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February 26, 2009

MEMORANDUM

TO: Commissioners

FROM: Ira W. Mintz
General Counsel

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

Other Cases

In In re Disciplinary Action Against Detective Ariel Gonzalez, __ N.J. Super. __ (App. Div. 2009 (2/25/09)), the Court held that the Media Policy of the Waterfront Commission of New York Harbor, a bi-state agency, was overbroad and facially unconstitutional and that, therefore, discipline imposed on the PBA president was illegal. The president had contacted a reporter to tell him of an allegedly unsafe and hazardous condition at the detective's workplace. In light of the Court's resolution of the constitutional issues, it did not need to address his argument that his media contact constituted protected union activity.

In Horsnall v. Washington Tp., __ N.J. Super. __ (App. Div. 2009) (2/24/09), the Court held that the creation of a Division of Fire to replace a previously existing Fire District did not eliminate a Fire District fireman's statutory tenure protections under N.J.S.A. 40A:14-19 and N.J.S.A. 40A:14-25.