

**STATE OF DELAWARE**  
**PUBLIC EMPLOYMENT RELATIONS BOARD**

<b>DELAWARE STATE AND FEDERAL EMPLOYEES</b>	:	
<b>LOCAL 1029, LABORERS INTERNATIONAL</b>	:	
<b>UNION OF NORTH AMERICA, AFL-CIO,</b>	:	
	:	
<b>Charging Party,</b>	:	
	:	
<b>v.</b>	:	<b><u>ULP No. 18-02-1137</u></b>
	:	
<b>STATE OF DELAWARE, JUSTICE OF THE PEACE</b>	:	<b>Decision on the Merits</b>
<b>COURT,</b>	:	
	:	
<b>Respondent.</b>	:	

**Appearances**

*Raymond G. Heineman, Esq., Kroll Heineman Carton, LLC for LIUNA LU 1029*

*Paul Muller, DHR/SLREP, for the State*

The State of Delaware (“State”) is a public employer within the meaning of 19 Del.C. §1302(p) of the Public Employment Relations Act, 19 Del.C. Chapter 13 (“PERA”). The Justice of the Peace Court (“Court”) is an agency of the State. Court #3 is located in Georgetown, Delaware, and handles criminal proceedings. It is the only Justice of the Peace Court in Sussex County which is in continuous operation, 24 hours each day, 7 days each week.

The Delaware State and Federal Employees Local 1029, Laborers International Union of North America, AFL-CIO, (“LIUNA 1029”) is an employee organization within the meaning of 19 Del.C. §1302(i). On February 9, 2018, LIUNA 1029 was certified as the exclusive bargaining representation of all regular full-time and part-time Judicial Case

Processors I, II, and III employed at Court #3. 19 Del.C. §1302(j).

On February 16, 2018, LIUNA Local 1029 filed an unfair labor practice charge alleging conduct by the Court in violation of 19 Del.C. §1307(a)(1) and (a)(3)<sup>1</sup>. The Charge alleged that the Court terminated a bargaining unit employee (identified for purposes of this decision as “KW”) because she engaged in protected activity, including joining the union and wearing a jacket with a LIUNA patch to work during the weeks preceding a representation election. LIUNA 1029 is seeking KW’s reinstatement to her prior position and that she be made whole for all lost wages and benefits.

On March 2, 2018, the Court filed its Answer to the Charge admitting the facts as they relate to KW’s employment but asserting KW was dismissed prior to the completion of her probationary period because she was unable to satisfactorily perform the duties of the Judicial Case Processor I position into which she was hired on March 6, 2017. The Court’s Answer included New Matter.

On March 19, 2018, LIUNA 1029 filed a Response to New Matter in which it denied the legal conclusions and affirmative defenses asserted by the Court. It argues the Court’s alleged reasons for dismissing KW are pretextual.

A Probable Cause Determination was issued on April 20, 2018, finding the pleadings were sufficient to establish that the Court may have violated 19 Del.C. §1307 (a)(1) and/or (a)(3), as alleged.

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<sup>1</sup> (a) It is an unfair labor practice for a public employer or its designated representative to do any of the following:

- (1) Interfere with, restrain or coerce any employee because of the exercise of any right guaranteed under this chapter...
- (3) Encourage or discourage membership in any employee organization by discrimination in regard to hiring, tenure or other terms and conditions of employment.

A hearing was held on May 30, 2018, and the record closed following receipt of responsive written argument submitted by the parties.

This decision is based upon consideration of the record created by the parties and consideration of their arguments and relevant case law.

### **FACTS**

The facts included herein are derived from the documentary and testimonial evidence presented by the parties.

KW was hired as one of two new Judicial Case Processors I at Court 3 on March 6, 2017. Her job duties included preparing paperwork for judges, processing payments, taking bonds, answering questions in a customer service role, transferring cases through the court system and processing court proceedings. KW reported directly to Roberta Jones, Judicial Case Processor Supervisor for Court 3; Ms. Jones reported to Debra Cahall, Judicial Operations Manager for Court 3; and Jill Malloy, Operations Manager for all Justice of the Peace Courts in Sussex County, as well as for one Court in Kent County.

KW was required to serve a one-year probation, during which she was provided training and was regularly evaluated. Her training record was provided by the employer. *Employer Exhibit 1*. When asked if the job of Judicial Case Processor at a Court is “difficult”, Ms. Malloy provided the following background:

No, not once you are completely trained. In the beginning it is very overwhelming. There are so many steps to remember, so many steps to learn. You have to remember you could potentially have someone’s life in your hands depending on what they are charged with.

