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STATE OF NEW JERSEY

In the Matters of Michael Mulcahy, *et al.*, City of Bayonne	**FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION**
CSC Docket Nos. 2016-819, *et al.* OAL Docket No. CSV 13798-15	

ISSUED: FEB 10 2017 (HS)

The appeals of Michael Mulcahy, Housing Inspector, Gary Parlatti, Field Representative Citizen Complaints,[1] and Michael Smith, Field Representative Citizen Complaints, of their layoffs from the City of Bayonne, effective July 17, 2015, were heard by Administrative Law Judge Thomas R. Betancourt (ALJ), who rendered his initial decision on November 2, 2016. Exceptions were filed on behalf of the appointing authority and a reply to exceptions was filed on behalf of the appellants.

Having considered the record and the ALJ's initial decision and having reviewed the testimony and evidence presented before the Office of Administrative Law (OAL) and having made an independent evaluation of the record, the Civil Service Commission (Commission), at its meeting on January 18, 2017, did not adopt the ALJ's recommendation to reverse the layoffs. Rather, the Commission upheld the layoffs.

DISCUSSION

Bayonne presented a layoff plan to the Division of Agency Services (Agency Services) via letter, indicating that due to reasons of economy and severe budget shortfalls, a layoff of its employees was necessary. The plan was approved in June 2015 and the General and Individual Notices of Layoff were subsequently

[1] Agency records indicate that Parlatti was appointed from the special reemployment list for Field Representative Citizen Complaints, effective July 19, 2016.

distributed. As a result, Mulcahy and Smith were separated from employment and Parlatti was demoted in lieu of layoff to the title of Keyboarding Clerk 1. Upon the appellants' appeals to the Commission, the matters were transmitted to the OAL for hearings as contested cases and were then consolidated.

In the initial decision, the ALJ noted that the appellants performed property code enforcement and handled citizen complaints. The appellants would respond to complaints and, when appropriate, issue warnings and summonses for code violations, and would appear in municipal court where the summonses were returnable. The ALJ also noted that the appellants' jobs were currently being performed by their co-worker Thomas Keyes, a Field Representative Citizen Complaints.

The ALJ found that although Bayonne had a budget deficit and needed to cut costs, it did not effectuate the layoffs due to reasons of economy and severe budget shortfalls. Bayonne offered, as the reason for the layoffs, a change in philosophy in the enforcement of the property maintenance code to a less aggressive approach. However, the ALJ determined that there was no credible evidence that this change in philosophy was put into place. Specifically, the ALJ found that neither the appellants, Robert Wondolowski, former Director of Municipal Services and the appellants' supervisor, nor Keyes were informed of the change in philosophy. Moreover, he found that no one from Bayonne ever issued a written memorandum regarding this change in philosophy. In addition, the ALJ determined that Bayonne did not do what it stated it would in its submission of the proposed layoff to Agency Services. Specifically, it did not reduce or eliminate stipends, it did not reduce overtime, all intern positions were not eliminated and the one intern that was eliminated was then hired by the Bayonne Municipal Utilities Authority, and it did not offer any seasonal positions to the appellants. The ALJ also noted that since the layoffs, Bayonne hired more than 100 new employees, promoted and granted raises to several employees and continued to hire seasonal employees, some of whom had been hired as full-time employees.

The ALJ deemed the testimony of all witnesses credible, with the exceptions of Wondolowski and Joseph DeMarco, City Administrator. With respect to Wondolowski, the ALJ determined that he contradicted his direct testimony on cross-examination. On direct examination, he stated that he did not speak with DeMarco regarding layoffs, that he did not discuss enforcement of property maintenance violations with DeMarco and that he did not tell the appellants to stop writing property maintenance violations. However, on cross-examination, he stated that he did discuss the budget and possibility of layoffs, that he did know of a change in philosophy regarding property maintenance code enforcement, that he recalled speaking with DeMarco about the number of violations issued and the need to be more passive in enforcement and that he told the appellants to stop writing property maintenance violations on several occasions. With respect to DeMarco, the

ALJ found his testimony regarding the change in philosophy not credible. Specifically, while DeMarco stated that he discussed this change in philosophy with others, there was no memorandum regarding any such meeting or meetings and there was no memorandum circulated to employees regarding this change in philosophy. The ALJ determined that DeMarco was the only witness who testified that there was a change in philosophy. All other witnesses, including Wondolowski, were unaware of the change in philosophy. Further, the ALJ found it inconceivable that there was no cost-benefit or savings projection analysis done or that a layoff plan could be conceived and implemented without any writing of any kind other than the letter to Agency Services. Based on the foregoing, the ALJ found that the appellants had demonstrated bad faith and found that the only reasonable conclusion for the layoffs was to remove the appellants from employment. The ALJ noted that although it was not established why Bayonne wished to remove the appellants, it was clear that the purpose of the layoff plan was their removal rather than for purposes of economy or budget shortfalls. Accordingly, as Bayonne did not effectuate the layoffs for reasons of economy, efficiency or other related reasons, the ALJ recommended reversing the layoffs.

In its exceptions, Bayonne maintains that the ALJ erroneously found Wondolowski not credible. In this regard, it notes that Wondolowski never testified on direct examination that he did not speak to DeMarco about the layoffs. Rather, he testified that he spoke to DeMarco about the budgets and inefficiencies in his department. It also notes that Wondolowski could not have testified on direct that he did not discuss enforcement of property maintenance violations with DeMarco and that he did not tell the appellants to stop writing property maintenance violations since he was not asked about these issues on direct examination. As such, Bayonne contends that there was no factual basis to find that Wondolowski's cross-examination contradicted his direct testimony.

Bayonne additionally maintains that the ALJ erroneously found DeMarco not credible. The ALJ stated that DeMarco was the only witness who testified that there was a change in philosophy. However, as Bayonne also states in greater detail below, multiple Bayonne employees testified that there was a change in philosophy after the Davis Administration took over in 2014. Bayonne also contends that the ALJ incorrectly relied on the fact that there was no memorandum or analysis regarding the layoff or change in philosophy. In this regard, it maintains that there is no statute, regulation or policy that requires Bayonne to produce an actual physical memorandum or analysis when instituting a layoff for reasons of economy, efficiency or other related reasons.

