



Employees' Retirement System of Rhode Island -- Retirement Board Meeting

Schedule	Wednesday, November 12, 2025 9:00 AM — 11:00 AM EST
Venue	2nd Floor Conference Room, 50 Service Avenue, Warwick, RI
Description	ERSRI Retirement Board Meeting.
Notes for Participants	If you are unable to attend the November 12, 2025 meeting, please contact Andrew Roos at 462-7610 or Roxanne Donoyan at 462-7608.
Organizer	Andrew Roos

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Posted Agenda

RETIREMENT BOARD MEETING AGENDA

Wednesday, November 12, 2025, 9:00 a.m.

2nd Floor Conference Room

50 Service Avenue, Warwick, RI

Streamed via Zoom Webinar - Dial-in: +1 929 205 6099 (US)

Access Code: 862 9321 6708

Link: <https://treasury-ri-gov.zoom.us/j/86293216708>

- I. Chairperson Call to Order
- II. Approval of the Draft Meeting Minutes of the 10/8/2025 Retirement Board Meeting
- III. Chairperson's Report
- IV. Executive Director's Report
- V. Administrative Decisions

Administrative Appeal – Donna Nesselbush v. ERSRI

- VI. Approval of the October 2025 Pensions as Presented by ERSRI
- VII. Legal Counsel Report
- VIII. Committee Reports

Disability Committee

- Committee Recommendations - See Attachment I

- IX. Adjournment

Attachment I

Disability Applications and Hearings on Friday, November 7, 2025

- * Marcel Girard
- * Louis Asermely
- * Kevin Bartels
- * Sherri Morin
- * Janice Loffredo
- ** Jennifer Milette
- ** James Dunn

* Votes by the full Board on these applications will be limited to approvals made by the Disability Committee at their November 7, 2025 meeting.

** Votes by the full Board on these denied applications, and on decisions reversing prior denials are subject to approval of the decisions by the Disability Committee.



1. Chairperson Call to Order

Roll Call of Members



2. Approval of the Draft Regular Meeting
Minutes of the October 8, 2025
Retirement Board Meeting
For Vote

Employees' Retirement Board of Rhode Island

Meeting Minutes

Wednesday, October 8, 2025 – 9:00 a.m.

2nd Floor Conference Room,

50 Service Avenue, Warwick, Rhode Island

Streamed via Zoom Webinar – Dial-in: +1 929 205 6099 (US)

Access Code: 873 8470 0612

Link: <https://treasury-ri-gov.zoom.us/j/87384700612>

I. Chairperson Call to Order

The Meeting of the Retirement Board was called to order at 9:02 a.m.

Interim Acting Executive Director Heidi Halbur called the roll and the following members were present: General Treasurer James A. Diossa, Jean Rondeau, Chair, Michael J. Cicerone, Jr., Joseph Codega, Jr., Matthew K. Howard, Brenna McCabe, William S. Murray, Claire G. Newell, Alan G. Palazzo, and Sandra M. Paquette.

Also in attendance: Heidi Halbur, ERSRI Interim Acting Executive Director, and Attorney Patrick J. McBurney, Board Counsel.

Members Absent: Mark A. Carruolo, Andrew E. Nota, Dr. Laura Shawhughes, and Michael J. Twohey.

Yan Li arrived at 9:06 a.m.

II. Approval of the Draft Regular and Executive Session Meeting Minutes of the September 17, 2025 Retirement Board Meeting

On motion duly made by Brenna McCabe and seconded by Matthew K. Howard, it was unanimously:

VOTED: To approve the draft regular and executive session meeting minutes of the September 17, 2025 retirement board meeting.

III. Chairperson's Report

IV. Acting Executive Director's Report

Interim Acting Executive Director Heidi Halbur introduced the next agenda item, the Annual Disability Update to the Board from the Disability Committee and noted that the Disability Committee's charter requires an annual report to the full Board regarding application statistics and outcomes for the prior year.

V. Disability Committee Annual Update to the Board

Interim Acting Director Halbur introduced Amanda Lucas, Disability Pension Manager and Gayle Mambro-Martin, Deputy Legal Counsel and Treasurer's Designee on the Disability Committee.

Ms. Lucas summarized the statistics to be covered in her presentation, including cases adjudicated, their disposition by the Committee, number of physicians engaged for independent medical examinations (IME), the physicians' determination statistics, and physician applications.

Ms. Lucas stated there are approximately 20 physicians on the roster, with varying specialties, and summarized their determinations in cases. She noted that the Committee tracks the number of applications submitted, number adjudicated, and number of hearings. Ms. Lucas also presented appeal statistics.

Ms. Lucas presented the statistics of applications according to plan and noted that starting in 2013, efforts were made to track data better and to streamline the disability process. Ms. Lucas reported that application processing times have remained steady, at a pace of 4-5 months to IME assignment, as tracked over several years. Ms. Lucas stated that people who apply with terminal illnesses are fast-tracked.

Ms. Lucas presented statistics regarding injury type. Ms. Lucas noted that more physical occupations like CNAs, nurses, school department, and department of corrections are more likely to be injured at work. Joseph Codega Jr. stated it would be helpful to see that information per 1,000 members. Ms. Lucas presented additional age-based statistics, such as the median age for applicants, which is mid-50s.

Mr. Howard asked whether the Committee could better screen the physicians that members are sent to. Mr. Howard stated that if the members have no choice but to see these physicians, they should be fully vetted. Mr. Howard expressed concerns about the medical licensure of a doctor used in the past.

There was also discussion regarding the diminishing number of physicians on the roster, and possible ways to address this. Ms. Mambro-Martin stated that the total number has declined, and that it is difficult to replace physicians who have passed away or retired. Ms. Lucas suggested an RFP for new physicians. General Treasurer James A. Diossa asked Ms. Lucas and Ms. Mambro-Martin to conduct research on ways to refresh the list.

Ms. Newell asked to clarify the physicians' pay scales. Ms. Lucas stated the stipend has been increased based on specialty and other factors. Ms. Newell suggested that if the stipend increases further, then perhaps more physicians will participate. William Murray suggested spreading the word about payment to newer physicians.

VI. Board Member Sandra Paquette's Request for Discussion Concerning Retiree Benefits Since Passage of RIRSA 2011

Sandra M. Paquette stated that the Board represents the retirees and must be receptive to their needs and expressed the view that the State's difficulty in finding quality applicants to fill positions may be due to pension reform. Ms. Paquette stated that the fund has grown, but the members' quality of life has decreased. Ms. Paquette stated that 15,000 members have passed away who were alive in 2011 and who never received fair compensation.

Ms. Paquette stated that the Board has a fiduciary responsibility to the ERSRI members and said that she and Alan G. Palazzo had conducted research and held meetings with legislative leaders and elected officials. Ms. Paquette stated that she believes the ERSRI Board has a responsibility to present pension reforms to the legislature. Ms. Paquette stated that she has prepared a resolution for the Board's consideration.

Alan G. Palazzo underlined the importance of ensuring a secure retirement. Mr. Palazzo cited statistics regarding COLAs for retirees. Mr. Palazzo stressed the need for change and the receptiveness in the community and among members and retirees for change. Mr. Palazzo recommended that the ERSRI Board set policies for change.

Mr. Palazzo asked that the Board members review the draft resolution and consider adopting it and taking action on it.

Yan Li thanked Mr. Palazzo and Ms. Paquette for their work on this matter. Ms. Li recognized that the Retirement Board's fiduciary duty is to the fund, but the fund serves the members.

Mr. Palazzo requested that action on the proposed resolution be agendaized for the next Board meeting.

VII. Approval of the September 2025 Pensions as Presented by ERSRI

On a motion duly made by William S. Murray and seconded by Matthew K. Howard, it was unanimously:

VOTED: To approve the September 2025 pensions as presented by ERSRI.

VIII. Legal Counsel Report

Board Counsel Patrick J. McBurney referred to the litigation report in the Board members' materials. Board Counsel McBurney stated there are no substantive updates other than as noted in the report.

IX. Committee Reports

Disability Committee

The Disability Committee recommended the following disability applications for approval by the full Board as a result of its October 3, 2025, meeting:

Name	Membership Group	Type	Action
1. Todd Swanson	Municipal	Accidental	Approved
2. Donna Brady	Teacher	Accidental	Approved at 50%
3. Jennifer Milette	State	Ordinary	Approved
4. James Richard	Municipal	Accidental	Approved

5. Glenn McCartney	State	Ordinary	Approved
6. Beth Wilbur	Teacher	Ordinary	Approved
7. Jennifer Uriati	State	Ordinary	Approved
8. Jamie Verbinnen	Teacher	Ordinary	Approved
9. Michael Gerard	State	Ordinary	Approved
10. Kevin Ansley	Municipal	Accidental	Deny
11. Paula Campbell-Hayes	Teacher	Accidental/Ordinary	Deny on both
12. Donna Lamoureux	State	Ordinary	Deny

On a motion duly made by Joseph Codega, Jr., and seconded by Michael J. Cicerone, Jr., it was unanimously:

VOTED: To approve the Disability Committee's recommendations Nos. 1-9, 11 and 12 from October 3, 2025.

Mr. Howard requested that recommendation No. 10 be pulled out for discussion and requested clarification on the reason for the denial. Ms. Newell stated that this matter was discussed with medical staff who felt there was not enough to grant the disability pension. Mr. Howard noted that this member is on leave but had not separated from service. Mr. Howard stated that it seemed that the Disability Committee assumed that this member was already retired.

On a motion duly made by Claire M. Newell and seconded by William S. Murray, it was unanimously:

VOTED: To table the Disability Committee's recommendation No. 10 from Friday, October 3, 2025 as referenced in Attachment I for further discussion.

Administration, Audit, Risk & Compliance Committee

Consideration and Approval of Recommendation to Certify the Restated Contribution Rates for the State Police Plan for Fiscal Years 2026 and 2027 as a Result of the Enactment of House Bill No. 5076 SUB A as Amended – Article 3 as amended

Committee Chair Rondeau stated that the Committee met on October 1, 2025, to consider the restatement of contribution rates for State Police Plan for Fiscal Years 2026 and 2027 for recommendation to the Full Board.

Chair Rondeau stated that as a result of the Final Average Salary calculation change in the enacted budget bill, the recommended employer contribution rate increase is 0.7% for both FY 2026 and FY 2027. Lastly, Mr. Rondeau said a summary of the legislation and the rate recertification letter provided by the actuary, Gabriel, Roeder, Smith and Company (GRS) was discussed by the Committee.

On a motion duly made by Jean Rondeau and seconded by Joseph Codega, Jr., it was unanimously:

VOTED: To approve the Administration, Audit, Risk & Compliance Committee's recommendation to certify the restated contribution rates for the State Police Plan for Fiscal Years 2026 and 2027 as a Result of the Enactment of House Bill No. 5076 SUB A as Amended – Article 3 as amended.

Governance Committee

Update on the Executive Director Position

Mr. Rondeau stated that the Governance Committee met on September 30, 2025, to approve the employment terms of Executive Director Andrew Roos. The Governance Committee voted to approve the employment terms for Andrew Roos at a grade of 8550 and a starting salary of \$183,392 with a start date of October 20, 2025.

X. Adjournment

There being no other business to come before the Board, on a motion by William S. Murray and seconded by Matthew K. Howard, it was unanimously voted to adjourn the meeting at 9:57 a.m.