... We pride ourselves on our training because we actually offer a training course that they attend and it can run, depending upon the trainers and how many are training, it runs just about six weeks.

It is pretty thorough. It gives them all the core things that they need to know when they come back to their home court, with the understanding

that each court will do things just a little differently, it is just the nature of the court, if you have different managers. So, therefore, there may be a slight way of a file [*sic*] or whatever from court to court.

But the basics are taught. Everybody learns the same thing. And when they come back to their home court then they are assigned to a trainer.  
*TR p. 129-130.*<sup>2</sup>

Following the six weeks of centralized training, KW was assigned to work with a Judicial Case Processor III (“Trainer 1”) at Court 3. By email dated July 17, 2017, to her two supervisors, Ms. Jones and Ms. Cahall, KW expressed ... some concerns ... about our workplace environment.” *Employer Exhibit 3*. KW related a series of four incidents with her assigned trainer which had occurred over the prior two weeks, and described their working relationship as tense. She stated she believed her trainer made false allegations against her and that she spread rumors. KW concluded the email by stating, “I feel as though I am always walking on egg shells. Even if I don’t do anything wrong, [*Trainer 1*] makes me feel as though I have done something wrong... I am begging the court system to please rectify this situation.” *Employer Exhibit 3*. In response, Ms. Jones accommodated KW’s concerns and assigned a second trainer (“Trainer 2”) to work with KW and also engaged in personally checking in with KW. Ms. Jones later assigned KW to work the midnight shift with a third trainer (“Trainer 3”) in order to provide more direct contact in a slower work environment.

During the probationary period, employees are required to place all of the case files on which they have worked in a bin<sup>3</sup> for review by the Judicial Case Processor Supervisor. Once an acceptable level of proficiency is reached, probationary employees are cleared to

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<sup>2</sup> References to the transcript of the May 30, 2018 hearing will be denoted as “TR” with page number.

<sup>3</sup> The “bin” was also referred to by some witnesses as a “basket”. For consistency, it will be referred to as a “bin” or “bin review” in this decision.

file their completed paperwork directly in case files, although any Judicial Case Processor may be periodically asked to submit to a bin review. KW was still filing in the bin as of December 20, 2017, more than nine months into her probation. The co-worker who was hired the same day as KW was cleared to file directly in the case files about six months into his probationary period.

All probationary employees are evaluated and provided with a New Hire Performance Review every three months. The quarterly reviews include feedback on the employee's attendance and tardiness; lists all the training the employee has received; identifies areas in which the employee needs to improve; and establishes goals for the employee over the next three month review period. Each review is discussed in a meeting between the probationary employee and her supervisor. At the conclusion of the meeting, both signed the review following the statement: "We have met and discussed this document. As a probationary employee we will continue to review your performance."

KW was evaluated and attended a review meeting with Ms. Jones on June 21, 2017. *Joint Exhibit 2*. She was also evaluated and reviewed on September 10, 2017 (*Joint Exhibit 3*) and on December 1, 2017 (*Joint Exhibit 4*). During each of the reviews, concern was expressed that KW was unsure of herself, lacked confidence, and became easily flustered in dealing with certain judges and clerks. The reviews documented errors and emphasized that accuracy was important. Both KW and Ms. Jones signed all three New Hire Performance Reviews.

Ms. Malloy and Ms. Jones testified they spoke often about the progress of probationary employees. Both were involved in the decision to provide KW with new trainers after she expressed her concerns about Trainer 1. Ms. Jones testified that even after her trainer was changed, KW was still struggling. *TR p. 164*. At some point in early

November, Ms. Jones and Ms. Malloy contacted the Court's Human Resource office to discuss the process for releasing KW before the end of her probationary period. By email dated November 21, 2017, Ms. Malloy wrote to an HR Specialist III:

After talking with Robin Jones today in regards to probationary employee [KW] it is looking like we will be letting her go. Robin's reviews of her have reflected issues [KW] has had and continues with. Robin witnessed herself that after nine months, [KW] doesn't get it that preliminary hearings are automatic CCP cases. This is a basic concept she would have learned at BCE. Robin has had [KW] with three different staff members acting as trainers. *[The three trainers were named]*. *[Trainer 3]* is assigned to permanent 12-8 and Robin's thought was by putting her with *[Trainer 3]* on a quiet shift would help. There has been no improvement. *Employer Exhibit 5.*