Bayonne also disputes the ALJ's finding of a lack of evidence that there was a change in the philosophy of aggressive property maintenance code enforcement. In this regard, Wondolowski testified that Bayonne was going to take a more passive approach to dealing with code violations and that the change in philosophy was to

issue fewer tickets. In addition, Keyes testified that Bayonne underwent a change in philosophy between administrations. Keyes testified that prior to the Smith Administration, he did not actively and punitively enforce the code. After the Smith Administration took over in 2008, he was told to start actively looking for code violations. Keyes testified that it was standard practice under the Smith Administration to write multiple summonses on a property owner even if the summonses were repetitive. After the Davis Administration took office in 2014, the program became less punitive and "went back to the way the job was supposed to be, which was to be rehabilitative to the neighborhood." Further, Laura Kline, a Personnel Technician, who worked directly with the appellants, testified that it was her understanding that when Mayor Davis took office, there was a determination not to actively look for property maintenance violations. Kline testified that there was a change in philosophy from the old administration and that she was in at least one or two meetings where Wondolowski told Keyes and the appellants to stop actively looking for property maintenance violations.

Bayonne argues that for reasons of efficiency, the change in philosophy necessitated a reduction in the number of employees handling code violations back to the same number of such employees prior to the Smith Administration when Bayonne was taking a more rehabilitative approach in enforcing and issuing code violations. It argues that the appellants did not offer evidence necessary to overcome Bayonne's presumption of good faith.

In their reply to exceptions, the appellants maintain that the ALJ's initial decision should be upheld. In a subsequent submission, the appellants also contend that the ALJ's initial decision became the final agency decision because the Commission's extension of time to consider the initial decision was not obtained prior to the expiration of 45 days following receipt of the initial decision.

Initially, the Commission will address the appellants' claim that the extension of time to consider the initial decision was untimely. Per *N.J.A.C.* 1:1-18.6(a), the agency head has 45 days to consider the initial decision. A request for an extension of this time period must be submitted no later than the day on which that time period is to expire. *N.J.A.C.* 1:1-18.8(b). In computing any period of time fixed by rule, the day of the act or event from which the designated period begins to run is not to be included. *N.J.A.C.* 1:1-1.4. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday or legal holiday. *Id.* An agency head may request a single extension of the time limit for filing a final decision for good cause. *N.J.A.C.* 1:1-18.8(e). He or she shall sign and forward a proposed order to the Director of the OAL. *Id.* If the Director of the OAL approves the request, he or she shall within 10 days of receipt of the proposed order sign the proposed order and return it to the transmitting agency head, who shall issue the order and cause it to be served on all parties. *Id.* In this case, the

Commission received the initial decision on November 2, 2016. Because 45 days from this date fell on Saturday, December 17, 2016, the time period to consider the initial decision ran until Monday, December 19, 2016 per *N.J.A.C.* 1:1-1.4. As such, December 19, 2016 also became the last day to request an extension, per *N.J.A.C.* 1:1-18.8(b). Here, the record reflects that the Commission requested the extension on December 19, 2016, and the request was approved on December 20, 2016. Per the approval, the time limit was extended to January 31, 2017. Therefore, the Commission secured a timely extension of time to consider the initial decision, which, therefore, did not become the final agency decision.

N.J.S.A. 11A:8-4 and *N.J.A.C.* 4A:8-2.6(a)1 provide that good faith appeals may be filed based on a claim that the appointing authority laid off or demoted the employee in lieu of layoff for reasons other than economy, efficiency or other related reasons. When a local government has abolished a position, there is a presumption of good faith and the burden is on the employee to show bad faith and that the action taken was not for purposes of economy. *Greco v. Smith*, 40 *N.J. Super.* 182 (App. Div. 1956); *Schnipper v. North Bergen Township*, 13 *N.J. Super.* 11 (App. Div. 1951). As the Appellate Division further observed, "That there are considerations other than economy in the abolition of an office or position is of no consequence, *if, in fact, the office or position is unnecessary, and can be abolished without impairing departmental efficiency.*" *Schnipper, supra* at 15. (emphasis added). The question is not whether the plan or action actually achieved its purpose of saving money, but whether the motive in adopting a plan or action was to accomplish economies or instead to remove a public employee without following *N.J.A.C.* 4A:8-1 *et seq.* Thus, a good faith layoff exists if there is a logical or reasonable connection between the layoff decision and the personnel action challenged by an employee. Additionally, it is within an appointing authority's discretion to decide how to achieve its economies. *See Greco, supra.*

Upon its *de novo* review of the record, including the testimony provided at the hearing, the Commission does not agree with the ALJ's recommendation to reverse the layoffs, and thus, upholds those actions. The Commission acknowledges that the ALJ, who has the benefit of hearing and seeing the witnesses, is generally in a better position to determine the credibility and veracity of the witnesses. *See Matter of J.W.D.*, 149 *N.J.* 108 (1997). "[T]rial courts' credibility findings . . . are often influenced by matters such as observations of the character and demeanor of the witnesses and common human experience that are not transmitted by the record." *See In re Taylor*, 158 *N.J.* 644 (1999) (quoting *State v. Locurto*, 157 *N.J.* 463, 474 (1999)). Additionally, such credibility findings need not be explicitly enunciated if the record as a whole makes the findings clear. *Id.* at 659 (citing *Locurto, supra*). The Commission appropriately gives due deference to such determinations. However, in its *de novo* review of the record, the Commission has the authority to reverse or modify an ALJ's decision if it is not supported by the

credible evidence. With regard to the standard for overturning an ALJ's credibility determination, *N.J.S.A.* 52:14B-10(c) provides, in part, that:

> The agency head may not reject or modify any findings of fact as to issues of credibility of lay witness testimony unless it is first determined from a review of the record that the findings are arbitrary, capricious or unreasonable or are not supported by sufficient, competent, and credible evidence in the record.

See also N.J.A.C. 1:1-18.6(c); *Cavalieri v. Public Employees Retirement System*, 368 *N.J. Super.* 527 (App. Div. 2004). The Commission finds that in this case, this strict standard has been met.

Therefore, based on its review of the testimony and the entire record, the Commission makes the following findings:

1) Wondolowski and DeMarco discussed citizen complaints regarding the number of tickets being issued. Those conversations resulted in a determination that the Municipal Services Department would take a more passive approach to dealing with code violations. This meant that employees would not go out looking for violations any longer.

2) Wondolowski was of the view that passive code enforcement did not require the same number of inspectors as was required under active code enforcement.

3) Wondolowski told the appellants to stop writing tickets. Appellant Smith indicated that there was a meeting at which DeMarco said that he wanted them to stop writing so many tickets and this was a change in philosophy. Appellant Mulcahy indicated that he was at a meeting with DeMarco where he was told to slow down.

