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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

STEPHEN MCGUIRE,

Plaintiff,

v.

UNION COUNTY PROSECUTOR'S  
OFFICE, OF THE STATE OF NEW  
JERSEY; PROSECUTOR THEODORE J.  
ROMANKOW; and ROBERT T. BUCCINO,  
CHIEF OF DETECTIVES, UNION  
COUNTY PROSECUTOR'S OFFICE,

Defendants.

Docket No. 11-cv-01989 (FSH/PS)

Civil Action

**STATEMENT OF UNDISPUTED FACTS  
IN SUPPORT OF DEFENDANTS' MOTION  
FOR SUMMARY JUDGMENT PURSUANT TO  
L. CIV. R. 56.1**

**Motion Returnable:  
March 26, 2012**

**I. The Parties and Plaintiff's Employment**

1. The Union County Prosecutor's Office ("UCPO") is a law enforcement agency. Deposition of Stephen McGuire ("Pl. Dep. Tr.") at 18:16-21, appended to the Certification of Evan M. Lison ("Lison Cert.") at ¶2, Ex. A.

2. Defendant Theodore J. Romankow is the Prosecutor of the UCPO. Plaintiff's Complaint at ¶2, Lison Cert. ¶3, Ex. B.

3. Defendant Robert T. Buccino is the Chief of Detectives of the UCPO. Id. at ¶3.

4. Defendant Buccino was a member of the PBA for approximately 20 years. Deposition of Chief Robert T. Buccino ("Buccino Dep. Tr.") at 19:7-25, Lison Cert. ¶4, Ex. C.

5. In 2003, Plaintiff Stephen McGuire ("Plaintiff") was hired by the UCPO into the position of county investigator. Pl. Dep. Tr. 14:22-24; 17:7-13, Lison Cert. ¶2, Ex. A. The position of county investigator also is referred to as a county detective. Id. 18:1-2.

6. Plaintiff's employment is not governed by civil service regulations. Id. 101:9-11.

7. From 2004 until December 2010, Plaintiff served in the UCPO's Child Abuse Unit. Id. 21:21-22:17.

8. Plaintiff's employment is governed by the UCPO's Rules and Regulations. Id. 25:1-6. When Plaintiff received and reviewed the UCPO Rules and Regulations, he understood them. Id. 26:4-23.

9. Plaintiff is a member of PBA Local 250, which represents all UCPO investigators and detectives. Id. 48:25-49:8. The UCPO's superior officers are represented by PBA Local 250A. Id. 49:7-8.

10. Plaintiff has served as President of PBA Local 250 since June 2008. Id. 50:5-10. This is the highest rank within PBA Local 250. Id. 50:18-20. Plaintiff testified that he is essentially the "CEO" of this chapter and that "[e]verything revolves around the president." Id. 50:21-24.

11. As President of PBA Local 250, Plaintiff sends emails to other members of PBA 250, including updates regarding arbitrations, grievances and unfair practice charges. Id. 52:15-53:3.

12. When asked how many hours per week, on average, he works on PBA matters, Plaintiff testified as follows:

Wow. I don't know, I field calls all day at work and there were some nights where I could take calls depending, up till eight, nine o'clock at night, so probably, I don't know, that's hard to say. It's a good, it's a significant amount of hours. It's hard for me to put a number on it, but it's significant. If you mix it in with work during an eight-hour day plus after hours, it's a significant amount of time.

Id. 156:12-22.

13. Plaintiff testified that he will complete his PBA duties during the day at work. Id. 196:23-197:3.

## **II. The Gasoline Arbitration**

14. The collective negotiations agreement entered into between the UCPO and PBA Local 250 contains a comprehensive

grievance procedure. Id. 53:14-54:10. The grievance procedure culminates in binding arbitration. Id. 54:11-13.

15. The grievance procedure addresses disputes regarding wages and other terms and conditions of employment that are personal to employees. Id. 54:14-55:5.