In response to Ms. Malloy's question as to whether to proceed with the severance at that time or to wait until after [KW]'s nine month, the HR Specialist responded:

It sounds like you guys have worked with her as much as you could. Please proceed to let her go, remember she can voluntarily resign and if she chooses not too *[sic]* then you will dismiss her. I have attached the templates for both. Let me know when you will be talking to her. *Employer Exhibit 5.*

Ms. Jones testified that she requested that KW's release be postponed until after the Christmas holiday. Ms. Jones also testified that she personally liked KW and believed that she really tried to do a good job. Ms. Jones expressed disappointment that KW's employment at Court 3 did not work out.

On December 1, 2017, LIUNA Local 1029 filed a petition to be certified as the exclusive bargaining representative of the Judicial Case Processors at Court 3. On December 4, 2017, the Court Administrator notified Ms. Malloy that the certification petition had been filed.<sup>4</sup> Ms. Malloy then notified the Court 3 administration, specifically Ms. Cahall and Ms. Jones. Ms. Jones testified that neither she nor Ms. Cahall had any

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<sup>4</sup> TR. p. 135,

knowledge or awareness of organizing efforts prior to the communication from Ms. Malloy on December 4. She also testified Ms. Malloy directed them to remain unbiased, to express no opinions and to not discuss the organizing effort with any of the Judicial Case Processors.<sup>5</sup> There was no evidence presented to support a conclusion that the employer had any knowledge of organizing efforts prior to the filing of the petition. There was also no evidence presented that KW was directly involved in any organizing efforts.

On December 1, 2017, KW was scheduled and met with Ms. Jones for her 9-month review. *Joint Exhibit 4*. This review occurred prior to Ms. Jones' knowledge that the Judicial Case Processors were seeking to be represented by LIUNA. The written review again expressed concerns about KW's understanding of processes and procedures as well as the consistency of her work. The review noted the following areas needing improvement:

At nine months into probation, [KW] is still showing that she is unsure of herself when completing tasks. [KW] will do fine a whole shift processing tasks and then the next shift she works [KW] seems to be unsure of herself again even though she has completed several cases accurately. [KW] is still making mistakes she should not be making into her nine-month probationary time. I have observed [KW] stop and really think about completing a task. [KW] does refer to her notebook of instructions which is a good tool. In November, I witnessed [KW] questioning why the Judge did not check preliminary hearing for a CCP case on the bail and disposition sheet. I feel [KW] should have known which cases go to preliminary hearing and how to determine this on her own. This does concern me. [KW] tends to show nervousness when working with a certain clerk and or judge. It has been observed that [KW] tends to get defensive when her trainers are trying to explain processes to her. She has been advised that her trainers are only trying to help her. *Joint Exhibit 4*.

The review also summarized the individual training KW had received over the prior three months:

[KW] was out of work for approximately three weeks due to an injury.

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<sup>5</sup> TR. p. 169

[KW] has been given additional training in the last three months. [Trainer 2] had been assigned to be [KW]'s trainer. And then [Trainer 2] and [Trainer 1] were assigned together to train [KW]. Also, [KW] has been placed on the midnight – 8 AM schedule with [Trainer 3] to receive one on one training with a slower paced work environment, thus making this her third trainer which has given her multiple personalities to work with. I myself work with [KW] as much as possible. At this time, I am checking [KW]'S work. [KW] will be working by herself in the mornings of 12/2/17 and 12/3/17.<sup>6</sup> I feel that [KW] will gain confidence in herself by working alone. I will continue to check [KW]'s work performance and accuracy for the next few weeks to determine our next path of action. *Joint Exhibit 4.*

Again, this review was signed by both KW and Ms. Jones.

Consistent with her intent to continue to check KW's work, Ms. Jones scheduled a bin review with KW for December 20, 2017. KW was assigned to work the 4:00 p.m. – midnight shift that afternoon, but she testified she arrived at Court around 3:00 p.m. so that she could meet with Ms. Jones before the end of Jones' shift. KW arrived wearing a new tan jacket. *Joint Exhibit 7.* The front of the jacket had "RISE Master" embossed on the left side. The left sleeve had an American flag patch and the right sleeve had a patch which read, "ORGANIZE" and had "Laborers' Eastern Region Organizing Fund, LIUNA" embroidered around the outside of the patch. It is not immediately obvious that it is a jacket which indicates support for a union.