Respectfully submitted,

Andrew Roos
Executive Director



3. Chairperson's Report

For Report



4. Executive Director's Report

For Report



5. Administrative Decisions

For Vote

Presented by Michael P. Robinson



5.1. Administrative Appeal - Donna Nesselbush v. ERSRI

For Vote

Presented by Michael P. Robinson



Employees'
Retirement System
of Rhode Island

ERSRI BOARD:

September 30, 2025

James A. Diossa
General Treasurer Chair

John Harwood, Esq.
9 Thurber Boulevard, St. D
Smithfield, RI 02917

Jean Rondeau
Vice Chair

Mark A. Carruolo

Dear Attorney Harwood:

Michael J. Cicerone, Jr.

Please be advised that the Hearing Officer has issued a recommendation to the Retirement Board finding that Donna Nesselbush is entitled to membership in the Municipal Employees' Retirement System based on her service as a Pawtucket municipal judge.

Joseph Codega, Jr.

Matthew K. Howard

In accordance with Regulation 1.4 of the *Rules of Practice and Procedure of the Employees' Retirement System for Hearings on Contested Cases*, this matter will be presented to the full Retirement Board for approval or denial at its November 12, 2025, Retirement Board Meeting. You have the right to appear before the Retirement Board and make oral argument in support of or in opposition to the Hearing Officer's decision.

Yan Li

Brenna McCabe

William S. Murray

The November meeting of the Retirement Board is scheduled for 9:00 a.m. Your hearing is scheduled as follows:

Claire M. Newell

Andrew E. Nota

DATE/TIME: Wednesday, November 12, 2025 – 9:15 A.M.
LOCATION: 50 Service Avenue, 2nd Floor Conference Room
Warwick, Rhode Island 02886

Alan G. Palazzo

Sandra M. Paquette

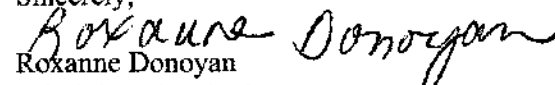
A party wishing to file a brief or make exceptions to the decision must submit documentation to the Retirement System, Attention: Roxanne Donoyan, no later than 10 days prior to the date of the Retirement Board meeting.

Laura Shawhughes

Michael J. Twohey

If you are unable to attend this meeting, please notify me at (401) 462-7608 as soon as possible. Should the meeting be rescheduled, we will notify you of the new date and time of the meeting.

Heidi Halbur
Acting Executive Director

Sincerely,

Roxanne Donoyan
Administrative Assistant

cc: Donna Nesselbush
Michael P. Robinson, Esq.
Vincent Ragosta, Esq., -- City of Pawtucket

Enclosure: Regulation 1.4

1.4 Rules of Practice and Procedure for Hearings in Contested Cases

A. Introduction

These Rules of Practice and Procedure are promulgated pursuant to R.I. Gen. Laws § 36-8-3. The Rules shall be in effect during any hearing on a contested case before the Retirement Board or its duly authorized representatives.

B. Definitions

1. The definitions set forth in R.I. Gen. Laws §§ 36-8-1, 45-21-2, 45-21.2-2 and 16-16-1, and as further set forth in Regulations promulgated by the Retirement Board, are specifically incorporated by reference herein.
 - a. "Contested case" means a matter for which a member requests a hearing because they are aggrieved by an administrative action other than a Disability decision. The term shall apply to hearings conducted before Hearing Officers, and thereafter in proceedings before the full Retirement Board.
 - b. "Party" means any member, beneficiary, Retirement System, or such other person or organization deemed by the Hearing Officer to have standing.
 - c. "Hearing officer" means an individual appointed by the Retirement Board to hear and decide a contested case.

C. Request for Hearing and Appearance

1. Any member aggrieved by an administrative action other than a Disability decision, may request a hearing of such grievance. Upon such request, the matter will be deemed a contested case. The procedure for Disability decisions and appeals therefrom shall be governed by the procedures set forth in § 1.9 of this Part, Rules Pertaining to the Application to Receive an Ordinary or Accidental Disability Pension.
2. Such request shall be in writing and shall be sent to the Retirement Board within sixty (60) days of the date of a letter from the Executive Director or Assistant Executive Director constituting a formal administrative denial.
3. A request for hearing shall be signed by the member and shall contain the following information:
 - a. Name of member;
 - b. Date and nature of decision being contested;
 - c. A clear statement of the objection to the decision which must include the reasons the member feels they are entitled to relief; and
 - d. A concise statement of the relief sought.
4. Requests for hearing should be sent to the Retirement Board at 50 Service Avenue, 2nd Floor, Warwick, RI 02886-1021.
5. Failure to strictly comply with the procedures outlined in this Section shall be grounds to deny any request for a hearing.

D. Contested Cases – Notice of Hearing

1. Upon receipt of a request for hearing in matters other than Disability decisions and appeals therefrom, the Retirement Board or its designee shall appoint a Hearing Officer. The appointed Hearing Officer shall hear the matter, find facts and offer conclusions of law to the Retirement Board. The decision of a Hearing Officer shall be subject to approval by the full

Retirement Board. The Retirement System's action shall not be deemed final until such time as the Hearing Officer's recommendation has been voted upon by the Retirement Board.

2. Within forty-five (45) days after receipt by the Retirement Board of a request for hearing, the Retirement Board shall give notice that the matter has been assigned to a Hearing Officer for consideration.
3. In any contested case, all parties shall be afforded an opportunity to be heard after reasonable notice.
4. The notice described in § 1.4(D)(2) of this Part, above, shall include:
 - a. A statement of the time, place, and nature of the hearing;
 - b. A statement of the legal authority and jurisdiction under which the hearing is to be held;
 - c. A reference to the particular sections of the statutes and Rules involved;
 - d. The name, official title and mailing address of the Hearing Officer, if any;
 - e. A statement of the issues involved and, to the extent known, of the matters asserted by the parties; and
 - f. A statement that a party who fails to attend or participate in the hearing may be held to be in default and have their appeal dismissed.
5. The notice may include any other matters the Hearing Officer or the Retirement Board considers desirable to expedite the proceedings.

E. Contested Cases – Hearings in General

1. All parties shall be afforded an opportunity to respond and present evidence and argument on all issues involved.
2. Members must appear at hearings either personally, or by appearance of legal counsel. Members may represent themselves or be represented by legal counsel at their own expense. Consistent with R.I. Gen. Laws § 11-27-2 entitled, "Practice of law", any person accompanying the member who is not a lawyer (certified member of the bar of the State of Rhode Island) cannot represent the member in the hearing.
3. Continuances and postponements may be granted by the Hearing Officer or the Retirement Board at their discretion.
4. Disposition may be made of any contested case by stipulation, agreed settlement, consent order or default.
5. Should the Hearing Officer or Retirement Board determine that written memoranda are required, the member will be notified by the Hearing Officer or the Retirement Board of the need to file a written document which discusses the issues of the case. Memoranda of law may always be offered in support of arguments offered by the member or the representative of the Retirement Systems.
6. The Executive Director may, when they deems appropriate, retain independent legal counsel to prosecute any contested case.
7. A recording of each hearing shall be made. Any party may request a transcript or copy of the tape at their own expense.

F. Contested Cases – Conduct of Hearings before Hearing Officers

1. Hearings shall be conducted by the Hearing Officer who shall have authority to examine witnesses, to rule on motions, and to rule upon the admissibility of evidence.
2. The Hearing shall be convened by the Hearing Officer. Appearances shall be noted and any motions or preliminary matters shall be taken up. Each party shall have the opportunity to present its case generally on an issue by issue basis, by calling and examining witnesses and introducing written evidence.
3. The Member shall first present their case followed by presentation of the Retirement System's case.
4. The Hearing Officer shall have the authority to continue or recess any hearing and to keep the record open for the submission of additional evidence.
5. If for any reason a Hearing Officer cannot continue on a case, another Hearing Officer will be appointed who will become familiar with the record and perform any function remaining to be performed without the necessity of repeating any previous proceedings in the case.
6. Each party shall have the opportunity to examine witnesses and cross-examine opposing witnesses on any matter relevant to the issues in the case.
7. Any objections to testimony or evidence and the basis for the objection shall be made at the time the testimony or evidence is offered.
8. The Hearing Officer may question any party or any witness for the purpose of clarifying their understanding or to clarify the record.
9. The scope of hearing shall be limited to those matters specifically outlined in the request for hearing.
10. Written evidence will be marked for identification. If the original is not readily available, written evidence may be received in the form of copies or excerpts. Upon request, parties shall be given an opportunity to compare the copy with the original.
11. Findings of fact shall be based solely on the evidence and matters officially noticed.
12. If a member fails to attend or participate in the hearing as requested, the Hearing Officer may default such member and dismiss their appeal with prejudice.

G. Contested Cases – Record of Proceedings before Hearing Officers

1. The record in a contested case shall include:
 - a. All pleadings, motions, intermediate rulings;
 - b. Evidence received or considered;
 - c. A statement of matters officially noticed;
 - d. Questions and offers of proof and rulings thereon;
 - e. Proposed findings and exceptions;
 - f. Any decision, opinion, or report by the Hearing Officer at the hearing; and
 - g. All staff memoranda or data submitted to the Hearing Officer in connection with their consideration of the case.

H. Ex Parte Communications (Communications by one (1) party)

There shall be no communications between the Hearing Officer and either a member, the Retirement System or the Retirement Board, or any of their representatives

regarding any issue of fact or law in a case, without notice and opportunity for all parties to participate. There shall be no written communications by any party that are not transmitted at the same time to all parties.

I. Rules of Evidence in Contested Cases

Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The Rules of Evidence as applied in civil cases in the Superior Courts of this State shall be followed. Evidence not usually admitted under the Rules of Evidence for civil cases may be admitted where it is shown that such evidence is necessary to ascertain facts not capable of being proved otherwise. The Hearing Officer and the Retirement Board shall give effect to the Rules of Privilege (such as attorney/client privilege) recognized by law. Objections to evidence may be made and shall be noted in the record. Any part of the evidence may be received in written form when a hearing needs to be expedited and the interests of the parties will not be hurt substantially.

J. Final Decision and Member Right of Appeal

1. Within twenty-five (25) days after receipt of the Hearing Officer's recommendation, a copy thereof shall be served upon all parties to the proceeding and each party shall be notified of the time and place when the matter shall be considered by the Retirement Board. Each party to the proceeding shall be given the right to make exceptions, to file briefs and to make oral arguments before the Retirement Board. No additional evidence will be considered by the Retirement Board once the Hearing Officer has issued a recommendation. A party wishing to file a brief or make exceptions to the recommendation of the Hearing Officer shall be required to submit the same to the Executive Director not later than ten (10) days prior to the date when the Retirement Board is scheduled to hear and act upon the recommendation of the Hearing Officer. The aggrieved party and their representative shall have the right to appear before the Retirement Board and make oral argument at the time of such hearing. No new testimony will be taken, or evidence considered at this time. Consistent with R.I. Gen. Laws § 11-27-2 entitled, "Practice of law" any person accompanying the member who is not a lawyer (certified member of the bar of the State of Rhode Island), cannot represent the member before the Retirement Board. After consideration of the decision of the Hearing Officer and such other argument as shall be presented by any party to the proceeding, the Retirement Board shall vote on the recommendation of the Hearing Officer.
2. In the event of a tie vote of a quorum present and voting on a contested matter, the matter will automatically be placed on the agenda of the next Retirement Board meeting.
3. In the event of a tie vote of a quorum present and voting on a contested matter rescheduled from a prior meeting, the Retirement Board may vote to postpone and re-consider the matter at a subsequent hearing, when a larger number of voting members may be present. If no such vote to postpone and re-consider is taken, or if a vote to postpone and re-

consider the matter at a later date fails, the underlying action appealed from will be deemed affirmed.

