

I.R. NO. 2020-14

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NEW JERSEY STATE JUDICIARY,

Respondent,

-and-

Docket No. CO-2020-189

PROBATION ASSOCIATION OF NEW JERSEY,
(PROFESSIONAL SUPERVISORS UNION),

Charging Party.

SYNOPSIS

A Commission Designee denies an application for interim relief based upon an unfair practice charge alleging that a unit employee/union representative was issued a Preliminary Notice of Disciplinary Action seeking a twenty (20) day unpaid suspension in retaliation for engaging in protected conduct, violating section 5.4a(1) and (3) of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. (Act).

The Designee denies the application, determining that material issues of fact, including whether the unit employee/representative was apprised of certain job requirements or expectations and whether those requirements were met. Also disputed are certain statements attributed to employer representatives that may connote anti-union animus. See Bridgewater Tp. v. Bridgewater Public Works Assn., 95 N.J. 235 (1984).

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Charging Party.

Appearances:

For the Respondent,
Meryl G. Nadler, Counsel to the Administrative Director
of the Courts
(Thomas Russo, of counsel)

For the Charging Party,
Law Offices of Daniel J. Zirrith, LLC, attorneys
(Daniel J. Zirrith, of counsel)

INTERLOCUTORY DECISION

On January 21, 2020, Probation Association of New Jersey, Professional Supervisors Union (PANJ-PSU) filed an unfair practice charge against New Jersey State Judiciary (Judiciary), together with an application for interim relief seeking a temporary restraint, a brief, exhibits and a certification. The charge alleges that on January 7, 2020, Judiciary issued to Keenon Simmons, Court Services Supervisor 4 (CSS4) and PANJ-PSU representative, a Preliminary Notice of Major Disciplinary Action (PNDA) for a 20 day suspension without pay, setting forth detailed specifications. The charge alleges that “. . . the

allegations are simply untrue and the discipline is completely baseless, thus demonstrating the discipline is retaliation for his protected union activities.” The charge alleges that among Simmons’s union activities, he serves as Southern Regional vice president of PANJ-PSU, overseeing all union activities and representation for the southern region of the State. The charge also alleges a detailed chronology of events from July, 2018 through the fall of 2019. The charge alleges that for the past one and one-half years, “. . . the atmosphere has been very hostile;” that Simmons is subject to disparate treatment; that Judiciary’s conduct violates both the parties’ collective negotiations agreement, and section 5.4a(1) and (3)^{1/} of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1, et seq. (Act).

On January 23, 2020, I issued an Order to Show Cause without a temporary restraint, setting forth dates for the receipt of the Judiciary’s response and for argument in a telephone conference call. Following requested adjournments and extensions of time and consents, PANJ-PSU was provided an opportunity to file a

^{1/} These provisions prohibit public employers, their representatives or agents are prohibited from: (1) Interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by this act. (3) Discriminating in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage employees in the exercise of the rights guaranteed to them by the act.

reply to the Judiciary's response. That reply, including certifications, was filed on February 26, 2020. The parties argued their respective cases on March 16, 2020.

PANJ-PSU seeks an order enjoining the Judiciary from proceeding with disciplinary action against Simmons and an order invalidating those disciplinary charges.

Judiciary argues that following an audit of a subordinate employee's caseload, disciplinary action was initiated against Simmons because he did not properly supervise that employee; did not seek to discipline the employee, nor bring the matter to management's attention. It also avers that Simmons was not treated disparately because no other supervisor oversees a subordinate who has been, ". . . separated from employment based upon an egregious failure to properly supervise participants" (brief at 5). Judiciary contends that PANJ-PSU has not established that anti-union animus was a "motivating force or a substantial reason" for the disciplinary action, pursuant to Bridgewater Tp. v. Bridgewater Public Works Assn., 95 N.J. 235 (1984); that it has failed to demonstrate both a substantial likelihood of success on the merits of the charge and that it suffers irreparable harm from, ". . .the mere filing of disciplinary charges" (brief at 8).

The following facts appear:

PANJ-PSU represents "all professional supervisory employees

. . .” employed by the “NJ State Judiciary,” working a specified minimum number of hours, as set forth in the recognition provision (Article 1) of the parties’ 2016-2020 collective negotiations agreement (CNA). Section 2.1 of “Labor Management Relations” (Article 2) provides that the parties shall each, “. . . endeavor to ensure that relations between them are characterized by mutual responsibility and respect and that all employees and representative of the parties are treated in accordance with accepted standards of courtesy and respect for individual dignity.”

