyons had issues; it was controlled by the county and it was the county's duty to repair it when it was inoperable.

⁸⁰ She had only previously seen it in blank form and she had not prepared one for the Office of the Director.

⁸¹ According to Jefferson, there was a process whereby he would call or send an email and, upon approval, he was credited for his time as if he was at work.

Jefferson did not know whether any consideration had been given to the prospects of Lyons fulfilling duties of a different title, such as zoning officer. Director Williams would have been responsible for that information.

Appellant Charles Lyons testified that he began his employment with Camden in March 1988 as senior community planner in the Office of Policy and Planning within the Department of Administration.⁸² He was promoted to principal planner in January 1991, and to chief of Planning and Project Execution in January 1999, the position he held until his layoff. Simultaneous with those positions, he also held the titles of interim executive director for the Camden Redevelopment Agency in January through May 2002; relocation officer, from 2003 to 2007; and Brownfields coordinator, a non-civil-service position, from 2004 to 2007.⁸³

Lyons's job duties included responsibility for redevelopment studies and plans, as well as neighborhood studies and plans, and it expanded to cover Brownfields (contaminated environment sites) studies and projects.⁸⁴ Responsibilities also included supervision of the relocation officer and relocation activities, and continuation of work begun as project coordinator for redevelopment projects, by supervising or managing those activities.⁸⁵

⁸² The department had been named the Office of Policy and Planning until approximately 1989, when it was changed to the Department of Development and Planning; in 2010, the name changed again from Development and Planning to Planning and Development. The Camden Redevelopment Agency is an independent agency separate from the City's developmental structure, but as interim executive director of the CRA, Lyons was paid by the City.

⁸³ Lyons holds a bachelor of arts degree in urban studies from Utica College and Syracuse University, a master of arts degree in urban studies from Temple University, and a master's degree in city planning from the University of Pennsylvania.

⁸⁴ Those duties are aptly described in a source document from the Civil Service Commission (AL-1) and Article 8 of the Camden Administrative Code, Department of Development and Planning (AL-21).

⁸⁵ Lyons explained that when he became chief of planning and project execution in January 1999, there was no actual unit for him to head, and he held the title within the Division of Planning, where he was already based. When the MRERA was implemented in 2002, an ordinance was passed creating the Division of Planning and Project Execution to further the aims of the statute, namely, promoting revitalization through redevelopment studies and plans and projects throughout the city.

Lyons identified a list of numerous redevelopment plans and studies that had been completed and approved by the City and with which he was involved as principal planner.⁸⁶ Prior to 2004, Lyons independently produced both redevelopment and neighborhood studies and plans; however, after that time the planning board required that those studies and plans be submitted by a professional planner licensed by the State. Though Lyons was not required to hold a license as chief, the division began to contract with consultants. But he still performed redevelopment studies, in addition to having licensed professional planners perform them, as well. They, however, inspected the neighborhoods, prepared and signed studies ultimately submitted for specific property that was designated to be in need of redevelopment, and elicited the relevant testimony at public hearings.

According to Lyons, he managed the consultants' preparation of redevelopment studies, and was the "central architect or author" of redevelopment plans. His work with consultants included reviewing the application of criteria for blight designation, limiting the use of eminent domain, writing the redevelopment plans and preparing PowerPoint presentations for community, Planning Board, and City Council meetings regarding some of those projects. He also did community outreach for accommodation of community needs in redevelopment plans. (Tr. of August 8, 2013 ("T12") at 14:4–19.)⁸⁷ Once plans were approved, Lyons's role was to be a contact person regarding conformance issues and information for the community generally. No other persons in either the department or any other bureaus were responsible for those functions. Though Lyons did not prepare any analysis comparing work that could be performed by him versus outside consultants, he disagreed with the notion that they could perform all of the work that he does.

⁸⁶ The single exception was the Centerville redevelopment study and plan, which predated the Bureau.

⁸⁷ Usually, there would be at least two redevelopment study and plan projects happening simultaneously and typically it involved an eight or nine month process and one to two community meetings monthly.

Lyons explained that the consultants were paid on a fee schedule, based on the scope of their services, pursuant to their contract.⁸⁸ On the other hand, as chief of planning, Lyons was a salaried employee whose work [sic] did not increase depending upon time spent performing assigned tasks. (T12 at 91:17–21.) And he did not have the option to require the consultants to do work assigned to him. For instance, he could not require them to do community outreach, but “did have the option for additional costs to require them to attend community meetings that [he] facilitated.” (T12 at 92:4–7.) Further, the redevelopment plans and the neighborhood studies could not be completed without the community outreach that Lyons performed.

I. The Layoff Process—Planning and Development

In late 2010, just prior to the layoffs, Planning and Development consisted of five divisions and bureaus: Division of Planning; the Director’s Office; City Property; Housing Services; and the Bureau of Redevelopment Planning. However, an ordinance issued in July 2010 essentially added Capital Improvements and the Urban Enterprise Zone, for a total of seven. Lyons estimated that in September 2010, Planning and Development consisted of approximately forty employees.

Director Edward Williams topped the organizational chain of command and was ultimately responsible for the department, including its operations, as well as assignments and other personnel needs. (AL-8.)⁸⁹ He acted as either director or

⁸⁸ Lyons further explained: “There was, with every contract, a contingency that if additional time or services were needed, that they could have a change order in their contract. Contracts were in response to an RFP that my department, essentially myself, put out on behalf of the City. They were in turn paid by the CRA, who had funds dedicated for this purpose, for redevelopment studies and plans from the economic recovery Board. (T12 at 91:9–16.)

⁸⁹ Lyons also testified that based on his personal familiarity with the organizational structure of Development and Planning in September 2010, an organizational chart (AL-8) appeared to accurately represent the structure and hierarchy of the department at the time, though the title of relocation officer, over which he had supervisory responsibility, is not listed, and the title of project coordinator, for which he said he had supervisory responsibility, is not listed under his division. He identified the title of typist, that appears under the Bureau of Redevelopment Planning, as not eliminated as a result of layoffs. Also, Pagan, an employee in the Department of Planning who was laid off at the same time as Lyons, does not appear on either the organizational chart (AL-8) or on a list of employees in Planning and Development as of January 2011 (AL-4).

assistant director for ten years. So, to Lyons's knowledge, he submitted the information regarding the department's needs relative to the layoffs and their preparation, planning and implementation.

Regarding the layoff process, there were no regular meetings with Director Williams, or any emergency meetings between him and bureau chiefs. And neither he nor anyone on his behalf discussed with Lyons the essential functions of Lyons's bureau. Lyons had never before seen the essential-functions worksheet (R-47) and was not asked to complete one for his bureau. There were others in the department who were provided with the essential-functions worksheet, in addition to and at the discretion of Director Williams, but Lyons was not.

On or about July 28, 2010, Director Williams asked Lyons to provide a memo relative to cost savings, and Lyons provided the memo, dated August 3, 2010. (AL-11.)⁹⁰ Director Williams did not follow up with Lyons, and Lyons is not aware of him implementing any of those suggestions, and heard nothing more about it from anyone. Admittedly, Director Williams, and ultimately the City, had the discretion whether to incorporate those suggestions. Lyons does not know all of the factors that either Director Williams or the City was considering.

Lyons received an individual notice of layoff or demotion (AL-3 at 1) on December 2, 2010, prior to which time he was not aware that his position, chief of planning and project execution, was subject to layoff. And he subsequently received a letter from the CSC dated January 5, 2011, notifying him of a layoff from his permanent position, effective January 18, 2011 (AL-3 at 2). According to Lyons, there were no other bureau heads or chiefs that were laid off from Planning and Development.

The estimate of 40 employees in development and planning at the time of the layoff may be too high a number as the list (AL-4) indicates twenty-eight employees, but it does not account for the staff of Capital Improvements.

⁹⁰ The memo offered suggestions for the City that included: (1) development of a five-year fiscal plan; (2) export nonessential public services; (3) re-size essential public services; (4) downsize internal operations; (5) expand revenue generators. Suggestions for the department included: (1) employee a five-year fiscal plan; (2) expand revenue generators; and (3) reduce labor costs.

Lyons identified positions that were laid off, outside of the Bureau of Redevelopment and Project Execution as: project coordinator for redevelopment, from the director's office, and relocation officer (part-time), from housing services.⁹¹ According to a list of subunits within Planning and Development, which Lyons received from the municipal clerk's office, both Capital Improvements and the Urban Enterprise Zone were included within Planning and Development as of January 1, 2011. As for redevelopment planning, Lyons confirmed that he had no knowledge as to the current roles of the individuals within the planning department. And he admittedly is not trained as a data entry clerk.

Lyons was familiar with the CRA, having served as interim executive director.⁹² As chief of planning, he was aware that the CRA had neither a licensed planner, nor any planning functions. Following the layoffs, the CRA hired Dwayne Williams, who had been laid off from Planning and Development, as he had worked closely with the CRA and was slated to continue his work on new school construction. Lyons does not know whether the CRA pays that salary.

Also, Zoraida Pagan, who was laid off from her position as data clerk in Planning and Development, was rehired by the City as data clerk in the tax office.⁹³ Yet another employee, Alfred Dansbury, was laid off from his position as relocation officer, but maintains another position as analyst of grants.

⁹¹ Lyons agreed that at the time of layoff, he did not hold the title of zoning officer or the title of relocation officer; rather, the title of relocation officer was held by Alfred Dansbury, who lost that position on January 18, 2011, and Lyons does not know who replaced him.

⁹² He explained that when the agency was created in 1989 it entered an interlocal services agreement with the City to supervise the Division of Planning. In 2002, the agreement was modified, making the CRA's executive director the director of the department as well. But, in or about July 2010, the agreement was severed and the director of the department became Ed Williams, while the executive director of the CRA remained Sandra Johnson.

⁹³ Pagan had also been hired by the CRA as board secretary, for which she received a stipend. She replaced Lyons's clerk typist, Lorraine Johnson, who had previously held that part-time position, receiving a stipend, while remaining employed at a regular full-time job with the City.

However, Lyons never received any notice of reemployment opportunities with the City, despite his ability at all times to perform the essential functions of his position as chief of planning and project execution, as well as those of the positions of relocation officer and zoning officer.

In addition to the present matter, Lyons filed an appeal with the CSC regarding lateral and “bumping” rights, wherein the CSC determined that he did not have lateral or demotional bumping rights; that decision stood on appeal. Lyons, whose salary was approximately \$75,000 at the time of layoffs, has unsuccessfully attempted to find other employment, even a part-time position or any kind of consulting work.⁹⁴ He has received no notice from the CSC regarding any opportunities within Camden. And he received no additional severance benefits from the City other than his payout of vacation and sick time.

II. Individual Layoff—Personal Animus/Discrimination

With regard to his disability, Lyons explained that he had become disabled and began using a wheelchair after being hired by the City, and had made requests for accommodations to execute his job duties. By way of background, in 1992, upon his return from hospitalization, he made an initial request for a first-floor office at a Cooper Street location. Although the City accommodated by providing an accessible work area, issues remained relative to parking and winter maintenance of the access ramp. He relocated to City Hall in 1999 and was given a first-floor office and a modified bathroom, but access to the building was only in the rear, by a ramp and a wheelchair lift. Periodic inoperability of the lift prevented access to the first floor from the interior lobby and resulted in a number of absences from work. The lift was replaced twice and yet had issues each time. In 2008, he temporarily had to use the freight elevator. And issues

⁹⁴ Lyons’s employment search has included jobs related to planning and/or zoning in seven or eight towns in South Jersey, as well as with nonprofit organizations in his hometown of Philadelphia. And he continues to search for employment. For approximately seventy-four or seventy-five weeks he received unemployment benefits in the amount of \$598. He has been unable to afford health insurance, other than basic hospitalization coverage, and has had out-of-pocket medical expenses of approximately \$300 per year.

with both the lift and the freight elevator continued beyond 2008. Over time, he had complained to business administrators Keating and Tucker, as well as Director Williams.

As to whether he was asserting in the instant appeal that his layoff, and him not being rehired, was based upon his disability, Lyons answered, "This appeal hearing, no. The short answer to your question is, no." (T12 at 58:21.) He further clarified, "My appeal is about being laid off in an unfair or in bad faith. That's what my appeal is. . . . I have not provided any testimony that makes the connection that the City has operated in bad faith in laying me off due to my disability." (T12 at 60:7; 61:14.) Asked again whether he asserts that his layoff was causally related to or in any way connected with his disability, Lyons answered, "that has not been my testimony, no." But then he stated, "I do believe that there is a connection." (T12 at 62:11–17.) He then agreed that concerns he had raised regarding 542 Cooper St. were ultimately addressed, and after relocation to City Hall, accommodations were made to house him on the first floor. Further, the County, which owned that building, repaired and twice replaced the wheelchair lift such that, ultimately, Lyons had sufficient access to perform his work. But there had been times when he reported to work only to find it inoperable, and he would have to wait until given permission to return home.

During 2010, Lyons complained to either Director Williams or the BA that the wheelchair lift was inoperable. Both Williams and the BA displayed concern and exasperation when he complained; they too wished the County would solve the problem. But, the more he complained, their attitude changed over time. Director Williams was concerned about days missed from work because of the inoperable wheelchair lift, and the BA, though concerned for his health, was frustrated that the problem did not go away. Though they did not question his attendance, on several occasions they "reiterated my—the obstinacy of my position of refusing to take the freight elevator." (T12 at 97:25 to 98:2.) He basically had to report to work and then deal with whatever the situation was at the time.

Lyons has no knowledge as to whether anyone knew the wheelchair lift was inoperable at any time before he reported to work. The BA had expressed concern that one available means of access and egress, the freight elevator, was not his choice as to

how to enter or leave the building. But the City did relay his complaints to the County, which in turn would address those complaints, and no one ever expressed that they would not try to repair the lift. Director Williams expressed a desire for Lyons to return to work and no one questioned Lyons desire to return to work.