K. Requests for Rehearing

1. A request for rehearing which is submitted prior to the issuance of the Hearing Officer's recommendation should be made in writing. The request must detail the substance of any additional evidence to be offered, and the reason for the failure of the party to offer it at the prior proceedings.
2. A rehearing will be denied if the evidence does not bear on any issue in contest in the original proceedings, will not likely affect the final recommendation, or if the request appears to be merely for purposes of delaying a final decision. A second (2nd) request for rehearing after the granting or denial of a prior request for rehearing will not be permitted.



5.1.1. Pre-Hearing



July 26, 2024

Raymond A. Marcaccio, Esq.
ERSRI Hearing Officer
ram@om-rilaw.com
(401) 861-2900

Dear Hearing Officer Marcaccio—

This law firm represents the Employees' Retirement System of the State of Rhode Island ("ERSRI") regarding the appeal submitted by Donna Nesselbush with respect to her claimed membership in the retirement system. It is my understanding that this matter is scheduled for a hearing on July 31, 2024. Please allow this correspondence to outline the position of ERSRI in advance of the hearing and with respect to Chief Judge Donna M. Nesselbush's assertions that she is eligible for membership in the Municipal Employees' Retirement System (MERS).

It is the ERSRI's understanding Judge Nesselbush was appointed as Associate Judge in 2004 and Chief Judge on April 25, 2012. The ERSRI has confirmed with the Human Resources Director for the City of Pawtucket that: (a) Pawtucket Municipal courts are in session two to three days per week with the Chief Judge and a Judge present, including Mondays at 2:00 p.m., Thursdays at 6:00 p.m., and Fridays at 9:00 a.m.; (b) the position of Chief Judge is not in the City's full-time equivalent (FTE) count; (c) Judges are appointed and then approved by the City Council; (d) Judges earn \$16,000.00 annually regardless of hours worked; and (e) While the payroll information indicates that the position is for thirty-five hours per week, the Judges are not present thirty-five hours per week and in fact are not present for the statutorily required twenty hours per week, every week. *See Exhibit A.*

Based on this information, by way of a letter dated August 1, 2022, the ERSRI's Executive Director, Frank J. Karpinski informed Judge Nesselbush that "[s]ince the information reveals that you did not meet the definition of employee, specifically the minimum requirement of 20 hours per week, you are therefore not eligible for membership in MERS and thus your contributions will be returned to you, and you will not receive the applicable service credit towards your retirement." *Exhibit B.* As a result, the ERSRI informed Judge Nesselbush: "Your MERS and TIAA Defined Contribution Plan employee contributions will be refunded to you by your employer." *Id.*

Thereafter, on September 19, 2022, Judge Nesselbush informed Mr. Karpinski in an email that she would be appealing the ERSRI's conclusion that she was ineligible for a MERS pension. In response, the ERSRI sent a letter to Judge Nesselbush, dated October 24, 2022 noting that it had determined that she was not eligible to participate in MERS based upon information provided by the Pawtucket Municipal Traffic Court website and the Human Resources Director of the City of Pawtucket and informing Judge Nesselbush that, absent additional information regarding the requirements of her position as Chief Judge, the ERSRI's position remained unchanged. The

ERSRI also noted that any revised job description for the position must be officially approved by the City of Pawtucket, and that it would make a final determination once it had reviewed any updated job description or other information provided. *Id.* Further, the ERSRI stated that it had instructed Judge Nesselbush's employer to cease contributions until the conclusion of the matter.

Judge Nesselbush then sent an email to Mr. Karpinski on December 12, 2022 to appeal the denial of her pension eligibility. In the email, Judge Nesselbush asserted that the Human Resources Director of the City of Pawtucket provided the ERSRI with "incomplete information." Judge Nesselbush asserted that her hours working as a judge for the City included hours in addition to her sitting on the bench. Judge Nesselbush also noted that she had "promulgated an up to date, accurate 'protocol/job description' for Pawtucket's judges (see attached)." The job description attached to the email provided that "Judges are part-time 20 hour per week employees[.]" Also attached to the email was a letter from David P. Moran, President of the Pawtucket City Council which stated that "[t]he duties and responsibilities of our judges—who most certainly are considered city employees—as you have outlined them in the protocol/job description, appear reasonable and accurate to the best of my knowledge." The letter noted that Judge Nesselbush's position as a judge for the city "involves more than just the hours you spend on the bench" and that President Moran has "long understood that our judges are treated like all other part-time employees in city government; that is, they receive set financial compensation, have access to city health insurance, and participate in the MERS pension program that includes both employee contributions and city (employer) contributions." Notably, Judge Nesselbush did not provide any evidence that the City Council has adopted the job description that she produced.

Subsequently, on May 12, 2023, counsel for Judge Nesselbush wrote to Mr. Karpinski noting that City Council President David Moran "is in support of the judges' participation in the MERS pension program[.]" Counsel also referenced an attached letter from current City Council President Terry Mercer which affirmed Mr. Moran's letter and the fact that he "understood that the city's Municipal Court and Probate Court judges were considered, for all intents and purposes, to be part-time employees of the city" and noting that he "believe[d] everyone involved over the last couple decades *earnestly* understood that the Municipal Court and Probate Court judges were indistinguishable from all other part-time employees in city government and, accordingly, on a proper MERS pension tract. Had that not been the earnest understanding, employee pension contributions would not have been withheld and remitted to the pension system (along with the city's employer contributions)." Based on the job description and the letters from Mr. Moran and Mr. Mercer, counsel for Judge Nesselbush requested that the ERSRI issue a re-determination that Judge Nesselbush is eligible to participate in the MERS pension program.

By way of a letter date July 3, 2023, the ERSRI wrote to counsel for Judge Nesselbush stating that it was "interpreting your [May 12, 2023] letter to indicate that the City Council members are confirming that the Pawtucket Municipal and Probate Court Judges have always worked and continue to work a minimum of 20 hours per week 52 weeks per year." Thereafter, the ERSRI received a communication from Attorney Vincent Ragosta, Jr., outside labor and employment counsel to the city, inquiring as to the status of this matter. On November 8, 2023, the ERSRI wrote to Council President Mercer to request clarification of the City of Pawtucket's position on the matter. Council President Mercer responded by letter dated November 17, 2023 clarifying that the purpose of his, and former Council President Moran's, letter was "solely to point



out that we (collectively) always *believed* that the Municipal and Probate judges were ‘pension-eligible’ simply because your office was receiving contributions from both the judges’ wages and the city as their employer. Nothing more—we *believed* it to be so.” Council President Mercer also stated that the City Council does not determine the working conditions or establish protocols or job descriptions for judges appointed by it.

The ERSRI then received a communication from Attorney Ragosta, as outside labor and employment counsel to the City, confirming that there was no reliable or credible evidence that supported Judge Nesselbush’s claim that she worked at least twenty hours per week and because there had been no legislative action adopting the purported job description provided by Judge Nesselbush.

On March 11, 2024, the ERSRI wrote to Judge Nesselbush and concluded that she should not be eligible to be enrolled as a member of MERS based upon the information made available to the ERSRI from the City of Pawtucket, including: (a) a communication from the Human Resources Director for the City of Pawtucket stating that Judge Nesselbush does not and has not worked at least twenty hours per week as a municipal court judge; (b) a communication from Attorney Ragosta confirming that there is no reliable or credible evidence to support a claim that the municipal court judges work at least twenty hours per week; and (c) the fact that the purported job description provided had not been adopted by any legislative action. The letter stated that it constituted “official notification of an administrative denial.” On May 7, 2024, Judge Nesselbush submitted a Notice of Appeal of Administrative Denial and Request for Hearing.¹

It is the position of the ERSRI that Judge Nesselbush is not eligible for membership in MERS because only “employees” are eligible for membership in MERS and Judge Nesselbush does not fall within the statutory definition of an “employee” because she has failed to establish that she devotes a minimum of twenty hours per week to the service of the municipality.

R.I. Gen. Laws § 45-21-8(a) which governs membership in MERS states:

“Any employee of a participating municipality as defined in this chapter, who becomes an employee on and after the effective date of participation, shall, under contract of his or her employment, become a member of the retirement system[.]”

By its plain and express language, § 45-21-8(a) provides that any “employee” shall become a member of MERS. It necessarily follows that to be eligible for membership in MERS, an individual must be an “employee.” *See Ret. Bd. of Employees’ Ret. Sys. of State v. DiPrete*, 845 A.2d 270, 287 (R.I. 2004) (“*expressio unis est exclusio alterius* * * * provides ‘the expression of one thing is the exclusion of another’”).

The term “employee” is defined by R.I. Gen. Law § 45-21-2(7) which provides:

¹ In an email dated April 23, 2024, counsel for Judge Nesselbush indicated that Judge Gannon was not appealing the ERSRI’s decision and requested to bifurcate the two cases. *See Exhibit A* at 83. As the cases have never been consolidated, we address only Judge Nesselbush’s appeal.

“‘Employee’ means any regular and permanent employee or officer of any municipality, whose business time at a minimum of twenty (20) hours a week is devoted to the service of the municipality, including elective officials and officials and employees of city and town housing authorities. Notwithstanding the previous sentence, the term ‘employee’, for the purposes of this chapter, does not include any person whose duties are of a casual or seasonal nature. The retirement board shall decide who are employees within the meaning of this chapter, but in no case shall it deem as an employee any individual who annually devotes less than twenty (20) business hours per week to the service of the municipality and who receives less than the equivalent of minimum wage compensation on an hourly basis for his or her services, except as provided in § 45-21-14.1. Casual employees mean those persons hired for an occasional period or a period of emergency to perform special jobs or functions not necessarily related to the work of regular employees. Any commissioner of a municipal housing authority, or any member of a part-time state board commission, committee or other authority is not deemed to be an employee within the meaning of this chapter.”

Simply because individuals may have *believed* or *earnestly understood* that Municipal Court Judges were eligible to participate in MERS is of no consequence. When the language of a statute or enactment is “clear and unambiguous” then it must be interpreted literally and the words of the statute or enactment must be given “their plain and ordinary meanings.” *See Planned Environments Mgmt. Corp. v. Robert*, 996 A.2d 117, 121 (R.I. 2009). Further, when a statute or enactment is unambiguous “there is no room for statutory construction and we must apply the statute as written.” *State v. Oliveira*, 882 A.2d 1092, 110 (R.I. 2005).

The clear and unambiguous language of R.I. Gen. Law § 45-21-2(7) provides that to qualify as an “employee” an individual must devote at a minimum, twenty (20) business hours per week to the service of the municipality. As previously noted, there is no credible or reliable evidence in the record that Judge Nesselbush works or has worked at a minimum, twenty hours per week in the service of the municipality each and every week. The Human Resources Director for the City of Pawtucket stated that Judge Nesselbush “does not work 20+hrs week[.]” *See Exhibit A*. Judge Nesselbush has failed to provide any evidence with regard to the hours she has worked each day or each week as a Municipal Court Judge. She has also failed to provide any evidence of any legislative action adopting the purported job description she drafted for the Municipal Court Judges which purports to assert that Municipal Court Judges work twenty hours per week. Absent any credible evidence that Judge Nesselbush works and has worked a minimum of twenty hours per week in the service of the municipality, a review of the clear and unambiguous language of § 45-21-8(a) and § 45-21-2(7) evinces that Judge Nesselbush is not eligible for participation in MERS.

