



STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION

PO Box 429
TRENTON, NEW JERSEY 08625-0429

ADMINISTRATION/LEGAL
(609) 292-9830
CONCILIATION/ARBITRATION
(609) 292-9898
UNFAIR PRACTICE/REPRESENTATION
(609) 292-6780

For Courier Delivery
495 WEST STATE STREET
TRENTON, NEW JERSEY 08618
FAX: (609) 777-0089

June 19, 2003

MEMORANDUM

TO: Commissioners

FROM: Robert E. Anderson
General Counsel

SUBJECT: Report on Developments in the Counsel's Office Since May 29, 2003

Commission Cases

—

An Appellate Division panel has affirmed the Commission's decision in New Jersey Highway Authority and IFPTE Local 193 (Toll Supervisors of America), AFL-CIO, P.E.R.C. No. 2002-76, 28 NJPER 261 (¶33100 2002), aff'd App. Div. Dkt. No. A-6397-01T3 (6/16/03) (copy attached). The Commission declined to restrain binding arbitration of a grievance asserting that the Authority violated the parties' contract when it required toll plaza supervisors to relieve non-supervisors taking breaks on the midnight shift; the Commission found that under the circumstances of this case, the employees' interests in negotiating over out-of-title, workload, and pay rate issues outweighed the employer's interest in assigning this relief work unilaterally. The Court agreed with the Commission's analysis of the issues and deferred to its balancing of the parties' interests. I wrote the brief and Don Horowitz argued the case.

An appeal has been filed in Hotel, Restaurant & Cafeteria Employees Union Local 3 and Diana Kathy Dasent, D.U.P. No. 2003-10, NJPER (¶_____ 2003). The Director of Unfair Practice dismissed Dasent's unfair practice charge alleging that her majority representative breached its duty of fair representation by not appealing her termination to the Merit System Board. The Director found that the charge was untimely and did not allege specific facts showing that the union acted arbitrarily, discriminatorily, or in bad faith. Dasent appealed directly to the Appellate Division, rather than exhausting her administrative right to appeal to the Commission.