Appellant Sonya Bell testified that she began employment with the City on October 31, 1984, as a clerk typist, in the centralized payroll department. Within a few years she was promoted to payroll clerk typist and, in June 1990, was promoted to senior payroll clerk typist.⁹⁵ In 1993 she transferred, as senior payroll clerk typist, to the Camden Police Department, where she remained employed for ten years, performing payroll functions that primarily dealt with overtime and supplemental pay, such as shift differential. Calculating, recording and processing overtime and shift differential became her responsibility exclusively in or about 1995. So, she requested and eventually received promotion to the title of principal payroll clerk typist, provisionally on March 3, 1999, and then permanently on July 9, 2001.⁹⁶

In or about 2003–2004, the new appointing authority, Christine Tucker, relocated Bell from City Hall to the police administration building against her wishes, but her duties remained the same.⁹⁷ Within several weeks, Bell requested and was granted a transfer out of the police department because “the atmosphere was not a good one for me.” (Tr. of May 30, 2013 (“T9”) at 21:20.) She transferred to the Department of Code Enforcement (Code Enforcement) with the same title of principal payroll clerk typist. However, the duties changed, whereby she maintained and sent bi-weekly rates and changes in pay to centralized payroll for processing of paychecks for the department’s

⁹⁵ As senior payroll clerk typist, in the centralized payroll department, Bell helped prepare payrolls for all City employees, entering information into the computer system, under the supervision of a payroll supervisor. In that position, her annual salary was \$18,626 initially, and, ultimately, the maximum of \$28,207.

⁹⁶ Bell was given the title after having filed a desk audit and having had a “hearing in Trenton.” (T9 at 13:10–17.)

⁹⁷ By way of background, Bell was transferred out of the Police Department after she filed a harassment complaint, under a different appointing authority (Norton Bonaparte), and the officer involved was demoted. Consequently, in 2003 Bell was transferred from the police administration building to City Hall, where she continued to perform the police department’s payroll.

employees. At the time, the director was Roberto Feliz and there was no one else at Code Enforcement with her title or who performed that function.

In 2006, Bell transferred to centralized payroll after the BA announced reorganization of payroll, to centralize it, and the City's personnel director, Bill Spearman, relayed to Bell a recommendation that she transfer into centralized payroll or risk losing her title in Code Enforcement. However, Bell was actually the only person who was transferred to centralized payroll, as other employees who performed payrolls kept their same duties and remained in their respective departments, though everyone was trained on a new "HTE" system by appellant Archie Williams. Under the instruction of a payroll supervisor and an assistant payroll supervisor, Bell maintained payroll records; entered pay information into the computer system, including data for employees' deductions; processed paychecks; and serviced employees who either called or came to the office regarding payroll.

I. The Layoff Process

A. *Generally*

Bell's position in centralized payroll armed her with information about the number of persons employed overall, as well as the number laid off. According to Bell, the City had approximately 1,100 employees before the layoff, including police and firemen. After the layoff, there were approximately 717 employees. Given her information as to which titles were laid off, Bell noticed that "a lot of top seniority employees had been chosen over about 717 people who were not affected at all." (T9 at 50:21 to 51:7.)

The employees who were laid off were from all departments, including firefighters and police officers, and Bell admittedly cannot give the reasons for certain numbers of layoffs in various departments. And she is unable to say whether there are different percentages than offered in (respondent's) prior testimony relative to various departments' required reductions.

In another vein, the City was not communicating with the union as to the layoff or reemployment process, and it left employees uninformed, demonstrating a failure to communicate. (AB-11.) Admittedly, Bell did not prepare and could not vouch for the accuracy of her union's newsletter relative to layoffs. (AB-11.)

B. Finance

Bell explained the hierarchy of titles, highest to lowest, as principal payroll clerk typist (her title at the time), senior payroll clerk typist, and payroll clerk typist. Only Bell held the title of principal payroll clerk typist in centralized payroll, where there were just the three employees in the unit handling an employee base of over 1,000 people. She was demoted from that position effective January 18, 2011. Neither of the other two employees received a layoff notice.

The conditions at the time of the layoff notice were such that Bell initially continued to report to work, confident that her seniority status, fifth in the whole finance unit of approximately thirty employees, offered a measure of protection.⁹⁸ When she received the actual notice of her demotion, however, she figured that she could instead transfer to the fire department, where a fireman who had performed payroll duties had recently retired (after training a firefighter with a clerical position to replace him), especially given her seniority and prior experience performing public safety payroll. She admittedly did not know the other job responsibilities of any fire department employee who also handled the fire department's payroll; nonetheless, payroll is strictly a clerical position, not one that would be handled by a firefighter. Bell could not say whether it actually was more efficient and economical for a firefighter to use some percentage of time to perform a payroll function in the fire department.

So, Bell submitted a written request to director Glynn Jones, who replied that he could not move her into that department, and, even if he did, it would have to be in her

⁹⁸ At Finance, at the time of the layoff, payroll supervisor Magda Nieves had approximately twenty-three and a half years of service, and assistant supervisor Tammy Goree had approximately eighteen to twenty years of service.

demoted title of senior clerk typist. When Bell declined his suggestion that she stay in centralized payroll, Jones provided two options: (1) move to the tax office, a unit within Finance, or (2) remain in the same office and work under the treasurer, Sheila Bayard. Bell chose to work with Bayard, whom she has known for over twenty-eight years, in the demoted title of senior clerk. There was a drastic change in responsibility; an initial assignment was managing a new filing system.

Bell noted that the person who replaced her in the principal payroll clerk typist title at the police department in 2006 remained there in that title during the layoffs, but after the layoffs she (and another employee) were transferred into Finance, where they handled both centralized payroll and police payroll duties. Thus, both of them were replacing the duties Bell performed before her demotion. Additionally, they worked overtime and, despite the testimony of Jones regarding overtime or compensatory time, there is a monetary reimbursement, which is not cost-effective in the face of mass layoffs. (AB-5a.)

As to why she alleged in the instant appeal that the City did not act in good faith for reasons of economy or efficiency in the layoffs, Bell testified:

[T]hey had brought a replacement in, they allowed the unit to work overtime which is not economically in good faith. And I also could have been utilized somewhere else because of my seniority, my work experience in all aspects of payroll. I have experience in a public safety payroll. I have experience in a department—departmental payroll as well as centralized payroll. So it was not in good faith to lay someone off that had that much knowledge and then to not actually lay off any other person who did payroll at all, out of about 10 individuals who perform payrolls in all sorts of capacities. None of those people were laid off at all, and I have more seniority than all of them, except for one person that works in municipal court who performs their payroll. My seniority exceeds [that of] the payroll supervisor as well as the assistant.

The assistant's title is—her salary is higher than mine. If you're going to go economically—some of her duties I have actually performed in her absence—so if you were going to go the economical route, you would actually lay off a person

with the higher salary, but you have someone left who can actually perform the same sort of duties. That just didn't seem economical to me, so that's why I felt like for my situation, it was not in good faith.

[T9 at 74:7 to 75:7.]

In January 2011 Bell elected to take the demotion rather than be laid off and unemployed.⁹⁹ But she was demoted to senior clerk typist, which had no payroll title at all, at a salary of \$37,000. Her prior salary was \$55,042. The effect of the layoff was a lateral demotion "down to a salary of \$37,000 and some dollars," a salary reduction of "over almost \$20,000." (T9 at 16:4-7.)¹⁰⁰

Bell agreed that she was employed under the budget of the police department when the City disbanded that department. Though she could have been laid off at that time, she and others continued to work under its budget somehow, until she was transferred to a different unit and again became principal payroll clerk typist at a salary of \$55,000, since March or April 2012, and contractually has received incremental pay increases associated with that title. But she disagreed that her job was "saved" at that time because there were no layoffs of civilian police personnel; they were transferred to departments in City Hall.

Ultimately, however, during the pendency of the appeal, the City placed Bell back into Finance, in the position of principal payroll clerk, under the direction of Glynn Jones (AB-12). So, she has been returned to her employment in the same capacity as before

⁹⁹ In January 2011, when she was demoted and assumed a clerical role, Bell moved out of the office of payroll, but was situated in the same area in a separate office and worked under the supervision of the City treasurer, Sheila Bayard. She performed clerical work for approximately a year when she was reemployed as principal payroll clerk typist, through Civil Service, and replaced retiree Munsey Martinez, though her physical location did not change and she worked under the police budget doing their payroll and supplemental pay, as she had done from 1993 to 2003.

¹⁰⁰ As principal payroll clerk, in a provisional capacity, Bell's initial salary was \$34,334. In the permanent title, it increased to \$37,154 and, over the years, it increased to \$55,042, her salary at the time of the layoffs. She estimated her total loss at a little over \$20,000, \$18,000 in salary and just over \$2,000 in longevity.

her demotion, under the budget of Finance rather than the police department.¹⁰¹ However, although she has been restored to the same position and is back in centralized payroll, the position is not definitively permanent, as her notice indicated that her reemployment was due to “an emergent need at this time.” (T9 at 123:2.)

C. *Alternatives to Layoffs*

At some point, Bell became aware of pre-layoff actions that are required of appointing authorities. (AB-3.) Bell is not aware of any reason why she could not have been transferred to another department, as had been done before, rather than be demoted, particularly since the City typically transferred employees between departments, both before and after layoffs. And although Bell was not allowed to regain her position at the time, the City transferred individuals from the police department into Finance, including her “replacement,” Latifa Chandler, who and has since been promoted to the title of senior budget examiner in Finance. Chandler holds a master’s degree and had then been a city employee for two years. Bell did not know whether Chandler worked in a supervisory capacity in the police department at the time of the layoffs.

Bell further explained that the fire department does employ civilians. Chandler, for example, now helps with payroll.¹⁰² Within two months of when Bell requested transfer to the fire department instead of demotion, Chandler and Martinez were moved from the Police Department into the office of finance, remaining under the police department budget, and then Chandler was given the function of performing payroll for the fire department, along with a firewoman. Chandler was not a civilian employee under the fire department’s budget when she assisted the firewoman with payroll. And there was one civilian clerical person who was chief secretary in the fire department.

¹⁰¹ In 2012, after the layoffs, at a time when the City was re-employing workers, Bell’s union, council #10, wrote to BA Tucker, addressing staffing issues in payroll and advocating reinstatement of Bell to her former position. (AB-6.)

¹⁰² The retired fireman who handled payroll was the chief, and when he was performing payroll functions, he was receiving considerable overtime.

II. Individual Layoff—Personal Animus/Discrimination

As to any grievances in her employment history, Bell described that, prior to the transition from Code Enforcement back to centralized payroll, she had filed a grievance because BA Tucker twice denied her director's recommendation for Bell's advancement to the dual title of principal payroll/personnel clerk. Ultimately, Bell held the title for a few months (but not under Code Enforcement), before it was abolished.

On another occasion, when transitioning into centralized payroll, Bell sought the opportunity to apply for either the payroll supervisor or assistant supervisor position, based upon having more experience than either of those employees. Bell was advised by Bill Spearman that she could apply, as the other two employees held those titles provisionally. Bell paid \$400 for a payroll course at Camden County College to enhance her payroll skills and chance for advancement. (AB-2.) But when she attempted to apply within two or three months' time, both employees had been made permanent in those titles, thwarting Bell's opportunity to advance. So, she filed a grievance with the appointing authority to recoup the \$400 that she paid for the payroll course, and her request was denied.

Bell felt as though she was selected for unfair treatment in the layoffs, noting her status and treatment compared to others. Notably, in 2009 she received a satisfactory performance assessment review for her title as principal payroll clerk typist. (AB-1.)

Bell acknowledged that, over time and through her promotions, she always received pay increases required by union contract. She was unaware of the avenues of appeal, such as to the OAL, for redress of grievances, except "under civil service[] for desk audits and appeals," and to the Public Employment Relations Commission. And the most she knew through her union was that a grievance could be presented at arbitration. However, she never went to arbitration, because employees were often dissuaded by union officials, who claimed to have insufficient resources to fight civil-service cases. Bell added that she had experienced the layoff process once previously, in 1991, when she was demoted and placed in a senior clerk typist title.

Regarding appellant Archie Williams, Bell stated an awareness that appellant Williams was laid off from MIS and the City has since moved two civilian police department employees into the IT department from which Williams was laid off.

Appellant Archie F. Williams testified that at the time of the layoffs, he was division head for the Division of Information Technology. His title, MIS specialist, was a civil-service title, and was the only such title in the City. His responsibilities included oversight for computer systems and networks throughout the City, which involved day-to-day operations of the computer systems and responsibility for backups for the City's website, system security, and setting policy for a wide range of network-related functions. By way of background, he graduated from Temple University with a bachelor's degree in business administration, with a major in computer sciences. He has worked for the City for over twenty-seven years, with twenty years in a civil-service title, beginning in 1983 under the Job Training Partnership Act program and eventually earning the title of MIS specialist in 1987, which he held until the layoffs on January 18, 2011.¹⁰³

His experience has also included budgetary responsibilities throughout the years, creating and submitting short- and long-term budgets as well as managing budgets, in terms of individuals' assignments. In fiscal years 2010 and 2011, budget responsibilities were taken out of the hands of division chiefs like Williams, but Williams was able to prepare projected budgets, or requests for long- and short-term planning, as suggestions for enabling continued technological improvement. In other words, he prepared documentation showing projected expenses as a means to request continued investment in the City's technology, rather than as a submission for the budgetary process.

As for Williams' efficiency, he built the network that facilitated the transformation from paper-based systems to computerized systems, and created a unified system

¹⁰³ Prior to working for the City, Williams did computer consulting and programming, primarily in the private sector, including work with mainframes, PCs, and networks.

(from various separate systems) for efficiency of communications.¹⁰⁴ He had conducted training for other departments routinely relative to document retention, and had instituted a document-imaging system to help retain and retrieve records on the network.¹⁰⁵ Williams had approximately ten employees under his direct supervision, at least for the last three years. In several cases he trained employees who became so proficient that they were selected for other departments.

