

P.E.R.C. NO. 2009-35

STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION AND
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

THOMAS J. NOVAK,
Appellant,

-and-

OAL Dkt No. CSV 10459-06
Agency Dkt No. 2007-823

NEW JERSEY STATE JUDICIARY
(MORRIS/SUSSEX VICINAGE),
Respondent.

In the Matter of

PROBATION ASSOCIATION OF NEW JERSEY
(CASE-RELATED PROFESSIONAL UNIT)
Charging Party,

-and-

Docket No. CO-2007-210

NEW JERSEY STATE JUDICIARY
(MORRIS-SUSSEX VICINAGE)
Respondent.

SYNOPSIS

The Civil Service Commission and the Chairman of the New Jersey Public Employment Relations Commission issue a Joint Order consolidating an appeal before Civil Service and an unfair practice charge before PERC for hearing before an Administrative Law Judge. The appeal and the charge both contest the employer's suspension of Thomas Novak, an employee of the New Jersey Judiciary (Morris/Sussex Vicinage). After the ALJ issues a decision, Civil Service will make a determination within the scope of its predominant interest. The matter will then be transferred to PERC for consideration of any remaining issues within the Commission's jurisdiction.

This synopsis is not part of the Commission decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commission.

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Respondent.

Appearances:

For the Appellant/Charging Party, Fox & Fox, LLP
(Lynsey A. Johnson, of counsel)

For the Respondent, Thomas Russo, Staff Attorney,
Office of Counsel to the Administrative Director of the
Courts

JOINT DECISION

On August 24, 2006, Thomas J. Novak filed an appeal with the
Civil Service Commission of determinations by the New Jersey
State Judiciary (Morris/Sussex Vicinage) to suspend him for five

and fifteen days. On January 16, 2007, the Probation Association of New Jersey (Morris/Sussex Vicinage) ("PANJ") filed an unfair practice charge with the Public Employment Relations Commission alleging that Novak's suspensions were because of his position as PANJ president and in retaliation for filing a complaint against a superior. The appeal was transmitted to the Office of Administrative Law and a Complaint on the unfair practice charge issued.

The respondent filed a motion for consolidation and predominant interest determination. The appellant and charging party support consolidation and a determination that the Civil Service Commission has the predominant interest in the conduct and outcome of the consolidated matter.

On December 1, 2008, Administrative Law Judge Maria Mancini LaFiandra issued a decision and order consolidating the cases before the ALJ and determining that the Civil Service Commission should have the predominant interest.

Having independently evaluated the record and considered the ALJ's Order, the Civil Service Commission, at its meeting on December 17, 2008 and the Chairman of the Public Employment Relations Commission, acting pursuant to authority delegated to him by the full Commission, on December 16, 2008 determined that the two cases should be consolidated and decided consistent with the procedure requested by both parties.

JOINT ORDER

The Civil Service appeal and the Public Employment Relations Commission Complaint are consolidated for hearing before the Administrative Law Judge. The ALJ will first offer recommended findings of fact and conclusions of law to both the Public Employment Relations Commission and the Civil Service Commission, disposing of all issues in controversy through a single initial decision under N.J.A.C. 1:1-18.3 and consistent with N.J.A.C. 1:1-17.8(a); and

Upon transmittal of the initial decision to both agencies, the underlying record will be forwarded to the Civil Service Commission to consider and decide all questions within the scope of its predominant interest; and

If appropriate, the matter will then be forwarded to the Public Employment Relations Commission for consideration of any remaining issues within its jurisdiction.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
DECEMBER 17, 2008

DECISION RENDERED BY THE CHAIRMAN
OF THE PUBLIC EMPLOYMENT RELATIONS
COMMISSION ON DECEMBER 16, 2008

Hope L. Cooper Acting Chairperson
Civil Service Commission

Lawrence Henderson, Chairman
Public Employment Relations Commission