



SCHEINMAN
ARBITRATION & MEDIATION SERVICES

FOR IMMEDIATE RELEASE

My name is Martin F. Scheinman, Esq. (“Marty”) and I have been a full-time arbitrator and mediator since 1979. During this career, I have handled more than 20,000 matters throughout the U.S., primarily in the Northeast.

In the 1980s and 1990s, before my schedule precluded me continuing to do so, I served in hundreds of cases with the State involving Correction Officers, Troopers, BCI, CSEA, PEF, and the UUP. My corrections cases occasioned me going to Green Haven, Attica, Bedford Hills, and Sing Sing, amongst other facilities.

I was selected and served as the first Interest Arbitrator involving the State Troopers, the Trooper Supervisors, and the BCI under a new law passed during the Pataki Administration. Unlike a grievance arbitrator that decides cases arising under a current contract such as discipline or an alleged contract violation, an interest arbitrator is authorized to mandate the terms of a new contract.

Among my day-to-day practice, I serve as the permanent arbitrator between 250 nursing homes and the workers’ union for facilities from Buffalo to the end of Long Island (since the 1980s), all of the major hospital systems downstate and about 200,000 workers, transit workers in NYC, and teachers throughout NYC. For over 20 years, I have been one of 3-5 arbitrators on the panel of arbitrators for cases involving correction officers in Nassau and Suffolk Counties and I have mediated several of their collective bargaining disputes. I also am the permanent arbitrator between Major League Baseball and the Players (MLBPA) and the National Hockey League and its Players (NHLPA). I am the Chair of the Tripartite Panel that oversees the health insurance programs between the NYC and the Municipal Labor Council that represents all of the City unions (including COs) involving 400,000 workers and 1.2 million covered individuals.

I have handled many significant strike situations, including one involving thousands of nurses at half a dozen hospitals in 2023, beer truck drivers throughout the region in 2019, and I was one of the 3 mediators that helped resolve the NYC Transit strike in 2005 that shutdown the NYC region for 5 days.

I was contacted by the parties and was briefed that an unsanctioned strike had begun and was expanding statewide. It was expressed that there would be a need for an independent mediator with substantial experience to bring this issue to resolve. It was subsequently confirmed that I was mutually selected by the parties, and I, along with my colleagues from Scheinman Arbitration and Mediation Services (“SAMS”), agreed to serve in this capacity and devote the necessary time and resources to help the parties try to attain a solution.

The first session was set for Tuesday, February 25, 2025, in Albany. My SAMS partner, Barry J. Peek, Esq., and our associate, Patrick J. Mehler, planned to arrive in Albany on February 25th to start the mediation process but upon request of the Union and the State, we began on Monday, February 24th.



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What has become clear during the mediation is the relationship between the parties and the workforce is strained. No single issue, law, or policy entirely explains the current situation. It is obvious this erosion did not happen all at once. Simply stated, anyone observing these meetings would readily observe the parties' good faith and enormous commitment to finding workable solutions for the workforce. Yet, the parties are concerned that promises will not be kept.

To address this problem, SAMS has suggested the agreements we have reached be set forth in a binding CONSENT AWARD. Such CONSENT AWARD, signed by me in my capacity as an arbitrator, can be confirmed as an ORDER of the Court. In turn, non-compliance would be subject to sanctions.

However, judicial enforcement is not available when there is a Temporary Restraining Order in place which is being disregarded. I am convinced Court involvement to enforce an agreement would be impossible while a strike in violation of the Taylor Law and involving the majority of Correction Officers and Correction Sergeants is ongoing. I will not issue a CONSENT AWARD I believe will be unenforceable judicially.

Thus, the attached CONSENT AWARD memorializing the understandings we have reached will be signed and issued by me immediately upon my receipt of evidence, from both parties, establishing the Court's Order is being substantially complied with. Neither of the parties may change any of the terms outlined in the attached CONSENT AWARD. As agreed to by the parties, SAMS will retain jurisdiction to ensure the promises made by both sides are fulfilled before such matters involve a Court.

Martin F. Scheinman, Esq.

Mediator

Scheinman Arbitration and Mediation Services

SCHEINMAN ARBITRATION AND MEDIATION SERVICES

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In the Matter of the Arbitration

X

between

X

NEW YORK STATE

X

"Employer"

CONSENT AWARD

-and-

X

NEW YORK STATE CORRECTIONAL
OFFICERS AND POLICE BENEVOLENT
ASSOCIATION

X

X

"Union"

X

-----X

APPEARANCES

For the Employer

OFFICE OF EMPLOYEE RELATIONS

Michael Volforte, Director

DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION

Daniel F. Martuscello III, Commissioner

For the Union

NYSCOPBA

Christopher Summers, President

Matthew Keough, Executive Vice President

LIPPES MATHIAS, L.L.P.