4) Terrence Malloy, Chief Financial Officer, observed that the Davis Administration had a different philosophy compared to the previous administration. Malloy indicated that the property maintenance codes were being enforced by being reactive. If a citizen complaint came in, it would be looked at and an attempt would be made to rectify it. However, there were no longer roving patrols out looking to write tickets.

5) Kline observed that when Mayor Davis took office, there was a determination not to actively look for property maintenance violations, representing a change in philosophy compared to the previous administration.

6) Keyes observed that when Mayor Davis took office, the program returned to being rehabilitative.

7) Ganet Michane, Court Administrator, observed a diminishment in the number of tickets being written from the Municipal Services Department because there was only one person writing them.

In this case, upon review of the entire record, including the testimony provided at the hearing, the Commission finds that there is sufficient evidence in the record to overturn some of the ALJ's credibility determinations. In this regard, a review of the testimony reveals that Wondolowski's testimony was consistent. Specifically, he testified on direct examination that he spoke with DeMarco about budgets and inefficiencies and testified on cross-examination that he discussed the budget and the possibility of layoffs. As to the issues of whether Wondolowski discussed enforcement of property maintenance violations with DeMarco and whether he told the appellants to stop writing property maintenance violations, Wondolowski was not asked about these issues on direct examination. Accordingly, the Commission finds that it was unreasonable for the ALJ to have found Wondolowski not credible for that reason under these circumstances.

The Commission also disagrees with the ALJ's assessment of DeMarco's credibility. Contrary to the ALJ's finding, multiple witnesses, as indicated above, testified that there was a change in philosophy from active to passive code enforcement and that this change went into effect. In other words, these witnesses provided corroboration for DeMarco's testimony regarding the change in philosophy. As such, whether DeMarco prepared an additional memorandum noting the change in philosophy or a cost-benefit or savings projection analysis was performed, are not, in this particular case, relevant to his credibility. Thus, the Commission finds that it was unreasonable for the ALJ to have found DeMarco not credible under these circumstances.

Based on the foregoing, the Commission does not find that the layoffs were enacted in bad faith. Credible testimony indicated that Bayonne underwent a shift in its philosophy as to how it would enforce its property maintenance code, and this change was effected notwithstanding that it was not written. The change entailed a move from active code enforcement to passive code enforcement. Under the passive approach, Bayonne did not send employees into the field to look for violations and write tickets. Once Bayonne moved to the passive approach, it was reasonable for it to conclude that it no longer needed to maintain the same staff level. In addition, the actions taken by Bayonne such as other hirings, promotions and similar actions are not evidence of bad faith as it is clearly more efficient not to have three employees whose primary function is no longer required. Moreover, an appointing authority has discretion as to how it runs its operation. Furthermore, the appellants have not presented credible or convincing evidence to demonstrate that

their positions were targeted for discriminatory or other invidious reasons. Therefore, they have not met their burden of proof. *See e.g., In the Matter of Bergen County Layoff*, Docket No. A-5281-03T5 (App. Div. July 15, 2005) (The Appellate Division upheld the elimination of the position of Assistant Tax Administrator for Bergen County and found that it was based on legitimate budgetary reasons, finding that the appellant did not present any evidence that he was targeted for layoff based on his political affiliation). Accordingly, the ALJ's recommendation in this matter cannot be sustained, and the layoffs are upheld.

ORDER

The Civil Service Commission finds that the appointing authority's actions in imposing layoffs were justified. Therefore, the Commission upholds those actions and dismisses the appellants' appeals for the reasons noted above.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 18TH DAY OF JANUARY, 2017

Robert M. Czech

Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
P.O. Box 312
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Attachment

State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION
OAL DKT. NO. CSV 13798-15

MICHAEL MULCAHY, GARY PARLATTI,
AND MICHAEL SMITH,
Appellants,
v.
CITY OF BAYONNE, MUNICIPAL SERVICES,
Respondent.

Peter J. Cresci, Esq., for appellants (Cresci Law Firm, attorneys)

Alan C. Roth, Esq., and **Heather Knipper**, Esq., for respondent (Roth D'Aguanni, attorneys)

Record Closed: September 26, 2016 Decided: November 2, 2016

BEFORE: **THOMAS R. BETANCOURT**, ALJ

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Appellants appeal their layoff from employment by respondent alleging said layoffs were not done in good faith.

A prehearing conference was held on October 15, 2015, and a Prehearing Order was entered on October 19, 2015.

Respondent, through counsel, filed a motion to disqualify appellants' counsel, Peter J. Cresci, Esq., due to an alleged conflict with respondent, City of Bayonne. Said issue of conflict was raised via letter received by the OAL on January 26, 2016, from respondent's counsel. Appellants, via letter from appellants' counsel, also dated January 26, 2016, responded to the same. A formal motion to disqualify was filed by respondent on January 29, 2016. A formal response thereto was filed on February 3, 2016, which requested monetary sanctions pursuant to N.J.A.C. 1:1-14.14(b).

Attached to appellants' response to the motion to disqualify was a motion by appellant Gary Parlatti to his layoff/demotion. No response was filed regarding this motion. No order was entered regarding this motion. Appellant Parlatti again raises this motion in the written summation filed by appellants. Respondent was afforded the opportunity to respond to said motion. The motion will be addressed within the context of this Initial Decision.

Oral argument on the motion was held on February 4, 2016.

An Order denying the motion was entered on February 4, 2016. An Amended Order denying the motion was entered on February 17, 2016.

Respondent filed a request for interlocutory review of the Order denying the motion to disqualify counsel with the Director of OAL on February 11, 2016. The Director granted the request for interlocutory review by Order dated February 19, 2016. By Order dated March 7, 2016, the Director affirmed the Order denying respondent's motion to disqualify appellants' counsel

The hearing was held on April 1, 2016, April 11, 2016, and June 1, 2016. The record was kept open to permit the filing of written summations. Respondent filed its summation on September 1, 2016.

In appellants' summation, filed September 7, 2016, appellant Parlatti revisited his motion to repeal the layoff/demotion. Respondent was permitted to respond to the

motion and filed a responsive brief on September 26, 2016. The record was closed on September 26, 2016.

ISSUES

Were the layoffs of appellants conducted by respondent done in good faith; and, was notice of the layoff of appellant Parlatti served in accordance with N.J.A.C. 4A:8-1.6(a) and N.J.S.A. 11A:8-1(a).

SUMMARY OF RELEVANT TESTIMONY

Robert T. Wondolowski testified as follows:

He is the former director of municipal services for the City of Bayonne. He was in that position from July 1, 2014, to January 8, 2016. Municipal services covers the building department, parks, recreation, health department, office on aging, public library, planning and zoning, land use and permits. He supervised approximately fifty to sixty employees.