Article 9.3A (Disciplinary Actions, Just Cause) of the CNA provides that, “No discipline shall be imposed for acts known to the Judiciary more than one year prior to service of an initial notice of discipline, except for acts that would constitute a crime.” 9.3B provides, “Discipline shall be progressive in nature and corrective in aim.” Section 9.6E2 and 9.6H provide that major discipline determinations by “the appointing authority” may be appealed to the Civil Service Commission.

Keenon Simmons is employed by the Judiciary as a Court Services Supervisors 4 (CSS4), a title included in the PANJ-PSU collective negotiations unit. Simmons has been promoted three times over the fifteen years he has been employed by the Judiciary, of which the most recent (to his current title) was in May, 2018. He has not previously been disciplined. His most

recent performance review - by Manager Ajisa Campbell - in 2018, was positive. Simmons is currently assigned to the Intensive Supervision Program (ISP), more specifically, the Juvenile Intensive Supervision Program (JISP) in the southern region (Simmons cert., para. 1-4).

Simmons has been a PANJ representative for twelve years and since his most recent promotion, is southern regional vice president, overseeing all union activities in the State's southern region. He has served on various PANJ committees and is a current member of PANJ-PSU negotiations committee. He regularly interacts with Judiciary management in the vicinages and State-wide concerning grievances and disciplines in the ISP and JISP. He is "the main PANJ-PSU representative of members working in ISP and JISP" (Simmons cert. Para. 5-11).

ISP is an "intermediate form of punishment," enabling selected prison-sentenced offenders to serve the remainder of their sentences in a community, rather than in prison. It is "highly structured," requiring "extensive, frequent and unpredictable client contact, surveillance, a restricted curfew and urine testing for alcohol and drugs, including marijuana" (Cara Kurtz, Esq., Program Director, ISP, (cert. para. 1,6). ISP applicants must be approved by a two-judge panel and are required, if accepted, to maintain full-time employment or education, perform community service and treatment, make mandated payments, etc. Violations of such conditions may result in

sanctions, up to and including a permanent return to prison (Kurtz cert., para. 7-10).

JISP concerns juveniles who've been adjudicated as "delinquent" and need intensive supervision. It's a direct sentencing option available to Family Court judges. ISP and JISP participants are supervised by court services officers, who are included in a professional unit represented by CWA. Court services officers report to Court services supervisors (Kurtz cert., para. 12-13).

Under a revised management structure, there are now three ISP/JISP regions: Northern, Central and Southern. Ajisa Campbell is the Southern Regional Manager. Among other changes, court services officers were assigned to offices closest to their assigned participants and supervisors were assigned to JISP teams in each ISP/JISP region. From January through December, 2018, Kurtz effectively recommended to Program Director Shabaka Burns that the then-Southern Regional and Central Regional and assistant regional managers, ". . . be separated from employment." By the year's end, the Northern Regional Assistant Manager retired, following a medical leave of absence. (Kurtz cert., para. 16-18)

Kurtz and Simmons dispute in their respective certifications whether, as Simmons certifies, ". . . management announced that

others would be fired." (Kurtz cert. para. 19; Simmons cert., para. 12).

On or about May 21, 2018, Simmons, as CSS4, was assigned to the ISP/JISP Southern Region. In July, 2018, Southern Regional Manager Campbell reassigned Simmons to supervise court services officers, exclusively. Kurtz and Simmons dispute in their respective certifications whether "policies, procedures and guidelines" were "in place" or "developed, drafted or implemented" for JISP supervisors at the time (Kurtz cert., para. 23, Simmons cert., para. 13). Judiciary submitted an "Annual Performance Advisory" for the CSS4 title, with a printed notation, "form revised 05/2013" at the bottom of each page of the document's five pages. At the outset, the document prescribes "Supervisor's expectations for your performance for this calendar year," with bulleted categories, including "leadership, responsibility, communication, initiative, integrity and cybersecurity awareness," the last inclusive of 30 bulleted directives or measures. Among those listed are:

- supervise, plan, schedule, coordinate, monitor and evaluate the work of staff;
- evaluate individual, team and program performance to ensure compliance with policies and procedures, develop corrective plans to address noncompliance and institute progressive discipline for noncompliance as deemed necessary;