Claude Jones, a LIUNA representative and organizer, testified he provided KW with the jacket, at her request, in mid-December.

KW testified she wore the jacket to work on December 20 because it was a cold day, the jacket was very warm, and she liked it. Because it was new, the jacket attracted attention in the office. Judge Adams and Ms. Jones both commented on the "nice" jacket.

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<sup>6</sup> Ms. Jones reviewed the 67 cases processed by KW between December 1 and December 3, 2017. *Employer Exhibit 7.* The document includes a note at the bottom, "Great Job!", noting KW "worked alone from 8 – noon on Sat. 12/2 & Sun. 12/3".



When the Judge asked what the patches meant, KW responded they represented the union and stated she believed in what the union stood for because "... it creates a better atmosphere in the workplace." According to KW, the judge shook his head, said o.k., and left. She did not recall Ms. Jones saying anything. *TR p. 75 – 79.*

KW then met with Ms. Jones for a scheduled bin review after the conversation about her jacket. Employer Exhibit 6 reflects that Ms. Jones reviewed 70 cases with KW, of which six were incorrect. KW testified her bin review meeting on December 20 was standard, with Ms. Jones reviewing her work. When asked on cross-examination whether she was concerned before December 20 that her performance had not been good, KW responded, "I was concerned that – I mean, I don't even want to say me. We were all concerned, because you never know when you are going to be the target." *TR p. 93.*

Ms. Jones is responsible for scheduling all Court 3 staff. At some point prior to the Christmas holidays in 2017, Ms. Jones prepared and posted the scheduling calendar for Judicial Case Processors for January, February, and March 2018. KW was regularly scheduled to work each month.

On December 27, 2017, KW had another bin review meeting with Ms. Jones. At the conclusion of this review, Ms. Jones praised KW for doing a good job with her paperwork and announced to all of the staff present that KW was now cleared to file her work directly in case files, without further need to place them in the bin for review.

Shortly after the beginning of her shift on December 29, 2017, Ms. Jones called KW into her office and presented her with the letter of dismissal, which stated:

Pursuant to the State of Delaware Merit Rule 9.2, "Employees may be dismissed at any time during the initial probationary period. Except where a violation of Chapter 2<sup>7</sup> is alleged, probationary employees may

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<sup>7</sup> Merit Rule 2, Non-Discrimination: 2.1 Discrimination in any human resource action covered by these rules or Merit system law because of race, color, national origin, sex, religion, age,

not appeal the decision.”

[KW] started at Justice of Peace Court #3 on March 6, 2017. [KW] was given classroom training starting 3/13/17 - 4/4/17. Once [KW] was finished with classroom training she was assigned to three different trainers to capture different training techniques and personalities. Also, Debra Cahall the Judicial Operations Manager at Justice of the Court #3 [sic] and myself have worked one on one with [KW]. Also [KW] was placed with [Trainer 3], our midnight to 8 AM clerk for 1 week for continued training.

According to standards for a 9 month probationary clerk, [KW] is not where she should be. Thus, we are dismissing you from your position as a Judicial Case Processor I with the Justice of the Peace Court.

*Joint Exhibit 5.*

Ms. Jones testified that she tried to explain to KW that although she had recently done well with her paperwork and processing duties, that was only part of the job.<sup>8</sup> She testified that judges had approached her with concerns about KW’s competency when KW was, at times, the only clerk on staff.<sup>9</sup>

Both Ms. Jones and KW testified that during the December 29 meeting, Ms. Jones repeatedly asked KW if she wanted to resign her position rather than be dismissed. Ms. Jones testified resignation is offered when employees are unable to successfully complete their probationary periods, “... because you can collect unemployment. You can go for another job and have, you know, explain however you want to explain why you resigned. It is not going on your record that you were terminated.”<sup>10</sup>

On February 9, 2018, the Public Employment Relations Board conducted an in-

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disability, sexual orientation, gender identity, genetic information or other non-merit factors is prohibited.

<sup>8</sup> TR. p. 178 – 179.

<sup>9</sup> TR. p. 205 – 206.

