



**New Jersey Judiciary
Superior Court - Appellate Division**

Amended **NOTICE OF APPEAL**

Type or clearly print all information. Attach additional sheets if necessary.		ATTORNEY / LAW FIRM / PRO SE LITIGANT			
TITLE IN FULL (AS CAPTIONED BELOW): Francine Hovermann, Plaintiff		NAME Theodore E. Baker, Esquire			
v.		STREET ADDRESS 790 E. Commerce Street, Room 214C			
Cumberland County Prosecutor's Office		CITY Bridgeton	STATE NJ	ZIP 08332	PHONE NUMBER 856-453-2165
		EMAIL ADDRESS theodoreba@co.cumberland.nj.us			

ON APPEAL FROM		
TRIAL COURT JUDGE Honorable Timothy Farrell	TRIAL COURT OR STATE AGENCY Superior Court Law Division	TRIAL COURT OR AGENCY NUMBER Docket No. L-905-13

Notice is hereby given that Cumberland County Prosecutor's Office appeals to the Appellate Division from a Judgment or Order entered on May 20, 2014 in the Civil Criminal or Family Part of the Superior Court or from a State Agency decision entered on 5/20/14.

If not appealing the entire judgment, order or agency decision, specify what parts or paragraphs are being appealed.

The Trial Court proceedings were deemed final on December 1, 2014 (copy of order attached).

Have all issues, as to all parties in this action, before the trial court or agency been disposed of? (In consolidated actions, all issues as to all parties in all actions must have been disposed of.) Yes No

If not, has the order been properly certified as final pursuant to R. 4:42-2? Yes No

For criminal, quasi-criminal and juvenile actions only:

Give a concise statement of the offense and the judgment including date entered and any sentence or disposition imposed:

This appeal is from a conviction post judgment motion post-conviction relief.

If post-conviction relief, is it the 1st 2nd other _____
specify

Is defendant incarcerated? Yes No

Was bail granted or the sentence or disposition stayed? Yes No

If in custody, name the place of confinement:

Defendant was represented below by:

Public Defender self private counsel _____
specify

Notice of appeal and attached case information statement have been served where applicable on the following:

	Name	Date of Service
Trial Court Judge	Honorable Timothy Farrell	1/5/15
Trial Court Division Manager		
Tax Court Administrator		
State Agency		
Attorney General or Attorney for other Governmental body pursuant to <u>R.</u> 2:5-1(a), (e) or (h)		
Other parties in this action:		

Name and Designation	Attorney Name, Address and Telephone No.	Date of Service
Francine Hovermann	John P. Rowland, Esquire, 830 Radio Road, Suite B Little Egg Harbor, NJ 08087 609-312-3488	1/5/15

Attached transcript request form has been served where applicable on the following:

	Name	Date of Service	Amount of Deposit
Trial Court Transcript Office			
Court Reporter (if applicable)			
Supervisor of Court Reporters			
Clerk of the Tax Court			
State Agency			

Exempt from submitting the transcript request form due to the following:

- No verbatim record.
- Transcript in possession of attorney or pro se litigant (four copies of the transcript must be submitted along with an electronic copy).
List the date(s) of the trial or hearing:
- Motion for abbreviation of transcript filed with the court or agency below. Attach copy.
- Motion for free transcript filed with the court below. Attach copy.

I certify that the foregoing statements are true to the best of my knowledge, information and belief. I also certify that, unless exempt, the filing fee required by N.J.S.A. 22A:2 has been paid.

1/8/15

DATE

SIGNATURE OF ATTORNEY OR PRO SE LITIGANT



**New Jersey Judiciary
Superior Court - Appellate Division**

Amended **CIVIL CASE INFORMATION STATEMENT**

Please type or clearly print all information.

TITLE IN FULL

TRIAL COURT OR AGENCY DOCKET NUMBER

Francine Hovermann v.
Cumberland County Prosecutor's Office

Superior Court of New Jersey
Law Division
Cumberland County
Docket No. L-905-13

■ Attach additional sheets as necessary for any information below.