- monitor members' caseloads and review statistical reports monthly for compliance with ISP/JSIP contact standards, weekly activity logs, work schedules, submission of progress reports and Judiciary travel policies;
- ensure that assessments and violation reports are timely, accurate, comprehensive and contain appropriate recommendations to the court;
- ensure that field work is being conducted appropriately and that all necessary case management standards are being met by any and all staff responsible for conducting field work.
[Judiciary Exhibit B]

Simmons was not provided the "Annual Performance Advisory" setting forth job "expectations" before he, ". . . began his position as a supervisor in JISP" (Simons reply cert., para. 3).

On or about June 6, 2018, Simmons signed an "Annual Performance Advisory" in his CSS4 title that included these performance specifications:

- monitor team members' caseloads and review statistical reports monthly for compliance with ISP/JISP contact standards, weekly activity logs, work schedules, submission of progress reports . . . ;
- evaluate individual, team and program performance to ensure compliance with policies and procedures, develop corrective plans to address noncompliance and institute progressive discipline for noncompliance as deemed necessary;
- review officers' cases and provide necessary guidelines to ensure that

appropriate steps are being taken to assure participants' success in the ISP/JISP program, includ[ing] but not limited to, ensuring that appropriate and timely treatment or other necessary program referrals are made; drug testing is performed as necessary;

- conduct case conferences with each team members at least monthly (but more often if deemed necessary) to discuss participants' cases and direction of supervision going forward.
[Judiciary Exhibit C(a)]

In late September, 2018, Manager Campbell and Program Director Kurtz exchanged emails conveying uncertainties and discoveries about "policies regarding JSIP," including weekend work, "verbal" policies versus those memorialized in the "manual" and supervision of probationers that have "picked up new charges" (PANJ-PSU reply, Exhibit C). In 2018, Simmons was not advised to report to management instances of subordinates "not meeting contact standards" (Simmons reply cert, para. 7).

On January 22, 2019 and July 2, 2019, Simmons and Manager Campbell signed an "Annual Performance Advisory" for CSS4, acknowledging "expectations for performance" listing the above-quoted obligations (Judiciary Exhibit C(b)). In its reply, PANJ-PSU submitted a portion of a 2019 "Annual Performance Advisory" regarding Simmons that provides: "With the new policies and procedures that have been enacted throughout ISP/JSIP program over the past year, Keenon [Simmons] has provided his staff with a clear understanding of each" [PANJ-PSU reply, exhibit B].

Simmons certifies that the provision shows that in 2018, the policies, procedures and guidelines were not "up-to-date" [Simmons reply cert., para. 4).

On June 17, 2019, an "ISP Management meeting" was conducted and attended by many, including Kurtz and Campbell. Simmons was one of two absentees, according to printed minutes of the meeting (Judiciary Exhibit D). Among matters discussed was "staff accountability." Supervisors were advised that, ". . . discipline is sometimes necessary;" that "case reviews should be conducted monthly with officers based upon the officers' case notes" and ". . . if such case reviews reveal improper case management on the part of the officer, it is the supervisor's responsibility to identify same and hold staff accountable through progressive discipline" (Judiciary Exhibit D).

On August 14 and 15, 2019 and September 3, 2019, Kurtz issued email reminders to employees, including Simmons, that a "new policy/procedure for ISP/JISP participants . . . requires that no more than three days may pass between face-to-face contacts with participants" (Judiciary Exhibit G(a), (b), (c)).

On September 11, 2019, Simmons and another PANJ-PSU representative, Gavin Cummings, attended a probation services meeting called by management (the Probation Services Director and Assistant Director) regarding ISP/JSIP. Certain management representatives, including Kurtz, also participated by video

conference. Simmons certifies, "management informed [me] and the other PANJ-PSU representative that a global positioning system (GPS) will be installed in the cars used by ISP/JISP supervisors for the purpose of tracking the appropriateness of their trips and movements" (Simmons cert., para. 15). Simmons certifies that he asked for "the data points and speed [sic] upon which management was basing its decision." Simmons certifies:

Assistant Chief Robyn Rich looked at ISP Program Director Kurtz and then gave me a strange look, indicating they opposed the request [Simmons cert., para. 15]