Importantly, the Legislature has vested the “general administration and the responsibility for the proper operation for the retirement system” of Rhode Island in ERSRI. *See* R.I. Gen. Laws § 36-8-3. As you are aware, it is long recognized that an administrative agency, such as ERSRI, “will be accorded great deference in interpreting a statute whose administration and enforcement have been entrusted to the agency.” *Town of Richmond v. R.I. Dept. of Environmental Mgmt.*, 941 A.2d 151, 157 (R.I. 2008). Deference shall also be given to ERSRI’s interpretation even if it “is not the only permissible interpretation that could be applied.” *Pawtucket Power Assocs. Ltd.*



P'ship v. City of Pawtucket, 622 A.2d 452, 456-57 (R.I. 1993). Moreover, “the construction given [a statute] by the agency charged with its enforcement is entitled to weight and deference as long as that construction is not clearly erroneous or unauthorized.” *Grasso v. Raimondo*, 177 A.3d 482, 486-87 (R.I. 2018) (citing *State v. Swindell*, 895 A.2d 100, 105 (R.I. 2006)). Additionally, § 45-21-2(7) explicitly provides that “[t]he retirement board *shall decide who are employees within the meaning of this chapter*, but in no case shall it deem as an employee any individual who annually devotes less than twenty (20) business hours per week to the service of the municipality and who receives less than the equivalent of minimum wage compensation on an hourly basis for his or her services, except as provided in § 45-21-14.1.” As such, ERSRI routinely interprets the statutes it has been entrusted with administering, including § 45-12-1 *et seq.* Its interpretation of the relevant legislation addressed herein, and its resulting determination that Judge Nesselbush is not an “employee” under § 45-21-2(7) because she does not work a minimum of twenty hours per week for the municipality and therefore is not eligible to participate in MERS pursuant to § 45-21-8(a), is entirely reasonable and in accordance with the plain and clear language of the relevant provisions.

Accordingly, per the clear language of § 45-21-8(a) and § 45-21-2(7), the ERSRI was fully entitled to determine that Judge Nesselbush is not eligible for membership in MERS and consequently, direct the City to cease making contributions on her behalf, including those contributions being transmitted to TIAA, return her contributions, and inform her that she would not receive the applicable service credit towards her retirement.

I look forward to presenting this position to you in person on July 31, 2024. Please do not hesitate to contact me should you have any questions or concerns prior to that time.

Very truly yours,

Michael P. Robinson

Michael P. Robinson, Esq.

cc: John Harwood, Esq.
Frank Karpinski
Gayle Mambro-Martin, Esq.



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MUNICIPAL EMPLOYEES RETIREMENT SYSTEM

IN RE: PENSION ELIGIBILITY OF DONNA M. NESSELBUSH

MEMORANDUM OF LAW

IN SUPPORT OF MEMBER, DONNA M. NESSELBUSH'S, APPEAL OF ADMINISTRATIVE DENIAL OF MERS PARTICIPATION/BENEFITS

STATEMENT OF FACTS:

In 2004, Attorney and Pawtucket resident, Donna M. Nesselbush, was approached by then City Council President, John J. Barry, III, with the possibility of her serving as Associate Judge of the Pawtucket Municipal Traffic and Housing Courts. Then President Barry was aware that Nesselbush was a well-respected attorney and was tri-lingual, speaking English, Spanish and Portuguese, an invaluable asset in a city with large Spanish and Portuguese speaking communities. He introduced her to Pawtucket's then Chief Judge Gerard "Gerry" Laliberte who was ready to appoint a new Associate Judge. Nesselbush met with President Barry and Chief Judge Laliberte at Casa Christine Restaurant on Federal Hill to discuss her possible appointment and the terms of that employment.

After this initial meeting, Chief Judge Laliberte requested that Nesselbush shadow him in court to learn more about the job. Accordingly, she began attending Municipal Court sessions presided over by Chief Judge Laliberte, after which she would meet with the judge to discuss what had transpired in court. During these meetings, the Chief Judge explained more about the role of Associate Judge, and he detailed the terms of employment: a small salary, access to City health insurance and enrollment in the Municipal Employees Retirement System (MERS) While

Nesselbush was essentially in training with Judge Laliberte, he suddenly and unexpectedly died. Upon information and belief, Chief Judge Laliberte was enrolled in the MERS and his designated beneficiaries received some MERS benefit based upon his service as Municipal Judge. Soon thereafter, the Pawtucket City Council appointed John F. McBurney, III, as Chief Judge of the City of Pawtucket. Upon information and belief, Chief Judge McBurney was also enrolled in the MERS. McBurney promptly began his own selection process to choose his Associate Judge. He conducted in person interviews with several candidates, and he ultimately selected Nesselbush to serve as his Associate Judge.

In offering her the job, he outlined the court's schedule and her responsibilities, and he reiterated what former Chief Judge Laliberte had told her: the Municipal Judge position came with a small salary, access to City health insurance and enrollment in the MERS pension system. In reliance on the salary and benefit package he offered, Donna Nesselbush accepted the offer to become Pawtucket's Associate Judge. In October 2004, at a swearing-in ceremony held in City Hall, Mayor James Doyle swore in Donna Nesselbush as Pawtucket's new Associate Judge.

Soon thereafter, she was "on-boarded" as a City employee. The City's HR Department presented her with paperwork which comported with the agreed upon salary and benefits, Associate Judge Nesselbush signed all the appropriate paperwork, and the City began paying her the agreed upon salary. The City enrolled her in the City's health insurance plan, and the City enrolled her in the MERS pension system, after which the city began making employer contributions on her behalf and withholding monies from Judge Nesselbush's paycheck as her employee contribution. This continued for nearly 20 years. All the terms of her employment contract with the City are self-proving in that they remained largely unchanged and continuous for nearly 20 years.

Upon information and belief, every Judge since the inception of the Municipal Court in the 1950's has received these same benefits: a small salary, health insurance and access to the MERS pension system.

In 2012, the Pawtucket City Council elevated Associate Judge Nesselbush to the position of Chief Judge of the City of Pawtucket when her predecessor, John F. McBurney, III, was elevated to become a Superior Court Magistrate. At that time, the salary of the position of Chief Judge was approximately \$24,000. Her access to City health insurance and participation in the MERS remained unchanged. Chief Judge Nesselbush embraced her role as the titular head of Pawtucket's judicial branch of government, working to adjudicate cases, to improve both the Traffic Court and Housing Court's efficacy and procedures and improve the judiciary's interaction and

communication with the other branches of government and with the community, including motorists, residents, and litigants.

Throughout this time Judge Nesselbush considered herself first and foremost a public servant; she did not serve as Associate Judge or Chief Judge of the City of Pawtucket for the money. The salaries are relatively small: approximately \$16,000 for the Associate Judge and approximately \$24,000 for the Chief Judge. The small salaries were augmented by the access to health insurance and enrollment in MERS. In fact, during her almost 20 years of judicial service, Judge Nesselbush never asked for or received a raise. Her only real salary change occurred when her position changed from Associate Judge (approximately \$16,000) to Chief Judge (approximately \$24,000). When she retired from the bench in February 2024, her salary was exactly the same as when she was appointed Chief Judge some 12 years earlier: \$24,230.93.

Chief Judge Nesselbush's paystubs have always indicated that she is classified as a 35-hour-per-week employee (see exhibit 1), probably because of city ordinance 26-9 that states "the Municipal Court shall be considered to be in session at all times and in such place or places in the city as the Court or the justice holding the same shall direct."

Judge Nesselbush has considered herself a member of the Municipal Employees Retirement System for nearly 20 years. She was shocked in 2022 when her nearly 20 year participation and membership status were revoked.

As previously stated, upon information and belief, all previous Pawtucket Municipal Judges have been *enrolled* in the MERS. These Judges include Judge Mutter, Judge Keough, Judge White, Judge Allcock, Judge Laliberte, Judge Condon, Judge Cooney, Judge Noonan, Judge John F. McBurney, III, Judge Cristine McBurney and Judge John Gannon. Upon information and belief, some or all of the deceased judges were paid MERS pension benefits, and many of the above living judges are counting on pension credits when they retire based on their service as Pawtucket Municipal Court Judges.

HISTORY AND TRAVEL OF THE CASE:

On August 1, 2022, MERS Executive Director Frank J. Karpinski wrote to Chief Judge Nesselbush seemingly "out of the blue" stating that she was not eligible for membership in MERS, and her almost 20 years of pension contributions would be refunded (See exhibit 2). Unfortunately, much of the information relied upon by Mr. Karpinski was incomplete and inaccurate. His decision to remove Judge Nesselbush was based on the erroneous belief that the court sessions equalled or

were her only responsibility. As will be set forth hereinafter, this is simply not true. In reality, she has many other responsibilities and works far more than her hours on the bench.

Mr. Karpinski, in his letter dated August 1, 2022, set forth the provisions of law he relied upon to remove Judge Nesselbush from the pension system:

RIGL 45-21-8(a): any employee of a participating municipality as defined in this chapter, who becomes an employee on, and after the effective date of participation, shall, under contract of his or her employment, become a member of the retirement system;

RIGL 45-21-2(7) was amended in 1994 to provide the following definition of an employee for the purpose of membership in MERS which definition requires that the person work at least 20 hours per week.

(7) “Employee” means any regular and permanent employee or officer of any municipality, whose business time at a minimum of twenty (20) hours a week is devoted to the service of the municipality, including elective officials and officials and employees of city and town housing authorities. Notwithstanding the previous sentence, the term “employee,” for the purposes of this chapter, does not include any person whose duties are of a casual or seasonal nature. The retirement board shall decide who are employees within the meaning of this chapter, but in no case shall it deem as an employee any individual who annually devotes less than twenty (20) business hours per week to the service of the municipality and who receives less than the equivalent of minimum wage compensation on an hourly basis for his or her services, except as provided in § 45-21-14.1. Casual employees mean those persons hired for an occasional period or a period of emergency to perform special jobs or functions not necessarily related to the work of regular employees. Any commissioner of a municipal housing authority, or any member of a part-time state board commission, committee or other authority is not deemed to be an employee within the meaning of this chapter.

Mr. Karpinski concludes his August 1, 2022 letter by stating “[S]ince the information reveals that you did not meet the definition of employee, specifically the minimum requirement of 20 hours per week, you are therefore not eligible for membership in MERS and your contributions will be returned to you, and you will not receive the applicable service credits towards your

retirement. Your MERS and TIAA defined contribution plan employee contributions will be refunded to you by your employer.”

After receiving Karpinsky’s August 1, 2022 letter, Chief Judge Nesselbush contacted him by telephone and email indicating that his letter unfortunately contained inaccuracies and incomplete information. During their telephone call, Frank Karpinski was “a gentleman and a scholar.” He understood Nesselbush’s perspective, and it was agreed that Judge Nesselbush would provide him with more complete and accurate information in the form of a job description.

Mr. Karpinski again wrote to Judge Nesselbush on October 24, 2022, stating that “[I]n making this determination, we relied upon information from Pawtucket’s Municipal Traffic Court website and the Human Resources Director of the City of Pawtucket.” (See exhibit 3).