He knows the appellants. He knows they were laid off. Appellants were responsible for quality of life issues. They helped people with different needs. They were an arm of constituent services. They were responsible for heat complaints at some point. Appellants also worked on a task force regarding illegal apartments. He never had occasion to discipline appellants.

Mr. Wondolowski does not recall a layoff plan. He did speak with Business Administrator DeMarco, but not about layoffs. He and Mr. DeMarco spoke of inefficiencies. He never did a report on what layoffs would save the city of Bayonne. He did calculate savings if appellants were laid off. Mr. Wondolowski estimated the savings at $180,000 to $200,000, not including the costs of benefits.

Fine from violations issued by the appellants in the course of performing their jobs did not equal their salaries, but the total fines were close to the total salaries of appellants. There was no mandate to write summons to bring in money from fines.

He had regular meetings with appellants, and other employees. He spoke with appellants every day. Meetings were held with the entire health department about once per quarter. Appellants worked for municipal services. Mr. Mulcahy was the point person for Mr. Wondolowski.

Simon Sturgeon is an employee in municipal services. Mr. Sturgeon works more with the health department. He looks into complaints regarding bedbugs and hoarders. Mr. Sturgeon was not laid off and is currently employed by the City of Bayonne. Mr. Wondolowski did not think appellants' jobs were in jeopardy.

In May 2015 appellants took continuing education courses, were given a clothing allowance, and a stipend for cell phone use. He was not aware appellants would be laid off.

No one ever discussed with Mr. Wondolowski a philosophy of not enforcing property maintenance codes.

He discussed with appellant Smith wherein Smith asked about attending school for construction code enforcement. He thought it would be a good idea.

Mr. Wondolowski did not serve appellants with their respective layoff notices. The layoff notices were dated June 2, 2015. He spoke with appellant Mulcahy after the layoff notice regarding his cell phone stipend.

During his tenure with Bayonne Mr. Wondolowski gave a differential raise to Rich Belinsky when he became the acting construction official. His salary was raised from $85,000 to $102,000. He was not sure if other employees received differential raises or stipends during his tenure with Bayonne.

He hired Jennifer Seabach with the permit group in municipal services at approximately $32,000. He also hired another in the permit group at the same salary.

Mr. Wondolowski thought Tom Keys "would pick up the slack" when appellants were laid off. He does not know why Mr. Keys was not laid off.

He was never told the Fire Department would inspect one and two family homes.

Several employees under his supervison were granted overtime. Overtime for the clerk to the zoning board and planning board could have been avoided by changing the times of meetings. This was not done.

Ramon Veloz was hired during Mr. Wondolowski's tenure to handle heat complaints on weekends. Mr. Wondolowski was unsure of the pay rate, but it was "maybe" $16 per hour. Mr. Veloz would check the heat complaint hot line to see if there were any complaints.

Appellants also took photographs of properties for use on tax appeals. He was not sure who did this task after appellants were laid off.

Appellants were union members. The collective bargaining agreement (CBA) governed wages, stipends, clothing allowances, cell phone stipends, and other matters.

There were no memorandum or other writing regarding a change in philosophy regarding property maintenance code enforcement.

Deborah Falciani testified as follows:

She is employed by the City of Bayonne as a confidential assistant and works in the personnel department. She works with the mayor and business administrator.

She was unaware of a budget deficit for the City of Bayonne. She was not told there was a need to save money.

Since appellants were laid off more than one hundred employees have been hired by the City of Bayonne. All receive health insurance and pension benefits. All employees, whether union or non-union, receive a yearly one-and-one-half percent raise. This raise is in the CBA.

She served appellant Smith with the layoff notice personally. She sent appellant Parlatti his layoff notice as an attachment in a text message sent to Mr. Parlatti's cellular telephone. Mr. Parlatti was on vacation at the time. Mr. Parlatti did acknowledge he received the text message and attachment. She personally handed Mr. Parlatti the layoff notice when he returned from vacation. Mr. Parlatti signed the layoff notice the following week, but dated it June 2, 2015. She knew that the statute required a forty-five-day notice prior to a layoff. Mr. DeMarco served Mr. Mulcahy with his layoff notice. She was present at the time.

Ms. Falciani was not aware of any memos or other writings regarding layoffs. She had no discussions regarding layoffs. She is also unaware of a passive enforcement policy regarding property maintenance code enforcement. She was never told of budget shortfalls. She was never told of implementing a hiring freeze, furloughs, or reducing working hours.

Vincent Rivelli was hired as the Health Officer at a salary of $150,000 after appellants were laid off. There were other new hires after appellants were laid off. She prepared the letter from Mr. DeMarco to the Civil Service Commission (CSC) regarding the proposed layoffs. (R-1.) She prepared the lists of new hires and terminations. (R-20, R-21, and R-24.)

She was never told of a hiring freeze, or about furloughs or about less work hours. She was never told about a budget shortfall. There was one intern position eliminated and that person was then hired in the Bayonne Economic Development

Authority. New seasonal employees were hired. Appellants were not offered seasonal positions.

Ramon Veloz testified as follows:

He was hired as a part time housing inspector in October 2014. His employment with the City of Bayonne ended in April 2015. He worked weekends checking on heat complaints and was trained by appellant Mulcahy. He requested a part-time job from a city councilman after working on the current mayor's election campaign. He was never told not to write summonses. He never saw a job announcement. He was not interviewed for his position. He was hired by Mr. Wondolowski and then shown what to do.

Charles Freyer testified as follows:

He has been employed by the City of Bayonne for twenty years. He is presently a mechanic in the Department of Public Works (DPW). He is the president of the union local. Other than appellants and Rose Lillo he is unaware of any other layoffs. He had a meeting with Mr. DeMarco regarding the layoffs. He was informed of a meeting, but not told why. He was not provided with any writing regarding the proposed layoffs of what the cost savings would be. He never spoke with Mr. Wondolowski about the layoffs. He was not aware overtime would be curtailed. The DPW gets overtime. Employees still receive $1,500 stipend for cellular telephone. Tom Keys still uses a city vehicle. The use of the vehicle stopped for a short time, but was reinstated after the layoffs. Seasonal employees were not eliminated. Seasonal employees are hired around Memorial Day. Some stay on as seasonal employees after six months with being hired full time.

Joseph Nichols testified as follows:

He is the tax assessor for the City of Bayonne and has been since 2000. He is also an attorney and works for the Bayonne Municipal Utilities Authority (MUA) as

general counsel. He knows appellants and has interacted with them on tax appeals. Appellants took photographs of properties for tax appeals. Appellants were helpful and performed well.