No one else in the division, alone or in combination with others, shared his responsibilities or was able to assume his role, as no one had his years of experience or education or knowledge. (AW-11; AW-19.) His emphasis had always been to do more with less, and his dedication typically resulted in working overtime and weekends.¹⁰⁶ Under his leadership, there was consistent progress, and he received accolades for his performance with a “bare-bones” budget. He would voluntarily provide unfunded continued training not only for himself, but also for employees under his supervision.

Williams agreed that as MIS specialist, it was certainly part of his job responsibilities to perform both well and efficiently, and to assure that information technology within the City functioned properly and efficiently, as well as evolved, given the City’s budgetary constraints. But he went far beyond his requirements and took the initiative, time and again, to exceed what otherwise would have been.

In Williams’s estimation there were other titles within his division that, if laid off, would have had a greater economic benefit for the City or less of a negative impact with regard to efficiency, namely: supervisor of telephone systems, who mostly performed essentially secretarial duties; computer service technician, whose duties Williams had

¹⁰⁴ He also shared oversight of the police department’s separate computer system, including email and other applications.

¹⁰⁵ Williams testified that documents were maintained in electronic form on the City’s computer network, routinely saved by default. They were retrievable either directly or from backup systems unless, for instance, they had been deleted from a shared drive.

¹⁰⁶ Williams described himself as being one who worked long hours for no additional compensation to do his best for Camden’s citizens, who paid his salary.

performed and could continue to perform; and network administration, which he also had done and could continue to do.

Williams described his analysis of how his layoff impacted his division financially in terms of the efficiency of his own work and him always meeting the personal goal of saving the City more than his own salary annually. Though difficult to assign a specific net financial gain or loss, during his tenure he “saved the City literally millions of dollars in some cases.” (T7 at 14:4.) Williams cited several projects: (1) designing and installing a system for wireless connectivity for \$220,000, rather than underground fiber connectivity at the quoted price of approximately \$1 million; (2) negotiating State resources for various projects, at no cost to the City; (3) working with vendors to obtain donated services, including training; (4) initiating voice over internet protocol technology, or VoIP, to save hundreds of thousands of dollars in telephone bills and, as the project leader, saving between \$25,000 and \$50,000 on the cost of having to hire an IT project coordinator. Beyond that, he also was always available to assist others, either through training or merely providing helpful information.

I. The layoff process

A. *Generally*

At one time, division heads had been provided with budget worksheets for input into the budget process; however, that changed around 2008–2009 and, as a division head, he was no longer able to participate in the process. Instead, budgets were essentially placed on the computer system on a finance application, and division chiefs had to work within the confines of what was put into their budget. So, in fiscal year 2010, he worked within that budget, but with restrictions in operation that required more creative solutions.

As division head, Williams had no input in the recommendations of titles for layoff in his division, and he was not asked for such input by the BA. He had no input into the proposed budget for fiscal year 2011. He was not asked to complete an essential-functions worksheet for his division and knows of no one in the division who completed

such a worksheet. He is also unaware of whether the BA provided an essential-functions worksheet for his division.

Williams agreed that IT is a division within the Department of Administration, and he had the understanding that each department had been instructed to cut 24 percent of its budget. He was unable to analyze the percentage reduction for Administration because, despite his request, the information was not provided to him. And since the date of his layoff, Williams has no personal knowledge regarding the City's hiring needs either in Administration or in other departments. He also was unaware of the availability of grant monies for hiring needs in the City after his retirement.

B. Administration

Williams does not know whether there was a budget for his department that required 24 percent cuts. Williams reiterated that before 2011 he had prepared worksheets for his division's budgets and submitted them to the BA for her preparation of the departmental budgets. And his recommendations had thus been incorporated in the budget, insofar as they were a beginning point.

Williams knew that most of the layoffs in Administration came from his division. The layoffs of six out of the nine people in his division were more than 24 percent of the division's budget for personnel, outside of operating expenses. Williams was familiar with the duties of each of the positions in his division.¹⁰⁷ Based upon his experience,

¹⁰⁷ The data processing programmer, Elizabeth Bright, performed some computer service technician work and some secretarial work. The supervisor of telephone systems operated telephones and oversaw the disbursement of telephones and cell phones. The network administrator performed backup operations, monitored the system for technological issues, created and removed user accounts, and managed security and access to the network. The senior data processing programmer, a misnomer, generated and submitted reports for the fire department. The senior computer service technician resolved computer issues on desktop computers. The geographic information systems (GIS) specialist 3 worked on a program sponsored by the New Jersey Office of Information Technology to embark on gathering geographic information citywide for development and planning. The clerk typist's duties were reflected by the title. The assistant administrative analyst had nonspecific generalized duties, and the person in that position, Tasha McCoy, presented challenges for lack of qualification; Williams had complained to the BA that there was no real role for her to play. Though subject to layoff she was rehired shortly afterward. And MIS specialist, the job that Williams held, is not a division-head position, of itself. But Williams also held the title of division head, without any additional salary or compensation. His only salary came from his position as MIS specialist.

both as division head and MIS specialist, he knew that the layoff of six out of the nine people in his division had a devastating effect, as some things could not be done as well or as often as they should be, if at all, and some duties had to be assumed by other individuals or entities. Further, the total layoffs across his division greatly diminished the efficiency and effectiveness of the division, in terms of both the number of people and the depth of knowledge and experience.

Williams explained that he actually created the Division of Information Technology, and individuals were then hired into it. An employee listing by location (AW-19)¹⁰⁸ indicates the tenure of employees under his supervision, including the three who were not laid off: Ray Calubayan (seven or eight years), Josue Suarez (eleven years), and Wanda Garcia (twenty-five years, though she preceded his municipal employment). Williams performed a financial analysis that evaluated or calculated the salaries of his division prior to layoff. He determined that the layoff terminated six employees, approximately 65 percent of the staff in IT. Aside from his own position, it still would have been approximately the 45 percent reduction.

By economic contrast, Williams pointed to Deborah Beasley, who retired but was rehired within a couple of months in the same position (purchasing agent), on a part-time basis, despite the BA's denial of any knowledge that that would occur. (AW-9.) And a similar situation occurred with Robin Johnson, who retired from Planning and was rehired as an affirmative action officer, and Rhoda Thomas, a retired police officer who was rehired into the mayor's office. (AW-10; AW-12.) Williams pointed to Tasha McCoy, who had worked in various departments but was placed in his division, without any IT knowledge or experience, as having a poor attendance record and not being a very good employee. Though she was included in the January layoff, she was rehired into the full-time position of aide to the mayor on March 7, 2011, with a salary of \$40,000. (AW-11.) Also, on June 7, 2012, the City posted a job announcement for the position of computer service technician within IT. (AW-13.)

¹⁰⁸ AW-19A is a one-page (report) excerpt, an all-employee listing. AW-19B is a partial list of employees laid off on January 18, 2011.

Admittedly, Williams was not a department head, and neither was he responsible for preparing a Department of Administration budget in 2010, nor had he ever prepared one. Rather, that was the responsibility of Christine Tucker, the department's director and BA. But most if not all department directors did not prepare their own budgets, as the director of Finance prepared and distributed the departmental budgets.

C. *Alternatives to Layoffs/Pre-Layoff Actions*

Williams was also a union representative who was involved in numerous meetings to discuss contract negotiations with the City to help resolve the financial situation as well as the employees' lack of a contract at that time, to no avail. Williams (and others) did make an effort to effect many proven, cost-saving measures, so as to avoid layoffs, and generated a number of suggestions. (AW-3.)¹⁰⁹

There had been discussions with management during labor negotiations regarding the fact that part-time and temporary employees should be laid off first. However, there were no part-time or temporary workers in his division who could have been eliminated, and he was unsure of whether such persons who were in the department were subject to layoff.

While Williams worked for the City, some computer technology information systems functions, including those at the police department, were outsourced, such as consulting or work on an application basis. But, as he had informed the BA, even some of that work could have been performed by his staff at a savings to the City.

¹⁰⁹ Some of the cost-saving suggestions that could have lessened the extent of layoffs were described as follows: (1) eliminate all temporary and part-time workers; (2) eliminate provisional positions; (3) roll back all new hires for the past year; (4) freeze hiring; (5) stop overtime; (6) stop furloughs that reduce revenues; (7) greatly reduce police budget; (8) greatly reduce fire budget; (9) eliminate redundancy, etc.; (10) eliminate waste and increase revenue; (11) consolidate departments; (12) consolidate employees into fewer buildings; (13) reduce number of community centers; (14) target layoffs for those who are not productive; (15) provide proactive healthcare for employees; (16) minimize number of government vehicles; (17) reassign resources to revenue generators; (18) replace Centrex phone costs with VoIP; (19) reduce number of phones, extensions; (20) and reduce number of PCs, software, etc.

II. Individual Layoff—Personal Animus/Discrimination

Williams testified that he was personally subjected to furloughs for six months, with reduced salary, after which he received a layoff notice which became effective January 18, 2011. His title was specifically selected, and he was the only one in the City with the title of MIS specialist. Contrary to the testimony of the BA, who was also the director of his department and his immediate supervisor, regarding title selection being (so to speak) "in the blind," it was clear that he was the person with that title, which he had held throughout her tenure. She could not possibly have placed his title on the layoff list without awareness of his name associated with it, as evidenced by the October 2010 employee listing by location. As division head, he had experience in evaluating positions for layoff. Based on that experience he did not believe that it was possible to consider positions for layoff without considering the people in those positions. One has to evaluate "the effective process, the experience, the knowledge, background of the individual that you are looking at in terms of how important they are to the operation of your unit. . . . The title would not tell you that. . . . [M]any people hold titles that really have little or nothing to do with their actual—the duties that they actually perform." (Tr. of February 25, 2013 ("T7") at 11:7–15.)

Just after the layoffs, Williams fought the City's denial of his attempt to retire and collect health benefits, as evidenced by (1) a letter from his attorney to the City that, in summary, described the City's denial of his attempt to retire, on the basis that he failed to do so before the layoffs and the CSC's determination of his bumping rights (AW-1), and (2) his own certification dated November 22, 2011 (AW-15.)¹¹⁰ Williams eventually won the right to his retirement benefits.

¹¹⁰ Williams's certification indicates that he had been notified of the layoff by letter dated December 2, 2010, and the City had issued a "layoff general information sheet" identifying Magda Nieves as the contact person for information relative to retirement options. She informed him that he would be able to retire after the first of the year (2011) in the event that it was determined that he did not have bumping rights, or if he elected not to exercise any bumping rights that he did have. However, after receiving the CSC's letter dated January 5, 2011, informing that he did not have bumping rights, he attempted to retire, but was informed that he had missed the opportunity to do so, and that was despite the collective bargaining agreement in effect at the time of the layoffs.

According to Williams, this circumstance demonstrates that the layoff action involved more than eliminating anonymous titles—it was directed toward him personally. He knows of no other City employee who had this experience. As to whether he could show a nexus between the City’s awareness of what his benefits were and its layoff decision regarding his title, Williams stated, “that may well be true” (as some directors did admit consideration of benefits), but, moreover, the BA certainly knew that he was the only one in the City with his title when it was selected. That, and the BA’s subsequent disregard of his retirement benefits, after he personally explained his plight to her just before the layoffs, demonstrates that he was targeted.¹¹¹ The purported selection process was not the actual layoff process in his case. Rather, it was based upon him individually, as there was a continuing pattern of selectivity and no other employee received similar treatment.¹¹²

Williams felt personally targeted unfairly for several reasons. For one thing, he was never consulted, as were other division heads, to make any analysis and recommendations for his director. Further, as testified by other directors, other division heads were not considered for layoff, because of their wealth of knowledge and experience; he was the only individual who was targeted as a division head. BA Tucker was dismissive both of his suggestions and his inquiry regarding other possible options and his rights concerning retirement benefits. And that was compounded by the City’s denial of his earned benefits at the time of layoff. Since he was the only one treated in that fashion, it was personal to him.

So, to Williams, his layoff was for reasons other than economy or efficiency because everything he did and suggested was aimed at reducing costs and being the most economical. He took little time off, worked above and beyond what was required, and was extremely efficient, finding new and creative ways to cut costs while moving the City forward.

¹¹¹ Williams met with the BA after his receipt of the letter from the CSC dated January 5, 2011. Also, the BA sent a letter indicating that retirement would not be honored after the effective date (of the layoffs).

¹¹² Williams identified and provided documentation relative to other employees subject to layoff who were allowed to retire; some of them were subsequently rehired.

Williams acknowledged that he is now retired on pension from his employment with the City, forced to do so by the layoff. The layoff was effective January 18 and his retirement was effective February 1, 2011, when he retired from the position of MIS specialist.

On cross-examination, Williams testified in even more detail. He agreed that the CSC notified him by letter dated January 5, 2011, that it had made the determination that he did not have bumping rights. And he was also aware, having received a letter from the State dated that day, that the layoff was effective January 18, 2011, and that he had a right to appeal. He attempted to file for retirement before January 18, 2011, but the City disallowed it. The understanding had been that the State would make a final determination before the end of the year, which would have allowed for application for retirement effective February 1. However, that did not happen. The State's letter did not issue until January 5, 2011, and then the City would not allow retirement on February 1.

Prior to the layoff date of January 18, he actually delivered an application for retirement to Magda Nieves, who was the person designated to address such issues. Williams was unsure whether he had a copy of his retirement application, and then acknowledged that the retirement process involves submission of an online application to the New Jersey Department of Pensions. He acknowledged an awareness that if the retirement application had not been submitted to the City before January 18, 2011, then he would be laid off effective that date. He was unsure whether the application date was before or after January 18, 2011, but the application was accepted by the State and he officially retired February 1, 2011.

Williams explained that his forced retirement was an after-effect of the layoff. The City initially refused to accept his application for retirement, but the State did accept the retirement application and confirmed during his appeal process that he in fact had rights for full retirement benefits, contrary to the City's contention. Williams said that he had not filed any personal grievance, either in January 2011 or in the preceding ten years, against anyone in Camden, including its BA, department heads, public officials

and other employees. The union, however, had filed a grievance on behalf of union members regarding both the furloughs and layoffs. In the case of layoffs, Williams was the only one in the union on whose behalf the grievance was filed.¹¹³ Williams did not file any claims of discrimination based on age, race, sexual orientation, color, creed, or national origin at any time since 2006.