<sup>10</sup> TR. p. 181. Merit Rule 6.4.10 states that an employment application for a State merit position may be rejected if, “The applicant has been dismissed from State service within the preceding three years.”

person election in Court 3, in which all eligible voters were permitted to cast ballots. LIUNA Local 1029 was certified as the exclusive bargaining representative of the unit of Court 3 Judicial Case Processors. KW was an eligible voter and cast a ballot in the election.<sup>11</sup>

### **ISSUE**

WHETHER THE JUSTICE OF THE PEACE COURT INTERFERED WITH THE PROTECTED RIGHTS OF EMPLOYEES AND/OR ENCOURAGED OR DISCOURAGED MEMBERSHIP IN LIUNA LOCAL 1029 BY DISCRIMINATION WHEN IT TERMINATED THE EMPLOYMENT OF AN EMPLOYEE DURING A CERTIFICATION ELECTION CAMPAIGN IN VIOLATION OF 19 DEL.C. §1307 (A)(1) AND/OR (A)(3).

### **DISCUSSION**

It is important, preliminarily, to make clear what is not before PERB. This charge is not about whether KW might have developed into a competent Judicial Case Processor had she received more training, been given more time, or been better understood. This charge does not raise an issue as to whether the Court had just cause to dismiss KW. The question raised by this Charge is whether the Court was improperly motivated when it dismissed KW based upon retaliation for her participation in concerted activity, which is protected under the PERA.

LIUNA Local 1029 bears the ultimate burden of proving its Charge by a preponderance of the evidence presented. The Charge alleges the Court engaged in

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<sup>11</sup> PERB Rule 4.3 (b) states, “All public employees who are included within the designated bargaining unit and who were employed as of the end of the pay period which immediately precedes an election or who were on approved leave of absence shall be eligible to vote.” I take administrative notice that KW was included on the Excelsior List provided by the employer.

conduct which interfered with, restrained or coerced KW because she exercised her right to engage in protected concerted activity and/or encouraged or discouraged membership in LIUNA 1029 by discrimination in regard to hiring, tenure or other terms and conditions of employment.

In *Wilmington Firefighters Association, Local 1590 v. City of Wilmington*,<sup>12</sup> PERB adopted the NLRB's *Wright Line*<sup>13</sup> analysis for evaluating whether an employer interfered or discriminated against an employee based on protected activity. In that decision, differentiation was made between pretextual and dual motive antiunion animus:

A 'pretextual' case involves a situation where there is no legitimate business justification for the action taken by the employer against the employee who has been engaged in protected activity, and the reason proffered either did not exist or was bit relied upon.<sup>14</sup>

The instant case is not a pretext case. In dual motive animus cases, the employer relies upon a legitimate, non-discriminatory purpose for its adverse employment action. The ultimate question to be answered is whether the adverse employment action was, in fact, taken because the employer sought to retaliate based (at least in part) on the employee's exercise of protected rights.<sup>15</sup>

For LIUNA 1029 to prevail in this case, it must first establish the following elements, by a preponderance of the evidence presented:

- 1) That KW was engaged or had engaged in protected activity prior to her dismissal;
- 2) That the Court's management had knowledge of her protected activity; and
- 3) That retaliation based on the protected activity was a substantial or motivating factor in the Court's decision to dismiss KW.

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<sup>12</sup> ULP 93-06-085, II PERB 937, 957 (1994).

<sup>13</sup> *NLRB v. Wright Line*, 251 NLRB 1083, 105 LRRM 1169 (1980).

<sup>14</sup> *Firefighters*, at p. 955.

<sup>15</sup> *Richard Flowers v. State of Delaware, Dept. of Transportation, Del. Transit Corp.*, ULP 04-10-453, V PERB 3447, 3466 (2005).

Upon establishing a *prima facie* case, the burden shifts to the employer to establish a legitimate business reason which supports its action, despite the employee's protected activity.<sup>16</sup>

LIUNA argues it has met its burden by presenting evidence which establishes 1) KW engaged in protected, concerted activity when she wore the jacket to work on December 20, 2017; 2) that the employer knew she was engaging in protected activity because KW expressed her pro-union sentiments in response to Judge Adams' question about the jacket; and 3) that the employer harbored animus against such activity. It asserts that the Court's animus is evident because the reasons stated for her dismissal just nine days after she wore the jacket to work were false and pretextual.

The evidence presented does not establish that KW was involved in LIUNA's effort to organize Judicial Case Processors at Court 3, prior to or after the filing of the petition. LIUNA concedes that the only protected activity she engaged in was wearing a jacket to work which included a single patch on the arm which was from LIUNA's Eastern Region Organizing Fund. The comments made by her co-workers and her supervisor reflect that no one recognized it as a "union jacket" until she was asked about it by Judge Adams. As such, the record does not support the conclusion that the Court was aware that KW was engaged in a protected activity until she responded to a Judge Adams' question.

