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INSIGHT

Legal Decisions Pending Resolution Get Boost

By Peter A. Tortoreto, Legal Chairman

PANJ has fought hard for its members at every step of the way. Some issues of course are more pressing than others and in many circumstances we were forced to yield in areas in which we could not proceed due to lack of legal basis or weak facts. However, in areas where we are strong and we have good facts and evidence, we do move forward. One of these areas is the loss of health benefits of two of our members in different vicinages. One employee in Middlesex and the other in Essex Vicinage have similar situations in which they were injured on the job prior to the Judicial Unification of January 1995 causing them to miss time from work after the state takeover.

Each employee lost time on the job and were getting workers compensation for the time they were out of work. However, they were not reinstated their sick and other accumulated time. The state says go after the county to be reinstated for the time lost and the county says you are now state and they must reimburse you for the lost time. Both of these injuries occurred during county paid time but causing them to be absent from work after the takeover. Our position was that the Judiciary was always our employer and the Letter of Agreement covers the loss of benefits from county to state government. A PANJ Consultant argued the case in Middlesex County and the decision at the grievance hearing at step 3 by the AOC was against PANJ.

PANJ then exercised our contractual right to proceed to arbitration. We want this case to be heard by an independent arbitrator. The arbitrator selected next on the rotation was Jeffery Tener. The case was scheduled to be heard when Elaine D. Dietrich Esq. Of the AOC filed a scope petition with the Public Employment Relation Commission contending the matter is not grievable nor arbitrable. PERC was then to rule on the issue of whether the matter was in the scope of being grievable or arbitrable after briefs were filed on both sides.

PANJ Legal Briefs were prepared by Dena Epstein Esq of Fox & Fox. We cited the fact that over one and one half years had passed and we had gone through the grievance procedure up till step 3 which the AOC controls. They have ruled at every stage of the way never once citing the nature of the grievance was not grievable. The AOC position was that the matter was not in the scope of items an arbitrator can rule on. We are pleased to announce that PERC has ruled that the matter was arbitrable and we are preparing papers for the arbitrator for a quick hearing.

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PANJ Registers Service Mark

By John Morton, Editor

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Being ever mindful that PANJ is an independent organization in a very competitive environment, the PANJ Legal Committee has protected our organization's mark.

Financial Secretary David Weir Moves On

By John Morton

In September, PANJ's Financial Secretary made a career move that will take him out of the Professional Supervisors bargaining unit and necessitated his resignation as a PANJ elected official. Dave was employed as a Principal Probation Officer in the Family Division of Cumberland County. Recently he received notice that he had been appointed to the position of Child Support Hearing Officer. As a result, Dave became part of the Non Case-Related Professional bargaining unit, which is not represented by PANJ.

Dave began serving as PANJ Financial Secretary after winning a close election in 1992. He helped to guide PANJ through its early days of computerized financial record keeping, and implemented new software and check writing functions. Dave was an advocate of conservative financial practices on the Finance Committee, and he participated in the budgeting process that brought financial solvency to the organization. Dave regularly prepared the Monthly Financial

Statement for the Executive Board, and improved the usefulness of this document over the years. He also worked closely with Harris Olen, PANJ Accountant.

Dave should be congratulated for his accomplishments and years of service to PANJ. His efforts and counsel will long be remembered. The PANJ Executive Board wishes him well. Susan Ormsby-Cuozzo of Morris County has been appointed to replace Dave as Financial Secretary. She has experience at this post and readily accepted the challenge. Sue's position as Northern Regional Vice President will soon be filled.

Master of Arts Program to Start Soon

By John Morton

PANJ President George Christie and other PANJ officials have been in contact with Father Christopher Hynes of Seton Hall University to develop a Masters level educational program for Probation Officers and other court employees. The foundation for the course of study is the Master of Arts in Human Resources Training and Development. There are six mandatory courses and six electives which can be selected from twenty-six courses.

Seton Hall has administered the M.A. program for over twenty years. This course of study has evolved to meet the needs of participants from the fields of law enforcement, criminal justice, and government employees at the federal, state, county, and municipal levels. The University provides a significant tuition discount to all students enrolled in the program. There are also low interest loans available to students who make successful application for this degree. In addition to the South Orange Campus of Seton Hall, classes will be offered at eight off-campus locations around the state in such places as Buena Vista, Cherry Hill, Fort Lee, Jersey City, Mahwah, Newark Airport, Parsippany, Totowa, and Sea Girt.

PANJ is attempting to negotiate a tuition reimbursement program with the state, as well as incentives for completing the degree. Officials from the state have also met with the University, and it is hoped that any issues can be amicably resolved.

