

TRANSMISSION VERIFICATION REPORT

TIME : 12/22/2004 16:33
NAME : GC PERSONNEL DEPT
FAX : 856-853-3266
TEL :
SER. # : 000E4J275325

DATE, TIME	12/22 16:16
FAX NO./NAME	93848868
DURATION	00:17:03
PAGE(S)	25
RESULT	OK
MODE	STANDARD ECM

ASSISTANT PROSECUTORS

12/10/2004 16:26 FAX

BROWN AND CONNERY

002/026

BROWN & CONNERY, LLP

MEMORANDUM

PRIVILEGED & CONFIDENTIAL

TO: Freeholder Director Stephen Sweeney

FROM: Gloucester County Prosecutor Sean Dalton

DATE: December 10, 2004

RE: Gloucester County Assistant Prosecutors Association Contract

Please accept the following recommendation for approval of the attached collective bargaining agreement between the Association of Assistant Prosecutors of Gloucester County and the Gloucester County Prosecutor together with the Gloucester County Board of Chosen Freeholders for the term of January 1, 2003 through December 31, 2007. This recommended agreement was reached on Wednesday, December 8, 2004 after numerous negotiation sessions and five sessions with a New Jersey Public Employment Relations Commission mediator.

The significant terms of the recommended agreement are as follows;

- a) five (5) year term retroactive to January 1, 2003, the date of recognition of the union;
- b) an initial one time wage adjustment for certain assistant prosecutors for 2003 to address certain past concerns regarding salary structures;

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- a) five (5) year term retroactive to January 1, 2003, the date of recognition of the union;
- b) an initial one time wage adjustment for certain assistant prosecutors for 2003 to address certain past concerns regarding salary structures;
- c) annual salary adjustments of 3.75% for year 2004 and 4.00% for years 2005, 2006 and 2007;
- d) no other salary or benefit increases;
- e) increased co-payment from members of the union for the prescription plan bringing the insurance plans offered to this bargaining unit equivalent to the insurance plans accepted by the CWA bargaining unit.

DRAFT
12-7-04

**AGREEMENT BETWEEN
THE
ASSOCIATION OF ASSISTANT PROSECUTORS OF GLOUCESTER COUNTY
AND
THE GLOUCESTER COUNTY PROSECUTOR
TOGETHER WITH
THE GLOUCESTER COUNTY BOARD OF CHOSEN FREEHOLDERS**

JANUARY 1, 2003 through DECEMBER 31, 2007

**Sidney H. Lehmann, Esq.
Szaferman, Lakin, Blumstein,
Blader & Lehmann, P.C.
Quakerbridge Executive Center
101 Grovers Mill Road, Suite 104
Lawrenceville NJ 08648**

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The undersigned agree to submit and
recommend this agreement for
ratification.

For The County

John P. [Signature]

For The Gloucester
County Art. Precincts
Association

Staci [Signature]

[Signature]

Margaret [Signature]

Danna Reed-Rolando

Laurel P. Cimini

[Signature]

12/10/04

PREAMBLE

THIS AGREEMENT is entered into by and between the **GLOUCESTER COUNTY PROSECUTOR**, together with the **BOARD OF CHOSEN FREE-HOLDERS** (hereinafter referred to as "the Employer"), and the **ASSOCIATION OF ASSISTANT PROSECUTORS OF GLOUCESTER COUNTY** (hereinafter referred to as "the Association"), for the purpose of establishing wages, hours, benefits, and other terms and conditions of employment, together with procedures for the fair and amicable resolution of disputes and grievances pertaining thereto.

NOW, THEREFORE, in consideration of the mutual covenants and understandings expressed herein, the parties agree as follows.

**ARTICLE 1
RECOGNITION**

1.1. The Employer recognizes the Association as being the bargaining agent for the purpose of establishing salaries, wages, hours, and other conditions of employment for all Senior Assistant Prosecutors and Assistant Prosecutors in the office of the Prosecutor and for such additional classification and internal titles as the parties may agree in writing to include.

1.2. Whenever titles are used in this Agreement, they shall be understood to include the plural as well as the singular and to include males and females. Except as otherwise specifically noted, a reference to "employees" or to "Assistant Prosecutors" shall refer to all employees in this bargaining unit covered by this Agreement.

**ARTICLE 2
RESPONSIBLE ASSOCIATION-EMPLOYER RELATIONSHIP**

2.1. The Employer and the Association recognize that it is in the best interests of both parties, the employees, and the public that all dealings between them continue to be characterized by mutual responsibility and respect. To ensure that this relationship continues and improves, the Employer and the Association and their respective representatives at all levels will apply the terms of this contract fairly in accord with its intent and meaning and consistent with the Association's status as exclusive bargaining representative of all employees covered by this contract.

**ARTICLE 3
NON-DISCRIMINATION**

3.1. In accordance with relevant law and to the extent of statute, no employee will be discriminated against on the basis of race, creed, color, national origin, sex, marital status, age, religious opinions or affiliation, handicap, sexual or affectional orientation, or legal participation or non-participation in Association activities.

