

SUPREME COURT OF NEW JERSEY

MARK NEARY
CLERK

GAIL GRUNDITZ HANEY
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OFFICE OF THE CLERK
PO Box 970
TRENTON, NEW JERSEY 08625-0970

July 28, 2011

Counsel of Record

Re: A-45/46/47-10 Winters v. North Hudson Regional Fire
(066968)

Dear Counsel:

The Court requests additional briefing from the parties to address the following questions:

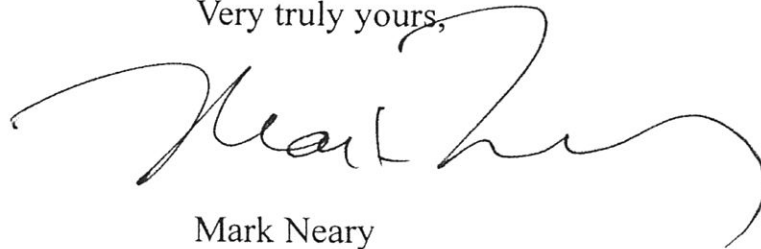
1. Does it make a difference to the analysis whether this matter is characterized as a pretext case under McDonnell Douglas Corp. v. Green, 411 U.S. 792, 93 S. Ct. 1817, 36 L. Ed. 2d 668 (1973), or as a mixed-motive case under Price Waterhouse v. Hopkins, 490 U.S. 228, 109 S. Ct. 1775, 104 L. Ed. 2d 268 (1989);
2. Is the entire controversy doctrine implicated and, in particular, are the forums at issue remedially equivalent;
3. Is the election of remedies provision in N.J.S.A. 34:19-8 implicated;
4. What damages can plaintiff claim in the CEPA case given the outcome before the Civil Service Commission?

Appellants' briefs addressing the questions must be served and filed on or before September 2, 2011; respondent's brief is to be served and filed on or before September 30, 2011.

The Court also invites amicus curiae, the National Employment Lawyers' Association, to file a brief on the questions, which brief is to be served and filed on or before September 16, 2011. In addition, the Court is

inviting the New Jersey Attorney General and the Employers Association of New Jersey to appear and file briefs on the questions, which briefs also must be served and filed on or September 16, 2011. The parties shall be permitted to respond to any briefs filed by the amici, which responding briefs shall be served and filed on or before September 30, 2011.

Very truly yours,

A handwritten signature in black ink, appearing to read "Mark Neary", with a large, sweeping flourish extending to the right.

Mark Neary
Clerk

C: Richard E. Yaskin, Esq.
Melissa H. Raksa, AAG
John Sarno, President, EANJ