16. In August 2008, PBA Local 250 filed a grievance regarding the UCPO's allotment of gasoline to employees for use in their UCPO vehicles. Id. 55:10-16.

17. PBA Local 250's position with respect to this grievance was that the allotment of gasoline constituted a benefit under the parties' collective negotiations agreement. Id. 56:3-6.

18. In October 2009, the parties reached a settlement regarding the gasoline grievance and an unfair practice charge that had been filed relating to the use of gasoline. Id. 57:23-58:1; October 22, 2009 Settlement Agreement Between the Union County Prosecutor and PBA Local 250, Lison Cert. ¶5, Ex. D.

19. The settlement provided that the UCPO would provide UCPO investigative personnel 500 gallons of gasoline per year and additional gasoline will be provided upon "appropriate justification." Pl. Dep. Tr. 58:8-13, Lison Cert. ¶2, Ex. A; October 22, 2009 Settlement Agreement Between the Union County Prosecutor and PBA Local 250, Lison Cert. ¶5, Ex. D.

20. The settlement was an attempt to resolve what PBA Local 250 viewed as a denial of a term and condition of employment. Pl. Dep. Tr. 58:14-20, Lison Cert. ¶2, Ex. A.

21. In accordance with the settlement, on December 29, 2009, Chief Buccino issued a memorandum to UCPO detectives, stating that the UCPO will provide detectives 500 gallons of gas and that commuting mileage would not be considered as an appropriate justification for additional fuel. Id. 60:11-23; December 29, 2009 Memorandum from Chief Robert T. Buccino to All Investigative Personnel, Lison Cert. ¶6, Ex. E.

22. Subsequently, approximately six UCPO detectives sought additional gasoline and another grievance was filed when their requests were denied. Pl. Dep. Tr. 61:13-62:15; 63:5-15, Lison Cert. ¶2, Ex. A. When the grievance was denied, arbitration ensued. Id. 63:20-23.

23. On October 28, 2010 Arbitrator Hartigan issued a decision regarding the UCPO's denial of gasoline. October 28, 2010 Arbitration Decision titled In the Matter of the Arbitration Between the Union County Prosecutor and PBA Local 250 and 250A, Lison Cert. ¶7, Ex. F.

24. The decision addressed three principal issues. First, the decision addressed whether the exclusion of commuting mileage constitutes an unreasonable denial of additional

gasoline under the parties settlement agreement. Pl. Dep. Tr. 67:21-68:4, Lison Cert. ¶2, Ex. A. This issue related only to those employees who commute to work. Pl. Dep. Tr. 68:5-8, Lison Cert. ¶2, Ex. A; October 28, 2010 Arbitration Decision titled In the Matter of the Arbitration Between the Union County Prosecutor and PBA Local 250 and 250A at p. 2, Lison Cert. ¶7, Ex. F.

25. The second issue addressed specific denials of gasoline to Detectives Rivera, Deegan and Lynch and Sergeants Kowalczyk and Osborne. Pl. Dep. Tr. 68:9-16, Lison Cert. ¶2, Ex. A; October 28, 2010 Arbitration Decision titled In the Matter of the Arbitration Between the Union County Prosecutor and PBA Local 250 and 250A, at p. 2, Lison Cert. ¶7, Ex. F.

26. The third issue related to the applicability of the parties' October 22, 2009 Settlement Agreement to Deputy Chief Gregory Clay. Pl. Dep. Tr. 69:5-17, Lison Cert. ¶2, Ex. A; October 28, 2010 Arbitration Decision titled In the Matter of the Arbitration Between the Union County Prosecutor and PBA Local 250 and 250A, at p.2 Lison Cert. ¶7, Ex. F.