ARTICLE 4 DEDUCTION OF ASSOCIATION DUES AND REPRESENTATION FEES

4.1. The Employer agrees to make payroll deductions of Association dues and assessments when authorized to do so by the employee on the appropriate form. The amount of such deductions shall be certified to the Employer by the Treasurer of the Association. The Employer shall remit the dues to the Association by the last day of the month following the calendar month in which such deductions are made (or earlier, if reasonably possible), together with a list of employees from whose pay such deductions were made. A copy of such list shall also be delivered to the Local President. Dues deductions for employees in the bargaining unit(s) shall not be made for any other employee organization.

4.2. In the event any employee withdraws his or her authorization for dues deduction by notice to the County Treasurer, such dues shall be halted as of July 1 next following the date on which notice of withdrawal was filed pursuant to N.J.S.A. 52:14-15.9e.

4.3. For all employees in the bargaining unit(s) who do not pay dues and assessments in accordance with Section 4.1 above, the Employer shall instead deduct a representation fee equal to a percentage of the appropriate dues and assessments as certified by the Association, pursuant to Chapter 477, Laws of 1979.

4.4. The Association represents that it has established a demand-and-return system in accordance with law.

4.5. It is agreed that the Employer shall have no other obligation or liability, financial or otherwise (other than set forth herein), because of actions arising out of the understandings expressed in the language of this section. It is further understood that once the funds deducted are remitted to the Association, the disposition of such funds shall be the sole and exclusive responsibility of the Association. The Association shall indemnify and save the Employer harmless against any and all claims, demands, suits, or other forms of liability including reasonable legal and/or representation fees resulting from any of the provisions of this Article or in reliance on any list, notice, or assignment furnished under this section.

ARTICLE 5 HOURS OF WORK

5.1. Working hours for all employees covered by this Agreement covered under this Agreement are generally from 8:30 a.m. until 4:00 p.m. However, with the prior consent of the Prosecutor, or his/her designee, all employees covered by this Agreement may vary their work hours with the first consideration being the present needs of the Prosecutor's office.

5.2. It is recognized that certain employees covered by this Agreement may be assigned to responsibilities that take place outside of the general daily working hours set forth in Section 5.1 of this Article. On such occasions, the employee(s) shall be assigned flexible hours with the prior consent of the Prosecutor or his/her designee consistent with the total general daily working hours set forth in Section 5.1 of this Article.

ARTICLE 6 SALARIES AND WAGES

6.1. (a) *Salary Scale.* The base salary for the employees covered by this Agreement in the employ of the Gloucester County Prosecutor's Office as of the date of execution of this contract is set forth in Appendix A attached to this contract. All base salaries set forth in Appendix A are to be paid retroactive to January 1, 2003.

6.2 Longevity Payments. In addition to the base salaries set forth in Section 6.1 of this Article and Appendix A, employees covered by this Agreement shall be entitled to a lump sum longevity payment as follows:

- a) On the anniversary date of the employee's fifth year of service with the Gloucester County Prosecutor's Office, the longevity payment shall be equal to 1.25% of base salary.
- b) On the anniversary date of the employee's each succeeding year of service with the Gloucester County Prosecutor's Office after the fifth year of service, the longevity payment will increase by .25% of base salary to a cap of 5.0% of base salary.

Longevity payments will be issued no later than July 15 of each year.

**ARTICLE 7
EDUCATIONAL ASSISTANCE/INCENTIVE**

7.1. The Employer agrees to reimburse tuition and book costs upon satisfactory completion up to a maximum of \$800 per employee covered by this Agreement for courses per year that are related to or may lead to the advancement in related positions as determined by the Gloucester County Prosecutor or his designee.

**ARTICLE 8
OVERTIME COMPENSATION**

8.1. Employees covered by this Agreement are professional employees under the FLSA and may work more than their normal workweek without any additional compensation, subject to the provisions of this article regarding compensatory time.

8.2. Employees covered by this Agreement shall be entitled to up to sixty-five (65) hours compensatory time which must be utilized by no later than the end of the calendar year in which it is earned. Compensatory time may be earned by working those hours in the office or in court either before and/or after the general daily working hours set forth in Section 5.1 of this Agreement or, in the case of approved flex time, by working those hours either before and/or after the approved flex time hours. Any request for compensatory time earned outside the office or courtroom must be pre-approved by the Prosecutor or his or her designee in writing.

8.3. Employees shall be responsible for using compensatory time off with reasonable promptness, by no later than the end of the calendar year in which it is earned. However, employees shall be permitted to carry over compensatory time off for any of the following reasons:

- (a) The time was earned in the month of December;
- (b) The employee was prevented from using his or her comp time because of the pressure of County business or because of approved absence from duty;
- (c) The employee's comp time balance is less than one full working day.

Employees who fail to use their accumulated comp time by the end of the calendar year, unless for a reason as specified above, shall lose such compensatory time. Employees who resign in good standing with a balance of unused comp time

shall be paid at their regular straight-time rate of pay for such time. Official comp time records shall be made available for inspection by employees upon reasonable request.

ARTICLE 9 TRAVEL EXPENSES

9.1. The Employer agrees to reimburse employees who are required to use their personal vehicles for work in accordance with the standard mileage rate for business purposes as periodically determined by the Internal Revenue Service. Expenses incurred for tolls and parking fees shall likewise be reimbursed.

9.2 In the event any employee is required to travel outside Gloucester County in the course of employment for which an overnight stay is required, the employee will be reimbursed for necessary meal expenses at a maximum rate of ten dollars (\$10.00) for breakfast, fifteen dollars (\$15.00) for lunch, and twenty-five dollars (\$25.00) for dinner. Nothing herein shall preclude management for allowing a higher rate or including an in-county meal allowance at its sole discretion because of unusual circumstances.