Regarding grievances, he explained that he was not one to file grievances unless warranted; he had made an appeal regarding bumping rights, and this separate appeal regarding fairness of the layoff. And this matter “does not have anything to do with the timing in terms of filing for retirement; rather, the process utilized for determining layoffs,” which resulted in Williams’s forced retirement, is the basis for his appeal. The letter of Williams’s attorney dated April 11, 2011, (AW-1) describes his complaint with regard to the layoff forcing his retirement and his fight for benefits.

Raymond Calubayan, network administrator and eleven-year employee of the City, testified (for Williams) that he is responsible for maintenance of the network and servers, as well as network connections and backups.¹¹⁴

Calubayan was familiar with Williams’s work on the initiatives and projects in IT, including those with the State’s Office of Information Technology and the State’s provision of free hardware or services to the City. Other projects undertaken by Williams for the City that involved cost-saving initiatives included: “timekeeping, payroll, . . . upgrading servers, networks, hardware, backup schemes,^[115] Internet, DSL lines.” (T7 at 109:7.) Also, projects that were initiated to switch from existing to new agreements, which saved money, included a savings on software with Microsoft, and

¹¹³ Williams was a member of Local 676 of the Teamsters union for approximately three years. He became a union representative and participated in contract negotiations, as well as represented union members in grievances.

¹¹⁴ Calubayan testified that he had received a general notice regarding the January 18, 2011 lay off, but had not received an individual notice.

¹¹⁵ Calubayan further testified that the City’s data and emails are backed up on a regular basis, and there are shared folders on the network to maintain files. Data is routinely saved by default, at the end of the day or at night, unless it is deleted first.

maintaining network servers in-house to avoid the expense of third-party vendors. In the area of telecommunications under IT, projects included upgrading phones to newer platforms, including at the police department and the Department of Public Works. For instance, an upgrade to VoIP, initiated by Williams, as opposed to Centrex has saved money over the long run. Calubayan confirmed that he has reached out to Williams regarding IT issues; Williams always cooperated and never undermined the division or refused lending assistance. On cross-examination, he agreed that working on projects as well as saving money for the City was part of his job.

By comparison, Tasha McCoy, who had no technical experience, was “just dumped” into IT and added nothing of substance to the division. Also, Derek Smith, a civilian employee, who had been employed at the police department since 2008, has worked in IT since October 2012. And Darryll Searles, a civilian employee, has worked in the police department’s IT division since perhaps 2008. But Calubayan did not recall whether there was an effort to utilize IT personnel rather than those two individuals in the police department. Smith works with the City and Searles still works for the police department; they were just transferred in October. But the Camden Police Department maintains its own IT people. Also, Don Tuttle, a retired police officer, returned within a few weeks to do consulting for software that he had recommended. Calubayan agreed that police department data is confidential and should not be shared with City employees generally. Thus, their computer systems are “walled off” from the City’s computer systems. Further, accessing the City’s computer systems is generally done by IT people that are also police officers.

Luis Rivera, a machine operator who has been employed by the City since 2001–2002, testified (for Rodriguez) that, as a co-worker of appellant Eduardo Rodriguez, he had knowledge that supervisors had treated Rodriguez in a prejudicial manner. Supervisors had communicated with their “favorites” months in advance of awarding titles for machine operator, while giving Rodriguez’s training to other workers. Specifically, supervisors Keith Walker and Ruben Perez agreed to give the title to Harold Fontanillas because they were very close. After applications for the title were submitted, there was a “tryout” to ensure the applicants’ knowledge of the machine. Rivera was not present for the test, but heard that Rodriguez did not pass because he

did not make an inspection, something workers and supervisors had known him to do each morning. That particular exam was given by the director, Patrick Keating.

Rivera really does not have personal knowledge, however, of how Rodriguez performed and does not know how the supervisor evaluates the applicant's performance. Also, Rivera admittedly did not personally hear Walker and Perez agree to give Howard Fontanillas the title of machine operator.

Pablo Decena and Wilson Ortiz are both laborers employed by the City who have known Rodriguez since 2002, according to their testimony. Neither, however, supplied relevant testimony regarding any invidious discrimination against Rodriguez, or justification—or lack thereof—for his demotion.

Ross Laboy, a truck driver and twenty-year employee of the City,¹¹⁶ testified (for Rodriguez) that he has known Rodriguez for five or six years and that they both currently work in the Department of Public Works, neighborhood division. Laboy knew that Rodriguez applied for the title of equipment operator, but he neither assisted with nor saw his application or that of any other applicant. He believes eight to ten people applied for the position, and approximately four or five were awarded the position of equipment operator.

The (civil-service) process for obtaining a title involves submitting an application to the State, which then publishes a list from which applicants may be selected to test for the position.¹¹⁷ And one could actually submit the civil-service application after being hired by the City, but then would have to be appropriately accepted on the civil-service list. Every title has criteria, but Laboy is not aware what criteria testers use to evaluate

¹¹⁶ Laboy began employment with the City in 1993 as a laborer and advanced to the position of truck driver, which requires a current commercial driver's license (CDL), after placement on the civil-service list. Laboy believes that Rodriguez does possess a CDL.

¹¹⁷ He has not personally reviewed such applications, but he has seen copies of them, though not for any particular person. Yet, he saw the applications for Harold and Antonio (last name unknown), on which "they lied because they put down they had training, they were doing the operation. They were not." (Tr. of March 6, 2013 ("T8") at 51:6.) According to Laboy, the supervisors are involved in the process of someone obtaining a title, in that they tell the director whom they want.

applicants for advancement, and has never observed testing for any position. Seniority enhances one's qualification for a title including, for instance, if two candidates have the same experience. According to union contract, seniority prevails, but the director makes those decisions, including for non-civil-service positions that do not require a test.¹¹⁸

Laboy testified that, on the one hand, he has not observed a supervisor ever making a negative decision about Rodriguez. On the other hand, he sees negative action against Rodriguez by a supervisor daily, for instance, when he was not given the (equipment operator) title. And "the people that have the title now don't even operate the equipment and don't even have knowledge of operating the equipment." (T8 at 53:18-21.)¹¹⁹ Laboy did not have personal discussions with Rodriguez's supervisors and he was not involved in recommending individuals for titles. However, based on his observations and experience, he believes that Rodriguez was treated unfairly in the circumstances. But Laboy is not aware of any grievance procedure filed by Rodriguez as a result of not being promoted to the title of equipment operator. And he is not aware of the City's needs in terms of the number of operators at the time that Rodriguez applied for the position.

Appellant Eduardo Rodriguez testified¹²⁰ that he has been employed by the City for eleven years, permanently; his first six months were temporary. He was hired as a heavy laborer and is now in the position of laborer, though his duties have not changed. Although the job responsibilities do not differ, a heavy laborer gets paid more. A heavy laborer does "everything," including operation of heavy equipment. Rodriguez

¹¹⁸ Also, individuals regularly work in positions other than their given title, though not in the case of a truck driver who is required to have a CDL license. But problems arise with compensation, as the City does not want to pay for the work in the other position. So, a laborer who's working as an equipment operator would not be paid as an equipment operator. Laboy conceded that a person who works outside of his title, as described, has the ability to request the higher pay and has available a process by which to file a grievance and appeal any refusal of the City to pay. However, the City will intimidate employees against engaging in the process.

¹¹⁹ Laboy has observed Rodriguez driving tractors and front loaders, and he has even observed him teaching another employee, Harold Fontanillas, how to operate a tractor.

¹²⁰ During testimony, Rodriguez was aided by an interpreter.

operates all of the equipment, and has done so ever since four months into his employment. Also, he has a CDL, which he obtained in 2000.

Rodriguez described that he felt bad about the layoff because of “the way they did it.” (Tr. of July 19, 2013 (“T11”) at 23:24–25.) In other words, they gave titles to others, when Rodriguez had been working there for three years and had never been given any titles. Though others were also laid off, he had seniority. Rodriguez explained that he filed his appeal “because I’m not earning the same salary as others, and I have more seniority.” (T8 at 102:8.) He identified his appeal letter (AR-5), and added that he appealed “because they gave me laid off.” (T8 at 104:6.) At the time of layoff, he had not been given a title, and his appeal letter indicates that he appealed based on his seniority. He described a prior denial of promotion as evidence of bad faith.

In or about 2007–2008, Rodriguez applied and tested for the position of equipment operator. That test required operation of a particular machine and was administered by Director Keating, together with Ruben Perez and Keith Walker. Keating told Rodriguez that he did not pass, for not checking the oil. Rodriguez testified that he checks the vehicles daily, but that day the vehicle was already running when they brought it to him and told him to operate it. But he was failed for not checking the oil, not for an inability to operate it. He was not then tested on any other kind of equipment. He added that in all of his eleven years with the City, the only machinery that he has been unable to use is the “heavy front loader.”¹²¹

When asked whether he filed a grievance with the City for not having been given the title of equipment operator, Rodriguez initially answered that he complained in 2007 but got no response. He also referenced a letter that he sent to his attorney, the fact that the union did not assist, and yet another letter that was sent to Trenton (which, by his account, his attorney has). He ultimately stated that he never filed a written

¹²¹ Rodriguez described that he has operated all the machines in the course of his duties, including the cutter, the tractors, and the little front loader. However, he had never seen the machine on which he was tested, a “mop bucket” or little sweeper used for sweeping trash.

grievance against the City for his not having received the title of equipment operator in 2007-2008. And, in fact, the parties stipulated that there was no written grievance, formal or otherwise, directed to the City, claiming that Rodriguez did not pass the test and receive the title of equipment operator in or about 2007.

Rodriguez further testified that he has been an equipment operator since 2001 and has taught others who have been given the title, yet it has not been given to him. His supervisor had him teach Keith Walker "because there was a test coming up." (T8 at 95:13.) He also taught Luis Rivera, as well as Harold Fontanillas, who currently holds the title, although he never touched the machine and is still learning (its operation). Both Fontanillas and Antonio Rodriguez have less experience but have been given the title, as well as two others whose names he does not remember. He does not know, however, whether Rodriguez and Fontanillas passed the test for the title of equipment operator; he knows who has the title, but not who passed the test. He said that there are many who have the title of equipment operator, perhaps seven to nine people. Though he knows the qualifications of these individuals, he has not seen a written list of their qualifications, to his recollection. And he is unaware whether "any particular time of service" is required to apply for a title.

On February 23, 2012, Rodriguez was offered employment by the City but it was for the position of laborer, which is one step lower and pays less than his former title. He accepted the job because he needed to work. At the time of his layoff, Rodriguez made \$1,585 every two weeks¹²². Having been rehired at the lower title of laborer, and having had two raises since that time, he now makes only \$5 more, \$1,590, every two weeks. (AR-2.)

Patrick Keating, director of Public Works, testified on rebuttal as to the promotional process in or about 2008 when Rodriguez applied for the title of equipment operator in Public Works. He explained that vacant positions to which promotions are sought are open to those who are permanent in certain titles, and who apply to Civil

¹²² At that time, he did not have the title of equipment operator and had not passed a test for the title.

Service, which then generates a list from which a number of applicants would be certified to the number of positions available to fill the promotion. Keating also summarized the Civil Service process known as the "rule of three."¹²³

Keating also described a process whereby, once the CSC certifies the names to the City, it becomes a departmental process of making a selection and then a recommendation back to the appointing authority, which is the City. Normally, for equipment operator, the type of equipment that would be used in the department is identified, and Keating's senior staff would conduct a simulation test to evaluate the candidate's operation of the equipment and report their findings to Keating. Next, the candidate would be interviewed, and advised of the promotion process, and then a recommendation for appointment would be made to the business administrator and the mayor.

At the time, Rodriguez was permanent as a heavy laborer, but was serving provisionally as an equipment operator, and there were number of individuals on the

¹²³ Keating stated:

In all Civil Service listings, when they give you a list of candidates, you're allowed to choose from the top three candidates for any one position that you're trying to fill, unless there is a veteran involved or residency requirement, which becomes preference, what we call preference. So on an entry-level position, you can't skip a veteran. On a promotional where a non-veteran might be ahead of the veteran, you can appoint the non-veteran who's ahead of the veteran on the list, but you can't skip the veteran.

So basically, what you have, if you have one position and you have more than—three or more people on the list, then you're allowed to have a selection process for any one of the top three. Then you make either a recommendation that you say you want to appoint the No. 2 candidate as being more suited for your needs for that position at that time, then you can appoint No. 2, and No. 1 and No. 3 will remain on that list if there is another position.

If you come back around again, you have a second position, so you appointed No. 2, then your next selection has to be made from the candidates Nos. 1, 3, and 4. So you're [sic] always have the top—you have to make your appointments from the top three, again, barring any veterans being involved.

[T12 at 115:19 to 116:19.]

Civil Service list to qualify to complete the process.¹²⁴ Keating further explained that laborers are a non-classified, noncompetitive title, so all laborers are permanent. However, there also had been provisional equipment operators, like Rodriguez.

Regarding the operational test, Keating assembled a team of top staff that operate the equipment to evaluate the candidate's performance. One of the supervisors designed the performance evaluation at Keating's request, and Ruben Perez, assistant superintendent, was one of the team members who participated in the testing and evaluation process. Keating was not present to observe the procedure, but the staff reported to him the performance of each candidate's operation of the equipment. Each candidate was interviewed, including Rodriguez, who was aided by another employee for purposes of interpretation.

There were issues with Rodriguez's performance. Keating testified:

[O]n beginning the operation of the machine, your pre-trip check is what you're supposed to do, check certain things; that he had gotten out of the machine and left the bucket up, which, you know, is a hydraulic bucket, and that's a very dangerous thing, then he checked the oil underneath the bucket, which it would be a dangerous function because hydraulics don't hold. Any kind of leak or something in the hydraulics, that bucket will drop. So there was technical things. And, again, I'm not an operator; I'm an administrator. But those folks, you know, listed these things out.

[T12 at 120:3-14.]