He receives a $750 stipend for possessing his license. He was never asked to relinquish the stipend. He was never told the city property maintenance code would not be enforced. This was never discussed at a council meeting.

Laying off three employees would not solve Bayonne's budget problem. Hiring more than 100 employees without generating income would have a negative effect on the budget.

Gina Persia testified as follows:

She is employed by the City of Bayonne as a senior accountant. She reviewed the new employee process. New hire information is received from Debbie Falciani. Salaries are established by the director of the department. Since July 1, 2014, she believes around 100 new employees were hired. She is aware that some employees lost stipends. She is aware that some employees were promoted and that some raises were given. There were no permanent hires in the Municipal Services Department except for one: Teresa Troglio in the Office on Aging.

Brian Kotter testified as follows:

He is a firefighter in the Bayonne Fire Department and has been for nine years. He also works as a State housing inspector on his days off. In that position he inspects multiple dwelling units. He does not inspect one- and two-family homes. He has worked with appellants on an illegal apartment task force on a couple of occasions.

Gary Chmielewski testified as follows:

He is the director of DPW and has been since 2007. He has been a city employee since 1997. He sees appellant Parlatti at work but does not know what his present job is. Appellant Parlatti has worked for him in the past. DPW continues to use seasonal employees. Three seasonal DPW hires are now permanent employees. They were hired to replace retiring employees. These positions were not offered to appellants.

Tom Keys is a property maintenance inspector. He signs in at DPW but does not work at DPW. He works in the Health Department. He is not sure why. He does not know if Mr. Keys has a city vehicle.

When Mr. DeMarco became business administrator he told Mr. Chmielewski to reduce overtime and cut costs where he could.

Laura Kline testified as follows:

She is employed by the City of Bayonne in the Health Department. She has worked with appellants. She explained Spatial Data Logic (SDL), a computer program used by Bayonne for tracking property code enforcement. Mr. Wondolowski told her that the city was not going to enforce property maintenance violations. This was before appellants were laid off. She is not aware of a policy where inspectors were to write sufficient violations to generate fines to cover their salaries. She was at a meeting a month or two before the layoffs, where Mr. Wondolowski told appellants their jobs were safe.

Tom Keys still does inspections and uses a city vehicle. He does not write summonses anymore and does not go to court. This has been the case since appellants were laid off.

Thomas Keys testified as follows:

He is employed by the City of Bayonne and has been for thirteen years. His title is Citizens Complaints. He was not affected by the layoffs. He works under DPW. Appellants are his peers. He works out of the Health Department. He still does property maintenance inspections. No one told him to discontinue this. At one point there were six inspectors, then four. Now he is the only one. He drives a city vehicle and takes it home after work. SDL is the computer program used to enter code violations. Mr. Wondolowski never asked to see an SDL report.

Ganet Michane testified as follows:

She is employed by the City of Bayonne as the Certified Court Administrator. She is an employee for forty-one years. She prepared R-24, R-26, and R-27. These are breakdowns of the number of tickets each appellant wrote, the amount of fines assessed, and the amount of fines collected. She described the appellants' role in a court proceeding regarding any code enforcement tickets they wrote.

Terrence Malloy testified as follows:

He is the Chief Financial Officer (CFO) for the City of Bayonne. He became aware of the layoffs the day it happened: July 2, 2015. He attended meetings where layoffs were discussed in general, but not specific to the appellants. He recalls discussing savings of $70,000 to $100,000 per employee laid off. There were no reports prepared regarding cost savings for the layoff of appellants. The number of employees have increased during the present administration. He is aware the employees have been promoted. He is aware that seasonal employees have been hired. Overtime has not been eliminated. Stipends have not been eliminated. He had no specific communication with Mr. DeMarco regarding the layoff of appellants. There were no discussions regarding the non-enforcement of the property maintenance code. Non-union employees receive the same raises that union employees receive pursuant to the Collective Bargaining Agreement (CBA). Appellant Parlatti was not terminated.

He was demoted. He does not know why. Vincent Rivelli was hired as the Health Officer at a salary of $150,000. Mr. Rivelli is the health officer for several municipalities but paid by Bayonne. Bayonne is to receive reimbursement from the other municipalities pursuant to a shared services agreement. To date there has been no reimbursement. There has been a $1.2 million increase in personnel costs from 2015 to 2016.

Vanessa Lynn Bryant-Dale testified as follows:

She is employed by the City of Bayonne as a Municipal Services Clerk. She knows appellants. They worked in the Health Department and handled complaints. She reported to Mr. Wondolowski. There was no meeting to discuss layoffs. She is in charge of cell phone stipends. All three appellants received cell phone stipends. All three appellants had the use of a city vehicle. There were no meetings to discuss enforcement of the property maintenance code.

Joseph DeMarco testified as follows:

He is the City Administrator for Bayonne. He was appointed in July 2014 when the newly elected mayor took office. He had several meetings with the city attorney, the CFO, the personnel department, Mr. Wondolowski, and the mayor to discuss layoffs. There are no memoranda or writings regarding these meetings. He wrote the letter to CSC regarding the proposed layoffs. He hired seasonal employees in the Department of Public Works. Overall over 100 new employees have been hired since July 2014. Seasonal employees were hired full time in DPW after appellants were laid off. These positions were not offered to the appellants. He reviewed several new hires and promotions. There was no memorandum regarding passive enforcement of the property maintenance code. He did discuss passive enforcement with others. Appellant Parlatti had "bumping rights" to a lower civil service position when the layoffs occurred. He bumped Rose Lillo, who was laid off. He met with the union president to advise him of layoffs. There is no written memorandum of the meeting. He was never served with a grievance regarding the layoffs by the union.

Gary Parlatti, testified as follows:

He is employed by the City of Bayonne and has been since 2007. He has been a full-time employee since December 2009. He had been working as a field representative for citizen complaints since February 2012. He did enforcement of all non-police-related ordinances. Prior to that he was a Key Boarding Clerk II. This included heating complaints, housing violations. He also did community service by speaking with constituents. He was also part of an illegal apartment task force. He worked in the third ward of the city. The summonses he wrote were returnable in Bayonne Municipal Court. He worked with Tom Keys and the two other appellants. Simon Sturgeon also worked with him in the Health Department regarding animal-related issues.

