



**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)

February 18, 2009

**MEMORANDUM**

**TO:** Commissioners

**FROM:** Ira W. Mintz  
General Counsel

**SUBJECT:** Monthly Report on Developments in the Counsel's Office Since January 29, 2009

**Commission Cases**

On January 30, 2009, Superior Court Judge Francis J. Orlando, A.J.S.C. dismissed a complaint filed by the City of Camden against the Commission and denied the City's request for an injunction that would have stopped the Commission from processing an unfair practice charge filed by Camden Council No. 10. The charge alleges that the City violated the New Jersey Employer-Employee Relations Act when it refused to negotiate over layoff procedures and provide information to the union about the layoffs. The City argued that its obligations under the Act are preempted by the Municipal Rehabilitation and Economic Recovery Act (MRERA). The Commission argued that the Commission has exclusive unfair practice jurisdiction and that the City can raise MRERA as a defense in the unfair practice proceeding. The Judge stated that he did not believe he had the authority to enjoin the Commission from proceeding. The City also argued that MRERA preempted its obligation to participate in an arbitration challenging the layoffs and that the Commission should be restrained from processing the request for an arbitrator. The Judge rejected that argument as well.

On February 2, 2009, the Appellate Division denied a motion for Leave to Appeal filed by the Borough of Paramus in an interest arbitration proceeding involving PBA Local 186. The Chairman had denied the Borough's application for special permission to appeal an interlocutory ruling of the arbitrator. The arbitrator had ruled that the formal arbitration proceeding with the PBA would be limited to the issues listed on the interest arbitration petition, which included

wages, but not an employee contribution to medical benefits. The Chairman found that within the framework of the interest arbitration statute and regulations, the arbitrator carefully considered the Borough's arguments and did not abuse his discretion in rejecting those arguments. The Chairman noted that the net economic effect of a wage giveback as a contribution toward medical benefits is the same as a lower across-the-board wage increase and that the PBA had no objection to the Borough adjusting its wage proposal accordingly.

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#### **Other Cases**

In a unanimous ruling, the U.S. Supreme Court decided Locke v. Karass on January 21, 2009 and held that a local union affiliated with the Service Employees International Union can charge public employees who are not union members a service fee that includes a charge for SEIU litigation expenses that involve collective bargaining or contract enforcement, but do not relate directly to the local or its bargaining units. Writing for the court, Justice Stephen G. Breyer said the Maine State Employees Association did not violate the First Amendment rights of objecting members by requiring them to make payments that included a contribution to SEIU's litigation expenses because the litigation had an appropriate connection to collective bargaining, and the MSEA's contribution to the SEIU was made under a "reciprocal" arrangement that gave the local a reasonable expectation of receiving support from other union locals if and when it was needed.

In State v. Wayne DeAngelo, \_\_ N.J. \_\_ (2009) (2/5/09), the New Jersey Supreme Court unanimously held that a Lawrence Township sign ordinance that prohibited all but a few exempted signs violated the First Amendment right to free speech and was overbroad. The case involved a large inflatable rat displayed by a union as part of a labor protest.

In Tracey D. Parks v. Board of Review, \_\_ N.J. Super. \_\_ (App. Div. 2009) (2/10/09), the Appellate Division ruled that absences from work due to family emergencies did not constitute "misconduct" for purposes of a six-week disqualification from receiving unemployment benefits.