Willam P. Golderman, Esq., of Counsel

Gregory T. Myers, Esq., of Counsel

Keith R. Jacques, Esq., of Counsel

BEFORE: Martin F. Scheinman, Esq., Arbitrator

CONSENT AWARD

This Consent Award made as of February 27, 2025, by and between New York State ("State") and the New York State Correctional Officers and Police Benevolent Association ("NYSCOPBA"):

WHEREAS, the Union and the State participated in mediation proceedings before me in my capacity as mediator on February 24, 25, 26, and 27, 2025; and

WHEREAS, the parties reached agreement to resolve various disputes; and

WHEREAS, the parties agreed to memorialize their agreement in this Consent Award;

NOW, THEREFORE, I make the following Award upon the consent of the parties, without admission of wrongdoing by any party:

(1) (a) HALT Act

The Commissioner of DOCCS will exercise his existing discretion under the HALT Act and continue the temporary suspension of the programming elements of the HALT Act for 90 days from the date of the Consent Award due to the ongoing emergency and exigent circumstances that exist within each facility due to the illegal strike and the significant staffing deficit that existed prior to the illegal strike. After 30 days from the date of the Consent Award, the Commissioner of DOCCS will begin to evaluate the operations, safety, and security of our facilities relative to staffing levels and determine whether re-instituting the suspended elements of HALT would create an unreasonable risk to the safety and security of the incarcerated individuals and staff. This analysis will be done on a facility-by-facility basis and will be ongoing. The suspension applies only to the HALT Act provisions contained within Correction Law sec. 137 pursuant to which the Commissioner has operational

discretion, and specifically to the provisions that have been directly impacted by the staffing crisis and illegal strike, and not to the other elements of the HALT Act. DOCCS will continue to follow all other elements of the HALT Act requirements.

(b) "Circuit Breaker" Staffing Metric

The "Circuit Breaker" Staffing Metric analysis shall be used upon the conclusion of the suspension of HALT-related programming discussed above. On High Impact Days, defined as Friday, Saturday and Sunday, which is typically when we have less staff available, DOCCS will deploy the "Circuit Breaker" Staffing Metric that will be used to determine if a facility-wide emergency exists based on exigent and emergency circumstances associated with inadequate staffing levels that would create a significant and unreasonable risk to the incarcerated, staff or facility.

The "Circuit Breaker" Staffing Metric, on High Impact Days, will consider the net staffing levels to include Budget Fill Level, plot plan, absences and voluntary overtime. If the staffing vacancies are at or above 30% of the plot plan, the following action will be taken to avoid 24-hour mandatory overtime:

- a. Facility will close posts in order to address the shortfall. If still not sufficient staffing, then;
- b. Facility will suspend general population programming. If still not sufficient staffing, then;
- c. Facility will suspend HALT Act provisions contained within Correction Law sec. 137 pursuant to which the Commissioner has operational discretion, and specifically to the programming for only the day(s) that meet the specific criteria.
- d. The Circuit breaker provision will not apply to other elements of the HALT Act.
- e. The Commissioner of DOCCS retains the discretion to determine other high impact days.

(2) Changes to Overtime

- a. The joint goal is to minimize and work towards eliminating anyone working 24-hour mandatory overtime. The parties agree to the following points to aid in this goal.
- b. Voluntary Overtime - if a Correction Officer or Sergeant volunteers and works 4 shifts of overtime in a two-week pay period, they will not be mandated to work an additional

shift in that pay period. A "shift" shall be defined as an eight-hour tour of duty. Two (2) shifts will be selected for each week of the pay period. Employees who engage in shift swapping are not excluded from this incentive or management's ability to mandate. If an employee who works the required two (2) voluntary overtime shifts per week and is then mandated for an additional shift during that same week, such shift shall be credited for the following week of voluntary overtime within the pay period, resulting in one less voluntary overtime shift being worked the following week of the pay period. Additionally, if an employee is mandated to work an overtime shift after working two (2) voluntary overtime shifts in a week, the employer shall pay a \$750 penalty to the employee for violating the voluntary overtime agreement. The credit shall not roll over from one pay period to the next.

- c. Weekend Voluntary Overtime Differential - any Correction Officer or Sergeant who volunteers and works overtime on Friday, Saturday, or Sunday will receive a pay differential of \$100 per shift worked on such day.
- d. Immediate Overtime Review Procedure - if a Correction Officer or Sergeant is required to work a mandated 24-hour shift, this will cause an immediate review of the reasons that triggered the requirement by the local union and the Superintendent, which shall be submitted to DOCCS Central Office Security Staffing Unit and NYSCOPBA Staffing Services for review and discussion on corrective action. The Superintendent and the union shall independently develop a detailed written analysis that can be shared with each party. The Superintendent will then submit the analysis of both parties to the Commissioner or their designee and the union will simultaneously submit the analysis of both parties to NYSCOPBA Staffing Services. Upon receipt, the parties will schedule a mutually agreeable time to meet and confer.
- e. Temporary Hourly Correction Officers - the State proposes to rehire retirees for the sole purpose of augmenting the transportation of incarcerated individuals or use of central transportation outside the confines of the correctional facility. The deployment and use of temporary hourly Correction Officer rehires shall not in any way impact awarded transportation bids or the bidding process and shall not be used prior to exhaustion of the voluntary overtime list. However, the temporary hourly Correction Officer rehire shall be deployed, if available, prior to calling in staff from the mandatory overtime list.

