

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 3RD DAY OF MAY, 2023

Allison Chris Myers

Allison Chris Myers
Acting Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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Attachment



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

ON MOTION FOR

SUMMARY DECISION

OAL DKT. NO. CSV 01458-20

AGENCY DKT. NO. 2016-3718

ARMINDA MEDINA,

Appellant,

v.

JUDICIARY, UNION VICINAGE,

Respondent.

Richard P. Flaum, Esq., (DiFrancesco, Bateman, Kunzman, Davis, Lehrer & Flaum, P.C.), attorneys for appellant

Thomas Russo, Esq., Staff Attorney, (Meryl G. Nadler, Esq., Counsel to the Administrative Director of the Courts), attorney for respondent.

Record Closed: February 17, 2023

Decided: February 28, 2023

BEFORE: **JULIO C. MOREJON, ALJ:**

STATEMENT OF THE CASE

Appellant, Arminda Medina (Medina), appeals the decision made by respondent, Judiciary, Union Vicinage (Union Vicinage), terminating her employment from her position of Judiciary Clerk 3 due to her inability to perform her duties.

PROCEDURAL HISTORY

On January 28, 2015, Union Vicinage issued a Preliminary Notice of Disciplinary Action (PNDA), against Medina, seeking her removal at a “TBD” (time to be determined) from her position as Judiciary Clerk 3, due to Medina's alleged inability to perform her duties under N.J.S.A. 4A:2-2.3(a)3. Thereafter, Medina was served with the PNDA on July 28, 2015, and requested a hearing therein.

Following a hearing held on October 29, 2015, the charges contained in the PNDA were upheld, and a Final Notice of Disciplinary Action (FNDA) was issued on January 25, 2016, which sustained the PNDA charges, and Medina's termination was deemed a resignation in good standing effective January 25, 2016.

On March 7, 2016, Medina appealed the Civil Service Commission's decision and on March 23, 2016, the Civil Service Commission issued a decision denying Medina's request for a hearing, as it determined that Medina did not perfect her appeal of the FNDA within twenty days of her receipt of the FNDA.

On or about April 19, 2019, Medina filed a motion for reconsideration of her Civil Service made March 23, 2016. Thereafter, on January 29, 2020, the Civil Service Commission decided Medina's motion for reconsideration concerning the March 23, 2016 decision.¹ The Civil Service Commission ruled that Medina made a timely appeal of her termination by mailing her appeal of the FNDA on February 8, 2016.²

The matter was then transmitted to the Office of Administrative Law (OAL) for a hearing as a contested case, pursuant N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13, where it was filed on January 30, 2020.

This matter was initially scheduled for a telephone conference on March 17, 2020, but was adjourned due to the COVID-19 pandemic closure of all state offices. Eventually,

¹ The Civil Service Commission decision was made on January 29, 2020, but issued on January 31, 2020.

² The Civil Service Commission stated in its decision that Medina's motion for reconsideration was unopposed, which the Union Vicinage disputes.

telephone status conferences were held on November 19, 2020 and December 9, 2020. In the December telephone conference, the Union Vicinage requested leave to file a motion for summary decision, which was granted. A motion schedule was agreed to, and the parties filed their respective motion papers. Oral argument was held on April 1, 2021.

Pursuant to Executive Orders Nos. 103 and 127, the time to file a decision in any matter before the Office of Administrative Law was extended until January 3, 2022. On February 17, 2023, I closed the record herein.

FACTUAL DISCUSSION AND FINDINGS

The following factual discussion are undisputed, and I **FIND** the same as **FACTS** herein.³

Medina began her employment at the Union Vicinage on February 20, 1997 as a Clerk Typist. (Certification of Elisa Aloe (Aloe Certification) ¶ 3). In 2012, Medina held a Judiciary Clerk 3 (“JC 3”) title in the Family Division. Id. She was a “classified” or “career service” employee subject to New Jersey’s Civil Service law, N.J.S.A. 11A:1-1 et seq., and N.J.A.C. 4A: 1-1.1 et seq. Id.