ARTICLE 10 HEALTH BENEFITS

10.1. The Employer shall continue the following insurance for each eligible employee and his or her dependents:

(a) *Medical.* Employees may choose either of the current Patriot V or Patriot X point-of-service plans. It is understood that co-payments for the Patriot X plan shall be as set forth by Aetna U.S. Healthcare in the Patriot X/QPOS H&S 80 Plan.

(b) *Vision care.* It is understood that this shall remain a separate policy providing coverage in addition to the vision care coverage provided under the Employer's medical plans. Allowances for the following items shall be as indicated: examination, \$30; frames, \$20; single vision lenses, \$30; bifocal lenses, \$40; trifocal lenses, \$50; lenticular lenses, \$100; contact lenses, \$200.

(c) *Prescription.* The employee co-pay will be \$5.00 for each generic prescription, \$10.00 for each name-brand prescription and effective January 1, 2005, \$20.00 for "third-tier," non-preferred drugs. Syringes and contraceptives will be covered by the plan. Generic substitution will be mandatory whenever available, unless the physician specifies a brand-name only.

For purposes of this section, eligible employees are understood to be all full-time employees and all part-time employees who are regularly scheduled to work an

average of at least twenty (20) hours per week.

10.2. Premium charges for health insurance will be subject to the following conditions:

(a) In the case of a self-funded plan, premiums will reflect the anticipated cost to the Employer of providing the insurance, using actuarial estimates or experience factors.

(b) Employees on active pay status will be required to contribute toward the cost of medical insurance to the extent that the monthly premium for their selected coverage exceeds the applicable premium for the indemnity plan or the U.S. Healthcare HMO plan, whichever is higher.

10.3. The Employer agrees to provide disability coverage to all eligible employees under the State Temporary Disability Benefits Law. Coverage will be financed by employer-employee contributions as required by law.

10.4. The Employer shall continue to provide dental insurance in accordance with the current indemnity plan for employees only, at a cost to the Employer which shall be capped at \$31.00. Any and all costs over \$31.00 shall be the responsibility of the employee. There shall be no deductible for any of the services provided under the plan. As an alternative to the indemnity plan, the Employer shall offer coverage through a dental plan organization, the terms of which shall be agreed upon by the Employer and the Association. Employees who elect to enroll in the dental plan organization may also enroll their dependents. However, in no case shall the Employer be required to pay a higher monthly premium for any such employee than it would have paid for employee-only coverage under the indemnity plan. Any premium costs incurred by an employee in excess of the indemnity plan rates will be paid by the employee through payroll deductions on a pre-tax basis, as authorized by Section 125 of the Internal Revenue Code. Open enrollment periods for the dental plans shall be in July of each year, for coverage beginning September 1.

10.5. Employees who terminate their employment or begin unpaid leaves of absence after the fifth day of the month shall have their health benefits continued by the Employer for one calendar month following the month in which the leave begins. Employees on approved leaves of absence may continue coverage thereafter at their own expense by paying the applicable premium charges to the employer four (4) weeks in advance of the coverage month.

10.6. Insurance coverage will be provided to retirees as follows:

(a) The Employer shall continue medical coverage for employees who retire on pension with at least twenty-five (25) years or more of credited service in the Public Employees' Retirement System, together with their dependents. In addition, coverage shall be continued for all employees who retire through PERS on

a disability pension, together with their dependents.

(b) The Employer will provide for continuation of prescription benefits to all employees who retire with at least twenty-five (25) years of service with the County. Such coverage shall be limited to employee and spouse only.

10.7. The Employer reserves the right to change insurance carriers or plans so long as the benefits to be provided are substantially equivalent to those of the existing plan(s).

10.8. In January of each year, employees who are enrolled in the medical or prescription plans pursuant to Section 14.1 may elect to waive either or both coverages, subject to the following provisions:

(a) Employees will be permitted to waive employer-provided medical coverage only upon furnishing proof of other medical coverage through a spouse's employer or other source. The terms of such other coverage should be the same or better than the coverage offered by the Employer.

(b) Employees who waive medical or prescription coverage shall receive a monthly payment in lieu of insurance, depending upon the type of coverage for which they are otherwise eligible, as set forth below:

Employee-only medical: \$100 per month
Parent/child medical: \$150 per month
Husband/wife medical: \$175 per month
Family medical: \$250 per month
Employee-only prescription: \$25 per month
Family prescription: \$50 per month

(c) Waivers of coverage shall remain in effect unless the employee elects to re-enroll during a subsequent open enrollment period or unless the employee loses his or her alternative coverage (as, for example, by termination of a spouse's employment). An employee who re-enrolls because of a loss of alternative coverage shall resume coverage under the Employer's plan within sixty (60) days after giving notice or as soon thereafter as is permitted under the insurance then in effect.

(d) Waivers of coverage will take effect April 1 following the employee's election. Payments will commence by the end of April and will continue thereafter on a regular basis each month while the waiver of coverage remains in effect.

(e) In case of a change in dependent status, employees who have

waived their health benefits will have their monthly payments adjusted to reflect the appropriate category as set forth in subsection (b) above, beginning with the month following the change in status.