27. Arbitrator Hartigan ruled that "a past practice has existed within the Office of allowing officers to use their County vehicle for commuting purposes and that the blanket exclusion of 'commuting mileage' from consideration of

additional gas requests violates said practice and as such is an unreasonable denial." Arbitrator Hartigan also ruled that the "denials of fuel to Detectives Rivera, Deegan, and Lynch, and Sergeants Kowalczyk and Osborne were unreasonable." Finally, Arbitrator Hartigan ruled that the "exclusion of DC Clay from the gasoline log for 2010 does not rise to a violation of the Settlement Agreement." Accordingly, Arbitrator Hartigan ordered the UCPO to "approve the above noted requests and make the stated individuals whole for any out-of-pocket expenses incurred in providing gas for their County vehicles with suitable proof of purchase." October 28, 2010 Arbitration Decision titled In the Matter of the Arbitration Between the Union County Prosecutor and PBA Local 250 and 250A, at p. 21, Lison Cert. ¶7, Ex. F.

28. This decision did not have a financial impact on the public and only PBA Local 250 and PBA Local 250A stood to benefit from the decision. Pl. Dep. Tr. 64:18-65:1, Lison Cert. ¶2, Ex. A.

29. Had PBA Local 250 lost the arbitration, employees would have had to gas their UCPO cars at their own expense. Id. 65:2-10.

30. The arbitration decision resolved all pending issues with respect to gasoline. Id. 67:13-17; 69:18-22.

**III. Plaintiff's November 2, 2010 Email**

31. On November 2, 2010, Plaintiff sent an email to PBA Local 250 and PBA Local 250A members. Id. 70:3-10; See November 2, 2010 Email, Lison Cert. ¶8, Ex. G. This email was sent using Plaintiff's UCPO work email address. Pl. Dep. Tr. 84:10-17, Lison Cert. ¶2, Ex. A.

32. Plaintiff directed Glenn Grusinski, one of the PBA trustees, to add Deputy Chief Gregory Clay as a recipient of the email. Pl. Dep. Tr. 70:14-16; 71:1-4, Lison Cert. ¶2, Ex. A.

33. Previously, Deputy Chief Clay had not received emails from PBA Local 250. In fact, this is the only email that Deputy Chief Clay had received from PBA Local 250. Plaintiff's Answers to Defendants Union County Prosecutor's Office and Prosecutor Romankow's First Request for Interrogatories at Interrogatory No. 20 and Documents 0079-0081, Lison Cert. ¶9, Ex. H.

34. Glenn Grusinski, a trustee of PBA Local 250, said that he typically does not send emails to Deputy Chief Clay and that before the November 2, 2010 email he had not sent any to Deputy Chief Clay. Relevant Portions of the Transcript of the January 24, 2011 Disciplinary Hearing of Stephen McGuire, at pp. 6:25-7:14, Lison Cert. ¶10, Ex. I.



35. Every recipient of the email is a subordinate officer of Deputy Chief Clay. Pl. Dep. Tr. 76:11-23, Lison Cert. ¶2, Ex. A.

36. This email was not sent to any members of the public. Id. 73:13-18.

37. The subject line of the email says "Message from the PBA President." Id. 73:19-22; See November 2, 2010 Email at p.1, Lison Cert. ¶8, Ex. G.

38. The email contains sections pertaining to Arbitrator Hartigan's decision. Pl. Dep. Tr. 77:2-4, Lison Cert. ¶2, Ex. A; See November 2, 2010 Email, Lison Cert. ¶8, Ex. G.

39. The email states "[i]t also appears that the Prosecutor and this administration seem to get really upset when we're right." Pl. Dep. Tr. 77:14-22, Lison Cert. ¶2, Ex. A; See November 2, 2010 Email at p.2, Lison Cert. ¶8, Ex. G.

40. The email also states regarding Chief Buccino:

So much for a bunch of people making \$140,000 plus dollars a year sitting in front of a computer and Google-ing everyone's home address and then coming up with random amounts of gasoline to issue. I only make \$93,000 dollars a year, you should've just come to me 2 years ago, I could've told ya that system wasn't gonna work and that it would bite ya later on. Better advice, and cheaper.