(3) Committee on Plot Plan Efficiency

The parties jointly agree to establish a Committee to analyze each facilities staffing and operational inefficiencies with the goal of providing more relief to existing staff. An independent staffing specialist shall be retained to conduct this analysis. As part of the review, the independent specialist, along with the Committee, will review all post orders for potential consolidation or elimination, realignment of non-security specific tasks and conduct a review of both 8-hour and 12-hour staffing plans in order to provide more relief to existing staff. The parties will also review the Annual Leave Day Formula, Vacation Bid Reposting Practice, and Incidental Time as part of this committee. The Commissioner retains all final authority on staffing decisions and both parties retain their rights with respect to changes to terms and conditions of employment.

(4) Legal Mail

- a. DOCCS shall investigate and pursue a contract with a qualified vendor to provide equipment and/or services for the screening of all incarcerated individual legal mail in an effort to further curtail the introduction of drugs into correctional facilities. Such screening shall not include, in any form, the review of the communications within legal mail.
- b. Representatives from NYSCOPBA shall be considered a stakeholder so as to provide meaningful feedback in committee form to DOCCS once potential vendors are established.

(5) Members on Approved Leave

As discussed during Mediation, the parties agree to continue to resolve any outstanding issues involving members on pre-approved leave for FMLA, Workers' Compensation, Paid Parental Leave, long-term sick, bereavement, sick leave at half pay, etc., but not vacation and personal leave, who were ordered to prematurely return to work during the strike.

(6) Strike-Related Discipline

- a. DOCCS shall not issue notices of discipline under the collective bargaining agreement for an employee who engaged in the strike so long as the employee returned to work by the deadline in this award. This does not include any Taylor Law fine(s) that may be incurred.

b. This does not apply to employees who engaged in criminal/illegal activity separate and distinct from the accusation of strike participation. For example, employees who engaged in vandalism or violence will be issued notices of discipline for such misconduct.

c. DOCCS agrees to expeditiously process the reinstatement applications submitted by any employee who was summarily terminated while on probation as a result of the strike. This does not guarantee that the reinstatement application will be granted.

(7) National Guard Presence in Facilities

The National Guard will remain in a support posture and begin to draw down as staff return to work. The overall support and draw down will remain under the Governor's discretion. National Guard that remain in place will be used to help prevent an employee from being mandated to work a 24-hour overtime shift.

(8) The parties confirm that the State has already rescinded the "70/30" memorandum dated February 10, 2025, as indicated in the February 20, 2025, memorandum.

(9) Continuation of 2.5 Overtime

The State will continue the 2.5 Overtime rate for all overtime worked for 30 days from the date of this award.

(10) The State agrees that the Department of Civil Service will complete its analysis of the union's previously submitted reallocation request to increase the salary grade of a Correction Officer from SG-14 to SG-17 and Correction Sergeant from SG-17 to SG-20, within four (4) months from the date of this award.

The parties also agree to implement a Referral Bonus Program whereby any staff that refers a non-DOCCS employee to become a Correction Officer or Correction Officer Trainee will receive a \$1,500 Referral Bonus upon their graduation of the academy and completion of on-the-job training and a second \$1,500 Referral Bonus upon their completion of the 52-week probationary period.

(11) The parties will procure and implement a mental health and wellness app that will allow for a generic sign on in order to protect the users' anonymity.

- (12) The parties agree to meet and discuss the definitions of assault for tracking assaults on staff.
- (13) All employees need to return to work on their assigned Tour as follows:
- a. Tour 2 - 6:45 am on March 1, 2025
 - b. Tour 3 - 2:45 pm on March 1, 2025
 - c. Tour 1 - 10:45 pm on March 1, 2025
- (14) The parties agree to refer any disputes in connection with this Consent Award to Martin F. Scheinman, Esq., who shall retain jurisdiction for resolving all disputes.

Dated:

SO ORDERED

Martin F. Scheinman, Esq.
Arbitrator

STATE OF NEW YORK
COUNTY OF NASSAU

I, MARTIN F. SCHEINMAN, Esq., do hereby affirm upon my oath as Arbitrator that I am the individual described herewith and who executed this instrument, which is my Consent Award.

Dated:

Martin F. Scheinman, Esq.
Arbitrator