There was no evidence provided which established the Court harbored animus toward LIUNA 1029 or KW.

Even if this single activity could be construed as a triggering incident, the record establishes that concerns about KW's performance and ability to be successful as a clerk

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<sup>16</sup> *Neal Eastburn v. State of Delaware, Justice of the Peace Court*, ULP 09-05-673, VII PERB 4549, 4557 (2010); *affirmed* VII PERB 4687 (2010).

at Court 3 were placed in question by the supervisory and managerial staff of the Court before they became aware on December 4, 2017, that LIUNA had filed a petition to represent Judicial Case Processors. KW's interim probationary reviews of June 21, September 10 and December 1, 2017, document concerns that her performance was inconsistent and that she was not developing or demonstrating the demeanor to effectively deal with people (including Judges and other clerks) and the variety, complexity, and volume of processes and issues which are routine for Judicial Case Processors working at Court 3.<sup>17</sup>

Although she was eventually determined to be competent in processing paperwork, the record also establishes that was only one aspect of the job. The reviews indicate concern that she was not developing the ability to handle a heavier case load and/or more complicated cases. The Court assigned numerous trainers to assist her, and also assigned her to work for a week on the midnight shift where the workload was less demanding. In the opinion of the supervisory and managerial staff, her performance did not improve sufficiently to warrant her successful completion of the probationary period.

LIUNA correctly asserts that the issue is not whether an employer has a legitimate justification for the discharge of an employee, but whether the business justification was the actual reason for the discharge. It argues that the temporal proximity between KW's dismissal on December 29, 2017, is sufficient to establish she was dismissed in violation of the employer's obligations under §1307(a)(1) and (a)(3).

LIUNA asserts that when Jones praised KW on December 27 in front of all the other staff, it supports an inference that her dismissal two days later was pretextual. The twelve-month probationary period provides the employer with discretion to determine

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<sup>17</sup> *Employer Exhibits 6 – 16.*

whether an employee can meet the demands of the job into which she was hired. The facts establish the reason given for KW's dismissal was not pretextual, and was developed by reviewing her job performance over the 10 ½ months of her employment. Standing on its own, the temporal proximity between KW wearing a jacket and explaining her support for organizing in a brief encounter in her workplace on December 20, and the Court's subsequent decision to end her probationary employment on December 29, is insufficient to establish that the Court was improperly motivated or acted to retaliate against KW in violation of the PERA. The record establishes the Court had a legitimate business reason for KW's dismissal from service prior to the end of her probationary employment.

Considering the record as a whole, LIUNA Local 1029 has not met its burden to establish that KW's dismissal prior to the end of the initial probationary period of her employment was based on a prohibited motive or that the Court would not have dismissed KW but for her engagement in protected activity by wearing a union jacket to work on December 20, 2017.

### **CONCLUSIONS OF LAW**

1. The State of Delaware ("State") is a public employer within the meaning of §1302(p) of the Public Employment Relations Act, 19 Del.C. Chapter 13 ("PERA"). The Justice of the Peace Court ("Court") is an agency of the State. Court #3 is located in Georgetown, Delaware, and handles criminal proceedings.

2. The Delaware State and Federal Employees Local 1029, Laborers International Union of North America, AFL-CIO, ("LIUNA 1029") is an employee organization within the meaning of 19 Del.C. §1302(i).

3. On February 9, 2018, LIUNA 1029 was certified as the exclusive bargaining representation of all regular full-time and part-time Judicial Case Processors I, II, and III

employed at Court #3. 19 Del.C. §1302(j).

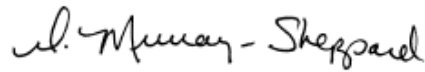
4. The record is insufficient to support a finding that the Court interfered with, restrained or coerced KW in the exercise of her right to engage in any protected concerted activities for the purpose of collective bargaining or other mutual aid or protection in violation of 19 Del.C. §1307(a)(1).

5. The record also fails to establish that the Court encouraged or discouraged membership in an employee organization in regard to hiring, tenure or other terms and conditions of employment. Therefore, the charge that the Court engaged in conduct in violation of 19 Del.C. §1307(a)(3) is dismissed.

WHEREFORE, this Charge is hereby dismissed.

**IT IS SO ORDERED.**

DATE: March 29, 2019



DEBORAH L. MURRAY-SHEPPARD  
Executive Director  
Del. Public Employment Relations Bd.