On June 2, 2015, he received a telephone call from Donna Russo from the law department. He was on vacation at that time. He was advised at this time he was being laid off. He believes he signed the notice of lay off on June 8, 2015, when he returned from vacation. Debbie Felciani handed him the notice. He received the notice as an attachment to a text message on his phone on June 2, 2015. He had bumping rights to the position held by Rose Lillo. She was laid off. He receives $12,000 less in salary from his previous position. He never received anything in writing regarding enforcement of property maintenance violations.

Rose Lillo worked in the building department. He has never reported to the building department. He has never performed Rose Lillo's job. Rose Lillo was not working when she was bumped.

Michael Smith testified as follows:

He became an employee for Bayonne in February 2012. Prior to that he worked at the MUA. He was laid off as a field representative where he had handled citizen complaints. He covered the second ward of the city. Tom Keys covered the second

ward. He never received a memorandum regarding a change in philosophy regarding the enforcement of the property maintenance code.

Michael Mulcahy testified as follows:

He was hired in January 2011 as a housing inspector. Initially he only answered complaints. Three more individuals then came on board: Appellant Parlatti; Appellant Smith; and Tom Keys. They were already Bayonne employees and transferred. He trained them. He was the supervisor of appellants Parlatti and Smith. In May 2015 Mr. Wondolowski told him he was doing a good job. He told the same to appellant Smith. He never heard of a change in philosophy regarding the enforcement of the property maintenance code. He also took photographs of properties for property tax appeals. He received a cell phone stipend and a clothing allowance prior to the layoff. He received his layoff notice on June 1, 2015.

CREDIBILITY

When witnesses present conflicting testimonies, it is the duty of the trier of fact to weigh each witness's credibility and make a factual finding. In other words, credibility is the value a fact finder assigns to the testimony of a witness, and it incorporates the overall assessment of the witness's story in light of its rationality, consistency, and how it comports with other evidence. Carbo v. United States, 314 F.2d 718 (9th Cir. 1963); In re Polk, 90 N.J. 550 (1982). Credibility findings "are often influenced by matters such as observations of the character and demeanor of witnesses and common human experience that are not transmitted by the record." State v. Locurto, 157 N.J. 463 (1999). A fact finder is expected to base decisions of credibility on his or her common sense, intuition or experience. Barnes v. United States, 412 U.S. 837, 93 S. Ct. 2357, 37 L. Ed. 2d 380 (1973).

The finder of fact is not bound to believe the testimony of any witness, and credibility does not automatically rest astride the party with more witnesses. In re Perrone, 5 N.J. 514 (1950). Testimony may be disbelieved, but may not be disregarded

at an administrative proceeding. Middletown Twp. v. Murdoch, 73 N.J. Super. 511 (App. Div. 1962). Credible testimony must not only proceed from the mouth of credible witnesses but must be in itself. Spagnuolo v. Bonnet, 16 N.J. 546 (1954).

Robert Wondolowski was not credible. On direct examination he stated he did not speak with Business Administrator DeMarco regarding layoffs. He also stated he did not discuss enforcement of property maintenance violations with Mr. DeMarco. On cross-examination his testimony directly contradicted his direct testimony. On cross he stated he did discuss the budget and possibility of layoffs. He also stated on cross that he did know of a change in philosophy regarding property maintenance code enforcement. He now recalled speaking with Mr. DeMarco about the number of violations issued and the need to be more passive in enforcement. On direct he stated he did not tell appellants to stop writing property maintenance violations. On cross he stated he told appellants to stop on several occasions. He clearly contradicted his own direct testimony on cross-examination. I deem him not credible.

Joseph DeMarco was not credible. His testimony was straightforward and direct. However, his testimony regarding the change in philosophy is simply not believable. While he stated he discussed this change in philosophy with others, there is no memorandum regarding any such meeting, or meetings. There is no memorandum circulated to employees regarding this change in philosophy. Most pointedly, he is the only witness that testified that there was a change in philosophy. All other witnesses, including Mr. Wondolowski, were unaware of the change in philosophy. Further, there are no memorandum regarding the layoffs. It is not conceivable, at least to me, that a layoff plan could be conceived and implemented without any writing of any kind, other than the letter to CSC. There was no cost benefit analysis. There was no savings projection analysis. I deem Mr. DeMarco not credible.

All other witnesses were credible.

FINDINGS OF FACT

I **FIND** the following **FACTS**:

1. Appellants Smith, Parlatti and Mulcahy were employees of the City of Bayonne.
2. Appellants Smith and Parlatti were employed as field representatives for citizens complaints. Appellant Mulcahy was employed as a housing inspector.
3. Appellants Smith, Parlatti, and Mulcahy were laid off from their positions, effective July 17, 2015. (R-4, R-6 and R-8.)
4. Bayonne requested approval of a layoff plan to layoff appellants from the CSC. (R-1.)
5. Bayonne's layoff plan was approved by CSC on June 1, 2015. (R-2.)
6. Bayonne issued a general layoff notice on June 1, 2015. (R-3.)
7. Bayonne issued individual layoff notices to the appellants on June 1, 2015. (R-4, R-6 and R-8.)
8. Appellant Parlatti had bumping rights to the position held by Rose Lillo. (R-9.)
9. Appellant Parlatti exercised his bumping rights to this position and is currently employed by Bayonne.
10. In its letter to CSC dated May 28, 2015, Bayonne, via Mr. DeMarco, informed CSC it took the following pre-layoff actions: reviewed and is reducing all over time appropriations; review of all provisional titles; reviewed all other expense accounts and made several reductions; eliminated all intern positions; and, review of all upcoming seasonal positions and would offer the opportunity to accept a seasonal position to anyone affected by the layoff.
11. Appellants Smith and Mulcahy were personally served with their respective individual layoff notices on or before June 2, 2015. Appellant Parlatti was not personally served with his individual layoff notice until June 8, 2015. Appellant Parlatti was advised of his pending layoff on June 2, 2015, via a telephone call from Donna Russo from Bayonne's law department. He received

an electronic copy of the individual layoff notice via a test message with the notice attached.

12. Since layoff Bayonne has hired in excess of 100 new employees.

13. Since the layoff Bayonne has promoted and granted raises to several employees.

14. Since the layoff Bayonne has continued to hire seasonal employees, some of whom have been hired as full-time employees.

15. Bayonne has never offered any seasonal employee position to any of the appellants.

16. Bayonne, while asserting a change in philosophy in the enforcement of the property maintenance code to a less aggressive approach, never articulated a change in philosophy to any of the appellants. There was no memorandum regarding the same. There was never a meeting regarding the same.

17. Bayonne did not appreciably reduct overtime payments.

18. Bayonne did not reduce stipends paid to employees.

19. Appellants performed property code enforcement for Bayonne and handled citizen complaints. They would respond to complaints and issue warnings, and summonses when appropriate, for code violations. They would appear in municipal code where the summonses were returnable.