(f) Employees who have waived coverage but plan to apply for post-retirement medical or prescription coverage pursuant to Section 14.6 must be re-enrolled in the respective plans not less than one (1) year prior to retirement.

10.9. The Employer will offer a plan by which employees may set aside a portion of their salaries in the form of flexible spending accounts, pursuant to Section 125 of the Internal Revenue Code, for payment of unreimbursed medical or dependent care expenses. The terms of the plan will be subject to the approval of both the Association and the Employer.

ARTICLE 11 CREDIT ASSOCIATION CHECKOFF

11.1. The Employer agrees to make payroll deductions for any employee, upon written request, to be paid to an appropriate credit Association as authorized by N.J.S.A. 40A:9-17.

ARTICLE 12 VACATION

12.1. All employees covered by this Agreement shall be credited with vacation leave based upon their years barred as an attorney standing in the State of New Jersey. During the first calendar year of such Bar membership, all employees who are hired prior to the 16th day of the month will earn one working day of vacation, all others hired prior to the 24th day of the month will earn ½ working day of vacation during the remainder of the first calendar year. Each employee will earn one additional working day of vacation for each additional full month of employment.

12.2. Beginning with the 2nd calendar year of such Bar membership, employees will be entitled to 12 working days of vacation.

12.3. Beginning with the year in which their 5th anniversary of Bar membership falls, employees will be entitled to 15 working days of vacation.

12.4. Beginning with the year in which their 10th anniversary of Bar membership falls, employees will be entitled to 20 working days of vacation.

12.5. Beginning with the year in which their 20th anniversary of Bar membership falls,

employees will be entitled to 25 working days of vacation.

12.6 Vacation leave shall be used in one day increments. Where in a calendar year vacation leave or any part thereof is not used up, up to eight (8) unused days may be carried forward into the next succeeding year only and will be scheduled to be taken in the next succeeding year. Any additional amount may be carried forward upon the written approval of the Prosecutor.

ARTICLE 13 HOLIDAYS

13.1. There shall be a minimum of fourteen (14) holiday per year in accordance with the schedule below:

New Year's Day	Memorial Day	Veterans' Day
King's Birthday	Independence Day	Thanksgiving Day
Lincoln's Birthday	Labor Day	Day after Thanksgiving
Washington's Birthday	Columbus Day	Christmas Day
Good Friday	Election Day	

Additional holidays shall be granted as legally mandated or by determination of the Employer. Holidays that fall on Saturday shall be observed on Friday, and holidays that fall on Sunday shall be observed on Monday.

ARTICLE 14 SICK LEAVE

14.1. The minimum sick leave with pay shall accrue to any Senior Assistant Prosecutor or Assistant Prosecutor on the basis of one working day per month during the remainder of the first calendar year of employment as a Senior Assistant Prosecutor or Assistant Prosecutor after initial appointment and fifteen (15) days as of the first working day of the year for each subsequent calendar year thereafter.

14.2 "Sick leave" is hereby defined to mean leave from work due to personal illness other than a workplace, accident or exposure to contagious disease. Sick leave may also be used for short periods because of attendance of the employee upon a member of their immediate family who is seriously ill and requires the presence of the employee. A doctor's note attesting to the need for the employee's attendance shall be required. A total of 15 days can be accumulated from year to year.

14.3 The term "immediate family" is hereby defined to include the following: mother, father, brother, sister, spouse, children or foster children of the employee and other relatives living in the employee's household.

14.4 Employees who are absent for reasons that entitle him/her to sick leave shall

call his/her supervisor at least one (1) hour prior to the employee's usual reporting time, except in emergency circumstances. However, in all circumstances an employee who is absent for reasons that entitle him/her to sick leave shall notify his/her supervisor prior to the employee's usual reporting time. Failure to give such notice may be cause of denial of the use of sick leave for that absence, and may constitute cause for disciplinary action.

ARTICLE 15 BEREAVEMENT

15.1 Employees covered by this Agreement shall be entitled to four days per incident with pay for death in the immediate family. The immediate family is defined as: mother, father, husband, wife, child, sister, brother, mother-in-law, father-in-law, grandfather, grandmother, foster child, and grandchild. Such bereavement leave shall not be deducted from annual sick leave.

ARTICLE 16 MISCELLANEOUS PAID LEAVE

16.1 *Administrative Leave.* Employees shall be allowed two (2) days off with pay annually for personal business, except that employees hired on or after July 1 shall be entitled to only one (1) administrative leave day in the first year of service. In addition, part-time employees who ordinarily work fewer than five days per week shall be entitled to only one administrative leave day per year. Except in cases of emergency, requests for administrative leave shall be submitted at least two (2) working days in advance to the appropriate department head. It is understood that in order to maintain sufficient service levels, management reserves the right to deny a request for administrative leave if services would be interrupted, hindered, or obstructed.

16.2. *Emergency Excusals.* In case of adverse weather or other emergency, the Employer may, at its discretion, excuse the employees from work without loss of pay. Employees who are required to work on such days while the rest of the work force is excused shall receive straight-time compensatory time off or cash at the option of the Employer.

16.3. *Jury Duty.* Employees called for jury duty shall not suffer loss of pay for such necessary service. An employee shall be required to turn over to the Employer any per diem fee received for jury duty in such cases.