Chief Judge Nesselbush again contacted Karpinski and explained to him that the City had not updated the Court’s web page in years, and it only contained information about the hours of operation of the court, not about the total hours worked by the Judges. Pawtucket’s Director of Human Resources, Sara Miranda, who had compiled the information that Karpinsky relied on had simply counted the hours the court is open to the public, as stated on the website. Chief Judge Nesselbush indicated that to her knowledge, there had never been a written job description for the Municipal Judges. Based on that conversation, Judge Nesselbush and Frank Karpinski agreed that Judge Nesselbush would provide an updated job description with a more accurate counting of the hours she worked.

In order to provide accurate and authenticated information to Frank Karpinski, on November 18, 2022, Chief Judge Nesselbush formally reached out to the Mayor’s office requesting that they work together on a job description and confirmation of the hours worked by the Judges. On November 18, 2022, she sent an email to the Mayor’s Director of Administration, Dylan Zelazo, and to City Solicitor, Frank Milos, stating the following:

“Dear Dylan and Frank,

I am writing to you in your official capacities as Director of Administration and City Solicitor, respectively. Thank you both for speaking with me about this issue. As we are Council appointees, I have also spoken to Councilor Mercer, and I believe he has discussed this briefly with the Mayor. As you requested, attached is a judicial protocol or job description that I drafted based upon my experience, serving both as the Associate Judge, and then the Chief Judge of our city over the past 18 years. This document outlines the responsibilities and duties of our city’s Municipal Traffic and Housing Court Judges.

Please let me know if you have any questions. After reviewing and finalizing this document (and conferring with the City Council, if that is necessary or warranted), I respectfully request that the appropriate person in city government draft a cover letter (or other appropriate document) to Frank J. Karpinski, Executive Director of the Employees Retirement System of Rhode Island, assenting to and enclosing the final version of the judicial protocol/job description and confirming that we are 20 per week employees/appointees.

Thank you for your kind attention to this matter. Your prompt response would be most greatly appreciated....” (*See exhibit 4*).

Chief Judge Nesselbush has always enjoyed a good and collegial relationship with longtime Mayor Don Grebien. Although Mayor Grebien was aware of Judge’s Nesselbush’s dedicated service, it appears that the Mayor’s office was unsure, based on the “separation of powers” doctrine, if the Mayor had the legal authority to establish or confirm the duties of the Judges or their hours worked. Mayor Grebien’s office directed that question to Pawtucket’s City Solicitor, Frank J. Milos, Jr., requesting his opinion.

On November 29, 2022, City Solicitor Milos responded to Dylan Zelazo, the Mayor’s Director of Administration, stating that:

“[Y]ou asked me to look into the legality of the Administration creating a protocol/job description for the Municipal Court Judges that would mandate, among other things, a 20 hour work week for the judges. As you know, the Municipal Court Judge positions are controlled by the City Charter (See 2-501). The Judges are elected solely by the City Council. The Mayor/executive branch has no authority or jurisdiction regarding the appointment of the Judges or the hours of operation of the municipal court, which is essentially the City’s third branch of government.”

As Judge Nesselbush has recently stated, under the separation of powers doctrine, the Judges are responsible for establishing court calendars, dockets, and courtroom decorum, including case flow, case management and all aspects of court operations. Therefore, I do not believe that the executive branch has the right or authority to set the hours of operation of the court, or to set the number of hours that the Municipal Court Judges are required to work during a given week. (*See exhibit 5: Frank J. Milos, Jr. Letter dated November 29, 2022.*)

Apparently, the Mayor did not like that opinion because he then decided to get a second opinion from Attorney Vincent F. Ragosta, Jr, who, according to Frank Milos, has vast labor experience and familiarity with the Pawtucket City Charter and ordinances. On December 8, 2022,

attorney Ragosta provided a written Memorandum of Law to Mayor Grebien stating essentially the same opinion as Mr. Milos:

“[F]or the reasons that follow, and given the facts as known and presented to us, it is our professional opinion that the Mayor of the City of Pawtucket does not have operational authority over the City’s Municipal Court. Rather, that authority, which includes governance over the personnel, operation, and procedures to be followed in Municipal Court, lies with the City Council by virtue of a legislative grant from the Rhode Island General Assembly. (See exhibit 6 Memorandum from Attorney Vincent Ragosta dated December 8, 2022.)

In light of the above information, Chief Judge Nesselbush called City Council President, David P. Moran. They discussed the situation, and it was decided that Chief Judge Nesselbush would share with him the job description she had already submitted to the Mayor, describing the role of the Judges and the hours worked, for his review. Given the issues, then President Moran consulted with President *Pro Tem* Mercer, and together they drafted President Moran’s response dated December 8, 2022, stating:

As you know, I have been on the Pawtucket City Council for over 30 years and have served as Council President for the last 12 years. Given that, I can confirm that all of the information you provided appears true and accurate to the best of my knowledge, in terms of the role of the judiciary/judges in our city government. The duties and responsibilities of our judges. -most certainly are considered city employees- as you have outlined them in the protocol/job description, appear reasonable and accurate to the best of my knowledge.

I am well aware of all the work you and Judge Gannon perform on a weekly basis to smoothly run our Municipal Traffic and Housing Courts. In addition, I have seen firsthand your...work with the Council to address issues affecting the judiciary, such as changing the name of the court, and adjusting court hours to better accommodate residents. Moreover, I fully understand that your...work to run the judiciary and effectuate a number of special projects, means that your position as judge...for the city involves more than just the hours you spend on the bench.

Through my participation in numerous judicial appointments over more than three decades and my annual participation and deliberations regarding the city’s municipal budget, I have understood that our judges are treated like all other part-time employees in city government; that is, they receive financial compensation, have access to city health insurance, and participate in the MERS pension program that includes both employee contributions and city (employer) contributions.

(See exhibit 7.)

With City Solicitor Frank J. Milos, Jr. and the City's outside legal counsel, Vincent F. Ragosta, Jr. both concluding that the Mayor/executive branch has no legal authority or jurisdiction over the Judges, and with City Council President Moran's dispositive letter dated December 8, 2022, one would think the matter would have been concluded.

However, in the November 2022 elections, Mayor Grebien was re-elected, and so was his friend and political ally, James Diossa. James Diossa was elected Rhode Island's General Treasurer. Treasurer Diossa heads the Retirement Board, and upon information and belief, he supervises Frank Karpinski. Additionally, new members were elected to the Pawtucket City Council. James Diossa took office in January 2023, and a new Pawtucket City Council was seated at that time as well, with Terrence E. Mercer elected the new President of the Pawtucket City Council.

This matter was pending in the Treasurer's office for several months. In order to spur along what appeared to be the obvious outcome here (based on the evidence of record), John Harwood, as Chief Judge Nesselbush's attorney, met with Pawtucket's new City Council President, Terrence Mercer, to determine whether he was still in agreement with the sentiments formally expressed by former, longtime City Council President, David P Moran. He was, and as a result of our meeting, he wrote a letter dated May 2, 2023 which states in pertinent part:

I write as the current President of the Pawtucket City Council to affirm a December 6, 2022 letter...by my predecessor in this office, councilor David P. Moran... The gist of that December letter was to confirm for Judge Nesselbush (and ultimately your office) that then-President Moran had for 30 plus years as a city councilman understood that the city's municipal court and probate court judges were considered, for all intents and purposes, to be part-time employees of the city.

As President Pro Tem last December, I worked in close contact with President Moran on a multitude of matters, including the drafting of his letter regarding this particular pension-qualification issue. I concurred with the intent and content of that letter last December and remain of the same mindset now.

...I believe everyone involved over the last couple decades earnestly understood that the municipal court and probate court judges were indistinguishable from all other part-time employees in city government and, accordingly, on a proper MERS pension tract. Had that not been the earnest understanding, employee pension contributions would not have been withheld and remitted to the pension system (along with the city's employer contributions).... (see exhibit 8).

It is clear and undisputed that the City Council has exclusive authority over judicial appointments, and based upon the convincing and clarifying letters provided by two consecutive Pawtucket City Council Presidents, by letter dated July 3, 2023, Frank Karpinski wrote a well reasoned letter, reinstating Judge Nesselbush and stating in pertinent part:

We write in response to your letter of May 12, 2023 whereby you request that we issue a re-determination....As we have previously noted, in order to be or remain a member of MERS, employees are required to work a minimum of 20 hours or more per week....At the time of our original inquiry, we were unable to secure a job description or any documented hours required for the position.... However, since Pawtucket City Solicitor, Frank, J. Milos, Jr., indicated in his letter of November 29, 2022 that the Municipal Court Judge positions are controlled by section 2-501 of the City Charter, whereby the judges are elected solely by the City Council, and since the information you obtained from City Council President David P. Moran, and current City Council President Mercer includes a job description with the requisite 20 minimum hours, we will consider... the job requirements to be in line with the requirements set for in RIGL 45-21-2(7).... We are interpreting your letter to indicate that the City Council members are confirming that the Pawtucket Municipal and Probate Court Judges have always worked and continue to work a minimum of 20 hours per week.... We will begin the process of restoring the retirement contributions and service credit for Judge Nesselbush....(See Frank Karpinski letter dated July 3, 2023). (see exhibit 9).

Karpinsky's letter was certified and written on official ERSRI letterhead and should have put an end to this inquiry, but it did not.

In August 2022, Judge Nesselbush moved from the City of Pawtucket where she had lived for over 35 years to the Town of North Kingstown. Judge Nesselbush discussed the fact that she was moving to North Kingstown with the Mayor and with both Council President Moran and Council President *Pro Tem* Mercer. Rhode Island law allowed Judge Nesselbush to continue to serve as Pawtucket's Chief Judge (See, RIGL 45-2-15.2 entitled "Municipal Employees - Residency within Municipality Not Required), but she wanted to work collegially with the Council to plan the timing of her retirement as Chief Judge.

At her counsel's urging, one of the things Chief Judge Nesselbush always told President Mercer in their discussions was that she did not want to retire while this pension dispute was pending.

After Frank Karpinski's July 3, 2023 letter reinstating Judge Nesselbush, Chief Judge Nesselbush resumed discussions with Council President Mercer regarding the timing of her

retirement. In reliance on Frank Karpinski's reinstatement letter dated July 3, 2023, Chief Judge Nesselbush decided to finally retire, writing to President Mercer on August 30, 2023:

Dear President Mercer and Members of the City Council:

Over the past almost 20 years, it has been my honor and privilege to serve our city as Municipal Judge (2004-2011) and Chief Judge (2011- present). In these roles, I've always done my best to advance the interests of justice and run a court that makes our city proud.

I thank you and Council for the opportunity to have served.

My most recent three year term of service will be up in February 2024. After almost 20 years on the bench, I am writing to let you know that I will not be seeking another term. The time has come for me to step away and try to enjoy my golden years. I want to let you know now, so that you will have sufficient time to find a suitable replacement. If the Council finds a replacement before my term is up, and if the Council were to want to appoint a person before my term is up, I would understand and be amenable.

Again, it has been my honor and pleasure to serve.

Sincerely, yours,
Donna M. Nesselbush,, Esq

(see exhibit 10)

Although this matter between 20 year MERS member Donna M. Nesselbush and the Municipal Employees' Retirement System was officially resolved in July 2023, the Mayor's outside legal counsel, Vincent F. Ragosta, Jr., (three months late to the party) on October 11, 2023, wrote to Frank Karpinski inquiring as to "the status of the appeal of an ineligibility determination for membership of the City's municipal court judges in the Municipal Employees Retirement System." (See exhibit 11).

