

DAVID I. FOX  
CRAIG S. GUMPEL\*  
DANIEL J. ZIRRITH\*

**FOX AND FOX LLP**  
ATTORNEYS AT LAW  
70 SOUTH ORANGE AVENUE  
SUITE 203  
LIVINGSTON, NEW JERSEY 07039  
TELEPHONE: (973) 597-0777  
FACSIMILE: (973) 597-0884  
www.foxandfoxllp.com

SUSAN R. FOX  
CLAYTON GILES  
LYNSEY A. JOHNSON\*  
NORA R. LOCKE  
RUSSELL J. HUEGEL  
JESSICA S. SWENSON

MARTIN KESSELHAUT  
OF COUNSEL

PLEASE RESPOND TO LIVINGSTON OFFICE

\*ALSO ADMITTED IN NY  
\*ALSO ADMITTED IN PA

April 21, 2009

**VIA FAX & REGULAR MAIL:** (609) 984-0442

Honorable Hope L. Cooper, Chairperson  
State of New Jersey  
Civil Service Commission  
P.O. Box 312  
Trenton, NJ 08625-0312

**VIA FAX & REGULAR MAIL:** (609) 984-0442

Honorable Marjorie A. Schwartz, Deputy Commissioner  
State of New Jersey  
Civil Service Commission  
P.O. Box 312  
Trenton, NJ 08625-0312

**Re: Probation Association of New Jersey  
Appeals of Involuntary Furloughs as to Members of Case-Related  
Professional Unit (Case-Related) and Professional Supervisors Unit  
(Supervisors)**

Dear Chairperson Cooper and Deputy Commissioner Schwartz:

We represent the Probation Association of New Jersey (hereinafter: "PANJ") and each of its individual members. PANJ represents judicial employees in two bargaining units, namely the Case-Related Professional Unit and the Professional Supervisors Unit. The total number of employees in the two bargaining units is between 2,800 and 3,000.

The Case-Related Professional Unit (hereinafter referred to as "case-related") is the exclusive representative for all non-supervisory, case-related professional employees employed by the New Jersey State Judiciary (hereinafter referred to as "Judiciary"). The unit is comprised of the following titles: Probation Officer, Senior Probation Officer, Master Probation Officer, Substance Abuse Evaluator, Family Court Coordinator, Assistant Child Placement Review Coordinator and Bilingual Community Outreach Worker. The employees in this unit are, primarily, in permanent Civil Service titles.

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The Professional Supervisors Unit is the exclusive representative for all professional supervisory employees. Most of these are unclassified employees employed by the Judiciary. However, many of these unclassified employees are on leaves of absence from career service titles (such as Probation Officer or Senior Probation officer).

Both bargaining units are parties to recently negotiated and approved collective bargaining agreements (hereinafter: "CBA's") with the Judiciary.

The Case-Related Unit adopted, after extensive negotiations with the Judiciary, its new CBA for Probation Officers, Senior Probation Officers, and other Case-Related professionals, as recently as February 10, 2009. The Professional Supervisors Unit adopted its new CBA on or about October 21, 2008. Both CBAs cover the current fiscal year (July 1, 2008 to June 30, 2009) and three (3) succeeding fiscal years and involved lengthy and complex negotiations over a period of at least one (1) year. At no time during these negotiations was the concept of furloughs or temporary layoffs for Judicial employees raised. The successor CBA results, rather, were a compromise based upon the existing and potential future budget considerations with the Judiciary and, therefore, included such substantial "give-backs" as a 1-½ % contribution to the premiums for health benefits and other significant "give-backs". The Case-Related Unit even used the PERC procedures for impasse, mediation and unfair practice charges in getting to a final CBA resolution only about one (1) month ago.

The employees represented by PANJ received on April 3, 2009, the attached forms of layoff notices reciting, for most employees, what are described as temporary layoffs on May 22, 2009 and June 29, 2009, and for a few employees, what is described as a "temporary layoff notice" for employees with alternate layoff dates.

The apparent approved so-called "Temporary Layoff Plan" for 8,871 so-called non-24 hour a day 7 days per week employees, and for 27 "24/7" employees which apparently has been approved by the Civil Service Commission, is also attached. Also attached is a "General Temporary Layoff Notice" "to be posted at all Judiciary facilities."

This letter, pursuant to my conversation with Janet Zatz, Assistant Director of Human Resources for the Judiciary, is the appeal to the Civil Service Commission of the 45 day notices which are attached of temporary layoffs to occur in May 2009 and June 2009. The notice was received by PANJ members on April 3, 2009 with dates for almost all of these members of May 22, 2009 and June 29, 2009 as the proposed temporary layoffs. As noted above, for some employees, there were other dates, more or less by way of staggered, of different layoffs. These appeals are being made pursuant to N.J.A.C. 4:8-2.6, paragraphs 1 and 2, "good faith appeal and determination rights" and for other reasons.

The layoffs are the result of and pursuant to an amended so-called emergent Civil Service Rule, namely N.J.A.C. 4A:8-1.1A. See attached. This Rule is the subject of Court litigation and

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pending litigation before the Civil Service Commission and the Public Employment Relations Commission. There are hearings scheduled on the Rule on April 23, 2009 before the Commission.

