



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

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DATE: November 12, 2025

TO: Commissioners

FROM: Counsel Staff

RE: Developments in Counsel's Office since October 23, 2025

Commission Cases

Appellate Division Decision Issued

The Appellate Division of the Superior Court, in an unpublished decision, affirmed a Commission decision, P.E.R.C. No. 2025-16, 51 NJPER 166 (¶41 2024), which denied the Township of Mount Olive's scope of negotiations petition seeking to restrain arbitration of FOP Lodge 122's grievance challenging the Township's rescission of the grievant's Corporal designation as part of a Notice of Disciplinary Action. The Commission determined the rescission was predominantly for disciplinary reasons and thus the grievance was legally arbitrable. In affirming, the Appellate Division held: (1) PERC engaged in the required analysis by weighing the competing interests presented by the grievance and determining "on balance" the matter "predominantly involved a form of discipline triggering the application of [the EERA]"; (2) PERC's finding was supported by sufficient, credible, and competent evidence in the record; and (3) the fact that PERC did not weigh the evidence presented in the way the Township prefers did not warrant reversal.

Petition for Certification Filed with New Jersey Supreme Court

Appellant Jay Loder filed a Petition for Certification seeking review of the Appellate Division's decision, In re City of Linwood, 2025 N.J. Super. Unpub. LEXIS 1769 (App. Div. September 29, 2025). The Appellate Division affirmed a decision by PERC's Director of Arbitration, PERC Dkt. No. DA-2025-001, which dismissed as untimely Loder's Special Disciplinary Arbitration Request to appeal his termination as a firefighter with the City of Linwood. Counsel's office will file opposition to Loder's petition by November 13, 2025.

Non-Commission Court Decisions Related to the Commission's Jurisdiction

Appellate Division reverses, remands trial court order sanctioning former Mayor and compelling production of emails and other information pursuant to OPRA

Vele v. Englewood Cliffs et al., 2025 N.J. Super. Unpub. LEXIS 1935 (App. Div. 2025) (App. Div. Dkt. No. A-3905-23)

The Appellate Division, in an unpublished opinion, reverses the Law Division's imposition of sanctions and an order compelling the former Mayor of Englewood Cliffs, Mario Kranjac, to turn over emails and other information pursuant to the Open Public Records Act. Plaintiff requested emails related to the appointment of the Borough administrator contained in Kranjac's government, personal and business email accounts. The appeal occurred after protracted litigation in which Kranjac, who was not a party to the litigation, was found to have failed to comply with numerous court orders related to Plaintiff's OPRA request and imposed monetary sanctions. The Court also referred the matter to the county prosecutor and the appropriate attorney ethics committee. The Appellate Division determined that the court had jurisdiction over Kranjac because he was represented in his official capacity as Mayor before the court. The Appellate Division also determined that he had standing to challenge whether the trial court's sanctions were appropriate because the matter negatively impacted him personally, through monetary judgment and possible criminal and ethical investigations resulting from his failure to follow court instruction. The Appellate Division then reversed the trial court's imposition of sanctions, finding that the record in the case showed that Kranjac did comply with the

court's order, at least in most respects, by December 21, 2023. It remanded to the trial court consideration of sanctions for Kranjac's failure to appear in court.

Appellate Division, reversing Law Division, reinstates arbitration award that granted correctional police officer holiday pay consistent with a CNA while he was on leave and receiving workers compensation benefits

Ocean Cty. Dept. of Corrections v. PBA Local 258, 2025 N.J. Super. Unpub. LEXIS 1943 (App. Div. 2025) (App. Div. Dkt. No. A-2974-23)

The Appellate Division of the Superior Court, in an unpublished opinion, reverses a trial court order vacating a grievance arbitration award that ordered the County to compensate an employee on workers compensation for holiday pay. The Appellate Division determined that the workers compensation statute did not preempt payment of holiday pay because the benefit was not limited only to those who actually worked on the holidays, and thus it was not a "payment in lieu of compensation." Instead, the CNA provision demonstrated that employees who work on those holidays are entitled to hourly wages above the payment of the negotiated holiday benefit. Thus, the Award did not violate public policy and was reasonably debatable.