Keating identified a photograph of a "New Holland" tractor, one of the pieces of equipment in the department's garage. (R-51.) Either that equipment or one of the machines similar to it is what Rodriguez utilized during the testing process. As to whether the New Holland tractor (R-51) was the exact same equipment used by Rodriguez for his evaluation test, Keating said that everybody used the same piece of

¹²⁴ According to Keating, there were five or six positions and perhaps nine or ten candidates. He currently does not recall the names of the five or six candidates who were recommended for the title of the equipment operator as a result of the tests.

equipment and, based upon information provided to him, he believed that was the equipment used. However, he could not testify definitely that it was the same piece of equipment.

Ultimately, as director of Public Works, Keating made the recommendation to the business administrator relative to the promotion for the position of equipment operator. In his assessment, there was no bias or prejudice against Rodriguez from the team evaluators and Keating had no reason to doubt their reports. According to Keating, it was a rare opportunity to promote or hire, and he wanted to assure that they were making the best appointments. Rodriguez was not recommended for the position because, based upon the assessment of the management team, there were others that better met the requirement for the available positions. He had not only had several operational issues with the machine, but also had been involved in an accident with another machine and had left the scene of the accident, resulting in minor discipline.¹²⁵ Keating knows Rodriguez very well and has no personal animus toward him, adding that the City had also hired his son with whom there also is no personal issue or problem.

Ruben Perez, assistant superintendent at Public Works and twenty-six-year City employee,¹²⁶ also testified on rebuttal for respondent. He recalled Rodriguez participating in the promotional process and the equipment-operation test that was administered around 2008. There were approximately nine candidates and Perez administered the test along with Fred Martin, James Falconiero, Anthony Falconiero, and Mitch Richardson. The test was performed inside a Public Works building and the equipment used was a "Holland tractor with a front bucket and rear Bush Hall [grass] cutter." (T12 at 143:20.) The same piece of equipment was used by everyone and the operational test was not performed differently for Rodriguez than for any other candidate. Although prior to the day before Perez's testimony here no one from the City had asked Perez about the particular piece of equipment used in the test administered

¹²⁵ Keating could not recall how long before the test the accident had occurred.

¹²⁶ Perez has also held the positions of equipment operator and general supervisor.

to Rodriguez, he is certain that the equipment he identified was in fact used for the test. The candidates were tested individually, and the equipment was off when each candidate was brought to the testing area, including Rodriguez.

Perez observed that Rodriguez did not pre-inspect the vehicle, rather, he just turned it on and proceeded to lift the bucket. Someone said "pre-inspection," and Rodriguez then "turned the vehicle off, got out and didn't bring the bucket down. He got underneath the truck to pull the dipstick, oil stick. And that's a no-no [because] [i]t's a hydraulic system. The hydraulic hose could bust and he could be under there and he could be crushed. Safety comes first in any job." (T12 at 144:17 to 145:3.) So, that presented a concern. Rodriguez eventually got back into the vehicle and completed the test. Perez identified the exact tractor that was used as being depicted in R-51.

Perez had no personal animosity against or issues with Rodriguez, whom he described as an excellent worker, "one of our best," and he confirmed that Rodriguez's son also works at the department. At the time, Perez participated in an on-the-spot evaluation of Rodriguez as a candidate, but was not involved in making the actual recommendations to the City. To his recollection, he does not believe that Rodriguez was recommended. According to Perez, there is a standard operating procedure within Public Works concerning the operation of equipment, and it requires that all drivers check the equipment and vehicles prior to operation.

Keith Walker, supervisor of Public Works and twenty-three-year City employee, also testified for respondent on rebuttal. On the day before his testimony, he made the still photograph of the New Holland tractor (R-51), from a video monitor at Public Works. At the time of the promotional test for equipment operator, he supervised Rodriguez, who applied and took the equipment-operation test for the promotion. Walker was present during the test, for support, but he was not sure if the equipment depicted in the photograph was the exact equipment upon which Rodriguez was tested. To the best of his knowledge, the evaluators conferred to review each candidate's performance and made recommendations as a result. Rodriguez was not promoted to equipment operator, but he is unaware why.

Summary of Testimony

Making factual findings requires a weighing of the credibility of the witnesses, *i.e.*, “an overall assessment of the story of a witness in light of its rationality, internal consistency, and manner in which it ‘hangs together’ with other evidence.” Carbo v. United States, 314 F.2d 718, 749 (9th Cir. 1963). “The interest, motive, bias, or prejudice of a witness may affect his credibility and justify the [trier of fact], whose province it is to pass upon the credibility of an interested witness, in disbelieving his testimony.” State v. Salimone, 19 N.J. Super. 600, 608 (App. Div.) (citation omitted), certif. denied, 10 N.J. 316 (1952). A trier of fact may reject testimony because it is inherently incredible, or because it is “inconsistent with other testimony or with common experience,” or because it is overborne by other testimony. Congleton v. Pura-Tex Stone Corp., 53 N.J. Super. 282, 287 (App. Div. 1958). Testimony, to be believed, must not only proceed from the mouth of a credible witness, but it must be credible in itself. Spagnuolo v. Bonnet, 16 N.J. 546, 554–55 (1954).

BA Tucker’s testimony contained inconsistencies relative to the amount of the deficit and the number of layoffs, once describing 373 layoffs for a \$26 million shortfall, and yet also describing a \$28 million shortfall and layoffs as indicated in the layoff plan, which were 383. Her testimony that the proposed cuts were submitted by the department heads to the mayor is contradicted by that of Director Jones that they were submitted to her first. And Director Williams contradicts her testimony relative to not selecting any titles, indicating that administration, rather than he, made a final selection of four (out of nine) proposed titles. Though professional, her responses were somewhat evasive at times. Her depiction of the City’s overall adverse financial situation, however, was corroborated by the testimony of several department heads, as well as a number of exhibits. Director Jones referenced a \$26.5 million budget gap that is also different than the \$28 million reflected in the layoff plan. He nonetheless presented a candid and straightforward demeanor, and appeared as a credible witness. Director Keating also presented as both knowledgeable and candid.

As for appellants’ witnesses, Directors Williams and Thompson had limited first-hand knowledge of the calculus underlying the layoff plan, but, in large measure,

credibly described their participation in the layoff process. Conyer and Jefferson were also candid in their demeanor, though Conyer's recollection regarding the employment status of Zoraida Pagan was less reliable. Calubayan credibly corroborated appellant Williams' role in IT.

Each appellant testified in a sincere, forthright and dignified manner. However, Rodriguez demonstrated a very slight inability to relate; Lyons contradicted himself relative to his disability having any nexus to the layoffs; and Williams hedged somewhat with testimony regarding the retirement issue.

Respondent's rebuttal witnesses, Keating, Calubayan, and Walker, corroborated one another, while challenging Rodriguez's assertions relative to unfair treatment, and their testimony was credible overall in that regard.

Based upon a careful review of the testimony and exhibits, as well as the opportunity to observe the appearance and demeanor of the witnesses, I further **FIND AS FACT:**

I. Layoffs Generally

A. *Economy*

Entering fiscal year 2011, Camden had an \$8 million budget gap from the State's rescission of \$8 million in funding from the (South Jersey) "Port PILOT" agreement. However, the State later redistributed \$4 million back to the City and the City recouped the other \$4 million through furloughs and a reduction in overtime.

At that time, Camden had a budget shortfall of approximately \$26 million to \$28 million from a reduction in State aid from approximately \$200 million to approximately \$149 million. The City also experienced a \$7.5 million drop in tax receipts.

Camden's administration determined that a 24 percent reduction across all departments would be required to meet the budget shortfall.

Camden's structural deficit was in the current fund that included salary, benefits, pensions, statutory expenses and workers' compensation; however, pension, healthcare, and workers' compensation were untouchable for purposes of any reduction.

Salary and wages consumed between two-thirds and 80 percent of the City's budget, and approximately two-thirds of that was for public-safety services.

Camden thus devised a layoff plan whereby the 24 percent reduction in each department was focused on salaries primarily, but not exclusively, as a means to address the \$26 million to \$28 million deficit in the City's overall budget. The 24 percent reduction took into account the anticipated receipt of \$54 million in State transitional aid.

Subsequent to the initial formulation of the layoff plan, as well as an initial request for \$54 million in transitional aid, Camden received a pension bill from the State in the amount of \$17 million, which was approximately \$5,784,223¹²⁷ more than the City had appropriated in the FY 2011 budget. The City was aware of that debt prior to applying for supplemental aid. The City's supplemental aid application (R-4) indicated a cash deficit of \$4,250,655 from the prior year, FY 2010, and a \$10 million shortfall above the \$28 million shortfall that had been projected for FY 2011.

Camden received an additional \$15 million in transitional aid, which diminished the budget gap and reduced the City's deficit from what had been approximately \$28 million to approximately \$13 million.

According to the layoff plan, 383 employees were laid off.¹²⁸ Of the employees laid off, 318 were rehired, including all 213 police and 67 fire employees and approximately 38 civilian employees, primarily through a special reemployment list

¹²⁷ Rounded to the nearest dollar.

¹²⁸ Tucker, however, testified as to a layoff of 373 employees, but also that the layoffs were indicated in the layoff plan.

created by the CSC from which the City hires in order of seniority, where the former position fits a vacant title.

Some of the employees who were rehired or relocated included the following.

Zoraida Pagan, who was laid-off as data clerk from Planning and Development, Bureau of Redevelopment, was rehired as a clerk in the City's tax office, after resigning another position at the Camden Redevelopment Agency.

Alfred Dansbury, who was laid off from a part-time position as relocation officer, from Planning and Development, Bureau of Redevelopment, continued full-time employment as an administrative analyst in Development and Planning, Division of Housing Services.

Deborah Beasley, who retired, was rehired within a couple of months in the same position (purchasing agent) on a part-time basis.

Robin Johnson, who retired from Planning, was rehired as an affirmative-action officer.

Rhoda Thomas, a retired police officer, was rehired into the mayor's office, but not from a special reemployment list.

Tasha McCoy, who had worked in various departments but was placed in IT, despite lacking any required knowledge or experience, was laid off from IT and was rehired in March 2011 as a "new hire," into the unclassified position of aide to the mayor, but not from a special reemployment list.

Dwayne Williams was laid off from his position as project coordinator, redevelopment, Planning and Development, Office of the Director, and rehired into a new position at the CRA.

Some of the police department personnel changed employment as well. Derek Smith, a civilian employee who had been employed at the police department since 2008, transferred into IT in or about October 2012. A police department retiree, Don Tuttle, recently returned in the capacity of a technical consultant. Notably, police department computer systems are separate from the City's for purposes of confidentiality, and related data generally should not be shared with City employees.

Also, on June 7, 2012, the City posted a job announcement for the position of computer service technician within the Division of Information Technology. No one from IT was offered the position.

Since the layoffs there were a number of promotions, as well as considerable use of overtime, as in the case of employees in centralized payroll who worked overtime handling some of the former duties of appellant Bell, despite continued freezes on both overtime and promotions.

At or about the time of the layoff plan, a restructuring occurred with regard to several divisions. First, the CRA, a civil service agency, split from Planning and Development in or about summer 2010, and has since been a separate entity, without City employees. The CRA is responsible for the implementation (rather than planning) of redevelopment projects. The CRA had furloughs but no layoffs in 2010, as none were necessary to effect its separate budget.

Second, the Division of Capital Improvements was moved from Public Works into Planning and Development in or about October 2010. Though Public Works Director Keating had initially proposed eight Capital Improvements titles for reduction, prior to the transfer, Director Williams did not propose reduction of any Capital Improvements titles after the transfer, citing unfamiliarity with those positions.

Third, the Urban Enterprise Zone was also moved into Planning and Development in the latter part of 2010, and Director Williams did not propose reduction of any UEZ titles after the transfer, again citing unfamiliarity with those positions.

By way of comparison of fiscal-year budgets, the budget for fiscal year 2012 was approximately \$150 million, and did not include layoffs. The budget for fiscal year 2013 was approximately \$153 million, and did not include layoffs. In fiscal year 2010, the City received \$62 million in State aid, and there were no layoffs.

B. The Layoff Process

BA Tucker, as appointing authority, was responsible for Camden's layoff plan, though it was signed by the mayor, including pre-layoff actions and the submission of proposed titles to Civil Service, which ultimately determined who in the proposed titles had seniority and bumping rights. In the course of the pre-layoff process, the City was obliged to confirm with Civil Service the correct seniority information.

To effect the layoff plan, Finance predetermined budgets for each department, distributed those budgets among the respective department heads, and directed that each department cut its respective budget by 24 percent. Neither the department heads nor division or bureau chiefs determined the budgets generated from Finance.

Early on in the layoff process, an essential-functions worksheet was circulated and utilized by the departments, whose directors were instructed to complete and return them along with a proposed budget to the BA, who sent them to Finance. No guidance was given as to their use, which lacked uniformity among various departments, as indicated below.

In Administration, BA Tucker assembled the proposed titles for layoff without first conferring with division or bureau heads for their input. Though she invited their reply to her decision, she alone made the determination. There is no clear indication of her analytical process in selection of the proposed titles, beyond her consideration of the role of Administration, the budget, and transitional aid information.

In Public Works, Director Keating assessed operations, and staffing levels needed to perform basic services, and selected proposed titles for reduction without consulting division and bureau heads for input. He made cuts beyond salary, wages

and benefits to achieve a 24 percent reduction. When Keating submitted his revised proposal, the Division of Capital Improvements was being transferred to Planning and Development and thus was not included in the Public Works budget for FY 2011, though not reflected in the layoff plan.

In Finance, Director Jones selected and proposed titles for layoff based upon salaries, maintaining positions that were legally required by State law or City ordinance (such as CFO, tax collector and tax assessor), and eliminating those that were redundant or duplicative. He did not utilize any (essential-functions) "spreadsheet" from the BA for his layoff analysis, but did submit the proposed titles to her on an ADP spreadsheet. And he did not involve division heads or bureau chiefs in deciding upon the proposed titles.