The recent Court determination with regard to the Rule is also attached along with the new Rule. The Rule provides essentially for the closure of an entire layoff unit (an entire department) or for staggered or temporary layoffs. It also provides for exceptions for health and safety, law enforcement, and care for prisoners or those "in the care or custody of the State."

The new rule allows the Judiciary, if it chooses, to break its recently negotiated CBA by going to the Civil Service Commission (hereinafter referred to as "CSC") to have it approve temporary furloughs or temporary unpaid time off, thereby, obviously, interfering with many negotiated provisions of the CBA. Notably, the CBAs refer only to the long-established concept that permanent layoffs are a management prerogative, subject to CSC Rules for civil service. See attached.

Furthermore, a significant number of the members of the Case-Related and Professional Supervisor's Unit are unclassified and not covered under N.J.A.C. 4A-8 of the Civil Service Rules. Unclassified layoff rights are covered under the CBA, which does not provide for "temporary layoffs". In an act of bad faith and in violation of Article 19 of the Professional Supervisor's Unit's CBA, the CSC is attempting to proscribe members' rights by inappropriately including them in this Temporary Layoff Plan. Appropriate requests for arbitration for both the Professional Supervisors Unit and the Professional Case-Related Unit are being made.

Moreover, Probation Officers are quasi-public safety officers and are involved with the supervision of convicted criminals who are on probation. There are huge risks involved, particularly in connection with the home visitation of such probationers in hazardous communities throughout New Jersey. The Case-Related Unit CBA has particularly strong provisions with regard to security and safety of Probation Officers in connection with their activities and their corresponding supervision of criminals. The temporary layoffs interfere with and break, as noted above, many negotiated contractual provisions, including provisions ensuring safety, wages, days and hours of work, and others.

Further, all Probation Officers and others in related titles and not just a few who are given staggered layoffs should be exempt from layoffs because of their public safety functions. The foregoing Probation Officers and others comprise the largest numbers of employees in the Case-Related Professional Unit and related titles comprise a large number of employees in the Professional Supervisors Unit. Additional bases for this exemption will be recited in these proceedings.

This appeal is made, as noted above, in lieu of us having each of these employees file separate appeals pursuant to my conversation with Janet Zatz, Assistant Director of Human Resources for the Judiciary. We have individual appeals which have been signed, and will send them to you if you request them, but these are unnecessary in view of this communication on behalf of all members.

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We have also attached, as noted above, the Court determination which stays the Rule with regard to staggered layoffs. That determination also raises the issues relevant to this appeal.

The basis for the appeal includes all of the foregoing matters. We also note that the temporary layoff issue by using staggered furloughs and temporary layoffs disregards Civil Service Rights and Rules with regard to bumping rights, seniority, and other rights. Further, the action in question is in bad faith, in this case by the employer and by the Judiciary and violates other rights of the employees. As you know, we challenge the entire concept of the legality of the new item called a temporary layoff rule which creates a new category of involuntary furloughs.

Respectfully submitted,



DAVID I. FOX

DIF:brm  
2640.0027481  
Enclosures

cc: Janet Zatz, Assistant Director of Human Resources, Judiciary (VIA FAX: 609-292-3430)  
Mr. George P. Christie, PANJ President  
Mr. Dwight Covaleskie, PANJ 1<sup>st</sup> Vice President, Line Staff  
Mr. Bradley Fairchild, PANJ 1<sup>st</sup> Vice President, Supervisors

**ADMINISTRATIVE OFFICE OF THE COURTS  
STATE OF NEW JERSEY**

**GLENN A. GRANT, J.A.D.**  
ACTING ADMINISTRATIVE DIRECTOR OF  
THE COURTS



PO Box 966  
TRENTON, NEW JERSEY  
08625-0966  
(609) 292-1934  
FAX (609) 292-3430

**SHELLEY R. WEBSTER**  
DIRECTOR  
OFFICE OF MANAGEMENT &  
ADMINISTRATIVE SERVICES

**JANET SHARE ZATZ**  
ASSISTANT DIRECTOR, HUMAN  
RESOURCES

March 31, 2009

**Temporary Layoff Notice**

Dear Employee,

Due to economic reasons, the Judiciary must conduct temporary layoffs of all staff. Please be advised that you will be temporarily laid off on May 22, 2009 and June 29, 2009.

In accordance with N.J.A.C. 4A:8-2.6, Career Service employees have a right to appeal the layoffs to the Civil Service Commission at PO Box 312, Trenton, NJ, 08625-0312. Appeals must be filed within 20 days of receipt of this Notice and must specify what determination is being appealed, the reason(s) for the appeal, and the relief requested.

Unclassified employees should consult the appropriate union contract regarding layoff procedures.

If you have any questions, you may call your local Human Resources office at (phone number).

Sincerely,

\_\_\_\_\_  
Honorable Glenn A. Grant, J.A.D.  
Acting Administrative Director