Appellate Division affirms CSC's removal of correctional officer after his third off-duty DUI

IMO Dooley, 2025 N.J. Super. Unpub. LEXIS 1949 (App. Div. 2025) (App. Div. Dkt. No. A-1567-23)

The Appellate Division of the Superior Court, in an unpublished opinion, affirms a decision of the Civil Service Commission (CSC) upholding the removal of a 19-year veteran State correctional officer, Rickie Dooley, whose employment was terminated by the Department for conduct unbecoming of an officer after he was arrested for driving under the influence of alcohol and refusing to submit to a breathalyzer. In 2003 and 2004, Dooley had also been criminally charged with similar offenses but was not disciplined by the Department. Dooley challenged the discipline imposed by the Department, and after a hearing before an ALJ, the judge reduced the penalty to a 6-month suspension conditioned on a fitness for duty evaluation and regular participation in AA and therapy. The Department filed exceptions with the CSC, which adopted the ALJ's findings but upheld the Dooley's removal. The Appellate Division affirmed, finding that the CSC's decision was

not arbitrary or capricious. It agreed with the CSC that correctional police officers are held to the highest standards, that progressive discipline did not apply given the seriousness of the offense, and that it was not a violation of the NJ Law Against Discrimination to terminate Dooley's employment as he was not entitled to a reasonable accommodation for alcohol use disorder under the circumstances.

Appellate Division affirms CSC's denial of pay-step adjustment, a backpay adjustment due to additional taxes, and request to change pension contributions because request was untimely and CSC lacked jurisdiction to grant relief on any of the requests

IMO James and Essex Cty. Dept. of Corrections, 2025 N.J. Super. Unpub. LEXIS 1955 (App. Div. 2025) (App. Div. Dkt. A-2840-23)

The Appellate Division of the Superior Court, in an unpublished opinion, affirms the CSC's dismissal of an application filed by Correctional Officer Frank James. Prior to this appeal, James was dismissed from his position and reinstated during a prior administrative proceeding, which entitled him to backpay. James then requested that the Commission: (1) adjust his salary, as he did not receive two subsequent pay increases, (2) order that he be provided with additional compensation since the lump sum backpay award was taxed at a higher rate, and (3) adjust his pension contributions accordingly. The CSC determined that the request was untimely, but even if it was timely, it does not have jurisdiction to resolve salary disputes that arose after the backpay award, cannot resolve the tax implications of backpay awards, and determined only the Division of Pensions and Benefits can adjudicate his pension claims. The Appellate Division affirmed for the same reasons, finding the CSC's decision was not arbitrary or capricious.

Appellate Division affirms trial court's dismissal of legal malpractice and other related claims filed by a grievant against her own and her union's attorneys and an arbitrator

Thorpe v. Cipparulo et al., 2025 N.J. Super. Unpub. LEXIS 2011 (App. Div. 2025) (App. Div. Dkt. A-3770-22)

The Appellate Division of the Superior Court, in an unpublished opinion, affirms the dismissal of a civil complaint filed by Judy Thorpe, pro se plaintiff, against her former counsel, her union's

counsel, and a grievance arbitrator. Thorpe was dismissed from her position with the State Juvenile Justice Commission after refusing to submit to a fitness-for-duty examination. Her union filed a grievance contesting her dismissal. Separately, Thorpe filed a lawsuit against her employer for discrimination and retaliation under the NJ Law Against Discrimination and the Conscientious Employee Protection Act. Eventually, her lawsuit was dismissed. The grievance, after a hearing before an arbitrator, was also dismissed. Thorpe then brought legal malpractice claims against both her attorneys and CWA's attorney, both of which were dismissed. Thorpe then filed the instant lawsuit, which was dismissed by the trial court pursuant to the entire controversy doctrine, which required her to raise these claims at the time of her earlier lawsuit. The Court also found the claims against the arbitrator were barred by statutory immunity and were untimely. The Appellate Division agreed, and affirmed the dismissal of the complaint for the same reasons as the trial court.