Rather than reiterate what he clearly stated in "black and white" in his July 3, 2023 reinstatement letter, which was: that "since Pawtucket City Solicitor, Frank, J. Milos Jr. indicated in his letter of November 29, 2022 that the Municipal Court Judge positions are controlled by section 2-501 of the City Charter whereby the Judges are elected solely by the City Council," and since Frank Karpinski had received information "from City Council President David P. Moran and current City Council President Terrence E. Mercer," including a job description with the requisite 20 minimum hours," we have determined Judge Nesselbush's...job requirements to be in line with the

requirements set forth in RIGL 45-21-2(7). Rather than communicate that to Attorney Ragosta, apparently, based on Ragosta's single sentence email (after Attorney Ragosta told the Mayor that he essentially has no standing in this matter), Frank Karpinski felt he had to re-open his inquiry.

Consequently, four months after Frank Karpinski's letter of July 3, 2023, re-instating Judge Nesselbush in MERS, he re-opened his inquiry by again writing to Council President Terrence E. Mercer on November 8, 2023, asking two additional questions. (See exhibit 12).

Council President Mercer dutifully responded yet again by letter dated November 17, 2023. He answered the questions as follows:

Q. Does the Pawtucket City Council determine the conditions and duties of employment for the Pawtucket Municipal Court judges... including with respect to the number of hours worked on a weekly basis or is there a different individual or entity that would have authority to do so on behalf of the city with whom the retirement system should be communicating regarding this issue?

A. The short answer to this question is **No**. To the best of my knowledge after 11 years on the council, the city's legislative body does not determine the conditions, duties, weekly workload, or weekly hours worked. The expectation is that the workload is self-dictating....

Q. If the Pawtucket City Council does not have authority to determine the conditions of employment for Judge Nesselbush, does the Council as a whole certify the accuracy of the information contained in the "protocol/job description" ... that was provided to MERS and that is attached hereto as Exhibit A, including with respect to the number of weekly hours...?

A. Again, the short answer to this question is **No**. As stated above, the City Council does not determine the working conditions, and, accordingly it does not establish such "protocols and job descriptions" for the judges appointed by that body -or, for that matter, for the City Sergeant or Sealers of Weight and Measures as the only other Council-appointed employees in the city.... (See exhibit 13).

Mercer's answers make perfect sense. Municipal government (like state government and like the federal government) has three separate but equal branches of government: executive, legislative and judicial. It would be inappropriate and a violation of the doctrine of "separation of powers" for the Mayor to write the job descriptions for the City Councilors. Likewise, the City Council would not write the job description for the Mayor. Likewise, the Court would not write a job description

for the Mayor or the City Councilors, and neither should those branches write the job description for the Judges. There is a delicate and fundamental balance between the three, co-equal branches of government.

After City Council President Mercer responded that the City Council does not determine the working conditions, weekly work load or weekly hours worked [by the judges),” one would think that this would put an end to the “re-inquiry.” President Mercer reiterated what had been previously stated: that the Council does not supervise the judges, including their hours worked. These are, after all, salaried and not hourly positions. President Mercer offered no substantively different information that would justify any change in decision. Yet, for reasons that will be alluded to *infra*, even though the answers given by President Mercer support Judge Nesselbush’s authority to write a job description, Judge Nesselbush was again issued a denial letter dated March 11, 2024, kicking her out of the MERS pension system, based on no substantive, additional evidence. (See exhibit 14).

President Mercer’s answers (that the Council does not supervise the Judges) given by letter dated November 17, 2023, are based in the City Charter and ordinances (see below), which set forth that the Chief Judge has all administrative and supervisory authority over the judiciary, including its operations and procedures.

By City Ordinance, the Chief Judge has the statutory authority to “hear and determine causes involving violations of any ordinance of the City of Pawtucket”(as well as most traffic violations occurring within the city) and is “authorized to prescribe and vary the form of all complaints, warrants, writs, or other process as to make the same consistent with the organization, style, and jurisdiction of said court, and such complaints, warrants, writs, and other process shall have the same effect, validity, and extent and be served, obeyed, enforced, and returned, in the same manner, and by the same officers, as if issued from the District Courts.” *City of Pawtucket, R.I., Municipal Code §§ 26-10, 26-12*. By City Ordinance, the Chief Judge has the “authority to administer oaths and affirmations, compel the attendance of witnesses, punish persons for contempt, and execute search warrants to the extent warrants could be executed by a Judge of the District Court (See Article II, Section 28-18 H.). If the Chief Judge has all that authority, then surely inherent in these broad legislative grants of authority, the Chief Judge has the basic authority to write a job description for the Judges that includes the number of hours worked.

On February 21, 2024, the City Council exercised its appointing authority and opted to elevate the Mayor’s arch enemy, Jack Gannon, to the position of Chief Judge and to appoint Patrick McBurney as Associate Judge. (The Mayor supported other candidates for both positions). These

February 21, 2024, judicial appointments appear to have infuriated the Mayor. The fact of the Mayor's ongoing animosity for Jack Gannon (*see infra*) and his upset with the Council for elevating him may have influenced the mindset of his close, personal friend, the Treasurer.

The timing could not be more revealing; just weeks after the February 21, 2024 snubbing and drubbing of the Mayor by the City Council relative to the judicial appointments, voilà... on March 11, 2024, both Chief Judge Nesselbush and Judge Gannon were inexplicably and wrongfully again removed from the MERS pension system. (see exhibit 14).

This appeal unfortunately follows. Sadly, litigating her pension eligibility is not the way Judge Nesselbush wanted to end her 20 years of public service to the City of Pawtucket.

PREAMBLE REGARDING TERMINOLOGY:

In this Memorandum of Law, the Courts will be referred to as the Pawtucket Municipal Court Traffic Court and the Pawtucket Municipal Housing Court. The City Charter and the Pawtucket ordinances sometimes embarrassingly refer to the "Pawtucket Municipal Police Court," which unfortunately was the original name of the Court. As one of her many projects as judge (and carried out in hours off the bench) Chief Judge Nesselbush had long discussed with City officials changing the name of the Court, and after the death of George Floyd, she re-doubled her efforts and worked collegially with the Pawtucket City Council to officially change the name of Pawtucket's Traffic Court from the Pawtucket Municipal Police Court to the Pawtucket Municipal Traffic Court. The revised title is more accurate and less intimidating for Pawtucket residents who may distrust law enforcement and the Courts.

The City Charter and some ordinances may still have out of date nomenclature, with references to the Pawtucket Police Court. Likewise, the city Charter and ordinances may still have other out -of- date nomenclature, referencing a Judge, an Associate Judge and a Clerk, often conflating the terms Associate Judge and Clerk. In Chief Judge Nesselbush's 20 years working in the Pawtucket judiciary, in actuality, the terms that have been used in everyday parlance by all three branches of government are: Chief Judge, Associate Judge and Clerk. The Chief Judge and the Associate Judge are appointed by the City Council. For the last 20 years, the Clerks have always been non-attorney, non-appointed municipal employees. Municipal employee Nadine Higgins is and has been the Clerk of the Pawtucket Municipal Traffic Court for many, many years. Municipal employee Donna Pinto was Judge Nesselbush's Housing Court Clerk from 2005 - 2022. Upon her

recent retirement, municipal employee Melissa Fontes took over as Clerk of the Pawtucket Municipal Housing Court.

Although the charter and ordinance sometimes conflate the term Associate Judge/Clerk, in reality, these are two separate positions/people. In this document, the terms Chief Judge, Associate Judge and Clerk will be used, as those terms are, in fact, the terms commonly used by the City Council, the Mayor and by all City Hall staff, including those police officers and others who work in the Pawtucket Municipal Courts and attorneys who practice law in the Pawtucket Municipal Traffic and Housing Courts. Using the terms as they are actually used has no prejudicial effect, one way or the other, on the legal arguments raised in this Memorandum.

LEGAL ISSUE:

Under the circumstances of this case, is Judge Donna Nesselbush entitled to participate in the Municipal Employee Retirement System of Rhode Island?

LEGAL ARGUMENTS:

1. EQUAL PROTECTION:

Upon information and belief, and based upon the letters submitted by the past and current Presidents of the Pawtucket City Council, it appears that all of Pawtucket's past and present judges have been enrolled in the Municipal Employees Retirement System (MERS), both before and after the 20 hour per week rule was enacted by the General Assembly in 1994. Judge Nesselbush avers that she has been “singled out” and treated disparately, in violation of the equal protection clause. The 14th Amendment to the United States Constitution and Article 1, Section 2 of the Rhode Island Constitution guarantee to every individual equal protection of the laws. Generally, it proscribes governmental action which treats one class of people less favorably than others similarly situated. *Yick Wo v. Hopkins*, 118 U.S. 356, 6 S.Ct. 1064, 30 L.Ed. 220 (1886). An equal protection violation may be established by showing that an impermissible classification has occurred. *Felice v. Rhode Island Board of Elections*, 781 F.Supp. 100, 105 (D.R.I.1991).

An equal protection claim for a “class of one” is cognizable when a plaintiff alleges that she has been intentionally treated differently from others similarly situated and that there is no rational basis for the difference in treatment. SBT Holdings, LLC v. Town of Westminster, 547 F.3d 28, 34

(1st Cir. 2008). To determine whether two or more entities are similarly situated, a court asks “whether a prudent person, looking objectively at the incidents, would think them roughly equivalent and the protagonists similarly situated....In other words, apples should be compared to apples.” SBT Holdings, LLC, 547 F.3d at 34 (internal quotations and citations omitted).

Here, Judge Nesselbush alleges that the City and the Retirement Board are treating her differently from other similarly situated past Pawtucket Judges without a rational basis. *See also, Willowbrook v. Olech*, 528 U.S. 562 (2000) (“cases have recognized successful equal protection claims brought by a ‘class of one,’ where the plaintiff alleges that she has been intentionally treated differently from others similarly situated and that there is no rational basis for the difference in treatment.” 528 U.S. at 564.)

Judge Nesselbush requests that the Retirement Board disclose whether or not the following Pawtucket Judges have been or are enrolled in the MERS: John Mutter, Joseph Keough, Stephen White, Donald Allcock, William T. Noonan, Gerard Laliberte, Rae Condon, Raymond Cooney, John McBurney, and Cristine McBurney.

Judge Nesselbush also requests that the Retirement Board disclose whether or not the following deceased Judges were paid or given pension credits/benefits: John Mutter, Joseph Keough, Gerard Laliberte.

If Pawtucket’s past Judges are enrolled and/or if the MERS has paid benefits to any of these judges, there is no rational basis for treating Judge Nesselbush differently. Like the others, she has been a hard-working public servant. Removing her from the pension system appears to be a clear violation of the equal protection clause.

