

CWA 2009 Negotiated MOA Again Upheld by Court!

The New Jersey Appellate Court issued a decision today, overturning the Civil Service Regulation and action that caused PLB days to expire as of 12/31/2012.

Let's review what took place. In 2009, after the market crashed and the country slipped into a recession, CWA negotiated a Memorandum of Agreement (MOA) with Governor Corzine in order to protect our members from layoffs. That Agreement exchanged a delay of a raise for 18 months and 10 furlough days for a multi-year no layoff agreement and 7.5 Paid Leave Bank Days that could be carried over as long as workers wanted and an agreement that workers would take Lincoln's Birthday as a furlough day but would get the Day after Thanksgiving off the following year.

Our MOA had very clear language. From the moment we bargained it, it was our position that we were making that Agreement "Christie-Proof" because we knew there was going to be an election and we wanted to protect our members.

Lo and behold, Christie won and one of the first things he did was attack our MOA. He wanted to be able to lay us off and he didn't want to pay the delayed wage increase. But he could not break our language. It was written so as to make it impossible for him to legally renege on the deal. (We need only look at what he is trying to do to our pension to know that Christie will renege on any promise or law if he can, even if he signed the law himself and ran around the country bragging about it!

The Governor tried to take away the day after Thanksgiving the following year. We took him to Court and got the day.

When the Governor couldn't cut our jobs or our pay, or renege on the trade on the Thanksgiving holiday, he tried to renege on the PLB days. The Civil Service Commission wrote a special rule saying that PLB days must be treated as vacation days and therefore would expire if they weren't used in a year. CWA challenged that rule, and took the matter to Court. The Court found that Civil Service's position was inconsistent with its legal argument that there was no legal authority for any type of PLB days. The Court remanded the matter back to Civil Service giving Civil Service very strong "guidance" that this was a collective bargaining matter.

But in typical Christie Administration fashion, the Civil Service Commission issued a "Final Administrative Order" entirely ignoring the Court's guidance saying that there was no authority to bargain PLB days that did not expire and that it would require legislation to do that.

(Of course – our MOA said that if anything did need legislation – which we do not agree PLB days needed – the Administration had to jointly go with us to the Legislature to pass Legislation to fully implement the MOA).

We advised workers who did not want to use their PLB days to not use them and we would fight to uphold the MOA and we again brought this matter to the Court. The Court said on September 8, 2014:

We have considered these arguments in light of the record and applicable legal principles. We reverse that portion of the CSC's final agency determination that required the use of unused PLB days by the Unions' employees before December 31, 2012, and hold that, in accordance with the MOAs, there are no carryover restrictions on remaining unused PLB days. The CSC may adopt a regulation that mirrors the language of the provisions of the MOAs if it so chooses. We reject the Unions' request that PLB days be restored to employees that have already used them.

The 2009 MOA that CWA negotiated:

- A. Protected our members for several years from any risk of layoff, contrary to the express desires of the Governor. Thousands of jobs were saved.
- B. Protected our raises and increments, so that the Governor could not refuse to pay them based upon budgetary problems.
- C. Protected the Paid Leave Benefit days (PLB days) so that they could be carried over year to year.

Nearly 1900 of our members did not use their PLB days and had them taken from them. Those days will be returned.

Those workers who decided to take their PLB days even though they would have preferred to keep them, will not be able to swap them out for vacation days. We argued strenuously that they should be able to do that, but the Court was unpersuaded and refused to make the State go back and do that.

The Court specifically upheld the fact that these days were Collectively Bargained and that Civil Service could either adopt a regulation that mirrored the collective bargaining agreement or could not adopt a regulation at all, but they could not remove this matter from collective bargaining by adopting a rule contravening the MOA. This is very important, given the extreme hostility this Administration and the Civil Service Commission has demonstrated to Collective Bargaining.

From the moment Chris Christie was inaugurated he has shown contempt for Collective Bargaining, an independent Judiciary, and any Commission, Law or Government entity that will not do his absolute bidding.

As a democratic Union we know that people of good will can have differences – but this Governor’s lack of respect for the law, the equal branches of Government, and for his own workforce – is something we have never experienced before.

Fortunately, the Court refused to be bullied.