In Planning and Development, Director Williams assigned the responsibility for completion of the essential functions worksheet and selection of titles proposed for layoff to the division heads who had budget responsibilities. As head of the Division of Planning, he utilized the worksheet and proposed nine titles for layoff, but he did not consult Lyons, as chief of planning and project execution, regarding functions of the Bureau of Redevelopment, whose budget fell under the Division of Planning. Only four of the nine titles, including Lyons's, were reduced by layoff.

In Human Services, Director Thompson completed the spreadsheet and selected proposed titles, focusing on needs of the department, without input from division heads.

Though the administration had instructed department heads to focus on titles rather than any subjective criteria, there was no particular process to ensure that department heads met budgetary objectives without personal considerations.

Finance Director Jones reviewed the titles proposed for reduction, along with their respective salaries, to ensure that the proposed cuts, covering 383 titles, reached the 24 percent reduction goal for each department, and were within the budget. He did not consider seniority in making that assessment. His calculations were neither submitted to the CSC nor included in the layoff plan.

The layoff plan did not include, and the appointing authority did not demonstrate, a specific cost-benefit analysis showing the economy or efficiency of the proposed layoffs as to each department. Rather, the justification focused on an overall assessment that salaries, wages and benefits identified with the proposed titles produced the required reduction.

The layoff plan dated November 8, 2010, did not inform the CSC that Camden had just applied to the DCA for an additional \$21.5 million in transitional aid, \$8.3 million of which would be used to reduce layoffs and \$2 million of that to reduce civilian layoffs specifically.

Camden did not revise the layoff plan to reflect the receipt of an additional \$15 million in transitional aid, and it did not inform the CSC that it received the additional aid before effecting the layoffs. The layoff plan also did not show that Capital Improvements was no longer part of Public Works and that its eight titles proposed for layoff were not actually within the Public Works budget.

BA Tucker, as the head of Administration, and Finance Director Jones were aware, as department heads, of Camden's receipt of the additional transitional aid; however, that information was not imparted to the heads of other departments, including Public Works and Planning and Development, for any redetermination of the necessity for layoffs, or possibility of preserving any of the titles previously proposed.

Camden did not reduce the number of layoffs as a result of either a number of retirements that occurred, or as a result of the receipt of an additional \$15 million in transitional aid. However, when the layoff plan was adopted, Camden still had a budget deficit, at a minimum of \$13 million.

The City achieved its goal of a 24 percent reduction throughout all departments, approximately, with some departments achieving slightly more, and some achieving slightly less.

C. *Alternatives to Layoff/Pre-Layoff Actions*

As for alternatives to layoffs, the City's negotiations with labor unions included discussions regarding potential alternatives to layoffs, including economic concessions such as wage and salary reductions. But overall, they were primarily focused on the extension or renewal of union contracts, which had expired, rather than the proposed layoffs exclusively. The City had implemented furloughs for FY 2010 and FY 2011. They began before Finance director Jones arrived in July 2010, were meant to address an \$8 million gap from fiscal year 2010, and saved \$1.5 million to \$2 million. Additional furloughs were considered, but not as viable alternatives to achieve the reduction goal. The City also maintained freezes on wages, hiring, overtime and promotions, though some promotions and use of overtime did occur.

Further, when the layoff plan was formulated, the City did not consider a voluntary reduction in hours, temporary demotions, or job sharing as viable options, and they were not considered as alternatives. Further, reassignment, separating nonpermanent employees, eliminating provisional employees, or offering leave without pay to permanent employees were not considered, though furloughs could have saved approximately 20 percent in salary, and across-the-board demotions had the potential to save approximately \$5 million. The City also did not consider those alternatives after receiving an additional \$15 million in transitional aid.

II. Individual layoffs

A. *Appellant Rodriguez*

Rodriguez was denied a promotion to the title of equipment operator in or about 2008. He did not file any grievance relative to that lack of promotion. He was denied the position for failure to satisfactorily complete the subject equipment test, rather than because of any personal animus. His layoff in January 2011 was unrelated to the 2008 denial of promotion and was not based on subjective criteria.

B. Appellant Lyons

Planning and Development plays an important role in the City's economic growth, and its staff reductions had a potential negative impact on efficiency and economy. Director Williams submitted to BA Tucker nine proposed titles for reduction. Somehow, only four of the nine proposed titles were included in the layoff plan: control clerk; relocation officer; project coordinator, redevelopment; and chief of planning and project execution, held by Lyons.

Camden was obliged to oversee and manage redevelopment plans. As chief of planning and project execution, Lyons—with twenty-two years of service and extensive experience with redevelopment plans and studies—had an important role at Planning and Development, planning redevelopment activity, though he was not a licensed planner, and managing consultants' preparation of redevelopment studies, a role which was not replicated at the CRA. Elimination of a clerical position in each division would potentially have had less negative impact than elimination of a division head, such as Lyons, and at least four such positions had been proposed. Director Williams, however, did not consider Lyons' position to be critical. Lyons was the only bureau chief who faced a reduction in his department, and after the layoffs Director Williams assumed his duties. The CSC determined that Lyons did not have lateral or bumping rights and he did not appeal that decision. His salary had been \$75,000, plus benefits and pension contribution.

Lyons is disabled and ambulates by wheelchair. He has had issues with, and complained to the City relative to, inadequate access to his workplace, where the County controls a chairlift that has often needed repair. The City has not failed any effort to accommodate him based upon his disability. He had also filed grievances in 2006, 2008 and 2010, relative to unpaid compensation, denial of a vacation request, and docking of vacation time, respectively. However, the evidence does not show that the layoff was motivated by, or is related to, either his disability or any prior grievance.

C. Appellant Williams

Williams, who was an MIS specialist and the division head for IT, was responsible for the oversight of computer systems and networks citywide. Williams was an effective and efficient division chief. No one in his division shared his responsibilities or likely could individually assume his role. He thus was in a position that seemingly would have been more efficient to maintain rather than reduce, particularly in light of his background, experience, track record and ability to perform essential functions.

Williams was the only division head who was laid off—at least in his department, if not the City—despite the fact that division heads were generally considered integral to the integrity of a department's essential functions. In his case, the department head who supervised him, BA Tucker, was aware of his identity in the title proposed for elimination, as he worked under her and was the only person with that title. She did not consult with him for input regarding layoffs in his division. Rather, she informed him of her decision as to the layoffs.

The majority of layoffs in Administration were in IT, where six of nine employees, including Williams, were laid off. It potentially would have been more efficient to reduce other positions instead, namely: supervisor of telephone systems, computer service technician, or network administrator.

The CSC determined that Williams did not have bumping rights. Although the City may have incorrectly disagreed with his rights to retirement benefits based upon the timing of his retirement application, that circumstance does not evidence that he was personally targeted for layoff when the layoff plan was formulated or submitted. Williams had not filed any grievances relative to his employment at any relevant time prior to the layoffs.

Despite the fact that Tucker knew that Williams was the MIS specialist who was slated for reduction, the fact that she did not consult him for information in planning the layoffs, and that he was the only division chief—at least in his department, if not the City—slated for layoff, the evidence does not show any history of animosity, harassment, retaliation or prior adverse circumstances, so as to suggest a personal untoward motivation for reducing his title. Additionally, no one was hired into his

position, though two civilian employees were later moved from the police department into IT.

D. Appellant Bell

Bell was a principal payroll clerk typist in centralized payroll, an important role within Finance. She was the only employee with that title in her division, in which she maintained payroll records, processed paychecks, entered pay information into the computer system, and serviced employees regarding payroll issues.

With her tenure of over twenty-six years, at the time of layoffs she had more seniority than coworkers in her division. Of the three employees in centralized payroll, she alone was demoted. Other employees with higher salaries and less tenure, such as the payroll assistant supervisor, were spared a reduction in title.

At or about the time of her demotion, there was a vacancy in the fire department for a payroll position, but her request for a lateral transfer into that position was denied by Director Jones. Bell then elected one of two options presented and chose to work in the demoted title of senior clerk typist, under the treasurer, whom she knew.

When Bell was demoted, two other City employees, Munsey Martinez (principal payroll clerk typist) and Latifa Chandler (administrative analyst), were transferred into centralized payroll in Finance, where Chandler became senior budget examiner while still doing public safety payroll, and they performed her duties along with the remaining staff, who then worked considerable overtime. Generally, overtime pay is not economical in the long run.

Based upon her seniority, Bell was rehired into her former position, initially through the police department, effective April 8, 2012, and she resumed her duties in Finance, effective April 3, 2013, where she was reemployed "due to emergent need." The effect of her demotion was a salary reduction of approximately \$20,000, plus longevity.

Bell had previously filed grievances over the years; however, none bore any nexus to the layoffs, as the evidence does not suggest a personal motivation or subjective criteria for reducing her title.

LEGAL ANALYSIS AND CONCLUSIONS

Appellants contend bad faith, challenging the economy and efficiency of the layoffs, including the accuracy of the deficit. They also contend that the layoff process was both arbitrary, without any cost-benefit analysis, and procedurally flawed, lacking any uniform method and circumventing correct processes for implementation. Appellants also individually assert selective targeting as bad-faith motivation for their respective layoffs/demotions.

The ultimate issue is whether the appointing authority's action was motivated by good-faith considerations of economy or efficiency in effectuating the layoffs. Therein, questions are presented regarding whether there is any requirement for the City to: (1) notify the CSC and revise the layoff plan based upon the receipt of an additional \$15 million in State aid; (2) utilize a uniform procedure or make a particular cost-benefit analysis; (3) consider certain alternatives to layoffs, and implement pre-layoff actions; and (4) reduce the titles of employees with lesser seniority and experience, rather than those of appellants.

Layoff procedures and employee layoff rights

The Civil Service Act, N.J.S.A. 11A:1-1 to 12.6 (Act), and its implementing regulations, N.J.A.C. 4A:1-1.1 to 10-3.2, are designed "to establish a personnel system that provides a fair balance between managerial needs and employee protections for the effective delivery of public services." N.J.A.C. 4A:1-1.1. The balance between managerial needs and employee protections is particularly evident in the statutory and regulatory provisions governing layoff procedures and employee layoff rights. N.J.S.A. 11A:8-1 to -4; N.J.A.C. 4A:8-1.1 to -2.6.

A local appointing authority may institute layoffs “for reasons of economy, efficiency, or other related reasons.”¹²⁹ N.J.S.A. 11A:8-1(a); N.J.A.C. 4A:8-1.1(a). However, prior to a layoff action, a local appointing authority “should lessen the possibility of layoffs by considering voluntary alternatives” and “shall lessen the possibility, extent or impact of layoffs by implementing, as appropriate, pre-layoff actions.” N.J.A.C. 4A:8-1.2, -1.3; N.J.S.A. 11A:8-2, -3. If, after exploring other options, a local appointing authority decides to institute a layoff, it must submit a layoff plan for the approval of the Civil Service Commission (CSC). N.J.A.C. 4A:8-1.4(a); Borough of Keyport v. Int’l Union of Operating Eng’rs, Local 68, No. A-43/44-13 (July 14, 2015), <<http://njlaw.rutgers.edu/collections/courts/>>.

If the CSC approves a layoff plan and the local appointing authority implements the layoff action, affected employees have certain rights, including “a right to appeal the good faith of such layoff.” N.J.S.A. 11A:8-4; N.J.A.C. 4A:8-2.6. However, “[t]he power of a municipality to abolish a position in the classified civil service, or to dispense with the services of one holding such position, cannot be questioned where such action is motivated by a *bona fide* desire to effect economies and increase municipal efficiency.” Greco v. Smith, 40 N.J. Super. 182, 189 (App. Div. 1956). Thus, “[t]he presumption of good faith arises, and the burden is on [the employee] to show bad faith.” Hunziker v. Kent, 111 N.J.L. 565, 567 (Sup. Ct. 1933).

In particular, an employee must prove by a preponderance of the evidence that the layoff was instituted for a reason other than economy, efficiency or other related reason. N.J.S.A. 11A:8-4; N.J.A.C. 4A:8-2.6(a)(1); DiMaria v. Dep’t of Human Servs., 92 N.J.A.R.2d (CSV) 238, 239. To meet this burden, “[p]roofs must be presented that demonstrate that the layoff resulted from personal animus and hostility or improper political motives, or otherwise, or that the design in adopting the plan which resulted in the employee’s layoff was to remove her in violation of her civil service protections rather than to accomplish economy.” Acchitelli v. Dep’t of Env’tl. Prot. and Energy, 93 N.J.A.R.2d (CSV) 716, 718 (citing Schnipper v. Twp. of No. Bergen, 13 N.J. Super. 11,

¹²⁹ An appointing authority is “a person or group of persons having power of appointment or removal” at either the state or local level of government. N.J.A.C. 4A:1-1.3.

15 (App. Div. 1951)). If a layoff action was done in bad faith, an employee may be restored to his position and seniority credit, back pay, benefits, and counsel fees may be awarded. N.J.A.C. 4A:2-1.5.

Notification of the CSC and revision of the layoff plan due to additional aid

The information that an appointing authority must submit to the CSC prior to any layoff action is set forth in N.J.A.C. 4A:8-1.4. Under this provision, the City must provide the reason for the layoff; the projected effective date of the layoff; sample copies of the layoff notice and the projected date for issuance; the number of positions . . . by title to be vacated, reclassified, or abolished and the names, status, layoff units, locations and, as of the effective date of the layoff, permanent titles of employees initially affected, including employees on leave; the vacant positions in the layoff unit . . . that the appointing authority is willing to fill as of the effective date of the layoff; a detailed explanation of all alternative and pre-layoff actions that have been taken, or have been considered and determined inapplicable; a summary of consultations with affected negotiations representatives; and, a list of affected negotiations representatives, including addresses and the units they represent.