2. JUDGE NESSELBUSH DOES, IN FACT, MEET THE DEFINITION OF EMPLOYEE AS SET FORTH IN RIGL 45-21-2(7).

The authority, responsibilities, duties and hours worked by Judge Nesselbush do in fact, meet the statutory requirements.

a.) The Denial Letter dated August 1, 2022 Is Rife With Incomplete and Inaccurate Information:

The initial letter denying Judge Nesselbush her pension, dated August 1, 2022, contains incomplete and inaccurate information. The Retirement Board appears to have credited Judge Nesselbush only with the hours she sits on the bench. It is well-known by all those who practice law

or work in the court system that a Judge's work involves far more than just the hours spent in court on the bench. Similarly, lawyers work far more hours than just the hours they appear in open court, just like professors work more than the hours they are in the classroom. For judges, there are case conferences, legal research (the Pawtucket Judges have no legal clerks), preparation, reading and staying abreast of appellate law relative to cases whose subject matter is within the jurisdiction of the Pawtucket Housing and Traffic Courts. There are driving records and Court Orders to review. There are operational issues such as scheduling, court operations and courtroom decorum. There are special projects that the Judges are involved with in the interest of justice, reform and transparency, and there are a myriad of time-consuming duties, including telephone calls, conversations, emails and routine correspondence that go along with running the judiciary and operating a court system.

In Frank Karpinski's August 1, 2022 letter revoking her pension eligibility, he stated that "[W]e have confirmed with the Human Resources Director for the City of Pawtucket the following information:

Pawtucket Municipal Courts are in session 2-3 days per week with the two judges present (Chief Judge and Judge) *(This is inaccurate. From 2004 when Judge Nesselbush was appointed Associate Judge, the Court always met 3 days per week, not 2-3 days. In fact, in the early days of Judge Nesselbush's tenure, the court actually met 4 days per week: 3 days for Traffic Court and 1 day for Housing Court. At some point, (Judge Nesselbush does not remember exactly when), Chief Judge McBurney changed the schedule such that both the Housing and Traffic Courts convened at different times, but on the same day: Mondays. During and after Covid, to minimize "gathering," sometimes the court would meet every other Friday, if the court were able to accommodate and hear Friday's scheduled cases on one of its other days.)*

- Mondays at 2pm (from the website) *(This is inaccurate. While it is true that Traffic Court convenes at 2:00 p.m. on Mondays, there is also a totally separate Housing Court session every Monday. The Housing Court session, with the judge on the bench, lasts 1 to 1 and 1/2 hours. Prior to the judge actually taking the bench for either of these Court sessions,, the Judge must review the docket as well as the cases on the docket, including driving records and Court Orders. Before Housing Court officially begins, the Judge is available for questions from the staff during their pre-court*

conferences with City residents who have been issued zoning or code violations. The Judge takes a recess on Mondays after the Housing Court session and before the Traffic Court session. At that time, in Chambers, the Judge reviews the Traffic Court docket, the cases that will be heard that day and the driving records of the motorists who will be appearing before the Traffic Court. While the court is in recess and the Judge is in her Chambers, the Housing Court Clerk and personnel leave the Courtroom and the Traffic Court Clerk and Traffic Court personnel set up for Traffic Court. Each Court has a different Clerk and different staff. The Court's staff begin to check in and seat motorists for Traffic Court while the Traffic Court Clerk prepares the docket to be called and prepares the operation of the recording device. The actual Traffic Court session lasts 1-2 hours.)

- *Thursdays at 6pm (from the website) (This is inaccurate. With the initiation of Pawtucket's Camera Enforcement Program in 2019, Judge Nesselbush agreed to transfer the workload of the Court's usual Thursday night docket to the other court days: Mondays and Fridays, so as to create 3 new, separate Court dockets dedicated to Camera tickets on Thursdays with 4 PM, 5 PM and 6 PM dockets/sessions.)*
- *Fridays at 9:00a.m (from the website)*
- *The position is not in the city's FTE count (we don't know if the position is in the city's FTE count, but we do know that Judge Nesselbush's paystub, every week for 20 years listed her as a 35 hour per week employee.) (see attached).*
- *Judges are appointed, and then approved by the City Council (This is accurate.)*
- *Judges earn \$16,000 annually (salary is the same regardless of the hours) (This is inaccurate. The Associate Judge earns approximately \$16,000, while the Chief Judge earns approximately \$24,000. Notably, these salaries have not changed in 20 years. If they were indexed for inflation or to present day value, they would likely be approaching \$40,000.)*

b.) Judge Nesselbush has Vast Supervisory and Administrative Authority over the Court which clearly includes the ability to draft a Job Description:

The City Charter, Section 2-501 states that the Council shall elect the Chief Judge of the Municipal Court, and the Council shall also appoint an Associate Judge who shall perform the services of the Chief Judge in his or her absence.... The charter goes on to state that, “in case of sickness, absence from the city or other disability, or ineligibility of the Chief Judge of the Municipal Court to serve, the Associate Judge...of the Municipal Court shall perform the duties of the Chief Judge during any such inability or ineligibility of the Chief Judge to serve.”

City Ordinance 26-9 states that “[T]he Municipal Court shall be considered to be in session at all times and in such place or places in the city as the Court or the justice holding the same shall direct.”

City Ordinance Section 26 also sets forth that the Municipal Court has original jurisdiction to hear and determine causes involving violations of any ordinance of the City of Pawtucket as well as most traffic violations occurring within the city. By city ordinance, the Chief Judge of the Municipal Court is authorized to prescribe and vary the form of all complaints, warrants, writs, or other process as to make the same consistent with the organization, style, and jurisdiction of said court, and such complaints, warrants, writs, and other process shall have the same effect, validity, and extent and be served, obeyed, enforced, and returned, in the same manner, and by the same officers, as if issued from the District Courts, and they may also be served by any constables of said town who are authorized to serve process in civil or criminal cases. The ordinances in Section 26 go on to state the amount of court costs to be assessed and the cost of appeals. (See City Ordinance Section 26 *et. seq.*)

City Ordinance 26-18 B&C states that there shall also be established a Housing Court and the Housing Court Chief Judge shall serve simultaneously as the Chief Judge of the Pawtucket Municipal Court. The Associate Housing Court Judge shall serve simultaneously as the Associate Judge of the Pawtucket Municipal Court.

By ordinance, the Housing Court shall hear and determine causes brought before the Housing Court by the Director of Zoning and Code Enforcement and the City Solicitor’s Office involving violations of the zoning ordinances of the city and any violation of the provisions of Chapter 24 of Title 45 of the General Laws of the state of Rhode Island entitled the “State Zoning Enabling Act,” and any violation of the provisions of chapter 27.3 of Title 23 of the General Laws of the state of Rhode Island entitled the Rhode Island State Building Code and its provisions. See Article II, Section 28-18 B.)

By ordinance, the Housing Court shall have authority to administer oath and affirmations, compel the attendance of witnesses, punish persons for contempt, and execute search warrants to the extent warrants could be executed by a Judge of the District Court. (See Article II, Section 28-18 H.)

By ordinance, the Housing Court shall be a Court of citywide jurisdiction; and no order, decree, judgment, sentence, warrant, writ or process made, issued or pronounced by it need set out any adjudication or circumstances with greater particularity than would be required in courts of superior and general jurisdiction. The writs, subpoenas, citations, orders, notices, executions, and all other processes issued by the Housing Court shall be under the seal of the Housing Court and shall be signed by the Housing Court clerk and shall bear the signature of the Housing Court Chief Judge. Said ordinance goes on to vest in the court broad and vast equity powers. (See Article II, Section 28-19.)

By ordinance, the Housing Court shall conduct business in the Pawtucket Municipal Courthouse at such times and under such conditions as the Housing Court Chief Judge may from time to time direct. (See Article II, Section 28-20.)

By ordinance, the Housing Court Chief Judge shall be the Administrative Judge of said Court, and shall be the head of said court and have supervision and control of the calendars and the assignments of his or her Associate Judge. (See Article II, Section 28-22.)

By ordinance, the Housing Court Chief Judge shall also be charged with the general responsibility for any recommendations that may be important for the work of said court. (See Article II, Section 28-22C.)

By ordinance, the Housing Court, through its Chief Judge, may from time to time make and promulgate rules for regulating practice and conducting business therein.... (See Article II, Section 28-23.)

It appears obvious that implicit in this broad grant of statutory authority to promulgate Court rules, to conduct the Court's business and to supervise and control the Court's staff is the mere ability to draft a job description.

c.) Judge Nesselbush's Caseload and Workload:

Below is information regarding Judge Nesselbush's role in city government, her caseload and workload. Her role as the head of a branch of government means that she has responsibilities beyond her statutory, case related duties on the bench. All of these other duties are clearly "in service to the city of Pawtucket," as contemplated by the 20 hour per week requirement (to say

nothing of the 35 hour classification on her pay stubs). Judge Nesselbush did these things as part of her job. She neither sought nor seeks special acknowledgment, and she feels awkward listing every activity she can remember doing that was done “in service to the City of Pawtucket,” but it is unfortunately necessary to substantiate this appeal.

The City Municipal Judge position is and always has been a 20-hour per week salaried position. That's why the city has continuously enrolled its judges in the MERS pension plan, even after the 20 hour per week rule was enacted in 1994. This fact has been confirmed by past city council president David Moran and current city council president Terry Mercer.

As a salaried position, no time records are required or kept. If the position were not a salaried position, the City would be responsible, under state and federal law, for keeping wage, hour and time records. Since no time records were ever required or kept, and since Judge Nesselbush never knew she would someday be defending her right to a pension, she is at a serious disadvantage in terms of remembering every hour she worked and every task she performed “in service to the City” over the past 20 years. Nonetheless, she will endeavor to provide information about the many hours she worked and the many projects she spearheaded or participated in over the years.

Judge Nesselbush performed her duties in several settings: in her Chambers, in her Courtroom, throughout City Hall in the Office of the City Clerk, in the Offices of her Clerks, in the Office of Zoning and Code Enforcement, in the Office of the Cashier, in the Police Department and in the Office of the City Solicitor, among other offices. She also often worked “in service of the city” from her law office and her home. To advance issues for the city and to move cases along to final adjudication, she would review and sign Court Orders that the Director of Zoning and Code Enforcement or the City Solicitor would prepare. She would usually do this from her Chambers or from the bench, but there were many times when the City’s inspectors would drive over to her law office or her home for the Judge to review and sign a particular Court Order that the City needed; Reviewing Court Order(s) is time consuming. Additionally, Judge Nesselbush made many phone calls “in service to the City of Pawtucket” from her law office and from her home phone and cell phone to advance the causes she was working on in service to the City.

It is imperative that the Judges stay abreast of current issues and trends that affect the Traffic and Housing Courts. The Judges must read *Lawyers Weekly* as well as trial court or appellate decisions for any issues that involve the jurisdiction of municipal courts of the subject areas over which the municipal courts have jurisdiction.

Judge Nesselbush also sent many emails to advance the causes she was working on for the City. Attached are almost 400 pages of work related emails sent or received by Judge Nesselbush “in service of the City of Pawtucket.” There are likely hundreds more. Not knowing that she would someday have to substantiate her hours of work, she did not save all emails in a file. She just sent and received them in the ordinary course of business. She is now going from memory and using the search bar of her various email accounts to try to unearth past Court related emails. Judge Nesselbush used both her Gmail account and her law firm email account to send emails. Additionally, Judge Nesselbush did have a Pawtucket City email account which she no longer has access to because she is no longer employed by the City of Pawtucket.

Below is information regarding Judge Nesselbush’s workload and caseload “in service to the city.” This is just a list of what she can remember. There were years when her caseload was even greater than that which is reported below, especially the many years when Pawtucket's Traffic Enforcement (PTE) unit was more active and when the truculent and indefatigable Ron Travers was Pawtucket’s Director of Zoning and Code Enforcement.