ARTICLE 17 UNPAID LEAVES OF ABSENCE

17.1. Upon request, an employee may be granted a leave of absence without pay for up to six months where necessary for medical reasons, maternity or paternity, or for other reasons satisfactory to the Employer. Such leave may be extended for an additional

six months where circumstances warrant.

17.2. Disability due to pregnancy shall be considered as any other disability in accordance with Federal law.

17.3. All applicable requirements of the state Family Leave Act and the federal Family and Medical Leave Act shall be followed with respect to employees who request leave for the following purposes:

- (a) childbirth;
- (b) care of a newborn child, a newly adopted child, or a newly placed foster child;
- (c) care of a parent, child or spouse with a serious health condition; or
- (d) a serious health condition on the part of the employee.

In accordance with the FMLA, employees with at least one year of service who have worked for the Employer at least 1,250 hours in the preceding 12 months (1,000 hours under the FLA) are entitled to 12 weeks of qualifying leave during a 12-month period (24-month period under the FLA). An employee's 12-month leave period shall be measured beginning with his or her first day of FMLA leave. Paid leave time will count as time worked for purposes of meeting the hours-of-work threshold. However, paid vacation, administrative, or compensatory time off shall not be counted against an employee's 12-week FMLA or FLA entitlement, regardless of whether such leave is used for an otherwise qualifying reason.

17.4. Any employee taking an unpaid leave of absence shall be permitted to continue his/her health benefit coverage after employer-paid coverage ends by paying the monthly premiums prior to the coverage month. In addition, an eligible employee who takes leave qualifying under the state Family Leave Act or the federal Family and Medical Act shall have coverage continued by the Employer during such leave.

ARTICLE 18 ASSOCIATION LEAVE

18.1 The Employer agrees to allow a total of up to nine days of unpaid leave annually which may be divided amongst up to three designated officers of the Association to participate in Association activities. The Association shall determine how to divide the time. Such days may be utilized in one-half day increments. In January of each year the Association shall notify the Prosecutor of the names of the three officers who are eligible to use such Association leave days; and shall also notify the Prosecutor of any changes in the designated officers during the course of the calendar year.

18.2. In addition to the Association leave set forth in 20.1, no Association representative shall suffer a loss in pay while attending any jointly agreed Association-Employer meeting, or for reasonable travel time to and from such meetings. It is understood that such joint meeting and travel time is considered work time. This section is not intended to include time other than the regularly scheduled base work day.

ARTICLE 19 DISCIPLINARY ACTIONS

19.1. *Labor/Management Pre-Disciplinary Procedure*

(a) The parties may agree to confer regarding resolution of problems in order to prevent disciplinary action.

(b) Counseling and oral warnings are appropriate pre-disciplinary actions to be taken at management's discretion. Counseling and oral warnings are not discipline and are not subject to the grievance or arbitration provisions of this contract.

(c) Copies of written warnings must be provided to the employee who may respond in writing. The written response will be attached to the written warning and placed in the employee's personnel file.

19.2. *Types of Disciplinary Actions*

(a) Disciplinary actions may include written reprimands, suspensions, demotions and termination from employment.

19.3. *Just Cause*

(a) Discipline shall be imposed for just cause only, of which the Prosecutor shall bear the burden of proof. After twelve (12) consecutive months without further discipline of the employee in question, management shall not use the written warning for further discipline.

(b) Discipline shall be progressive in nature and corrective in aim.

19.4. *Association Representation During Questioning, Meetings or Hearings*

(a) Any employee who is subject to questioning by the Prosecutor or his/her designee and has reasonable cause to believe that discipline may result, is entitled to Association representation during such questioning. The Prosecutor shall ensure that employees in such situations are notified accordingly.

(b) Association representation may include a Shop Steward or other employee designated by the Association to handle grievances.

19.5. *Notice of Proposed Discipline*

(a) Written notice of proposed disciplinary action shall be provided to the employee. Such notices shall state the nature of the charges, the alleged acts upon which the charges are based, and the nature of the discipline to be imposed.

(b) Copies of disciplinary notices shall be provided to the Association as soon as possible but not more than 24 hours after being given to the employee.

19.6. *Hearing Procedure*

(1) Within ten (10) business days after receiving a Notice of Proposed Disciplinary Action, employees may request a hearing, which shall be held within fifteen (15) business days unless agreed otherwise. If no hearing is requested within ten (10) business days, it is deemed waived. A final notice of disciplinary action shall be issued and discipline shall be imposed.

(2) The employee may be represented at the hearing by an Association representative or representatives. The Prosecutor shall issue a decision and furnish the employee and the Association with a Final Notice of Disciplinary Action within ten (10) business days after the hearing, or such additional time as may be agreed to by the parties.

(3) Upon request by the Association, and with the written consent of the disciplined employee, the Prosecutor shall provide the Association prior to a hearing, with copies of all documents and any other information which is relied upon to determine the charges and the penalty imposed on an employee.

(4) a. *Minor Discipline*

i. Minor discipline shall include: (a) a written reprimand; and (b) suspension of five (5) business days or less.

ii. Hearings of a minor discipline involving suspensions shall be conducted by a hearing officer assigned by the Prosecutor. The scheduling of said hearings will be mutually agreed upon by management, the hearing officer and the Association.

iii. Hearings of minor discipline involving written reprimands shall be conducted by a local hearing officer.

b. *Major Discipline*

i. Major discipline shall include: (a) termination from employment; (b) disciplinary demotion; (c) suspension for more than five business days per incident (in five day blocks); and (d) suspension for five business days if the aggregate number of business days for which the employee is suspended in the calendar year is 15 or more.

iii. Hearings of major discipline shall be conducted by a hearing officer assigned by the Prosecutor. The scheduling of said hearings will be mutually agreed upon by management, the hearing officer and the Association.