The CSC's "function in approving a layoff plan is regulatory in nature," such that the CSC "reviews the plan to make sure it adheres to the procedural requirements needed to effectuate a layoff under merit system rules and law." In re Hunt, CSV 966-97, Final Decision (March 21, 2000), <<http://njlaw.rutgers.edu/collections/oal>>. The CSC is also responsible for determining the seniority, lateral title, demotional, and special reemployment rights of employees affected by a layoff. N.J.A.C. 4A:8-2.1 to -2.4. However, the CSC does not "dictate how an appointing authority addresses its financial situation or how it should handle its operations absent extraordinary circumstances." In re Best, 2012 N.J. CSC LEXIS 205 (March 8, 2012). And, "[i]t is not the [CSC's] function, in approving the layoff plan, to determine whether a layoff is implemented in bad faith." Hunt, supra, CSV 966-97, Final Decision (March 21, 2000), <<http://njlaw.rutgers.edu/collections/oal>>. Upon review of a layoff plan, the CSC "may take appropriate remedial action" such as "[r]equiring submission of additional or corrected information"; "[p]roviding needed assistance to the appointing authority";

“[d]irecting implementation of appropriate alternative or pre-layoff measures”; or, “[d]irecting necessary changes in the layoff notice, which may include the effective date of the layoff.” N.J.A.C. 4A:8-1.4(d).

Other layoff matters indicate that appointing authorities are only required to revise layoff plans to reflect any changes in the timing or scope of the original layoff plan. In In re Trenton Layoffs, 2014 N.J. CSC LEXIS 337 (April 9, 2014), Trenton submitted a revised layoff plan to the CSC after the approval of its original layoff plan in order to change the layoff date and to lay off an additional eighty-one employees for reasons of economy and efficiency. And, in In re Newark Public Schools 2012 Layoffs, CSV 14873-12, Initial Decision (March 31, 2014), adopted, Comm’n (May 7, 2014) <<http://njlaw.rutgers.edu/collections/oal>>, Newark first revised its approved layoff plan to reduce the number of layoffs from 197 to 175 and, after the CSC approved the revised plan, Newark again amended its layoff plan, which the CSC also approved, to reduce the number of layoffs from 175 to 82 and to change the effective date of the layoff from June 30, 2012, to September 7, 2012. The substance of the revised plans in Trenton Layoffs and Newark Layoffs lends support to the conclusion that an appointing authority is only required to provide the CSC with supplemental information affecting the timing and scope of a layoff.

Here, given its function, the CSC approved Camden’s layoff plan upon a review of the information Camden was required to submit under N.J.A.C. 4A:8-1.4, and only asked Camden to supplement its approved layoff plan with “any contemplated or actual changes in the scope or timing of the layoff so that we are able to efficiently allocate our resources and make [seniority, displacement, and special reemployment rights] determinations with the best available information.” There is insufficient proof that the additional aid actually changed either the scope or timing of the layoffs. As it happened, the layoff plan was implemented both as to its scope and timing as indicated in the plan.

It seems troubling that the CSC was not informed of the additional aid, as the plan had contemplated a lesser amount, but, again, the CSC does not “dictate how an appointing authority addresses its financial situation or how it should handle its operations.” In re Best, supra, 2012 N.J. CSC LEXIS 205 (March 8, 2012). Though it

would appear that the additional aid would have an impact on the budget gap, as it reduced what had been a \$28 million deficit, there was also evidence of additional costs that likely would have absorbed that reduction to some degree. Camden did receive less supplemental aid than was requested and, as stated, the appointing authority has discretion with regard to its managerial needs.

I therefore **CONCLUDE** that Camden was not required to advise the CSC of its receipt of additional State aid or revise its layoff plan because, under the circumstances presented, the additional State aid did not affect the scope or timing of the plan. This conclusion is supported by a review of N.J.A.C. 4A:8-1.4, the CSC's role in the layoff process, the CSC's instructions to Camden upon the approval of its layoff plan, and the substance of revised layoff plans in other layoff appeals. Thus, I further **CONCLUDE** that, as for each appellant, bad faith has not been shown by a preponderance of the evidence based upon Camden's failure to either notify the CSC or revise the layoff plan.

Uniform protocol and cost-benefit analysis

Civil-service law does not require an appointing authority to use a uniform protocol, with or without specified instruction, in determining which titles to include in a layoff. However, under certain circumstances, the absence of any financial analysis in selecting titles for a layoff could be indicative of bad faith. In layoff appeals, "facts such as whether a cost benefit analysis was performed to aid in determining the usefulness of a layoff . . . have been found to be relevant and material in assessing the good faith of a layoff." In re Asbury Park Layoffs, CSV 13018-10, Initial Decision (October 22, 2012) (citing Clark v. Paterson, 6 N.J.A.R. 25, 34–35 (Civil Serv. Comm'n 1980)), adopted, CSC (January 23, 2013), <<http://njlaw.rutgers.edu/collections/oal>>.

In Clark, supra, 6 N.J.A.R. at 34, an appointing authority was found to have laid off an employee in bad faith by failing to perform a cost-benefit analysis and because, overall, "[t]he method of implementing the plan did not bear even the faintest resemblance to the require[ments] under the Civil Service Act." And, in In re Newark Housing Authority Layoffs 2009, CSV 13507-09, Initial Decision (February 17, 2012), adopted, CSC (May 2, 2012), <<http://njlaw.rutgers.edu/collections/oal>>, the absence of

a cost-benefit analysis to determine the usefulness of layoffs, coupled with the fact that the appointing authority hired employees in substantially similar positions as those eliminated by layoff, led to a finding of bad faith. Thus, the absence of a cost-benefit analysis may support a finding of bad faith, but does not, by itself, necessarily equate with bad faith.

In another case, Cable v. Department of Human Services, 96 N.J.A.R.2d (CSV) 712, the Department of Human Services was found to have implemented a layoff for the good-faith reason of economy despite an assistant commissioner's testimony that he targeted positions for layoff based on a functional analysis "in the form of a verbal presentation made to senior staff," that "[t]here were no specific written instruction[s] on how to implement the layoffs and no formal impact study or analysis was done," and that the layoffs were instead "based on management's knowledge and decision-making responsibilities and . . . done on an informal basis."

Here, Camden determined that a severe budget shortfall necessitated a 24 percent budget cut in each City department. While Tucker, as the appointing authority, did not provide evidence of a cost-benefit analysis of the economy or efficiency of the proposed layoffs with respect to each department, the department heads were instructed to identify positions that could be reduced without substantially interfering with a department's essential functions, while avoiding any personal considerations in doing so. They were provided with an "essential-functions" worksheet to assist in determining staffing and budgeting needs, despite a lack of instruction on its use. They submitted their selections in a non-uniform manner to the BA, who then submitted the spreadsheets to the finance director.¹³⁰ He reviewed the titles proposed for layoff, with their respective salaries and wages, and calculated that the reduction of those titles would achieve the budget reduction goal.

¹³⁰ For instance, the director of Planning and Development had performed a functional assessment for the Division of Planning and Zoning, and concluded that Lyons's position was nonessential and could be eliminated. Further, the fact that the director did not reduce positions in certain divisions new to his department because he was not familiar with the functions of those positions is not proof that he targeted Lyons in bad faith. As indicated, the absence of a rigorous functional analysis is not, in and of itself, evidence of bad faith.

The appellants must show that Camden was not “motivated by a bona fide desire to effect economies” or that “the design in adopting the plan which resulted in the employee[s]’ layoff was to remove [them] in violation of [their] civil service protections rather than to accomplish economy.” Even if each director’s functional analysis was not a model of perfection, the evidence supports a finding that directors Keating, Williams, Tucker and Jones each identified positions that were ultimately selected for reasons of economy. Cable v. Dep’t of Human Servs. Layoffs, supra, 96 N.J.A.R.2d (CSV) 712. Significantly, when the layoff plan was adopted, Camden still had a budget deficit. Though the City received \$15 million in additional aid, it was less than had been requested in the supplemental aid application and was potentially offset by other costs that may have prevented Camden from reducing the number of layoffs.

Under the circumstances, neither the lack of a department-by-department cost-benefit analysis by the BA or finance director, nor the lack of a uniform procedure in proposing titles for reduction, equates to bad faith because there is no preponderance of proof that Camden instituted the layoffs for anything other than a good-faith reason of economy.

I therefore **CONCLUDE** that, as for each appellant, bad faith has not been shown by a preponderance of the evidence based upon lack of a uniform process for selection of proposed titles, or absence of an overall department-specific cost-benefit analysis in the layoff plan.

Requirement to consider alternatives to layoffs and implement pre-layoff actions

Before any layoff action, a local appointing authority is “required first to consider alternatives to layoffs and to take a number of pre-layoff actions.” Keyport, supra, No. A-43/44-13 (July 14, 2015), <<http://njlaw.rutgers.edu/collections/courts/>> (citing N.J.A.C. 4A:8-1.2, -1.3); N.J.S.A. 11A:8-3. These alternatives include voluntary participation by employees in leaves of absence without pay, furloughs, reduced work hours and job-sharing arrangements, temporary demotional title changes, and “other appropriate actions to avoid a layoff.” N.J.A.C. 4A:8-1.2(c), (d). An appointing authority

“should consult with affected negotiation representatives prior to offering alternatives to layoff” and “shall submit a plan for alternatives to layoff and obtain approval from the [CSC] prior to implementation.” N.J.A.C. 4A:8-1.2(e), (f).

An appointing authority also “shall lessen the possibility, extent or impact of layoffs by implementing, as appropriate, pre-layoff actions,” including but not limited to “[i]nitiating a temporary hiring and/or promotion freeze”; “[s]eparating non-permanent employees”; “[r]eturning provisional employees to their permanent titles”; “[r]eassigning employees”; and “[a]ssisting potentially affected employees in securing transfers or other employment.” N.J.A.C. 4A:8-1.3(a); N.J.S.A. 11A:8-2(a). An appointing authority “shall to the extent possible lessen the impact of any layoff action on permanent employees by first placing employees without permanent status, and then those with the least seniority, in positions being vacated, reclassified or abolished.” N.J.A.C. 4A:8-1.3(b). Also, an appointing authority “shall consult with affected negotiations representatives prior to initiating” any pre-layoff action. N.J.A.C. 4A:8-1.3(c). And, “[u]pon request by an appointing authority, assistance may be provided by the [CSC] in implementing pre-layoff measures.” N.J.A.C. 4A:8-1.3(d).

The statutory provisions and regulations governing layoff alternatives and pre-layoff actions recognize a local appointing authority’s managerial discretion. Thus, a local appointing authority “should” consider layoff alternatives, which “may include, but are not limited to,” those listed in N.J.A.C. 4A:8-1.2, and even though a local appointing authority “shall” lessen the possibility and extent of layoffs through pre-layoff actions, such actions shall only be implemented “as appropriate” and “may include, but are not limited to,” those listed in N.J.A.C. 4A:8-1.3.

As required, Camden submitted as part of its layoff plan “[a] detailed explanation of all alternative and pre-layoff actions that have been taken, or have been considered and determined inapplicable.” In FY 2010 and FY 2011, Camden “implemented an approved mandatory six (6) month temporary layoff plan in the form of twenty-six (26) furlough days for elected officials and employees in all departments except Police and

Fire.”¹³¹ (R-5 at 1.) Prior to submitting its layoff plan, Camden also met with negotiations representatives several times to discuss alternatives to layoffs. Although a predominant emphasis during negotiations was the renewal of contracts, potential wage concessions would undoubtedly impact the budget. (*Id.* at 3.) However, the parties could not reach an agreement on “alternatives to layoffs that would enable the City to have a balanced budget.” (*Ibid.*) Prior to the layoff action, Camden had for several years been subject to a wage and hiring freeze as a condition for the receipt of Municipal State Aid, and non-represented employees had not received a salary increase since 2006. (*Ibid.*) Despite these measures, Camden concluded that “reducing personnel through layoffs in all departments to reduce salary and wage costs is the only solution the City has to achieve a balanced budget.” (*Id.* at 2.)

The temporary layoffs of all employees except police and fire personnel, and the freeze on both promotions and the salaries, show that Camden took appropriate action to lessen the possibility of layoffs in accordance with N.J.A.C. 4A:8-1.3, and that the City could not consider certain wage and hiring freezes because such freezes were already in place as a result of the Municipal State Aid. And, even though Camden did not implement any layoff alternatives, the regulation merely encourages local appointing authorities to consider voluntary alternatives, and to consult with affected negotiations representatives prior to offering alternatives to layoff. N.J.A.C. 4A:8-1.2(b) (emphasis added); N.J.A.C. 4A:8-1.2(e). Finance director Jones did not regard a voluntary reduction in hours, temporary demotions or job sharing as feasible options, and they were not considered as viable alternatives. Camden did consult with union representatives several times from July 2010 to October 2010, but could not reach an agreement on voluntary layoff alternatives.

To the extent that any appellant argues that Camden should have implemented demotions as a pre-layoff action or layoff alternative, it is noted that “[d]emotions for

¹³¹ As the CSC noted in In re Jersey City Temporary Layoffs, 2012 N.J. CSC LEXIS 377 (N.J. CSC 2012), “N.J.A.C. 4A:8-1.1A codified a mechanism for implementing temporary layoffs. The regulation was repealed on December 21, 2009. However, temporary layoffs are permissible under Civil Service law so long as the temporary layoff is accomplished through the complete closure of an entire layoff unit in accordance with N.J.A.C. 4A:8-1, et seq.”

economy, efficiency, or other related reasons shall be considered layoff actions” and not pre-layoff actions or layoff alternatives. N.J.A.C. 4A:8-1.1(a)(1).

There is insufficient proof that Camden did not adequately comply with the above statutory and regulatory criteria, despite BA Tucker's concession that everything listed in the regulations was not done, because, as a local authority, Camden has a level of managerial discretion. “The upshot to that detailed scheme is that the decision to proceed with a layoff is a heavily imbued management decision, but a discretionary one, subject to approval by the Commission for implementation.” Keyport, supra, No. A-43/44-13 (July 14, 2015), <<http://njlaw.rutgers.edu/collections/courts/>>. And here, the CSC did so approve.

I therefore **CONCLUDE** that, as for each appellant, bad faith has not been shown by a preponderance of the evidence based upon any failure to consider alternatives to layoffs and implement pre-layoff actions.