Pl. Dep. Tr. 80:2-16, Lison Cert. ¶2, Ex. A; See November 2, 2010 Email at p.2, Lison Cert. ¶8, Ex. G.

41. The email also states regarding Deputy Chief Gregory Clay:

Remember this; "A boss says 'Go'. A leader says 'Let's go.'" Leadership by example Brother Clay. If your people are doing something or being held to a standard, then you should be too. Period. Stand with your people. Be an example. Stop worrying about whether or not what you say is gonna aggravate the Prosecutor or put a smile on his face. Stand with your people no matter what the consequences or no matter what the outcome. Never, NEVER ask your people to do something you would not do yourself. Respect is earned, not issued at a promotional ceremony.

See November 2, 2010 Email at p.3, Lison Cert. ¶8, Ex. G.

42. Deputy Chief Clay informed Chief Buccino of the email after he received it. Buccino Dep. Tr. 30:14-24, Lison Cert. ¶4, Ex. C.

43. Chief Buccino said that he was "appalled" by certain language and said that it was "disloyal or disrespectful to the administration including [himself] and Deputy Chief Clay." Id. 31:15-23.

44. Chief Buccino testified that he spoke with Deputy Chief Clay regarding the November 2, 2010 email, during which Deputy Chief Clay said he was offended by it and that he was

concerned that it would be disruptive to the UCPO. Id. 64:17-23; 65:2-5.

45. Chief Buccino testified that a meeting was held during which it was discussed that the November 2, 2010 email could be disruptive for the personnel and undermine the Prosecutor, the Chief and the Deputy Chief. Id. 65:16-66:15.

46. Chief Buccino testified that after this meeting, it was decided that Plaintiff would be disciplined. Id. 66:25-67:3.

#### **IV. Plaintiff's Five-Day Suspension**

47. On November 18, 2010, Plaintiff was issued a Preliminary Notice of Disciplinary Action ("PNDA"). Pl. Dep. Tr. 99:17-20, Lison Cert. ¶2, Ex. A; November 18, 2010 Preliminary Notice of Disciplinary Action, Lison Cert. ¶11, Ex. J.

48. The PNDA specified two Counts for which Plaintiff was responsible: (1) Count 1: UCPO Policies and Procedures, General Rules and Regulations: 3:1 Professional Conduct, 3:1-2 Loyalty and (2) Count 2: 1:4 Definition of Terms, 1:4-10 Insubordination. November 18, 2010 PNDA, Lison Cert. ¶11, Ex. J.

49. The relevant Union County Prosecutor's Office Rules and Regulations are as follows:

3:1-1 Standard of Conduct - Employees of the Union County Prosecutor's Office in both their private and public lives shall conduct themselves in a manner that will not reflect adversely on the reputation of the

Prosecutor's Office. They shall preserve the dignity and integrity of their Office through exemplary obedience to all Administrative Policies; maintain respect for the welfare and rights of all citizens; seek to courteously and objectively enforce the law without favor or prejudice; and acknowledge that service in the Union County Prosecutor's Office is a public trust requiring dedication to ideals and ethics of the highest degree.

3:1-2 Loyalty - Employees of the Union County Prosecutor's Office shall be loyal to the Prosecutor's Office and to all its employees, consistent with law, good order and discipline.

3:1-4 Responsibility - Employees shall be responsible for the duties assigned them and for strict adherence to rules, regulations, written directives, general orders, special orders, policies and procedures as established and unique to a specific unit or assignment, as well as all lawful verbal or written orders issued by a Supervisor or Superior Officer.