On August 13, 2012, Medina reported being injured in a fall at work. She applied for Workers’ Compensation benefits that were approved effective September 24, 2012. Id. ¶ 4. Two days later Medina began an unpaid leave of absence, and never returned to work at the Union Vicinage. Id. On January 28, 2015 the Union Vicinage served Medina with a PNDA charging her with “inability to perform duties” pursuant to N.J.A.C. 4A:2-1.3(a)3. The notice was mailed to her home. Id. ¶ 5. The PNDA read:

Ms. Medina has been on leave since September 26, 2012, and therefore has been unable to perform her duties for the past two years and four months. During this time, the Family

³ As this matter involves both facts and procedures that are interrelated concerning an underlying event that occurred to Medina on August 13, 2012, and a legal proceedings filed in the Superior Court, Workers’ Compensation Court and the OAL, the factual discussion will contain references to legal procedures, which provide proper context herein.

Division has been without a Judiciary Clerk 3 to perform the critical court clerk duties, creating issues with coverage . . .

[Id. ¶ 5-6]

The PNDA informed Medina that the Union Vicinage sought her removal and advised that she could request a hearing on the discipline charge. Id. On October 29, 2015 at Medina's request, the departmental hearing was held before a hearing officer, Matthew Sapienza, Esq., an Administrative Office of the Courts (AOC) hearing officer (hearing officer). Medina was represented by Timothy Beck, Esq. (Beck) of DeFrancesco, Bateman, Kunzman, Davis, Lehrer & Flaum, P.C. Esq. Id. ¶ 6.

That same day, October 29, 2015, Medina filed a civil action (Complaint) against the Union Vicinage in the Superior Court, Union County. (Aloe Certification, Exhibit B). The Complaint was filed by the same law firm where Beck worked, and Richard Flaum, a named partner, (Flaum) the attorney of record in the within matter. Id. The Complaint asserted claims under the New Jersey Workers' Compensation Act and the New Jersey Law Against Discrimination, alleging that the PNDA and discipline requested by the Union Vicinage were unlawful "retaliatory adverse action" taken by the Union Vicinage because Medina received Workers' Compensation and was disabled. (Complaint ¶ 12-13 and Aloe Certification ¶ 7-8). Among the relief Medina sought in the Complaint, she requested back and front pay and "equitable relief in the form of reinstatement" to her position. Id.

On January 16, 2016 the hearing officer issued his recommendation in the within Civil Service matter, and on January 25, 2016, the Union Vicinage accepted the hearing officer's recommendation, and issued the FNDA, terminating Medina's employment effective the same date. (Aloe Certification, Exhibit D). On January 30, 2016, Medina was served with the FNDA (Aloe Certification, Exhibit F).

On February 23, 2016, the Union Vicinage was formally served with the Complaint. The Complaint was forwarded to the New Jersey Attorney General's Office where it was assigned to Deputy Attorney General, Deborah A. Hay (DAG). Sometime thereafter,

Robert Manetta, Esq. (Manetta) also with Flaum's law firm, assumed representation of Medina in the Superior Court matter. (Certification of Aloe ¶ 9).

The following month, in a letter dated March 4, 2016 and postmarked March 7, 2016, Medina, through representation by Flaum, appealed the FNDA to the Civil Service Commission, seeking reinstatement with full back pay. (Medina, Exhibit G). The appeal contended the termination was an unlawful "retaliatory act" under Workers Compensation law stating "[I]t shall be unlawful for any employer or his duly authorized agent to discharge or in any manner discriminate against an employee as to his employment because such employee has claimed or attempted to claim workman's compensation benefits from such employer . . ." N.J.S.A. 34:15-39.1. Id.

Medina argued in her March 4 appeal that, among other things, the hearing officer erred by failing to consider "that the Workers Compensation Act specifically bars employers from taking adverse employment action against employees" on approved workers compensation leave." Id. On March 23, 2016 the Civil Service Commission denied Medina's hearing request, finding her appeal untimely because it was not filed within the required 20-day limitations period. (Aloe Certification, Exhibit H).

On September 20, 2017, Medina's application for retirement was approved, by the State of New Jersey, Division of Pension and Benefits, effective August 1, 2017. (Aloe Certification, Exhibit L) .

In November 2018, a settlement of the Superior Court lawsuit was reached between Medina and the Union Vicinage. In exchange for a lump sum payment of \$325,000 from the Union Vicinage, on November 6, 2018, Medina executed an Unconditional Release, which contains the terms of settlement, along with a Stipulation of Dismissal with Prejudice and Without Costs (settlement) (Aloe Certification, Exhibit M).