Representation

By Bill Pape, PPOII, Middlesex County

I recently faced disciplinary action and reached a favorable result with the help of the Probation Association of New Jersey.

Management filed an action against me last December, concerning my evaluation of employees on my team. Too many of my staff received an exceptional evaluation, and I did not have my Division Manager's approval, they asserted. PANJ arranged for John Marinan, Esq. to contact me. Even though he said he did not have a great deal of time to speak to me immediately, he spent more than a half hour on the telephone with me in his first call. He encouraged me to be confident in the outcome. John called me several times afterward for more lengthy discussion,

even calling me at home in the evening to inform of the progress in my defense. He sent me copies of several letters he wrote to management on my behalf.

Sometime later, management called me to arrange a meeting with John and Sam Richter to discuss a lesser disciplinary sentence. When John proposed during the ensuing meeting that I receive no disciplinary action, management walked out of the meeting. Nevertheless, the day before I was to be disciplined, John called me to report they were calling him several times seeking relief from his action against them for their handling of my discipline. They ultimately changed their position from major discipline against me to a letter of warning.

I feel fortunate to have had the union's and John's help. I believe the team leader position in the Courts is a very vulnerable one. We are held responsible for our employees' work, yet not given much authority to manage our work process or flow. In my evaluation of employees I was to discuss the employees' performance with them, go to my manager to get the result of the evaluation, and then present the result to the employees as mine. Responsibility seems to flow downhill, to sit in large part on us. At least in our vicinage, all mistakes in management could be explained by some failure of the team leader, and the answer to every problem is more work by the team leader. At AOC team leader training, several classmates asked if upper management could take the course to learn how to manage us better. We were told, in effect, upper management was unwilling or unable to profit from lessons in team building. This is the prospect we face and the reason why I believe we need a strong defense system, like the one the union afforded me.

ESSEX GRIEVANCE RESULTS IN PROMOTION

By Dave Yennior, President, Essex Local 201

A grievance filed in October 1999 and heard at Step 3 on May 28, 2000, was decided in favor of PPO I Glen Caldwell on August 30, 2000. The decision, rendered by a hearing officer of AOC Labor and Employee Relations, promotes Mr. Caldwell to Acting ACPO and awards a 5% salary adjustment retroactive to April 1, 1999 through March 1, 2000 when Glen retired.

The grievance was caused when management failed to fill an ACPO vacancy at the William Street Branch Office, causing the prior duties of the ACPO to fall to PPO I Glen Caldwell. Essex Executive Board Rep Robert Schultz wrote a letter of complaint to management regarding the need for an ACPO at the branch office, or making a temporary appointment, which had been past practice. When management continued to leave the position vacant, a formal grievance was filed on behalf of Glen, who continued to do the work of managing the branch office.

The Hearing Officer agreed with our claim. This decision demonstrates that the grievance process can work. This grievance is important because it reinforces the principle of filing a vacancy with a temporary appointment, pending a permanent appointment, and a 5% pay differential, when the workload from that vacancy falls to a lower titled worker.

Congratulations to retired Acting VACPO Glen Caldwell on this retroactive promotion. Glen who holds a Masters Degree from Tennessee State University is enjoying his retirement. Mr. Caldwell will be missed. His illustrious 35-year career in Probation leaves a legacy for others to emulate.

PANJ Awards

By Stuart Martinsen, Recording Secretary

Once again, PANJ seeks nominations for the awards that our professional association administers. Probation Officers are among the most dedicated judicial employees. In client services they strive to rehabilitate, counsel, monitor, mediate, and lend support to the courts, in spite of limited resources and difficulties inherent in the task set out for us. Only PANJ recognizes fellow professionals in New Jersey with the following awards: **Probation Officer of the Year** (An individual who has made significant contributions in the performance of his or her assignments.)

Outstanding Supervisor of the Year (One who demonstrates leadership, understanding, compassion, and exemplary character)

John Augustus Award (One who has brought credit and honor to the profession)

Submit nominations in writing to Stuart Martinsen, Awards Committee Chairman at the PANJ office address by November 4, 2000. The awards will be presented at the Conference luncheon in Atlantic City on November 20, 2000.

John Mooney is Promoted

By John Morton

The First Vice-President of the Supervisor's Unit has taken an Assistant Chief Probation Officer position in Hudson County, where he has worked for many years. John has resigned from his position in PANJ.

John had a long career with this organization, and will long be remembered as an articulate advocate for employee rights. He helped revise the PANJ Constitution and he represented PANJ on many important labor management committees including Workforce Planning and Design. John was the leader of the supervisor's unit when we defeated CWA in an election and went on to negotiate the first state-wide contract for supervisors in the Judiciary.