Seniority versus retention of employees with lesser tenure and experience

When faced with economic distress, it is well within an appointing authority's discretion to determine that it must deliver public services with less experienced employees. An employee may be a valuable asset in the municipal organization, but sometimes an appointing authority must make “a substantive policy determination about whether and how to deliver public services when delivery is affected by serious and pressing economic decisions.” Keyport, supra, No. A-43/44-13 (July 14, 2015), <<http://njlaw.rutgers.edu/collections/courts/>>. As the CSC has noted, “the targeting of higher level and/or higher paying titles does not violate any Civil Service law or rules,” as seniority rights of affected individuals are determined in accordance with N.J.A.C. 4A:8-2.4. In re E. Orange Layoffs, 2011 N.J. CSC LEXIS 220 (February 22, 2011).

Further, an appointing authority may use bona fide methods of adjusting for the loss of a reduced title. It may not, however, eliminate positions under one title and replace them with substantially similar positions under a newly created title. In Newark Housing Authority Layoffs 2009, supra, CSV 13507-09, Initial Decision (February 17,

2012), adopted, CSC (May 2, 2012), <<http://njlaw.rutgers.edu/collections/oal>>, the appellants successfully showed that they had been laid off in bad faith because the appointing authority eliminated seventeen positions in the clerk-typist title series, twelve of which were held by employees entitled to civil-service protections, and hired over thirty employees to perform similar duties under two new titles. These actions supported a finding that “the design in adopting the plan which resulted in the employee[s] layoff was to remove [them] in violation of [their] civil service protections rather than to accomplish economy.”

On the other hand, an employee cannot satisfy his/her onerous burden in a good-faith appeal under N.J.A.C. 4A:8-2.6(a) by merely offering evidence that the municipality could “have chosen a different method of achieving the needed savings or that the agency had other alternatives available.” In re Passaic Cnty. Civilian Emps. 2008 Layoffs, CSV 01151-09, Initial Decision (June 7, 2011), adopted, CSC (September 7, 2011), <<http://njlaw.rutgers.edu/collections/oal/>>; Acchitelli v. Dep’t of Envtl. Prot., supra, 93 N.J.A.R.2d (CSV) at 718 (citing Schnipper v. Twp. of No. Bergen, 13 N.J. Super. 11, 15 (App. Div. 1951)). Importantly, “[t]he question is, not narrowly whether a plan conceived and adopted for the purposes of saving money actually, in operation, attained that purpose, but whether the design in adopting the plan was to accomplish economy or, on the contrary, was to effect the removal of a public employee, protected by civil service, without following the statutory procedure for removal.” Greco, supra, 40 N.J. Super. at 190 (citing City of Newark v. Civil Serv. Comm’n, 112 N.J.L. 571, 574 (Sup. Ct. 1934)).

Here, the appellants had considerable seniority in their respective positions. However, in each case, their respective department heads proposed reduction of their titles pursuant to the mandate to reduce departmental expenses, primarily salaries, to meet the budget goal. An employee has the burden of proving bad faith, and must demonstrate that he or she was laid off “for reasons other than economy, efficiency or other related reasons.” N.J.A.C. 4A:8-2.6(a)(1) (emphasis added); Greco, supra, 40 N.J. Super. at 193. Though it may have been more efficient to some degree to reduce lesser titles, as in the cases of Williams and Lyons, or not utilize overtime to perform remaining duties, as in Bell’s case, the reduction of each title was nonetheless for

reasons of economy in the face of Camden's fiscal crisis. And, unlike Newark Housing Authority Layoffs, none of the appellants' titles were replaced with new hires who performed the appellants' former duties. Further, the seniority of each appellant was assessed by the CSC in its determination of lateral and demotional rights, as was reemployment of laid-off employees pursuant to the CSC's special reemployment list. Finally, there is insufficient evidence to conclude that the transfer of the CRA, Capital Improvements, or the UEZ was effected for reasons other than economy or efficiency, or to circumvent any appellant's rights in the layoff process.

I therefore **CONCLUDE** that, as for each appellant, bad faith has not been shown by a preponderance of the evidence based upon the retention of employees with less seniority and experience, because the design in adopting the plan was to accomplish economy.

Individual layoffs

A. Appellant Rodriguez

Appellant Rodriguez's core argument is that he had more seniority and skills than most of the other employees who were retained, but he injects the notion of unfair treatment based upon a denial of the title of equipment operator in or about 2008. As indicated above, he did not file any grievance regarding that lack of promotion, which was for failure to satisfactorily complete the subject equipment test, rather than because of any personal animus.

I **CONCLUDE**, for all the reasons stated above, that Appellant Rodriguez has not proved by a preponderance of credible evidence that his layoff was other than for good-faith reasons of economy.

B. Appellant Lyons

Appellant Lyons additionally contends that he was laid off due to his disability, whereby he ambulates by wheelchair. He specifically asserts that his prior related

complaints to the City have resulted in a personal disdain that motivated his layoff. However, his own contrary testimony relative to his layoff defeats the argument. When asked if his layoff appeal was based upon his disability, he answered, "no," and, "I have not provided any testimony that makes the connection that the City has operated in bad faith in laying me off due to my disability." As previously indicated, his layoff was not motivated by, and is unrelated to, his disability or any prior grievance or complaint.

Therefore, I **CONCLUDE**, for all the reasons stated above, that Appellant Lyons has not proved by a preponderance of credible evidence that his layoff was other than for good-faith reasons of economy.

C. Appellant Williams

Appellant Williams also contends that he was personally targeted for layoff based upon a number of circumstances: BA Tucker was aware of his identity in the title proposed for elimination, and she did not consult with him for input regarding layoffs in his division; it would have been more efficient to retain him rather than reduce his title; he was the only division head who was laid off, despite the premium value of that position; and the City incorrectly disagreed with his rights to retirement benefits. However, there is no history of any work-related grievance, and the evidence does not show any history of animosity, harassment, retaliation or prior adverse circumstances, so as to suggest a personal or improper motivation for reducing his title. Additionally, no one was hired into his position.

Therefore, I **CONCLUDE**, for all the reasons stated above, that Appellant Williams has not proved by a preponderance of credible evidence that his layoff was other than for good-faith reasons of economy.

D. Appellant Bell

Appellant Bell also contends bad faith in her demotion, which she asserts was neither economical nor efficient, based upon several circumstances, including: the payment of overtime to remaining workers; the transfer of two other employees into

centralized payroll within two months of the layoff; and the fact that she was not transferred, rather than demoted, or initially reemployed into the same position.

Although payment of overtime may not be particularly efficient in the long run, as stated above, the City had managerial prerogative, and that development does not negate the economic basis for Bell's layoff. The CSC determined her lateral and demotional rights in light of her seniority, and the City did not replace her title when she was demoted. She in fact retained her title upon reemployment and since has been restored to her former position. Similarly, the subsequent transfer of two other employees into centralized payroll does not negate the economic basis for Bell's demotion.

Therefore, I **CONCLUDE**, for all the reasons stated above, that Appellant Bell has not proved by a preponderance of credible evidence that her layoff was other than for good-faith reasons of economy.

DECISION AND ORDER

Camden's layoffs were initiated for good-faith reasons of economy and efficiency, and appellants have not proved by a preponderance of the credible evidence that respondent's action was motivated by bad faith.

Having also considered the application for sanctions and supporting documents of appellants Williams and Lyons, and the opposition and supporting documents of respondent, I **CONCLUDE**, pursuant to N.J.A.C. 1:1-14.14, that respondent's failure to comply with discovery obligations was unreasonable, however unintentional, under all of the circumstances.

Based on the foregoing, it is **ORDERED** that appellants Williams and Lyons be reimbursed for reasonable expenses above and beyond that which would have been required but for the respondent's discovery violation.

Further, based upon all of the above, the appellants not having met the required burden of proof, it is **ORDERED** that the appeals of appellants Bell, Rodriguez, Lyons, and Williams be **DISMISSED**.

I hereby **FILE** my initial decision with the **CIVIL SERVICE COMMISSION** for consideration.

This recommended decision may be adopted, modified or rejected by the **CIVIL SERVICE COMMISSION**, which by law is authorized to make a final decision in this matter. If the Civil Service Commission does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **DIRECTOR, DIVISION OF APPEALS AND REGULATORY AFFAIRS, UNIT H, CIVIL SERVICE COMMISSION, 44 South Clinton Avenue, PO Box 312, Trenton, New Jersey 08625-0312**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

August 24, 2015

DATE



ROBERT BINGHAM II, ALJ

Date Received at Agency:

8/24/15

Date Mailed to Parties:

8/25/15

/lam

APPENDIX

WITNESSES

For Appellant Archie F. Williams:

Archie F. Williams
Raymond Calubayan

For Appellant Eduardo Rodriguez:

Luis Rivera
Wilson Ortiz
Pablo Decena
Ross Laboy
Eduardo Rodriguez

For Appellant Sonya Bell:

Sonya Bell

For Appellant Charles E. Lyons, Jr.:

Edward Carl Williams, Sr.
Arthur Thompson
Johanna Conyer
Candice Jefferson
Charles E. Lyons, Jr.

For Respondent:

Christine Tucker
Glynn Jones
Patrick Keating
Ruben Perez
Keith Walker

EXHIBITS

Joint:

- J-1 Joint Stipulation of Facts
- J-2 Not in evidence
- J-3 December 14, 2010, Resolution Authorizing a Memorandum of Understanding with the State of New Jersey, Department of Community Affairs, as to the City's receipt of Transitional Aid
- J-4 Resolution Approving City of Camden Layoff Plan

For Respondent:

- R-1 Resolution Designating Furlough Days
- R-3a Instructions for Completing the Transitional Aid Application Form
- R-3b Transitional Aid Application for Application Year CY 2010/SFY 2011
- R-4 Mayor's letter to Thomas Neff, dated October 28, 2010 (supplemental TAL application)
- R-5 Layoff Plan dated November 8, 2010
- R-10 Memorandum of Understanding, dated December 15, 2010
- R-28–28c Department of Planning and Development Essential Functions worksheet
- R-39–39c Public Works FY 2011 Budget Request from Patrick Keating to Christine Tucker, August 3, 2010
- R-45 Memo dated July 29, 2010, from Glynn Jones to Pat Keating regarding 2011 Fiscal Year Budget dated July 29, 2010
- R-46–46b Budget Manual Fiscal Year 2011
- R-47–47a Essential Functions and Supporting Dependencies Worksheet, blank
- R-48–48f Fiscal Year 2011 Budget Request
- R-51 Picture, New Holland tractor

For Appellant Charles Lyons:

- AL-1 Chief of Planning and Project Execution CSC Title Description
- AL-2 General Notice of Layoff or Demotion, dated December 2, 2010

- AL-3 Individual Notice of Layoff or Demotion, dated December 2, 2010, addressed to Charles E. Lyons, Jr., and CSC layoff letter dated January 5, 2011
- AL-4 City of Camden, Office of the Municipal Clerk, Municipal Record Request Form (OPRA Request)
- AL-5 Lyons's Grievances and Communication Regarding Disability
- AL-6 Not in evidence (same as R-5)
- AL-7 Not in evidence (same as R-10)
- AL-8 Department of Development and Planning Organizational Structure September 2010
- AL-10 List of Employees (Rehires and Personnel Actions)
- AL-11 Memo to Edward C. Williams from Charles E. Lyons, Jr., dated August 3, 2010, regarding Savings for City and Department
- AL-14 Current Fund-Appropriations
- AL-15 Not in evidence
- AL-16 Not in evidence
- AL-17 Not in evidence (same as R-39)
- AL-18 Email, dated October 7, 2010, from Edward Williams to Christine J. Tucker, regarding Department of Development and Planning: Proposed Titles for Layoff
- AL-19 Not in evidence (same as R-28)
- AL-21 Municipal Ordinance, Article VIII, Department of Development and Planning
- AL-22 Budget documents (file of director Edward Williams pages 25–27, 36–40)
- AL-23 Memorandum to Christine T.J. Tucker from Arthur E. Thompson, dated October 7, 2010, regarding Fiscal Year 2012 Budget Reductions
- AL-25 Camden, New Jersey, Redevelopment Plans

For Appellant Eduardo Rodriquez:

- AR-2 Earnings Statements (pay stubs) for Eduardo Rodriquez
- AR-5 Letter of appeal, dated January 19, 2011, to Civil Service Commission from Eduardo Rodriquez

AR-11 Affidavit of Eduardo Rodriguez (as redacted by stipulation), and attached photo

For Appellant Archie Williams:

AW-1 Letter dated April 11, 2011, to Christine T.J. Tucker from Igor Sturm, Esq., regarding Archie Williams

AW-2 Resolution Amending Contract #9-08-138 with Dorf & Dorf, P.C.

AW-3 Easy Steps to Camden Cost-Cutting Reorganization as Submitted by Employees

AW-7 Division of OT Employee List Prior to Layoff of January 18, 2011

AW-9 New Jersey Civil Service Commission, County and Municipal Personnel System New Hire—Deborah P. Beasley

AW-10 New Jersey Civil Service Commission, County and Municipal Personnel System New Hire—Robin Johnson

AW-11 New Jersey Civil Service Commission, County and Municipal Personnel System New Hire—Tasha McCoy

AW-12 New Jersey Civil Service Commission, County and Municipal Personnel System New Hire—Rhoda Thomas

AW-13 New Jersey Civil Service Commission, Job Announcement for Computer Service Technician

AW-15 Certification of Archie F. Williams

AW-19a–b All Employee Listing by Location (partial listing)

AW-21 Not in evidence

For Appellant Sonya Bell:

AB-1 City of Camden Non-Supervisor Employee Performance Assessment Review Form for Sonya Bell

AB-2 Camden County College Division of Continuing Education certificate issued to Sonya Bell

AB-3 Civil Service Pre-layoff Action (regulatory reference for Bell)

AB-5a Article V, Overtime

- AB-6 Letter dated February 1, 2012, to Christine T.J. Tucker from Karl R. Walko, Council #10
- AB-11 Camden County Council #10 Agenda of September 25, 2012
- AB-12 Memorandum dated April 3, 2013, to Sonya G. Bell from Christine T. Tucker regarding transfer