The settlement contained the following relevant terms:

Release: This releases all claims, demands, damages, causes of action or suits which have been or could have been brought related

to the events that gave rise to the Complaint, including claims for attorney's fees and costs, any claims of which I am not aware, and any claims not mentioned in this Release. This Release applies to claims resulting from anything which has happened up to now and which may happen in the future, and specifically as full payment and satisfaction for any and all claims arising from:

- a. Property damage and personal injuries and damages sustained, including but not limited to (if applicable), medical expenses, pain and suffering, income loss, loss of spousal services and/or loss of consortium arising out of an incident which occurred on or about **January 25, 2016**⁴ which was the subject of a suit captioned **Arminda Medina v. The State of New Jersey Judiciary Union Vicinage** . . . and in any other litigation arising out of the same occurrence.

[Aloe Certification, Exhibit I]

Thereafter, Medina filed a motion for reconsideration of her Civil Service appeal with the Civil Service Commission (Certification of Counsel, Flaum, Exhibit A). On or about April 19, 2019,⁵ Medina filed a motion for reconsideration of the Civil Service decision made March 23, 2016, denying her appeal. Thereafter, on January 29, 2020, the Civil Service Commission decided Medina's motion for reconsideration concerning the March 23, 2016 decision.⁶ The Civil Service Commission ruled that Medina made a timely appeal of her termination by mailing her appeal of the FNDA on February 8, 2016.

On January 31, 2020, the Civil Service Commission granted reconsideration of Medina's appeal, citing an affidavit from Medina stating she had initially mailed her appeal form on February 8, 2016, within the statutory time frame for her appeal. (Certification of Counsel, Flaum, Exhibit J). The Civil Service Commission referenced that the Union Vicinage presented no opposition, Id., which the Vicinage disputes as it states they never received notice of the said motion for reconsideration (Aloe Certification, ¶¶17 and 18, Exhibit K).

⁴ On January 25, 2016, the Union Vicinage issued the FNDA, which sustained the PNDA charges, and Medina's termination was deemed a resignation in good standing effective January 25, 2016.

⁵ The actual filing date is not known, but Medina's motion for reconsideration is dated April 19, 2019, which is the date referred to herein.

⁶ The Civil Service Commission decision was made on January 29, 2020, but issued on January 31, 2020.

ARGUMENTS

Respondent

It is the Union Vicinage's position that both the Superior Court settlement entered into on November 18, 2018, and Medina's voluntary retirement effective August 1, 2017, bar her continued appeal from the Union Vicinage's determination contained in the FNDA, dated January 25, 2016, which is the claim date referenced in the settlement, and therefore a hearing before the OAL is unwarranted and improper. It is the respondent's position that the present appeal is part of the same nexus, transaction, or occurrence as the previously settled civil case before the Superior Court, thus rendering the present hearing "void". More technically speaking, the Union Vicinage argues that the expansive and extremely broad language contained in the Unconditional Release was meant to include and void all claims, before and after its execution by Medina on November 6, 2018, related to the FNDA decision made on January 25, 20156 terminating her employment.

Appellant

Medina argues that the settlement before the Superior Court makes no explicit mention of the pending action. Furthermore, Medina claims that the civil lawsuit in the Superior Court "had nothing to do with the pending Civil Service action." Medina urges that the FNDA issued on January 25, 2016, was not the "trigger" of the present appeal because her wrongful employment termination claim was filed in the Superior Court on October 29, 2015, which is prior to the FNDA issued on January 25, 2016.

Medina argues that she "...does not dispute the standard or that a settlement occurred, however it is clear from the record that Appellant wanted to return to work and there was no discussion regarding the then pending CSC appeal. New Jersey has a strong public policy of enforcing settlement agreements ... Here there is no agreement to enforce." (Medina, legal brief, page 5).