1:4-10 Insubordination - Failure or deliberate refusal of any member of the Union County Prosecutor's Office to obey a lawful order given by the Prosecutor, his assistants, a Superior Officer or Supervisor; ridiculing or demeaning the Prosecutor, his designee, a Supervisor, a Superior Officer or his order, whether in or out of his presence; disrespectful, mutinous, insolent or abusive language directed towards the Prosecutor, his assistants, a Superior Officer or a Supervisor.

Union County Prosecutor's Office General Rules and Regulations, Chapter Three, appended as Exhibit #2 to the Preliminary Proceedings Report, Lison Cert. ¶12, Ex. K.

50. The PNDA lists a potential five-day suspension. November 18, 2010 Preliminary Notice of Disciplinary Action, Lison Cert. ¶11, Ex. J.

51. The five-day suspension is not apportioned across each specific charge. Pl. Dep. Tr. 100:8-18, Lison Cert. ¶2, Ex. A; November 18, 2010 PNDA, Lison Cert. ¶11, Ex. J.

52. The PNDA provides that Plaintiff may request a hearing before the appointing authority regarding these charges. November 18, 2010 PNDA, Lison Cert. ¶11, Ex. J.

53. The PNDA attached a November 18, 2010 memorandum from Chief Robert T. Buccino, which describes the factual specifications of Plaintiff's violations. Id.

54. Specifically, Chief Buccino's memorandum states that Plaintiff made comments directed at Union County Prosecutor Theodore J. Romankow, Chief Robert T. Buccino and Deputy Chief Gregory C. Clay. Id.; see Facts 39-41, *supra*.

55. A disciplinary hearing was held regarding Plaintiff's five-day suspension on January 24, 2011. Pl. Dep. Tr. 103:18-24, Lison Cert. ¶2, Ex. A.

56. Following the disciplinary hearing, the hearing officer issued a decision affirming the five-day suspension based on comments two and three referenced in Facts 40-41, *supra*. Id. 104:10-14; Preliminary Proceedings Report, Lison Cert. ¶12, Ex. K.

57. Plaintiff served the five-day suspension the last week of February 2011. Pl. Dep. Tr. 102:24-103:5, Lison Cert. ¶2, Ex. A.

**V. Plaintiff's Claims**

58. Plaintiff alleges that his November 2, 2010 email was sent "in his capacity as union president to all unit members of PBA Local 250." Plaintiff's Complaint at ¶12, Lison Cert. ¶3, Ex. B.

59. Count One of Plaintiff's Complaint alleges that he did not violate UCPO Rules and Regulations 3:1-1, Standard of Conduct. Id. at ¶¶21-22.

60. This claim is based solely on Plaintiff's position that he wrote the November 2, 2010 email in his "capacity as PBA President, not [his] capacity as a detective in the prosecutor's office." Pl. Dep. Tr. 105:12-20; 108:5-9; 109:8-18, Lison Cert. ¶2, Ex. A.

61. Count Two of Plaintiff's Complaint alleges that he did not violate UCPO Rules and Regulations 3:1-2, Loyalty. Complaint ¶¶24-25, Lison Cert. ¶3, Ex. B.

62. This claim is based solely on Plaintiff's position that he wrote the November 2, 2010 email in his "role as PBA President" and, consequently, "it doesn't fall under Rules and Regulations" of the UCPO. Pl. Dep. Tr. 105:21-106:3; 108:14-19; 109:19-24, Lison Cert. ¶2, Ex. A.

63. Count Three of Plaintiff's Complaint alleges that he did not violate UCPO Rules and Regulations 1:4-10, Definition of Terms for Insubordination. Plaintiff's Complaint at ¶¶27-28, Lison Cert. ¶3, Ex. B.

64. This claim is based solely on Plaintiff's position that he wrote the November 2, 2010 email in his "capacity as PBA president" and not in his capacity as a detective in the UCPO. Pl. Dep. Tr. 106:12-23; 108:24-109:7; 110:5-14, Lison Cert. ¶2, Ex. A.