APPELLANT'S ATTORNEY EMAIL ADDRESS: theodoreba@co.cumberland.nj.us

PLAINTIFF DEFENDANT OTHER (SPECIFY)

NAME

Theodore E. Baker, Esquire

CLIENT

Cumberland County Prosecutor's Office

STREET ADDRESS

790 E. Commerce Street, Room 214C

CITY

Bridgeton

STATE

NJ

ZIP

08302

TELEPHONE NUMBER

856-453-2165

RESPONDENT'S ATTORNEY * EMAIL ADDRESS: jpresq@comcast.net

NAME

John P. Rowland, Esquire

CLIENT

Francine Hovermann

STREET ADDRESS

830 Radio Road, Suite B

CITY

Little Egg Harbor

STATE

NJ

ZIP

08087

TELEPHONE NUMBER

609-312-3488

* Indicate which parties, if any, did not participate below or were no longer parties to the action at the time of entry of the judgment or decision being appealed.

GIVE DATE AND SUMMARY OF JUDGMENT, ORDER, OR DECISION BEING APPEALED AND ATTACH A COPY:

May 20, 2014, order and opinion of the Court holding that plaintiff/respondent is entitled to notice of a hearing prior to the issuance of a written reprimand. The Trial Court's order of December 1, 2014, terminated the proceedings below.

Are there any claims against any party below, either in this or a consolidated action, which have not been disposed of, including counterclaims, cross-claims, third-party claims and applications for counsel fees?

YES NO

If so, has the order been properly certified as final pursuant to R. 4:42-2? (If not, leave to appeal must be sought. R. 2:2-4,2:5-6)

YES NO

(If the order has been certified, attach, together with a copy of the order, a copy of the complaint or any other relevant pleadings and a brief explanation as to why the order qualified for certification pursuant to R. 4:42-2.)

Were any claims dismissed without prejudice?

YES NO

If so, explain and indicate any agreement between the parties concerning future disposition of those claims.

Is the validity of a statute, regulation, executive order, franchise or constitutional provision of this State being questioned? (R. 2:5-1(h))

YES NO

GIVE A BRIEF STATEMENT OF THE FACTS AND PROCEDURAL HISTORY:

On September 4, 2013, a written reprimand was issued by the Cumberland County Prosecutor's Office to the plaintiff, Francine Hovermann. She requested a hearing to her employer which was denied and then filed an action in lieu of prerogative writ; a hearing was thereafter offered and refused. The Trial Court ruled that she was entitled to a hearing and ordered the same. The Cumberland County Prosecutor's Office sought a stay which was denied on May 20, 2014. The hearing was thereafter held over a period of five days. An Order of December 1, 2014, finally terminated the Trial Court's jurisdiction below.

TO THE EXTENT POSSIBLE, LIST THE PROPOSED ISSUES TO BE RAISED ON THE APPEAL AS THEY WILL BE DESCRIBED IN APPROPRIATE POINT HEADINGS PURSUANT TO R. 2:6-2(a)(5). (Appellant or cross-appellant only):

1. The plaintiff has no due process right to a departmental hearing with respect to the issuance of a written reprimand.
2. The plaintiff is not a law enforcement officer entitled to hearing rights pursuant to N.J.S.A. 40A:150.
3. The plaintiff has no contractual right to a hearing regarding the issuance of a written reprimand.

IF YOU ARE APPEALING FROM A JUDGMENT ENTERED BY A TRIAL JUDGE SITTING WITHOUT A JURY OR FROM AN ORDER OF THE TRIAL COURT, COMPLETE THE FOLLOWING:

1. Did the trial judge issue oral findings or an opinion? If so, on what date? _____ YES NO
2. Did the trial judge issue written findings or an opinion? If so, on what date? 5/20/14 YES NO
3. Will the trial judge be filing a statement or an opinion pursuant to R. 2:5-1(b)? YES NO

Caution: Before you indicate that there was neither findings nor an opinion, you should inquire of the trial judge to determine whether findings or an opinion was placed on the record out of counsel's presence or whether the judge will be filing a statement or opinion pursuant to R. 2:5-1(b).