LEGAL ANALYSIS AND CONCLUSION

Pursuant to N.J.A.C. 1:1-12.5(b), summary decision “may be rendered if the papers and discovery which have been filed, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to prevail as a matter of law.” This rule is substantially similar to the summary-judgment rule embodied in the New Jersey Court Rules. See Judson v. Peoples Bank & Trust Co. of Westfield, 17 N.J. 67, 74 (1954). In Brill v. Guardian Life Insurance Co., 142 N.J. 520, 540 (1995), the New Jersey Supreme Court addressed the appropriate test to be employed in deciding the motion:

[A] determination whether there exists a “genuine issue” of material fact that precludes summary judgment requires the motion judge to consider whether the competent evidential materials presented, when viewed in the light most favorable to the non-moving party, are sufficient to permit a rational factfinder to resolve the alleged disputed issue in favor of the non-moving party. The “judge’s function is not . . . to weigh the evidence and determine the truth of the matter but to determine whether there is a genuine issue for trial.” If there exists a single, unavoidable resolution of the alleged disputed issue of fact, that issue should be considered insufficient to constitute a “genuine” issue of material fact for purposes of Rule 4:46-2.

[Citations omitted.]

In evaluating the merits of the motion, all inferences of doubt are drawn against the movant and in favor of the party against whom the motion is directed. Judson, 17 N.J. at 75. However, “[w]hen a motion for summary decision is made and supported, an adverse party in order to prevail must by responding affidavit set forth specific facts showing that there is a genuine issue which can only be determined in an evidentiary proceeding.” N.J.A.C. 1:1-12.5(b). The New Jersey Supreme Court has cautioned that, “if the opposing party offers no affidavits or matter in opposition, or only facts which are immaterial or of an insubstantial nature, a mere scintilla, . . . ‘[f]anciful, frivolous, gauzy or merely suspicious’ . . . , he will not be heard to complain if the court grants summary

judgment, taking as true the statement of uncontradicted facts in the papers relied upon by the moving party, such papers themselves not otherwise showing the existence of an issue of material fact.” Judson, 17 N.J. at 75 (citation omitted). Stated differently, “[b]are conclusions . . . without factual support in tendered affidavits, will not defeat a meritorious application for summary judgment.” U.S. Pipe & Foundry Co. v. Am. Arbitration Ass’n, 67 N.J. Super. 384, 399-400 (App.Div.1961).

Likewise, unsupported and self-serving statements, standing alone, are insufficient to create a genuine issue of material fact. Heyert v. Taddese, 431 N.J. Super. 388, 413-414 (App. Div. 2013). And, the “non-moving party cannot defeat a motion for summary judgment merely by pointing to any fact in dispute.” Brill, 142 N.J. at 529. Disputed issues of fact that are immaterial or of an insubstantial nature will not suffice. Ibid.; Worthy v. Kennedy Health System, 446 N.J. Super. 71, 85-86 (App. Div. 2016), certif. denied, 228 N.J. 24 (2016). Rather, “[c]ompetent opposition requires ‘competent evidential material’ beyond mere ‘speculation’ and ‘fanciful arguments,’” Cortez v. Gindhart, 435 N.J. Super. 589, 605 (App. Div. 2014), certif. denied, 220 N.J. 269 (2015) (citation omitted), and the party opposing the motion “‘must do more than simply show that there is some metaphysical doubt as to the material facts.’” Alfano v. Schaud, 429 N.J. Super. 469, 474 (App. Div. 2013), certif. denied, 214 N.J. 119 (2013) (citation omitted).

Judged against these standards, I **CONCLUDE** that there is no genuine issue as to any material fact and that the matter is ripe for summary decision.

Here, critical facts are not in dispute. The parties agree there was a settlement between them; that it was global, covering matters beyond the civil suit. However, Medina argues that the settlement specifically “exempted” only her Workers’ Compensation case, and not this appeal. The parties disagreement over whether Medina’s appeal is foreclosed by the settlement, concerns the same matters, as the Union Vicinage argues, or is based on separate issues not specifically exempted, as Medina argues, and this appeal should not proceed.

In seeking summary decision the Union Vicinage asserts that because "this appeal and the court action both arose out of the same set of facts, i.e., the Vicinage's initiation of a disciplinary action against the Appellant seeking her removal . . . [t]his appeal is foreclosed by the Unconditional Release" signed by Medina. I agree.

The Union Vicinage argues that Medina "received a lump sum payment of \$325,000 as compensation for all of her alleged injuries and damages and that unlike her Workers Compensation claim, the Appellant did not 'carve out,' or exclude, the present appeal from the terms of the Unconditional Release." (Respondent, Brief).