On September 19, 2019, Kurtz conducted an ISP management meeting that Simmons attended. Their certifications about discussions at the meeting differ. Simmons certifies that Kurtz, in response to his complaint of "the lack of policies, procedures or guidelines" for ISP Supervisors at previous meetings, said: "Ok guys, I already know what you are going to ask, but I don't have any information on policies and procedures for JISP" (Simmons cert., para 16). He certifies that soon after, ". . . Kurtz began to personally belittle me in front of the ISP staff," repeatedly remarking, "I don't know what the Supervisor is doing because I don't have answers." After saying that two clients in JISP South had not been contacted by officers for 33 and 41 days, respectively, she asked, "what was the Supervisor doing in those time frames where they find gaps?" He certifies that Kurtz

stated "I don't know what is going on in JISP South," to which he admittedly replied:

'Listen, I'm not going to sit here and allow everyone to get the impression that I do not communicate with my Manager. Everything I know going on with my cases, I am discussing with my manager. If you're talking about who I think you are talking about, I pursued discipline, as well.' At that point, Director Kurtz backed down and said, 'this involves not just Keenon' [Simmons cert., para. 18]

Kurtz certifies that she spoke about the subject (court services officer supervision) in a very general manner:

that I did not mention any specific cases or even any particular ISP/JISP region where this had occurred. I generally noted instances where the court services officer had allowed significant periods of time to pass between contacts with a participant and the supervisor did not pursue discipline. [Kurtz cert., para. 32]

Kurtz certifies that Manager Rich did not give Simmons "a strange look" when he requested information about GPS installation in cars driven by the supervisors. She further denies that Simmons was informed that the devices were being installed to "track the appropriateness of their trips and movements." She certifies that they (PANJ-PSU representatives) were informed that GPS data would not be monitored, unless there was an employee safety concern" (Kurtz cert., para 33).

On October 24, 2019, Judiciary and PANJ-PSU representatives, including Kurtz and Simmons, met to discuss Judiciary-proposed

changes to the work schedules or hours of ISP-JISP supervisors and court services officers (Simmons cert., para. 20; Kurtz cert., para. 34). No agreement was achieved. Representatives also discussed CSS4 e-CATS (timekeeping) entries because CSS4s work 40 hours per week and e-CATS allows entries to a maximum of 35 hours per week. Simmons certifies that, “. . . management believed that ISP/JISP supervisors were stealing time,” a statement that Kurtz specifically denies in her certification (Simmons cert., para.21; Kurtz cert., para. 35). PANJ-PSU representative Cummings certifies that he attended the October 24th meeting at which Kurtz said: “We have a problem with supervisors stealing time” (Cummings cert., para. 10).

On November 8, 2019, Southern Regional Manager Campbell conducted an investigatory interview of Simmons, who was accompanied by a PANJ-PSU representative. Kurtz certifies that the interview was to investigate,

Mr. Simmons's failure to identify significant gaps in participant supervision by E.H., one of the court services officers he supervised. On November 7, 2019, E.H. was notified of management's intention to immediately suspend him without pay, based on his egregious failure to properly supervise his caseload.
[Kurtz cert., para. 36]

Simmons certifies that on November 8, 2019, he and “all ISP/JISP supervisors were suddenly and without explanation removed from the two scheduled ISP manager meetings for November

and December, 2019 and [from] meetings scheduled for 2020" (Simmons cert., para. 22).

On November 13, 2019, court services officer "E.H." was suspended without pay and served a PNDA setting forth charges and seeking his termination, specifying four cases in which a JISP participant assigned to him caused serious bodily injury to a member of the public (Kurtz cert., para. 36; Judiciary Exhibits K, L). On December 9, 2019, E.H. and a an official of his majority representative signed a "settlement agreement and release" in which E.H. resigned from employment with the Judiciary (Judiciary Exhibit M).

Southern Regional Manager Campbell conducted an audit of E.H.'s cases, revealing improper supervision of JISP participants. In two instances, E.H. allowed 33 days and 41 days to pass between contacts with participants. Kurtz certifies:

Mr. Simmons failed to address significant gaps in supervision of E.H.'s caseload when he conducted case reviews. . . [D] espite E.H.'s grossly lax supervision of program participants, Mr. Simmons did not seek to discipline him, nor did he bring the issue to management's attention. Contrary to Mr. Simmons's contention, merely reminding staff members to maintain contract with program participants does not constitute adequate supervision on the part of a supervisor. [Kurtz cert., para. 37].

