



**STATE OF NEW JERSEY
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February 15, 2001

M E M O

TO: Commissioners
FROM: Bob Anderson
RE: Report on Developments in the Counsel's Office Since January 25, 2001

Commission Cases

The Appellate Division has affirmed a ruling of the Director of Arbitration declining to release a grievance arbitration panel. Middlesex Cty. Sheriff's Officers, FOP Lodge 59 and Steven Eckel v. PERC, App. Div. Dkt. No. A-1872-99T3 (1/24/01)(copy attached). A PBA affiliate represents sheriff's officers in Middlesex County, but FOP Lodge 59 sought to arbitrate a grievance contesting a ten-day suspension imposed on its president. The Director applied D'Arrigo v. New Jersey State Bd. of Mediation, 119 N.J.74 (1980), in concluding that the collective negotiations agreement did not authorize a demand for arbitration by an individual employee or minority organization as opposed to the majority representative. The Court agreed. It also stated that N.J.S.A. 34:13A-5.3 precludes a minority organization from presenting or processing grievances. I wrote the brief and Don Horowitz argued the case.

Other Cases

The Appellate Division has confirmed an arbitration award in PBA Local 292 v. Borough of North Haledon, App. Div. Dkt. No. A-1889-99T1 (2/01/01). The arbitrator found that the employer violated the parties' contract when it deprived regular police officers of overtime opportunities and instead used special police officers to fill in for absent officers on their regular shifts. The arbitrator ordered the employer to pay the regular officers for their lost opportunities. The Appellate Division

upheld that arbitrator's contractual ruling as "reasonably debatable" and rejected the employer's

claim that awarding monetary damages violated public policy. The Court stated: “The award of money compensation to the regular officers for hours unworked is not inherently against public policy but signifies recognition of the terms of the bargaining agreement as a necessity of continuing, harmonious labor relations.”