The January 25, 2016 date referenced in the release is noteworthy because it is the date of the FNDA, the document that formally notified Medina of her termination and triggered the underlying appeal and underscores the connection between the two legal actions. Medina does not challenge the validity of her settlement agreement with the Union Vicinage, but contends she is entitled to appeal her termination contained in the FNDA, and the issues it raises are different from those covered in the settlement. I disagree.

The main dispute here centers on whether links between Medina's settled lawsuit against the Union Vicinage and her Civil Service appeal herein support the Union Vicinage's argument that the settlement agreement and release covered and effectively disposed of the appeal. I **CONCLUDE** that it did and that the timeline of this case reveals multiple, significant points of connection that support the Union Vicinage's motion for summary decision. Namely, I **CONCLUDE** that the date the FNDA was issued, January 25, 2016, is the same date referenced in the settlement as "arising out of an incident which occurred on or about January 25, 2016" (Aloe Certification, Exhibit I).

As detailed above in the **Findings of FACT**, the lawsuit and the underlying appeal intersected on various dates and/or in quick succession, evidencing the nexus which the Union Vicinage argues herein were related:

- On October 29, 2015, Medina had her discipline hearing pursuant to the PNDA, and she also filed her lawsuit against the Union Vicinage in Superior Court.
- On January, 25, 2016, the day referenced in the release, the FNDA was issued, and Medina was served with the FNDA on January 30, 2016. Less than a month later on February 23, 2016, Medina served the Union Vicinage with the lawsuit filed four months earlier in Superior Court.
- The following month, in March 7, 2016, Medina appealed the FNDA to the Civil Service Commission, seeking reinstatement with full back pay. In the appeal she alleged the termination was an unlawful “retaliatory act” under Workers Compensation law, similar to the claims in her later-settled Superior Court lawsuit.
- On March 23, 2016 the Civil Service Commission denied Medina’s appeal as untimely.
- On September 20, 2017, Medina’s retirement was approved, effective August 1, 2017.
- In November 2018 she settled her lawsuit with the Union Vicinage, signing the “Unconditional Release” of claims central to this case.
- Five months later, by motion dated April 19, 2019, Medina sought reconsideration of her Civil Service appeal denying her appeal, and on January 31, 2020, the Civil Service Commission granted Medina’s relief sought in her motion for reconsideration, and she was allowed to proceed with her appeal of the FNDA.

I **CONCLUDE** that in light of the related developments of Medina’s case resulting in the FNDA, Workers’ Compensation claim and her Complaint in the Superior Court, as detailed herein, Medina’s assertion that there is no connection between the settlement of the civil case, and the Civil Service Commission appeal, is not believable. It is clear that Medina’s settlement of her Complaint in the civil lawsuit and her underlying appeal of the FNDA are related, and I **CONCLUDE** that the same is reasonable as the Union Vicinage contends that its decision in terminating Medina on January 25, 2016, was the nexus or facts giving rise to the civil lawsuit filed by Medina that resulted in the settlement on November 6, 2018.

I **CONCLUDE** that the date referenced in the Unconditional Release of “January 25, 2016”, is most notable herein, as it undermines Medina’s arguments that her settlement of the civil suit should not be interpreted to mean she also was settling the FNDA of the same date.

The issue of settlements and their impact on Civil Service Commission appeals has been heard in New Jersey courts, which as a matter of public policy have long favored preservation of settlement agreements – as both the Union Vicinage and Medina have noted in their briefs. Recently in In re Branham, 2017 N.J. Super. Unpub. LEXIS 2446, the Appellate Division upheld the dismissal of a Newark police officer’s appeal, first by the ALJ on jurisdictional grounds, then by the Civil Service Commission, which found that it had “the ability to determine whether the terms of the officer’s “duly executed settlement” of a lawsuit against the city “included the settlement of the disciplinary appeal.” The Civil Service Commission found that the broadly worded settlement release included the appeal, though as in this case the release did not specifically exempt it. Affirming, the Appellate Division reminded that “as a matter of public policy, the courts . . . favor the enforcement of settlement agreements,” (Citing Brundage v. Estate of Carambio, 195 N.J. 575, 601, 951 A. 2d 947 (2008)) and Nolan v. Lee Ho, 120 N.J. 465, 472, 577 A. 2d 143 (1990) “(holding that settlements will usually be honored “absent compelling circumstances.”). The court held that the release confirmed “the plain intention of the parties to resolve all of Branham’s claims, without exception.”

