



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

PO Box 429  
TRENTON, NEW JERSEY 08625-0429

[www.state.nj.us/perc](http://www.state.nj.us/perc)

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  
EMAIL: [mail@perc.state.nj.us](mailto:mail@perc.state.nj.us)

May 31, 2007

**MEMORANDUM**

**TO:** Commissioners

**FROM:** Robert E. Anderson  
General Counsel

**SUBJECT:** Supplemental Report on Developments in the Counsel's Office Since  
April 26, 2007

**Commission Cases**

An appeal has been filed in State of New Jersey (Dept. of Corrections) and PBA Local 105, P.E.R.C. No. 2007-041, \_\_\_ NJPER \_\_\_ (¶\_\_\_ 2007). The Commission restrained arbitration of a grievance seeking compensatory time off for essential employees who were required to work during the July 2006 shutdown of State government. The Commission held that regulations of the Department of Personnel limited the compensation for essential employees to regular pay.

**Other Cases**

In Essex Cty. Prosecutor's Office v. PBA Local 325, 2007 WL 1007965 (App. Div. 4/5/07), an Appellate Division panel affirmed a trial court opinion vacating a grievance arbitration award that had granted employees more vacation days and greater carryover rights than had been specified in the parties' collective negotiations agreement. The Court ruled that the clear contractual language governed these benefits and made the more generous practice irrelevant.

In Rockaway Tp. v. State of New Jersey, Office of the Attorney General, App. Div. Dkt. No. A-6220-05T5 (5/22/07), the Court held that the State was not required to represent five police officers and the municipalities that employ them in connection with federal litigation alleging false arrest, malicious prosecution, sexual harassment, and Title VII violations. The officers were assigned to work on a county task force investigating prostitution and they brought criminal charges that were later dismissed. The person arrested brought this civil action and the municipalities and the officers sought representation by the New Jersey Department of Law and Public Safety. The Department concluded and the Appellate Division agreed that under N.J.S.A. 40A:14-155, a municipality remains responsible for defending and indemnifying its police officers for work performed while assigned to a county prosecutor's task force.

In Ledbetter v. Goodyear Tire & Rubber Co., Inc., \_\_\_ . \_\_\_ (5/29/07), the United States Supreme Court held that an employee's Title VII lawsuit alleging sex discrimination in pay was untimely. No acts of intentionally discriminatory conduct occurred within the six-month statute of limitations and the employee could not rely alone on earlier acts of discrimination in claiming that her present paychecks were discriminatory. The Court noted that the NLRA provided a model for Title VII's remedial provisions, but rejected the plaintiff's arguments that NLRA cases would permit her lawsuit on the theory that its six-month statute of limitations begins anew for each paycheck reflecting a prior violation. Instead, the Court reasoned that Machinists v. NLRB, 362 U.S. 411 (1960), supported its construction of Title VII. Justice Ginsburg and three other justices vigorously dissented.

REA:aat