We wish John the best of luck in his future endeavors. PANJ President George Christie has appointed Samuel Richter of Middlesex County as the First Vice President of the Supervisor's unit. Sam was already serving as the Second Vice President of that unit, so his appointment was a natural consideration. The position that Sam vacates will be filled soon.

CONFERENCE 2000 UPDATE

By Deneen Hohman, Conference Committee Member

It's the time of year when we all join together for training. Everyone on the committee is hard at work putting the finishing touches on the conference, to be held Nov. 19 through 21 at Trump Plaza in Atlantic City. There will be many exhibits, lots of quality workshops, guest speakers, and social functions to attend.

This year the conference is very fortunate to have Kent Manahan as our keynote speaker at the awards luncheon. She is a news anchor on New Jersey Network (NJN) News. She has interviewed presidents, senators, governors, and celebrities. Mrs. Manahan has reported on cancer in the workplace, domestic violence, education, and homelessness. She has received many awards, and we are honored to have her attend the conference.

The committee is also very pleased to have Carol Hession address the attendees at our closing session. She is the coordinator for Womeninneed in Wilkes-Barre, PA. She has many years of experience in the substance abuse field and is known as a great motivational speaker. We are very lucky to have her attend our conference.

The conference schedule is finalized and can be viewed on the PANJ website. It is extremely important that all register. Plan to stay for the closing sessions. We will be raffling numerous small prizes along with the grand prize. You must be present to win. The committee is looking forward to seeing everyone!

Employees Injured in Essex

By Renard Brown, Local 101 President

On Monday August 28 at around 4:40 p.m., at 60 Evergreen Place, nine of our co-workers were injured, several seriously, when elevator #3, in which they were riding, fell approximately 4 1/2 floors, stopping suddenly and violently between the 2nd and 3rd floors. They were forced to the floor and hit the walls and each other. They were trapped for approximately 15 minutes until the fire department arrived. Some had to be removed on stretchers and given neck braces due to neck and back injuries. Most were taken to area hospitals where they were X-rayed and treated.

Our thoughts and prayers go out to them and their families.

Andy Kafel and Bridgette Patillo visited them at East Orange General and Orange Memorial Hospitals and witnessed their injuries which included serious neck and back strain, swollen legs and ankles and emotional stress.

Note is taken that this is at least the fifth reported incident of an elevator "failing," including an incident one month ago which also resulted in several injuries.

The Public Employees' Occupational Safety and Health Administration has been contacted regarding steps to be taken to achieve improvements leading to a safe work environment to which we are entitled. The grievance procedure is being reviewed regarding the possible liability of the Administration of the Probation Services Division for failing to maintain a safe work environment leading to the injuries of our co-workers. The attorney for the State Association (David Fox) has been contacted for legal guidance regarding steps to be taken to gain compensation for those who were injured and to force the implementation of safety measures.

Legal Committee Gains Victories

By Peter Tortoreto, Legal Chairman

The PANJ Legal Committee has gained some important victories in various stages of the grievance process and Unfair Labor Practices at the Public Employment Relations Committee regarding Union rights, procedures, flex schedules, personnel files, and is pursuing interests in the performance evaluation improvements and a hardship case.

On September 11, 2000 Arbitrator James Mastrioni ordered a consent judgement against the Judiciary in favor of PANJ. This arbitration signaled our resolve to rectify injustices committed against our members and against Union Officials. The arbitration order reversed a one day suspension imposed against a Senior Probation Officer in the Middlesex Vicinage. The suspension was administered without the benefit of a hearing. This successful result from this arbitration reaffirms PANJ's contractual rights.

In Ocean County PANJ filed a grievance on behalf of a Senior Probation Officer who has poor binocular vision causing her to be a danger to herself and other drivers on the road during night driving. She has medical verifications and had only sought a flex schedule to permit her to leave 15 minutes earlier during the winter months when day light is restricted. The Hearing Officer agreed with PANJ's position that the concept of fundamental fairness should prevail in this matter and ruled that this Senior Probation Officer for 20 some years be permitted a flex schedule to accommodate her handicap.

Personnel files are to be free of disciplinary action until all appeals at every stage of the procedure have been exhausted. Management has no right to place any material in an employees file until these procedures have been finalized. That was the ruling by the Hearing Officer at a step 3 hearing regarding an Officer in the Mercer Vicinage. PANJ Consultant John Warms successfully argued this case in Trenton on behalf of the Union with both Local President Robert Murray and Vice President Kevin Farley present. This decision took over one and a half years to be rendered and does set a precedent.