Simmons certifies that he "communicated" to E.H. that regular contacts with clients was required. On August 29, 2018, Simmons emailed managers Rich and Campbell that E.H. had joined

his team in July, 2018, observing that "[E.H.] is somewhat reluctant to violate participants." Simmons wrote that he spoke with E.H. about his "responsiveness to emails and phone calls from his manager/supervisor, which he corrected" (PANJ-PSU Exhibit E). He certifies that during the "period at issue," he met and spoke with Southern Regional Manager Campbell about officers he supervises who, ". . . were not meeting contact standards, including E.H." (Simmons cert., para. 25).

Simmons also certifies that on August 17, 2018, he issued a PNDA to E.H. for a 10-day suspension (Simmons cert., para. 26). A copy of that dated document from Simmons to E.H. is attached (PANJ-PSU Exhibit F). Among the specifications are alleged failures to contact program participants.

Kurtz certifies responsively that Simmons's disciplinary action was instituted at her direction, after she received an incident report stating that one of the participants assigned to E.H. fired a weapon at two Sheriff's officers (emphasis supplied, Kurtz cert., para. 42).

Simmons certifies that each month, statistics of officer contacts with clients are distributed to all management representatives, including Campbell. Attached are cover emails to Campbell sent monthly from August, 2018 through December, 2018 identifying "routine stats for JISP" (PANJ-PSU Exhibit G). PANJ-PSU Exhibit H is a multi-page exhibit setting forth statistics of

participant contacts by JISP officers, including E.H., in the Southern Region from August, 2018 through December, 2018.

On January 7, 2020, Simmons was served a PNDA prescribing a 20-day suspension for failure to perform duties, neglect of duty and "other sufficient cause" (an alleged violation of Canon 1B of the Code of Conduct for Judiciary Employees) (Simmons cert., para. 23; Kurtz cert., para. 38). Neither of the other two JISP supervisors and none of the sixteen ISP supervisors have been subject to discipline over the past 18 months (Simmons cert., para. 24). Kurtz certifies that the "allegations underlying the discipline charges are true" (Kurtz cert., para. 40). She certifies that, ". . . no other supervisor has had a subordinate separated from employment based upon an egregious failure to properly supervise program participants" (Kurtz cert., para. 40).

ANALYSIS

A charging party may obtain interim relief in certain cases. To obtain relief, the moving party must demonstrate both that it has a substantial likelihood of prevailing in a final Commission decision on its legal and factual allegations and that irreparable harm will occur if the requested relief is not granted. Further, the public interest must not be injured by an interim relief order and the relative hardship to the parties in granting or denying relief must be considered. Crowe v. DeGioia, 90 N.J. 126, 132-134 (1982); Whitmeyer Bros., Inc. v. Doyle, 58

N.J. 25, 35 (1971); State of New Jersey (Stockton State College), P.E.R.C. No. 76-6, 1 NJPER 41 (1975); Little Egg Harbor Tp., P.E.R.C. No. 94, 1 NJPER 37 (1975).

PANJ-PSU contends that it has met the requirements set forth in Bridgewater Tp. v. Bridgewater Public Works Ass'n., 95 N.J. 235 (1984), including the requirement that the public employer was hostile to the exercise of protected activity (brief at 17-21). It also asserts that it has demonstrated its case by a substantial likelihood of success (brief at 21-22).

The Judiciary, also relying on Bridgewater Tp., contends that PANJ-PSU failed to show that anti-union animus was "a motivating force or a substantial reason" for the disciplinary charges filed against Simmons. It contends that Simmons's protected conduct, ". . . did not enter management's minds" (brief at 7); that his status as a union official doesn't exempt him from workplace performance expectations for a CSS4.

Our Supreme Court in Bridgewater Tp. established the test for determining of an employer's conduct is discriminatory and violates 5.4a(3) of the Act. Under Bridgewater, no violation will be found unless the charging party has proved by a preponderance of the evidence that protected conduct was a substantial or motivating factor in the adverse action. This may be done by direct evidence or by circumstantial evidence showing that the employee engaged in protected activity, the employer

knew of that activity and the employer was hostile toward the exercise of protected rights. Id. at 246. If the employee(s) has/have established a prima facie case, the burden shifts to the employer to demonstrate by preponderance of the evidence that the adverse action occurred for a legitimate business reason and not in retaliation for protected activity. Id. This affirmative defense need not be considered unless the charging party has established that anti-union animus was a motivating or substantial reason for the personnel action. Conflicting proofs will be resolved by the fact finder. Id. at 244.

