

MEMORANDUM

TO: PANJ LINE STAFF MEMBERS AND PANJ SUPERVISORS
MEMBERS

FROM: GEORGE P. CHRISTIE, PANJ PRESIDENT

DATE: August 31, 2011

Today PANJ started a lawsuit in which it is the plaintiff along with others and the defendants are the State of New Jersey, the Governor of the State, the Treasurer of the State of New Jersey, and the New Jersey State Senate and the New Jersey State General Assembly. Two other PANJ members are plaintiffs, and they are PANJ 1st Vice President Line Staff Dwight Covalleskie, and PANJ 1st Vice President Supervisors Bradley Fairchild.

The federal lawsuit will be assigned by the federal court system to a specific federal court in New Jersey which could be in Trenton or Newark.

This federal lawsuit is joined in by a coalition of public sector labor unions as well as certain representative individuals (active and retired public employees in New Jersey). Approximately 800,000 public employees affected by the passage of what are frequently referred to as the new laws (P.L. 2011, c. 78).

This is a precedent setting situation since there is a large coalition of public sector labor organizations and representative individuals.

The Complaint which has been filed is about 56 pages and is available on PANJ's website.

PANJ and other labor organizations expect within about one week to start a separate lawsuit as to an issue which is not directly raised in the federal lawsuit. This separate lawsuit will be started in the state courts and will challenge the huge increase which will include but be more than the 1.5% payment currently made. Over four years, this amount can be up to 35% of the premium which as to the current premium for certain health benefits plan family plan coverage would be 35% of approximately \$20,000. For many employees, particularly those with certain salaries, this can raise the 1½% contribution which goes directly to the treasury of municipalities and other public employers, from 1 ½% to approximately 7% or more. Our position is that this is simply an illegal decrease in pay which violates constitutional provisions regarding fair taxation and other constitutional provisions. These provisions are in the State Constitution and the Federal Constitution.

A Superior Court Judge has also now started a lawsuit, one part of which challenges these increases payments.

The federal lawsuit contains several major challenges to the new laws which include the following:

1. The elimination of cost-of-living adjustments (COLA's) for current retired employees and future retired employees.
2. The requirement that certain employees with less than 20 years service at the time of the passage of the new laws in question on June 28, 2011 will, out of their pensions, be required to pay an amount up to potentially 35% of the premium for health benefits. This too is challenged on constitutional provisions and these challenges involving pensions are supported by previous written opinions of the Attorney General and the Office of Legislative Services.
3. Challenges involving the failure of the State to appropriately and properly fund assets in the pension system which are available for payment of public employee pensions.
4. Other challenges.

The coalition of unions and individuals representing public employees has brought this federal court action on behalf of approximately 800, 000 public employees affected by the new laws.

The state court action will add to the litigation the impact of the new laws as they affect current employees by decreasing salaries up to approximately 7 or 8% which violates many constitutional provisions. This challenge is also joined in, by a Hudson County Superior Court Judge who has based his challenge on constitutional grounds.

In other words, PANJ representing judicial employees as well a Superior Court Judge, Honorable Paul DePascale from Hudson County presumably representing judicial employees who are judges, seek the same relief as to the increase of the 1 ½% contribution or deduction from pay ostensibly for health benefits. The relief is based upon varying differences in constitutional provisions.

Obviously the decision to file these lawsuits was not arrived at lightly. However, the State's action to improperly take away earned benefits of current and retired public employees left us with no other choice. These payments are not "gifts" from the State but are part of hard earned and negotiated compensation. The contract rights of public employees should at least be as important as the contract rights of any other employees and are protected constitutionally.

Our members work hard obviously for their salaries and benefits. They even pay for future benefits out of every paycheck by making contributions for such benefits and in particular for pension benefits. The State on the other hand has neglected its obligations to share in the cost of maintaining the solvency of the pension system.

PANJ remains ready as always, however, to work together with everyone on real sustainable long-term solutions to such issues as the problems created by the failure to responsibly fund such things as the pension system. However, we are obliged to start a lawsuit to prevent the State from neglecting or taking away hard earned and legally protected compensation and benefits for public employees.

Again, the federal lawsuit is on the PANJ website and the state lawsuit which will be filed shortly will also be on the PANJ website.