



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

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December 8, 2010

MEMORANDUM

TO: Commissioners

FROM: Ira W. Mintz
General Counsel

SUBJECT: Report on Developments in the Counsel's Office Since November 23, 2010

Commission Cases

The Township of Mt. Laurel has appealed from P.E.R.C. No. 2011-35, NJPER (¶ 2010). In that decision, the Commission held that the issue of whether the Township was required to negotiate with the Communications Workers of America, AFL-CIO and AFSCME Council 71 prior to implementing a temporary layoff of Township employees is mandatorily negotiable. The Commission relied on its analysis in Borough of Belmar, P.E.R.C. No. 2011-34, NJPER (¶ 2010), app. pending App. Div. Dkt. No. A-1411-10T1, and found that, on balance, the employees' interests in negotiating over unilateral changes to terms and conditions of employment outweighed the employer's interest in increasing its diminished surplus. The Commission deferred the unfair practice charges to arbitration.

The Probation Association of New Jersey (Case-Related Professional Unit) has appealed from P.E.R.C. No. 2011-38, NJPER (¶ 2010). In that decision, the Commission restrained binding arbitration of a grievance filed by the Association against the State of New Jersey Judiciary. The grievance alleges that the employer violated the parties' collective negotiations agreement and the "Compensation Plan for Judiciary Employees in the Case Professional Unit" by failing to fill vacancies in the Master Probation Officer title. The Commission held that the employer has a managerial prerogative to determine staffing levels and any enforcement of the Compensation Plan must be sought in another forum.