The Essex Vicinage Chief Probation Officer has instituted massive transfers of many officers causing hardship in many areas including the indiscriminate transfers of some of our top Union Leaders prompting PANJ to file Unfair Labor Practice charges against him and the entire Judiciary. Many of these officers were career Probation Officers including many Supervising PO's. Also included in this Unfair Labor Practice Charge was Mercer Vicinage who have transferred our long time grievance chairperson Kevin Farley to a another division outside of Probation.

At the Unfair Labor Practice Hearing held in Newark, NJ the Public Employment Relations Commission tried to settle this matter having spoken to all parties independently of each other and pointing out the facts of this matter to no avail. PANJ was willing to seek a settlement in which was reasonable and fair to all those involved, however the Chief Administrator Elaine D. Dietrich Esq. of the AOC was not willing to settle. This intransigent position offered by the AOC was the statement that transfers are management's prerogative. The final decision will rest until this matter is litigated regarding the rights of the Union and its Officials.

The PERC agent has indicated that they will be issuing a complaint against the Judiciary in this matter. This means that PANJ has submitted enough facts to justify the issuance of a complaint. In terms that we all understand, the complaint is equivalent to a criminal indictment rendered by a Grand Jury. A trial will follow.

The Legal Committee is always looking to use any avenue to resolve a dispute. The Probation Officer's contract contains a provision allowing members to submit hardship situations involving the alternative work week to the Hardship Committee, consisting of representatives of both labor and management. We now have a matter pending resolution before this committee, which met for the first time only recently. PANJ has chosen to explore this route in addition to the usual areas where we provide representation.

Benefits of Membership

Labor Union Benefit Services offers **universal life products and extended disability insurance** through Transamerica and AFLAC of New York, respectively. Agents will come to the counties to offer these services to PANJ members. Watch for announcements of places, times, and dates.

Fox and Fox, LLP will provide various **legal services** to PANJ members for a \$15.00 per month membership fee (minimum enrollment is 18 months). There are reduced rates for matters not covered by the plan. Services include one Real Estate Closing per year (at the offices of Fox and Fox); Closing of refinance loans at the offices of Fox and Fox; A Simple Will; Free representation in estate administration involving members who die in the line of duty; Simple Incorporations; Uncontested Divorce including drafting of a property settlement agreement and one court appearance to enter the judgment of divorce; and other services. To enroll, contact Gabriel H. Halpern at 973-597-0777 to request the Membership Enrollment Form.

Mortgages at reduced rate, reduced fees, and priority service are now available to PANJ members through Drew McKenzie, Senior Loan Officer at PNC Bank Corporation. Contact him at 973-635-1153.

Liberty Mutual Auto and Homeowner's Insurance is available to PANJ members. Call 800-524-9400 for a competitive quote. Have your existing policies ready in order to provide information for comparison. Our Group Number is 7057.

Magic Kingdom Club: More discounts have been added recently, but there is now an enrollment fee of \$29.95. This represents a \$10 discount over the rate offered to the public. Sign up with PANJ to receive reduced rates at Disney World, including entrance and lodging. Discounts at Disney Stores are also possible. See your PANJ representative for forms to fill out and mail in, or contact Anne Dutton at 973-285-6568.

PANJ members receive discounts on men's clothing at stores of **Jos. A. Bank**. Our Group Number is 6328.

Probation Officer Entry Requirements

By John Morton

In May of this year, President Christie reported that Human Resources personnel at the Administrative Office of the Courts initiated an effort to lower the entry requirements for Probation Officers. PANJ officials were summoned to an emergency meeting during which this plan was revealed, and the alleged reasons for it. Despite PANJ's objections, the AOC continued to advocate for changes in the entry requirements with the Department of Personnel.

President Christie, PANJ Lead Attorney David Fox, and others began an all-out effort to research the entry requirement issue and the effects on the composition of the workforce. This information was communicated to the DOP and they announced their decision at a meeting in August.

Where no Probation Officer lists are available, employees may be hired using the "interim non-competitive" appointment process. However, the candidates must have a Bachelor's Degree including or supplemented by 24 credit hours in Behavioral or Social Sciences. These are the same requirements for the written test.

PANJ will continue to seek specific degree requirements and an associated increase in the minimum salary to attract and keep qualified applicants. PANJ officials were told back in May that if open Probation Officer positions were not filled soon, funding would be lost. Many positions have been filled since then and many more need to be filled. The AOC's Committee on Efficiency II (two) recommended that the caseload for Probation Officers must be reduced, years ago. Caseloads have increased since then. There is no legitimate reason, from a workload viewpoint, to lose funding for positions.

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