65. Count Four of Plaintiff's Complaint alleges that his five-day suspension is too severe and violates the principles of progressive discipline. Plaintiff's Complaint ¶30, Lison Cert. ¶3, Ex. B.

66. When asked the basis of Count Four, Plaintiff responded "I can't answer that. To my knowledge, I don't know." Pl. Dep. Tr. 106:24-107:5; 110:15-111:1, Lison Cert. ¶2, Ex. A.

67. Count Five of Plaintiff's Complaint alleges that Defendants violated Plaintiff's "First Amendment rights to free speech and to petition the government as guaranteed by the United States Constitution in violation of 42 U.S.C. §1983 by disciplining and retaliating against Plaintiff because of his protected speech concerning his union activity." Plaintiff's Complaint ¶32, Lison Cert. ¶3, Ex. B. Plaintiff also alleges that in "violation of 42 U.S.C. §1983, Defendants violated Plaintiff's Constitutional rights by taking disciplinary action against him on the basis of his protected associations under the First Amendment to the United States Constitution." Id. at ¶33.

68. This claim is based solely on Plaintiff's November 2, 2010 email. Pl. Dep. Tr. 111:2-12, Lison Cert. ¶2, Ex. A. Plaintiff also clarified that "everything . . . is based on the November 2, 2010 email." Id.

69. With respect to Plaintiff's claim that Defendants' violated Plaintiff's right to petition the government, Plaintiff testified that this claim is based solely on his November 2, 2010 email and his "right to speak out against a government



agency." Id. 111:13-112:5. Plaintiff stated, however, "I didn't draft this, I don't, I don't know." Id.

70. With respect to Plaintiff's claim that Defendants took disciplinary action against him based on his protected associations, Plaintiff testified only that the November 2, 2010 email is protected speech. Pl. Dep. Tr. 112:6-15, Lison Cert. ¶2, Ex. A; see also Plaintiff's Answers to Defendants Union County Prosecutor's Office and Prosecutor Romankow's Request for Interrogatories at Interrogatory No. 5, Lison Cert. ¶9, Ex. H.

71. With respect to Plaintiff's claim that Defendants violated his rights pursuant to 42 U.S.C. § 1983, Plaintiff said that this claim involves his "protected speech as a union representative," namely his November 2, 2010 email. Pl. Dep. Tr. 112:16-113:5, Lison Cert. ¶2, Ex. A. Plaintiff testified, however, that the UCPO followed proper disciplinary procedures: Id. 113:9-15.

72. Count Six of Plaintiff's Complaint alleges that Defendants violated Plaintiff's rights under the New Jersey Constitution by retaliating against Plaintiff because of his protected speech and associations based upon his union activity. Plaintiff's Complaint at ¶35, Lison Cert. ¶3, Ex. B.

73. When asked the basis of Count Six, Plaintiff said that it relates solely to the November 2, 2010 email and that he was

disciplined for this email. Pl. Dep. Tr. 113:16-23, Lison Cert. ¶2, Ex. A.

**VI. Plaintiff's Deposition Testimony**

74. Plaintiff testified that as President of PBA Local 250, he is not responsible for evaluating the performance of superior officers. Pl. Dep. Tr. 51:25-52:3, Lison Cert. ¶2, Ex. A.

75. Plaintiff testified that as President of PBA Local 250, he is not responsible for evaluating the salary of superior officers. Id. 52:4-7.

76. Plaintiff testified that as President of PBA Local 250, he is not responsible for delegating the job functions of superior officers. Id. 52:8-11.

77. Plaintiff testified that as President of PBA Local 250, he is not responsible for the promotions of superior officers. Id. 52:12-14.

78. Plaintiff testified that cooperation between PBA Local 250 and the UCPO is important to the operation of the UCPO. Id. 53:4-8.

79. Plaintiff testified that he was "gloating" when he said that "it also appears that the prosecutor and this administration seem to get really upset when we're right." Id. 79:8-21.