20. The jobs performed by appellants Mulcahy, Smith, and Parlatti are now being performed by Tom Keys.

21. Robert Wondolowski was the direct supervisor of the appellants. He was never apprised of a change in philosophy regarding the enforcement of the property maintenance code. He was never told not to enforce the code. He was never told of any cost savings that would result from the layoff of the appellants.

LEGAL ANALYSIS AND CONCLUSION

An appointing authority may institute layoff actions for reasons of economy, efficiency, or other related reasons. N.J.A.C. 4A:8-1.1(a). On appeal from a layoff, the issue to be determined is limited to whether the appointing authority's action in effectuating the layoff was motivated by good-faith considerations of economy or

efficiency. The burden of proof is on the appellant to demonstrate a contrary or bad-faith motivation. N.J.S.A. 11A:8-4; N.J.A.C. 4A:2-1.4(c). Where it is shown that a layoff action was motivated by a bona fide desire or necessity to effect economy, the action taken is presumed to be in good faith. Greco v. Smith, 40 N.J. Super. 182, 189 (App. Div. 1956); Sieper v. Dep't of Civil Serv., 21 N.J. Super. 583, 586 (App. Div. 1952). Further,

> [t]he mere fact that the removal of an individual from the municipal payroll results in an economy is not the exclusive test, since such removal will always be manifested by a saving. The question is, not narrowly whether a plan conceived and adopted for the purposes of saving money actually, in operation, attained that purpose, but whether the design in adopting the plan was to accomplish economy or, on the contrary, was to effect the removal of a public employee, protected by civil service, without following the statutory procedure for removal. City of Newark v. Civil Service Commission, 112 N.J.L. 571, 574 (Sup. Ct. 1934), affirmed, 114 N.J.L. 185 (E. & A. 1935).
>
> [Greco, supra, 40 N.J. Super. at 190.]

Therefore, in proving that an appointing authority has acted in bad faith, the employee must show that the layoffs were not motivated by true considerations of economy and/or efficiency. It is not sufficient to meet the burden of proof for an employee to show that a layoff is uneconomical. Such evidence may assist the establishment of bad faith, but the employee must go further. He or she must show by sufficient proof that the layoffs resulted for reasons other than economy and efficiency. Amodio v. Civil Serv. Comm'n, 81 N.J. Super. 22 (App. Div. 1963); Chirichella v. Dep't of Civil Serv., 31 N.J. Super. 404 (App. Div. 1954); Prosecutors, Detectives and Investigators Ass'n of Essex County v. Hudson County Bd. of Chosen Freeholders, 130 N.J. Super. 30 (App. Div. 1974). Evidence may indicate that a mixture of motives existed in connection with a layoff decision. If other motives besides economy and efficiency were involved, it makes no difference so long as the position involved was useless and its abolition was in the public interest. Pellet v. Dep't of Civil Serv., 10 N.J. Super. 52, 57 (App. Div. 1950).

Other cases further define bad faith as "[g]enerally implying . . . design to mislead or deceive another . . . not prompted by an honest mistake as to one's rights or duties, but by some interested or sinister motive." In re Afolo, Dep't of Children and Family Services, CSV 4145-07, Initial Decision (Mar. 31, 2008) , adopted, Merit Sys. Bd. (May 22, 2008), <http://njlaw.rutgers.edu/collections/oal/> (quoting Brown v. State Dept. of Educ., 97 N.J.A.R.2d (CSV) 537, 541 (1997)). In trying to prove bad faith, the appellant has a very heavy burden to meet because bad faith is "not simply bad judgment or negligence," but the conscious doing of a wrong because of some dishonest purpose. Ibid.

The record established in the instant matter overwhelmingly demonstrates that Bayonne did not effectuate the layoffs due to reasons of economy and severe budget shortfalls. It is not disputed that Bayonne had a budget deficit and needed to cut costs. Bayonne offers as the reason for the layoffs of the appellants due to a change in philosophy in the enforcement of the property maintenance code. This simply does not hold water. There is no credible evidence that this change in philosophy was put into place. The appellants, who enforced the property maintenance code, were not informed of it. Their supervisor, Mr. Wondolowski, was not informed of it. Their co-worker, Tom Keys, was not informed of it. No one from Bayonne ever issued a writing, or other memorandum, regarding this change in philosophy. It is the appellants' burden to show bad faith. Greco, supra, 40 N.J. Super. at 190. In this matter they have done so.

Further, Bayonne did not do what they stated they would, or had done, in their submission of the proposed layoff plan to CSC. They have not reduced or eliminated stipends. They did not reduce overtime. Interns were not eliminated. One intern position was eliminated and that person was then hired by the Bayonne MUA. Bayonne did not offer any seasonal position to the appellants.

The only reasonable conclusion for the layoffs is to remove the appellants from employment. It is not established why Bayonne wished to remove the appellants, but it

is clear that the purpose of the layoff plan was their removal, and not for purposes of economy or budget shortfalls.

I **CONCLUDE** respondent did not effectuate the layoff of appellants for reasons of economy, efficiency or other related reasons. It effectuated the layoff to remove appellants from their employment.

I further **CONCLUDE** that appellants should be restored to their previous positions of employment with Bayonne immediately, and be awarded their salaries from the time of their termination, or in the case of appellant Mulcahy, from the time of his demotions, subject to mitigation for income earned during this period.

Motion to Repeal the Layoff/Demotion

Appellant Parlatti seeks the repeal of his layoff/demotion for failure of respondent to personally serve him his individual notice of layoff or demotion in accordance with N.J.S.A. 11A:8-1(a).

N.J.S.A.11A:8-1(a) states in pertinent part:

> A permanent employee may be laid off for economy, efficiency or other related reason. A permanent employee shall receive 45 days' written notice, unless in State government a greater time period is ordered by the commission, which shall be served personally or by certified mail, of impending layoff or demotion and the reasons therefor.

N.J.A.C. 4A:8-1.6(a) states in pertinent part:

> (a) No permanent employee or employee serving in a working test period shall be separated or demoted as a result of a layoff action without having been served by the appointing authority, at least 45 days prior to the action, with a written notice personally, unless the employee is on a leave of absence or otherwise unavailable, in which case by certified mail. If service is by certified mail, the 45 days shall

> be counted from the first date of notice by the United States Postal Service to addressee.