Claimed retaliation(s) for protected conduct violating section 5.4a(3) do not normally lend themselves to interim relief because only rarely is there direct and uncontroverted evidence of a public employer's motives. State of New Jersey (Dept. of Human Svcs.) I.R. No. 2018-13, 44 NJPER 434 (¶122 2018); City of Passaic, I.R. No. 2004-7, 30 NJPER 5 (¶2 2004), recon. den., P.E.R.C. No. 2004-50, 30 NJPER 67 (¶21 2004); Newark Housing Auth., I.R. No. 2008-2, 33 NJPER 223 (¶84 2007); City of Long Branch, I.R. No. 2003-9, 29 NJPER 39 (¶14 2003); Compare Chester Borough, I.R. No. 2002-8, 28 NJPER 162 (¶33058 2002), recon. den., P.E.R.C. No. 2002-59, 28 NJPER 220 (¶33076 2002) (employer's retaliatory motive for making a schedule change demonstrated in interim relief proceeding by direct evidence of police chief's state of mind and intent revealed in a memorandum placed in

evidence stating that union's grievance was to blame for scheduled change and that the change would be rescinded only if union withdraws its grievance). Also in rare instances, uncontested or compelling circumstantial evidence, such as the timing of certain events, can be decisive in assessing employer motivation, enabling an inference of hostility or anti-union animus to the exercise of protected rights. Township of Little Falls, I.R. No. 2006-9, 31 NJPER 333 (¶134 2005), recon. den., P.E.R.C. No. 2006-41, 31 NJPER 394 (¶155 2005) (interim relief granted when a mayoral-ordered police schedule change was "suspicious and lends itself to an inference of hostility," given the timing soon after two grievances were filed and despite police chief's strenuous objections to the change).

In this case, no direct evidence (at this juncture) shows that Judiciary's disciplinary action is substantially motivated by anti-union animus. An alleged (albeit, contested) "strange look" by employer representatives Rich and Kurtz toward Simmons does not meet the standard. It also appears that material factual issues preclude a determination now that PANJ-PSU has met its burden to show by a substantial likelihood of success that Simmons's protected conduct was a substantial or motivating factor in the Judiciary's decision to issue the January 7, 2020 PDNA.

Among the material factual issues are whether or to what extent Simmons was timely apprised of CSS4 obligations to oversee regular subordinate contacts with JSIP participants; report specific instances of subordinate omissions; and initiate disciplinary action against subordinates in appropriate circumstances. Regarding the latter requirement, Simmons asserts that he initiated disciplinary action against E.H.; Kurtz certifies that she directed his filing of charges against E.H. Also disputed is whether Kurtz announced in advance of disciplinary action against Simmons that "others would be fired;" whether Kurtz "belittled" Simmons; said in a meeting that GPS was being installed in CSS4s' cars to track their movements; whether Campbell was appropriately apprised of E.H.'s deficiencies in performance during the relevant period; and whether Kurtz and/or Rich's "strange look" at Simmons occurred and if so, it's meaning.

In his brief, Charging Party Counsel relies on several Commission cases in which inferences about a public employer's intent were drawn from "reviewing all the evidence in the record" (brief at 17). The determinations in those cases were based upon plenary records. e.g., Rutgers, The State University, P.E.R.C. No. 2001-38, 27 NJPER 91 (¶32034 2001); Borough of Glassboro, P.E.R.C. No. 86-141, 12 NJPER 517 (¶17193 1986); UMDNJ, P.E.R.C. No. 2001-65, 26 NJPER 247 (¶32088 2001); Downe Tp. Bd. of Ed.,

P.E.R.C. No. 86-66, 12 NJPER 3 (¶17002 1985). In the absence of a plenary record enabling findings on material disputed facts in this case, I deny the application for interim relief.

This case shall be processed in the normal course.

/s/ Jonathan Roth
Jonathan Roth
Commission Designee

DATED: March 25, 2020
Trenton, New Jersey