DATE OF YOUR INQUIRY: 1/5/15

1. IS THERE ANY APPEAL NOW PENDING OR ABOUT TO BE BROUGHT BEFORE THIS COURT WHICH:

- (A) Arises from substantially the same case or controversy as this appeal? YES NO
- (B) Involves an issue that is substantially the same, similar or related to an issue in this appeal? YES NO

2. WAS THERE ANY PRIOR APPEAL INVOLVING THIS CASE OR CONTROVERSY? YES NO

IF THE ANSWER TO EITHER 1 OR 2 ABOVE IS YES, STATE:

Case Name:

Burns v. Borough of Glassboro

Appellate Division Docket Number:

A-2085-12T2

Civil appeals are screened for submission to the Civil Appeals Settlement Program (CASP) to determine their potential for settlement or, in the alternative, a simplification of the issues and any other matters that may aid in the disposition or handling of the appeal. Please consider these when responding to the following question. A negative response will not necessarily rule out the scheduling of a preargument conference.

State whether you think this case may benefit from a CASP conference. YES NO

Explain your answer:

Since this is a case of minor discipline the appellant/employer does not want to negotiate the imposition of a written reprimand, but does desire a clarification of the law as to whether departmental hearings and appeals of such minor discipline are required. In addition, the Appellate Division decided the matter of Burns v. Borough of Glassboro on March 11, 2014, which deals with essentially the same issue. A Petition for Certification to the New Jersey Supreme Court was filed in that matter, but on information, knowledge, and belief, the petition was denied.

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

Cumberland County Prosecutor's Office

Name of Appellant or Respondent

January 8, 2015

Date

Theodore E. Baker, County Counsel

Name of Counsel of Record
(or your name if not represented by counsel)

Signature of Counsel of Record
(or your signature if not represented by counsel)

MAY 20 2014

FILED

PREPARED BY THE COURT

FRANCINE HOVERMANN,
Plaintiff,

VS.

CUMBERLAND COUNTY
PROSECUTOR'S OFFICE,
Defendant.

SUPERIOR COURT OF NEW JERSEY
CUMBERLAND COUNTY
LAW DIVISION - CIVIL PART

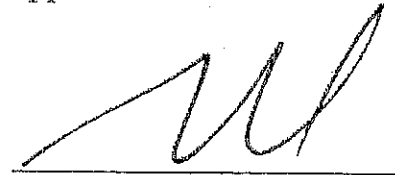
DOCKET NO.: CUM-L-905-13

ORDER DENYING MOTION TO
DISMISS AND REMANDING MATTER
FOR ADMINISTRATIVE HEARING

THIS MATTER being opened to the Court by way of a Complaint in Lieu of Prerogative Writs, and the Court having reviewed the Complaint, Answer and Motion to Dismiss filed herein, and having heard the arguments of counsel on March 21, 2014, and the Court having placed findings of fact and conclusions of law in a letter opinion of the same date as this Order, and for good cause shown;

It is on this 20th day of May, 2014 **ORDERED** as follows:

1. Defendant's Motion to Dismiss is denied.
2. Plaintiff's appeal from the written reprimand herein is governed by N.J.S.A. 11A:2-16 and N.J.A.C. 4A:2-3.2.
3. Defendant failed to comply with the hearing provisions of N.J.A.C. 4A:2-3.2.
4. This matter is remanded for further proceedings in accordance with N.J.S.A. 4A:2-3.2(b).
5. This court does not retain jurisdiction.
6. Either party may propose a supplement to this Order for clarification purposes.


Timothy G. Farrell, J.S.C.

