



**STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION**

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March 12, 2004

MEMORANDUM

TO: Commissioners

FROM: Robert E. Anderson
General Counsel

SUBJECT: Report on Developments in the Counsel's Office Since February 26, 2004

Commission Cases

The County of Gloucester has moved for leave to file an interlocutory appeal from the interim relief order in Gloucester and CWA Local 1085, I.R. No. 2004-11, __ NJPER __ (¶__ 2004). The order required the County to reinstate a four-day compressed workweek for its Department of Health and Senior Services employees pursuant to the parties' contract. The order is to remain in effect until the Commission's final decision or the parties reach agreement on a different schedule.

The Honorable Alexander P. Waugh, J.S.C. denied a motion of the Park Rangers to compel the Commission's intervention/interpleader in County of Middlesex v. Middlesex Park Ranger Association, Dkt. No. MID-L-000013-04. The Court will hold in abeyance the County's breach-of-contract suit against the Association while the Commission entertains the County's unfair practice charge alleging that the Association repudiated a settlement agreement stating that park rangers are not entitled to interest arbitration.

Other Cases

In Mulholland v. Town of Morristown Police Dept., App. Div. Dkt. No. A-5916-02T1 (2/9/04), the Court held that a patrol officer could not begin a civil action until he had exhausted the grievance procedure in the collective negotiations agreement covering him. The officer claimed that his contractual rights to overtime had been improperly suspended for 20 days.

In FOP Lodge #1 Camden v. City of Camden, ___ N.J. Super. ___ (Law Div. 2003), Judge Orlando held that N.J.S.A. 40:14-47 applies to police officers in civil service municipalities who face minor disciplinary charges. An accused officer is entitled to written notice of the charges, disclosure of all supporting evidence, and an opportunity to respond in writing. If the facts are disputed, an accused officer also has rights to be represented by counsel, to cross-examine any witnesses, and to call his or her own witnesses. Further, a hearing officer's determination is subject to de novo review in Superior Court. Judge Orlando enjoined the City from using its procedure for minor disciplinary actions because it did not allow representation, cross-examination, or calling one's own witnesses.

In Mele v. Federal Reserve Bank of New York, ___ F.3d ___, 2004 U.S. App. LEXIS 3491 (3d Cir. 2004), the employer fired a facilities engineer. The engineer claimed that his termination violated his contractual rights under the employer's Management Guide to Personnel Policies, but the Court held that the Federal Reserve Act precludes enforcement against a Federal Reserve Bank of an employment contract that would compromise its statutory power to dismiss employees at pleasure.

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