(5) Hearing officers shall make findings of fact and an advisory recommendation to the Prosecutor. A copy of the hearing officer's decision will be provided to the parties. The Prosecutor, or his or her designee, shall issue a written final determination. The Prosecutor, or his or her designee, can accept, reject or modify the hearing officer's decision. If the hearing officer's decision is rejected or modified, the Prosecutor or his or her designee shall explain why in the final written determination.

19.7. *Miscellaneous Provisions -*

(a) Hearings conducted pursuant to this provision shall be fair and impartial and shall provide, at a minimum, for examination and cross examination of witnesses and procedures for the authentication of evidence to be introduced. Either party may make a verbatim record of the hearing through a certified court reporter or tape recording, but no recording of such proceedings shall be made without notification to the other party. The party making the verbatim record shall provide the other party with a copy of the record without charge.

(b) No employee shall be coerced, intimidated or suffer any reprisal as a result of participation in disciplinary hearings.

19.8 "The final written determination of the Prosecutor or his/her designee shall be subject to appeal through the arbitration procedure set forth in Article 22."

ARTICLE 20 GRIEVANCE PROCEDURE

20.1. *Grievance Definition*

(a) A grievance is a claimed breach, misinterpretation or improper application of the terms of this contract; or a claimed violation, misinterpretation or misapplication of rule or regulations, existing policies or practices, orders agreements, administrative decisions, or laws applicable to the Prosecutor and policies applicable to the grievant which establishes terms and conditions of employment.

(b) Disciplinary matters as set forth in Article 21 are not subject to the pre-arbitration provisions of the grievance procedure set forth in this Article. Rather they will be conducted pursuant to

the procedures set forth in Article 21. However, appeals of the final determination of the Prosecutor with respect to discipline shall be subject to the binding arbitration provisions of this Article.

20.2. Purpose

(a) The purpose of the grievance procedure is to secure prompt and equitable resolutions to problems regarding the administration of this Agreement or other terms and conditions of employment. To this end, relevant and necessary information, materials and documents concerning any grievance shall be provided by the employer upon written request.

(b) The following procedure shall be the sole and exclusive means of seeking adjustments and settling grievances.

20.3. General Rules

(a) Grievances may be filed by individual employees and/or the Association, and shall be governed by the procedures set forth herein. The grievant may be an individual employee, a group of employees, or the Association itself. The Association may submit a grievance either within the time limits referred to herein or initially at Step 2 with the consent of the Prosecutor, which consent shall not be unreasonably withheld, within (30) business days of the occurrence giving rise to the grievance or within (30) business days of the time limits set forth above for a grievance submitted at the Step 2 level, shall be used for an Association grievance. An individual employee involved shall be entitled to be present and to use the grievance procedure at Steps 1 and 2, and at other steps with the consent of the Association and to be represented by the Association in accordance with the provisions hereof.

(b) Employees using this grievance procedure shall not be coerced, intimidated or suffer any reprisal as a direct or indirect result of such use or representation by the Association during the grievance procedure.

(c) The Association may undertake to amend the grievance during any step of the procedure. It is understood that such amendment is only for the purpose of clarification and shall not be utilized to change the nature of the grievance or to include additional issues.

(d) Meetings and/or hearings shall be scheduled by the Prosecutor after consultation with the Association as to availability of mutually convenient dates and times within the time limits set forth herein.

(e) Where the subject of a grievance suggests it is appropriate, and where the parties mutually agree, such grievance may be initiated at or moved to any step of the procedure, prior to arbitration without hearing at a lower step. Agreement shall not be unreasonably withheld. Prior to arbitration, a grievance shall be heard at least the Step 2

hearing level.

(f) The number of days indicated at each step of the grievance procedure shall be considered the maximum and every effort shall be made to expedite the process. The time limits specified may be extended by mutual written consent.

(g) The lack of response by the Prosecutor within the prescribed time periods, unless time limits have been extended by mutual agreement, should be construed as a negative response.

(h) The Association representative shall have the right directly to examine or cross-examine witnesses who appear at a hearing at any step of this procedure. The Association shall have the right to be present and to state its views at all steps of the grievance procedure.

(i) At each step of the procedure, all grievance decisions shall include an explanation of the reason for the decision.

(j) The Prosecutor shall provide both the grievant and the Association with a copy of the grievance decision at each step of the procedure.

(k) A local Association Representative shall be permitted reasonable time to investigate grievances and reasonable time to present and process grievances during working hours without loss of pay or time.

(l) Any employee scheduled by the parties during his/her working hours to participate in grievance procedures shall suffer no loss in pay or benefits for appearances in grievance hearings. There shall be no claim for compensatory time in the event the grievance hearing extends beyond the employee's normal work day.

(m) Where the employee or the Association requires employee witnesses, permission for a reasonable number of witnesses required during the grievance proceedings will be granted. A witness of such proceedings will be permitted to appear without loss of pay for the time of appearance and travel time as required if during his/her normal scheduled working hours. There shall be no claim of overtime in the event the grievance hearing extends beyond the witnesses normal work day.