It is undisputed that appellant Parlatti was on vacation at the time the layoff notice was prepared. He was not served personally until June 8, 2015. The layoff took effect July 17, 2015, less than forty-five days from the time he was personally served. While appellant Parlatti acknowledges he knew of the layoff/demotion via a telephone call and text message, it is clear personal service was not effected until June 8, 2015, upon his return from vacation.

However, it is also clear that appellant Parlatti also received the notice via certified mail return receipt requested. The date of the return receipt stamp from the United States Postal Service is unclear. I **CONCLUDE** that service was effected in accordance with statute and rule by the use of certified mail.

Accordingly, I **CONCLUDE** that the motion to repeal the layoff/demotion should be denied.

ORDER

It is **ORDERED** that the appeal of the appellants be granted and that appellants be immediately returned to their positions of employment prior to the layoff, awarded appropriate back pay from the time of the layoff to their reinstatement (subject to mitigation for income earned during this period), benefits, seniority and counsel fees subject to N.J.A.C. 4A:2-2.12.

It is further **ORDERED** that appellant Parlatti's motion to repeal the layoff/demotion for improper service be **DENIED**.

I hereby **FILE** my Initial Decision with the **CIVIL SERVICE COMMISSION** for consideration.

This recommended decision may be adopted, modified or rejected by the **CIVIL SERVICE COMMISSION**, which by law is authorized to make a final decision in this matter. If the Civil Service Commission does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **DIRECTOR, DIVISION OF APPEALS AND REGULATORY AFFAIRS, UNIT H, CIVIL SERVICE COMMISSION, 44 South Clinton Avenue, P.O. Box 312, Trenton, New Jersey 08625-0312**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

November 2, 2016
DATE

THOMAS R. BETANCOURT, ALJ

Db

Date Received at Agency: November 2, 2016

Date Mailed to Parties: November 2, 2016

APPENDIX

List of Witnesses

For Appellants:

Robert T. Wondolowski, former Director of Municipal Services, City of Bayonne

Deborah Falciani, Confidential Assistant, City of Bayonne

Ramon Veloz, Housing Inspector, City of Bayonne

Charles Feyer, DPW employee, City of Bayonne

Joseph Nichols, Tax Assessor, City of Bayonne

Gines Persia, Senior Accountant, City of Bayonne

Brian Kotter, Fire Fighter, City of Bayonne Fire Department

Gary Chimielewski, Director of Public Works, City of Bayonne

Laura Kline, Personnel Department, City of Bayonne

Thomas Keys, Employee, City of Bayonne

Ganet Michane, Court Administrator, City of Bayonne

Terrence Malloy, CFO, City of Bayonne

Vanessa Lynn Bryant-Dale, Municipal Services Clerk, City of Bayonne

Joseph DeMarco, City Administrator, City of Bayonne

Gary Parlatti, Appellant

Michael Smith, Appellant

Michael Mulcahy, Appellant

For Respondent:

None

List of Exhibits

For Appellants:

A-1 Major Discipline Appeal Form Michael Mulcahy

A-2 Major Discipline Appeal Form Gary Parlatti

A-3 Major Discipline Appeal Form Michael Smith

A-4 Letter dated July 14, 2015, from Appellant Smith to Division of Appeals and Regulatory Affairs

A-5 Letter dated July 14, 2015, from Appellant Parlatti to Division of Appeals and Regulatory Affairs

A-6 Letter dated July 14, 2015, from Appellant Mulcahy to Division of Appeals and Regulatory Affairs

A-8 Appellant Mulcahy's personnel file

A-9 List and Salaries of Employees hired from July 2014 through December 31, 2015

For Respondent:

R-1 Letter from Joseph DeMarco to Kenneth Connolly, Director CSC re: Layoff Plan for three appellants, dated 5/28/15

R-2 Letter from Kenneth Connolly to Joseph DeMaraco re: Approval of layoff plan for three appellants, dated 6/1/15

R-3 General Notice of Layoff, All employees Department of Municipal Services, dated 6/1/15

R-4 Individual Notice of Layoff, Michael Mulcahy, dated 6/1/15

R-5 Letter from CSC to Mulcahy, advising of layoff and displacement rights, dated 6/22/15

R-6 Individual Notice of Layoff, Michael Smith, dated 6/1/15

R-7 Letter from CSC to Smith, advising of layoff and displacement right, dated 6/22/15

R-8 Individual Notice of Layoff, Gary Parlatti, dated 6/1/15

R-9 Letter from CSC to Parlatti, advising of layoff and displacement right, dated 6/22/15

R-10 Letter from CSC to Rose Lillo, advising of layoff and displacement right, dated 6/22/15

R-11 Letter from Stacey Walker, CSC to J. DeMarco advising final determination of layoff and excel spreadsheet, dated 7/28/15

R-12 Correspondence from CSC to Parlatti re: receipt of appeal w/ Parlatti's submission, dated 9/8/15

R-13 Correspondence from CSC to Smith re: receipt of appeal w/ Parlatti's submission, dated 9/8/15

R-14 Correspondence from CSC to Mulcahy re: receipt of appeal w/ Parlatti's submission, dated 9/8/15

R-15 Correspondence from Roth D'Aquanni to CSC re: response to appeals with exhibits, dated 10/15/15

R-16 Correspondence from CSC to Mulcahy re: proper determination of seniority and title rights; closing appeal, dated 11/20/15

R-17 Correspondence from CSC to Smith re: proper determination of seniority and title rights; closing appeal, dated 11/20/15

R-18 Correspondence from CSC to Parlatti re: proper determination of seniority and title rights; closing appeal, dated 11/20/15

R-19 Email from Debby Falciani to Stacey Walker, CSC re: City's meeting with Union Reps about Layoff, dated 5/28/15

R-20 City of Bayonne Retirement Termination List, June 2014-January 2016

R-21 City of Bayonne New Hire List, July 2014-March 2016

R-22 CSC House Inspector Job Description

R-23 CSC Field Representative, Citizens Complaint Job Description

R-24 City of Bayonne Department of Municipal Services New Hire List

R-25 Mulcahy-Ticket Report 2011-2015

R-26 Smith-Ticket Report 2011-2015

R-27 Mulcahy-Ticket Report 2011-2015

R-28 Letter from J. DeMarco to Kenneth Connolly, Director of CSC re: proposed Layoff Plan for three appellants, dated 4/21/15

R-29 Michael Mulcahy Personnel File

R-30 Michael Smith Personnel File

R-31 Gary Parlatti Personnel File

R-32 Correspondence from D. Falciani to G. Parlatti re: notification of layoff, dated 6/2/15

R-33 Certified Return Receipt signed by G. Parlatti re: notification of layoff