80. During Plaintiff's deposition, he stated that Chief Buccino's salary is not at issue in the arbitration decision and that "it's not in there." Id. 81:3-9. Plaintiff also said that Chief Buccino's salary is not relevant to issues involving gasoline. Id. 81:14-17.

81. Plaintiff called Chief Buccino's practice of googling home addresses to ascertain mileage "silly." Id. 81:18-23.

82. Plaintiff also testified, that the salaries of \$140,000 and \$93,000 per year listed in his November 2, 2010 email do not relate to union positions, which are unpaid, but rather relate to salaries for UCPO positions. Id. 157:2-21.

83. Plaintiff testified "[a]s PBA president, if I'm acting in that capacity, I believe I can comment on whatever I want to comment on. It doesn't fall under the prosecutor's office." Id. 82:5-10.

84. Plaintiff admitted that if he had made the statement in the November 2, 2010 email regarding Chief Buccino "as a detective" it "absolutely" could be viewed as insubordinate. Id. 82:18-22. Plaintiff further said that he "wouldn't have made it as a detective." Id.

85. Plaintiff admitted that he cannot comment on superior officers' duties "as a detective." Id. 82:11-17.

86. Plaintiff agreed that the statement in the November 2, 2010 email regarding Deputy Chief Gregory Clay questioned his leadership. Id. 83:3-14; see Fact 41.

87. Plaintiff stated that if he had written the statement regarding Deputy Chief Clay "as a detective . . . it would be inappropriate." Id. 84:3-9.

88. Plaintiff agreed that as a detective, he cannot question the leadership of superior officers. Id. 84:24-85:5.

89. Plaintiff testified that Deputy Chief Clay never was a leader within the PBA and never has sought to be elected to a position within the PBA. Id. 158:20-24; 159:20-25.

90. Plaintiff agreed that his statement "Leadership by example Brother Clay" relates to his position as Deputy Chief of Detectives. Id. 159:5-19.

91. Plaintiff testified that he cannot question the leadership of superior officers as a detective, but that he may do so as PBA president. Id. 84:24-85:5.

92. Plaintiff admitted that he could have reworded the paragraph in the November 2, 2010 email pertaining to Deputy Chief Clay to be more respectful. Id. 85:10-15.

93. Plaintiff stated that the Arbitration Award does not address the leadership, respect or ambition of Deputy Chief Clay. Id. 85:18-22; 85:23-86:2; 86:3-7.

94. Plaintiff agreed that his "personal opinion" of Deputy Chief Clay has no bearing on PBA matters. Id. 86:8-14.

95. Plaintiff testified that he does not interact with Deputy Chief Clay often and that during his time in child abuse, he did not interact with him "at all." Id. 86:15-22. Plaintiff testified it "was few and far between when I saw him." Id. 87:10-16.

96. Plaintiff testified that there is no limit, except threats of physical violence or statements regarding employees' families, to what he can say about a superior officer or the Prosecutor while communicating regarding matters relating to the PBA. Id. 93:3-12.

97. Plaintiff testified that when he's acting as PBA President, "everything other than my membership and my contract takes a back seat." Id. 93:13-18.

98. Plaintiff maintains that there is no limit to what he can say in his capacity as PBA President. Id. 104:25-105:5.

99. Plaintiff testified that while he is acting as PBA President, he is not subject to UCPO Rules and Regulations. Id. 105:6-9.

100. Plaintiff testified that his five-day suspension constitutes minor discipline under New Jersey Civil Service Rules and Regulations. Id. 107:8-12.

101. Plaintiff could not identify any other UCPO employees who committed similar infractions but received less than a five-day suspension. Id. 107:13-16.

Respectfully submitted,

BAUCH ZUCKER HATFIELD LLC

By: 

Evan M. Lison

Attorneys for Defendants Union  
County Prosecutor's Office and  
Prosecutor Theodore J. Romankow

Dated: March 15, 2012