(n) The burden of proof shall be on the grievant.

(o) Management, at any step of the grievance process, may consolidate two or more grievances on the same issue and process them as a group grievance.

(p) The parties shall submit a list of witnesses, grievants and union representatives attending the hearing to the hearing officer at least three (3) business days in advance.

20.4 . Preliminary Informal Procedure

An employee may orally present and discuss a grievance with his/her immediate

supervisor on an informal basis. A verbal disposition of the grievance shall be given the grievant within five (5) business days. The employee has the option of having an Association Representative present for the discussion. However, the Association shall not be bound by any informal settlement between the employee and his/her supervisor.

20.5. Formal Procedure

Step 1. The grievant, through the Association Representative, may present the grievance in writing with the first level of supervision having authority to effect a remedy within twenty (20) business days of the date the grievant knew or should have known of its occurrence.

The Association shall be notified by the Prosecutor within two (2) business days of a grievance that is received by the employer.

A meeting shall be scheduled between the Association Representative and the appropriate manager within ten (10) business days of receipt of the grievance. A written or verbal disposition of the grievance shall be given to the grievant and the Association within five (5) business days of the meeting. If written, a copy of the disposition shall also be forwarded to the Prosecutor. Association consent is needed to resolve all grievances above Step 1, unless waived by failure to appear after receiving notice of a meeting or hearing.

20.6. Arbitration

(a) A grievance which is not satisfactorily resolved may be appealed to arbitration only by the Association through its designee within thirty (30) calendar days from the date the Association received, or if no decision, forty-five (45) calendar days from the meeting with the Prosecutor or his/her designee. If mutually agreed, a pre-arbitration conference may be scheduled for the purpose of attempting to settle the matter and to frame the issues or issues absent a settlement.

(b) A final written determination of the Prosecutor imposing discipline, as set forth in Article 21 of this contract, may be appealed to arbitration by either the Association or the employee who has been disciplined within thirty (30) calendar days from the date that the Association and the employee received the formal written determination of the Prosecutor, or if no formal written decision is issued within forty-five (45) calendar days of the imposition of the disciplinary penalty. If mutually agreed, a pre-arbitration conference may be scheduled for purposes of attempting to settle the matter and to frame the issue or issues absent a settlement.

(c) The parties herewith agree to utilize the panel of arbitrators maintained by the New Jersey Public Employment Relations Commission ("PERC") and shall follow the procedures set forth by PERC for grievance arbitration matters.

(d) The arbitrator shall conduct a hearing to determine the facts and render a decision in writing to the parties. The arbitrators shall not have the power to add to, subtract from, or modify the provisions of this Agreement or laws of the State, or any written policy of the Prosecutor not inconsistent with this Agreement, or to determine any dispute involving the exercise of management function which is within the authority of the Prosecutor, and shall confine his/her decision solely to the interpretation and application of this Agreement. The arbitrator shall be confined to the precise issues submitted for arbitration and shall have no authority to determine any other issues not so submitted, and the arbitrator shall not submit observations or opinions which are not essential in reaching the determination of the issues presented. The award of the arbitrator shall be final and binding consistent with applicable law and this Agreement. The fees and expense of the arbitrator shall be divided equally between the parties, and any other cost of the arbitration proceeding, including the cost of recording, shall be borne by the party incurring the cost.

(e) The arbitrator shall hold the hearing at a time and place convenient to the parties within thirty (30) calendar days of his/her acceptance to act as arbitrator and shall issue his/her decision within thirty (30) calendar days after the close of the hearing.

ARTICLE 21 PERSONNEL RECORDS

21.1. Upon reasonable prior request, the non-confidential personnel records of any employee shall be open to the inspection of the employee. Copies of the contents shall be available upon request; any reproduction costs shall be paid by the employee. Any employee who is appointed to a new title or receives a promotion will be given written notice of such new title or promotion, with the effective date thereof.

21.2. An employee will be given a copy of any disciplinary document which is placed in the employee's non-confidential official personnel record file.

21.3. The Employer will furnish to the Association upon reasonable prior request a listing of all new hires, terminations, title changes, and reassignments. Upon reasonable prior request, the Employer will also furnish to the Association a list of home addresses for employees represented by the Association.

ARTICLE 22 MANAGEMENT RIGHTS

22.1. The Employer hereby retains and reserves unto itself, without limitation,

all powers, rights, authority, duties, and responsibilities conferred upon and vested in it prior to the signing of this Agreement by the laws and Constitution of the State of New Jersey and of the United States, including, but without limiting the generality of the foregoing, the following rights:

(a) The executive management and administrative control of the County Government and its properties and facilities and activities of its employees by utilizing personnel, methods, and means of the most appropriate and efficient manner possible as may from time to time be determined by the Employer.

(b) To make rules of procedure and conduct, to introduce and use new and improved methods and equipment, to contract out for goods and services, to decide the number of employees needed for any particular time and to be in sole charge of the quality and quantity of the work required.

(c) The right of management to make, maintain, and amend such reasonable rules and regulations as it may from time to time deem best for the purpose of maintaining order, safety, and/or the effective operation of the County after advance notice thereof to the employees and to require compliance by the employees is recognized.