The Union Vicinage maintains that Medina’s appeal of the FNDA is rendered moot by her decision to retire effective August 1, 2017. An issue “is moot when our decision sought in a matter, when rendered, can have no practical effect on the existing controversy.” Red v. Bowman, 223 N.J. 87, 104 (2015). Mootness occurs when the original issue between those who began the litigation has been resolved. Comando v. Nugiel, 436 N.J. Super. 203, 219 (App. Div. 2014) (quoting DeVesa v. Dorsey, 134 N.J. 420, 428, (1993)). It is appropriate to refrain from decision-making when an issue presented is hypothetical, judgment cannot grant effective relief, or the parties do not have a concrete adversity of interest. Anderson v. Sills, 143 N.J. Super. 432, 437 (Ch. Div. 1976); Fox v. Twp. of E.

Brunswick Bd. of Educ., EDU 10067-98, Initial Decision (March 19, 1999), adopted, Comm'r (May 3, 1999), <http://njlaw.rutgers.edu/collections/oal/>.

A good-faith layoff appeal will be rendered moot by a retirement not made in haste or involuntarily. In the Matter of Annu Batra, Morris Cnty. Dep't of Admin., OAL Dkt. No. CSV 00532-15, Initial Decision (May 13, 2015), <http://njlaw.rutgers.edu/collections/oal/>; In the Matter of Joseph E. Tutela, III, City of Newark, OAL Dkt. No. CSV 06329-15, Initial Decision (May 23, 2016), adopted, Comm'r (August 22, 2016), <http://njlaw.rutgers.edu/collections/oal/>.

In the Matter of Christopher Bowles, City of Newark, the ALJ held that a police officer's appeal requesting counsel fees in his exceptions was rendered moot because he was approved for accidental disability retirement, after which the appointing authority amended its FNDA which was originally a removal from employment. In the Matter of Christopher Bowles, City of Newark, OAL Dkt. No. CSV 3256-09, Initial Decision (June 12, 2009), adopted, Comm'r (August 11, 2009), <http://njlaw.rutgers.edu/collections/oal/>.

In another case involving a settlement and retirement, an appellant employed by the Division of Family Development of the New Jersey Department of Human Services (DHS) was issued a PNDA and was also granted a departmental hearing. In the interim, appellant had settled with the Department of Human Services and had agreed to retire, thus rendering his desired appeal of his ensuing removal and retirement to the Merit System Board moot. Samuel Gopal v. Division of Youth and Family Services, OAL Dkt. No. CSV 4179-03, Initial Decision (March 1, 2005), adopted, Comm'r (April 13, 2004), <http://njlaw.rutgers.edu/collections/oal/>.

Moreover, I **CONCLUDE** that Medina's decision to retire effective August 1, 2017, after the Civil Service Commission's denial of her appeal on March 23, 2016, and prior to the settlement on November 6, 2018, contradicts and is incongruous to any argument that Medina makes herein seeking to reverse the FNDA's decision terminating her and the reinstatement of her position. Therefore, I **CONCLUDE** that her appeal of the FNDA

is thus moot and supports the Union Vicinage's claim that there are no issues of material fact present herein.

For the foregoing reasons, I **CONCLUDE** that the Union Vicinage's motion for summary decision is **GRANTED**, as Medina has already been granted a settlement from which the accompanying Unconditional Release terminated any past, present, or future claims regarding her employment termination by the Union Vicinage on January 25, 2016, the date of the FNDA.

I **CONCLUDE** further that New Jersey's case law also renders Medina's pursuit of the appeal of her FNDA before the OAL moot since she has additionally retired in the interim between the time of the FNDA notice and her desired OAL hearing on the matter.

ORDER

It is hereby **ORDERED** that the Union Vicinage's motion for summary decision is **GRANTED** and Medina's appeal of the FNDA is **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, PO 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.

February 28, 2023

DATE

Julio Morejon
JULIO C. MOREJON, ALJ

Date Received at Agency:

February 28, 2023

Date E-Mailed to Parties:

February 28, 2023

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APPENDIX

EXHIBITS

For appellant:

Letter brief in opposition to motion for summary decision
Certification of Counsel with Exhibits

For respondent:

Letter brief in support of motion for summary decision, certification of service, and
certification of Elisa Aloe with exhibits