(d) To hire all employees, and subject to the provisions of law, to determine their qualifications and conditions of continued employment, or assignment, and to promote and transfer employees.

(e) To suspend, demote, discharge or take any other appropriate disciplinary action against any employee for good and just cause according to law and pursuant to the disciplinary procedures set forth above.

(f) To lay off employees in the event of lack of work or funds or under conditions where continuation of such work would be inefficient and non-productive or for other legitimate reason.

(g) To subcontract any of the work performed by employees covered by this Agreement for reasons of economy or other legitimate business reasons provided the Association is consulted sixty (60) days in advance.

22.2. In the exercise of the foregoing powers, rights, authority, duties, and responsibilities of the Employer, the adoption of policies, rules, regulations, and practices and the furtherance thereof, and the use of judgment and discretion in connection therewith, shall be limited only by the specific and express terms of this Agreement and then only to the extent such specific and express terms hereof are in conformance with the Constitution and laws of New Jersey and of the United States.

22.3. Nothing contained herein shall be construed to deny or restrict the Employer of its rights, responsibilities, and authority under P.S. 40A, or any other national, state, county or local laws or regulations.

ARTICLE 23 MILITARY LEAVE

23.1. Employees in the military service, including the New Jersey National Guard or United States Armed Forces Reserves, shall be entitled to such leave provisions as may be required by law. Employees with weekend military obligations whose normal work schedule requires them to work on some or all weekends may have their weekend work schedule amended by the Employer during such weeks so that there will be no conflict and the County and military obligations may both be met without any additional cost to the Employer.

ARTICLE 24 INDEMNIFICATION

24.1. The Employer will indemnify an employee for damages resulting from any tort claim or any civil violation of state or federal law arising out of the employee's job, if, in the opinion of the Employer, the acts committed by the employee upon which the damages are based did not constitute fraud, malice, willful misconduct, or intentional wrongdoing.

ARTICLE 25 SEVERABILITY

25.1. If any provision of this Agreement or any application of this Agreement to any employee or group of employees is held invalid by operation of law or by a court or other tribunal of competent jurisdiction, such provision shall be inoperative, but all other provisions shall not be affected thereby and shall continue in full force and effect.

ARTICLE 26 FULLY-BARGAINED CLAUSE

26.1. This Agreement represents and incorporates the complete and final understanding and settlement by the parties of all bargainable issues which were or could have been the subject of negotiations. During the term of this Agreement,

neither party will be required to negotiate with respect to any such matter whether or not covered by this Agreement, and whether or not within the knowledge or contemplation of either or both of the parties at the time they negotiated or signed this Agreement.

26.2. This Agreement shall not be modified in whole or in part by the parties except by an instrument in writing duly executed by both parties.

**ARTICLE 27
BAR MEMBERSHIP FEES**

27.1. It shall be the responsibility of the Employer to pay the fee for the Clients Protection Fund as well as any other fees required by the New Jersey State Bar for an attorney to remain in good standing in the Bar of the State of New Jersey.

**ARTICLE 28
TERMS OF AGREEMENT**

28.1. This Agreement shall be effective immediately on the date of signing below and shall continue in full force and effect through December 31, 2007. The parties shall commence negotiations on a successor Agreement pursuant to regulations of the Public Employment Relations Commission.

IN WITNESS WHEREOF, the parties have caused their duly authorized representatives to affix their signatures this _____ day of _____, 2004.

FOR THE ASSOCIATION

FOR THE EMPLOYER

By: _____

By: _____

APPENDIX A

~~Proposed Settlement~~ *SHL WMT*

Name	2003 Salary	2004 <i>WMT SHL</i> Proposed Salary	2005 <i>WMT SHL</i> Proposed Salary	2006 <i>WMT SHL</i> Proposed Salary	2007 <i>WMT SHL</i> Proposed Salary
Dana Anton	\$44,375	\$46,039	\$47,880	\$49,796	\$51,788
Joseph Brook	\$46,435	\$48,176	\$50,103	\$52,107	\$54,191
Jacqueline Caban	\$46,175	\$47,907	\$49,823	\$51,816	\$53,888
Laurie Cimino	\$55,696	\$57,785	\$60,096	\$62,500	\$65,000
Margaret Cipparrone	\$57,900	\$60,071	\$62,474	\$64,973	\$67,572
Audrey Curwin	\$63,248	\$65,620	N/A	N/A	N/A
Michael Curwin	\$68,170	\$70,726	\$73,555	\$76,497	\$79,557
Joseph Enos	\$62,505	\$64,849	\$67,443	\$70,141	\$72,946
Lloyd Henderson	\$62,020	\$64,346	\$66,920	\$69,597	\$72,380
Michelle Jeneby	\$51,205	\$53,125	\$55,250	\$57,460	\$59,758
Vincent Malfitano	\$59,003	\$61,216	\$63,665	\$66,211	\$68,860
Janis Melfi	\$67,839	\$70,383	N/A	N/A	N/A
Mary Pyffer	\$62,020	\$64,346	N/A	N/A	N/A
Diana Reed-Rolando	\$49,145	\$50,988	\$53,027	\$55,149	\$57,354
Staci Scheetz	\$52,750	\$54,728	\$56,917	\$59,194	\$61,561
Anthony Vendetti	\$46,435	\$48,176	\$50,103	\$52,107	\$54,191

TOK 12/8/04
as part of diff contract
SHL WMT