Statistics:

The statistics speak for themselves: both the Pawtucket Municipal Traffic Court and the Housing Court are both very busy courts.

The Pawtucket Municipal Traffic Court:

Pawtucket is Rhode Island’s fourth largest city, and accordingly, the Pawtucket Municipal Court is one of the busiest Municipal Courts in the state, after the Rhode Island Traffic Tribunal and the Providence Municipal Court.

In 2023, Pawtucket police officers issued over 6,000 traffic tickets, over 2,000 parking tickets and over 100 municipal ordinance violations, for a total of over 8,000 violations. The Clerk of the Pawtucket Municipal Traffic Court, Nadine Higgins, estimates that approximately 25% of the recipients of these tickets pay the violations, while the Municipal Court Judges adjudicate the remaining 75% (approximately 6,000) via disposition at arraignment, pre-trial or trial, or by default. That is a tremendous caseload.

In addition to violations given in-hand by a police officer, Clerk Nadine Higgins reports that in 2023 the Pawtucket Municipal Traffic Court adjudicated 1,516 camera tickets, with 891 motorists actually appearing before the court for hearings. (See exhibit 15).

To accommodate litigants who receive camera tickets, Chief Judge Nesselbush shifted all of the work the Court previously did on its Thursday evening 6PM docket to its other days: Mondays at 2PM and Fridays at 9AM, so as to create three (3) new dockets on Thursday evenings, at 4PM, 5PM and 6PM each week dedicated to hearing camera tickets.

The Pawtucket Municipal Housing Court:

The Pawtucket Municipal Housing Court adjudicates zoning and building code violations. In 2023, the City of Pawtucket Zoning and Code Enforcement Department issued over 4000 violations, or an average of approximately 80 new violations each week. Each Monday the Housing Court convenes to hold approximately 15 to 20 separate hearings to monitor the progress of matters and to oversee them through to correction and closure and final adjudication, including the assessment of fines and court costs. These hearings consisted of environmental and/or ordinance violations, such as high grass and weeds, junk on property, rodent harborage, unlawful storage of unregistered or uninspected vehicles, parking on an unpaved area, excessive noise, etc. Many cases, like zoning violation or receivership cases, can take years to resolve. The court hears cases of alleged illegal apartments, where the property may be zoned a three family, but there is evidence that someone is living in the fourth floor attic. The housing court also oversees permit violations where work allegedly has been done without the requisite plumbing, electrical, or building permits. Adjudicating these cases takes time as the facts have to be uncovered, and testimony must be taken from the respondents as well as the inspectors who issued the violations. The law must be clarified, and the Court must order the property owner to take steps to remediate the situation. Once violations have been established and monitored/cajoled through to correction, the court must hear arguments from both sides to determine appropriate fines, if any, to be imposed before the case can be dismissed. (See exhibit 16).

Court Orders:

When a zoning or code enforcement violation has been issued, but the property owner fails to respond or appear in court, the prosecuting authorities will often request that the Municipal Housing Court Judge issue a Court Order either to fine the property owner for failure to appear, to require the property owner to do or to cease doing some activity, or there may be a request to order a third-party vendor to remediate the violative condition. Reviewing these court orders is time consuming because they are drafted and requested by the prosecution (the Director of Zoning and

Code Enforcement) who is well qualified but is not an attorney. The judge oftentimes has to research and check the law to ensure the City is acting within the parameters of the law. The judge must ensure that the relief sought by the prosecution is both reasonable and lawful. Signing a Court Order that requires an action or enjoins an action, or signing a Court Order that allows the city to place a lien on property, may subject the city to liability and litigation. Accordingly, all Court Orders must be carefully reviewed. The Judges review approximately 15 to 20 such Court Orders per week, that are proffered by the prosecution (the Director of Zoning and Code Enforcement) or by the City Solicitor..

The importance and time-consuming nature of reviewing these Court Orders cannot be overstated because “any party aggrieved by a final judgment, decree or order of the Pawtucket Housing Court may, within 20 days after entry of judgment, decree or order, petition the Supreme Court for the state of Rhode Island for writ of certiorari to review any errors involved. (RIGL 45-2-13(b)).” (See exhibit 16.1).

Site Visits:

Occasionally, there are cases where a motorist alleges that a stop sign is occluded, or property is so blighted that the city wants the court to place the property into a receivership. There are times when the city wants a resident to cut high grass, but the resident states that the grass is not grass, but rather “medicinal herbs.” There are times when the city alleges that bushes need to be cut because visibility around the corner is diminished, but the homeowner who loves her bushes states that it is not true. There have also been times when the city alleges that a resident is operating a junkyard on their property in a residential area, but the resident insists that he is allowed to keep spare parts and other items for his personal use. Judge Nesselbush lived in the Pawtucket community for nearly 40 years, and when these types of disputes arose, it was common for Judge Nesselbush to actually visit the properties in question, so that she could see the property herself in order to render a fair and just decision in the case. The above examples are actual cases where Judge Nesselbush personally visited sites outside of the time she spent on the bench in order to properly adjudicate a case. Site visits are time-consuming.

d.) Judge Nesselbush Has Vast Administrative Duties (separate from her caseload and case related work on or off the bench:

Judge Nesselbush has printed and will submit hundreds of pages of emails in support of and as evidence of all the work she did in service of the City of Pawtucket off the bench. These are only the emails her “searchbar” can find. There are countless more, but who can remember every email they have sent over the past 20 years.

Renovating the Judges’ Chambers:

Soon after being appointed Associate Judge, Judge Nesselbush was asked by then Chief Judge John F. McBurney, III, to take on the responsibility of improving their judicial chambers which had not been renovated in many, many years. It is well known that Pawtucket City Hall is decrepit and falling apart. (*See exhibit 17 for current pictures*). In 2004 when Judge Nesselbush was appointed, it was rumored that the desk in the Judges’ chambers was Harry Curvin’s who had left government service in the 1960’s! Judge Nesselbush did not try to redesign the Chambers or spend g frivolously. She arranged for threadbare carpet to be replaced, peeling walls to be painted, and Judge Nesselbush searched the streets of Pawtucket for used office furniture.. The Judges, in their chambers, must conduct conferences with attorneys (and occasionally litigants) and other city personnel. Judge Nesselbush worked with then Police Chief Paul King and then Director of Administration Mickey Redo to effectuate these improvements to the Judges’ Chambers. Judge Nesselbush worked with the contractor and worked with the Administration to coordinate payment for the used office furniture she found and purchased.

The Court Loses its Full-Time Clerk Resulting in Additional Work for the Judges:

When Judge Nesselbush was appointed in 2004, municipal employee Martha Rivest was employed by the city as the full-time Court Clerk for the Municipal Judges.. Clerk Rivest assisted with many administrative duties from scheduling to docket management and all other operational duties of the Judges. When Clerk Rivest retired from her full-time job as Court Clerk, the Judges agreed to take on many of her administrative duties, thus creating even more work for themselves. The City was strapped for cash, as it always is, and the City did not want to replace Martha Rivest with another full-time Clerk. To be team players, the Judges agreed to take on additional duties and to use the services of existing municipal employees, Nadine Higgins for the Traffic Court and Donna Pinto for the Housing Court. Both were municipal employees at the time with many other duties and responsibilities for the City, but they agreed to become *de facto* clerk for the Courts. This

shift from the Judges' having a full-time Clerk to having part-time clerks with many other municipal responsibilities resulted in additional work and time for the Judges.

Creating a Website;

At some point, it came to the attention of Judge Nesselbush that the Pawtucket Municipal Traffic and Housing Courts had no website or web-page or web-presence of their own. Rather, they were briefly mentioned on the police department's website. Judge Nesselbush believed it was important that the Municipal Court have its own web-presence on the City's website, separate and distinct from the police website. At Judge Nesselbush convened several meetings to explain why the court must remain separate and distinct and independent from the police department. In fact, it is the Court's role to review police conduct in the form of the traffic citations or municipal ordinance violations they write. Judge Nesselbush was able to convince the City that the Municipal Court should have its own webpage and presence on the City's website. Judge Nesselbush then worked with the city's Information & Technology personnel to create the Court's web presence, another time-consuming process. Judge Nesselbush personally wrote *all* of the website's initial content. She met with her Clerks on many occasions to ensure all the operational information was true and accurate, and she coordinated and approved all photos for the initial launch of the website. (See emails....). This was a very time consuming endeavor. After Judge Nesselbush initiated, designed and wrote the initial Municipal Court web page, the city of Pawtucket's IT Department did not keep it up to date, not even when the city implemented its then brand new camera enforcement program in 2019. To demonstrate how out-of-date the City's website is, 5 years after the commencement of the City camera enforcement program, there is still absolutely no information on the Court's web page about the camera enforcement program, not even the hours of operation of the Court to hear camera tickets. Judge Nesselbush assumes that someone in the city's "IT Department" is responsible for monitoring and keeping the city's website up to date, but that apparently is not true, at least in the case of the Municipal Court page which contains very out of date information. (See exhibit 18).

Camera Enforcement of Traffic Laws:

Upon information and belief, Pawtucket's camera enforcement program was a mayoral (as opposed to City Council) initiative. When the court was notified about this initiative, Judge Nesselbush reached out to the mayor, to the police personnel who worked in her Court and to her

Clerk, insisting upon meetings to review the paperwork motorists would receive relative to a camera violation. Judge Nesselbush wanted to ensure that motorists received proper notice of their legal rights and proper information about whether they needed to appear in court, and/or about what to do in case of the inability to pay. Judge Nesselbush insisted on meeting with representatives from the camera company to discuss their procedures and proposed paperwork.

These meetings took place in the Police Chief's conference room. As with all meetings, scheduling and participating in these meetings took time.

Other Technology:

For years the Judges' Chambers had an outdated telephone and a computer that did not work. Judge Nesselbush worked with Dylan Zelazo, then the City's Director of Administration, to upgrade the Judges' telephone, and to issue the court a laptop computer. Judge Nesselbush then worked with the City's IT Officer to create an email account for her on the city's domain. Judge Nesselbush also worked to ensure that the court's recording systems were up to date and working, as both the Pawtucket Municipal Traffic Court and the Pawtucket Municipal Housing Court are courts of record, and records need to be available for appeals. Judge Nesselbush took care of all of this. (See exhibit 19).

Informing and Working with the other branches of government:

Because city government consists of three co-equal branches, the legislative, executive and judicial branches, Judge Nesselbush often met with the other branches of government to inform them regarding budgetary or other issues of importance to the Judiciary. Judge Nesselbush also met regularly with Police Prosecutors, the Police Chief, and the City Solicitor.

For instance, Judge Nesselbush realized when she was appointed that the court costs for the Housing Court were statutorily authorized at \$30 per case, while the court costs for the Traffic Court were statutorily authorized at \$35. Noting no reason for this difference and in the interest of equity, Judge Nesselbush pointed out to the Mayor and the City Council that she saw no reason why litigants in the Housing Court pay \$30 of court costs while litigants in the Traffic Court pay \$35 of court costs. She worked with the City Council to enact legislation increasing the Housing Court costs to \$35, commensurate with the court costs in Traffic Court. A seemingly simple change, but as is true of all ordinance changes, correcting this discrepancy required reaching out to the Mayor and the City Council *via* telephone calls and/or back and forth emails. (See exhibit 20).

For years Judge Nesselbush conducted conversations with City Council members regarding the misnomer that was the Pawtucket Municipal *Police Court* (*emphasis added*). She argued that Pawtucket could either have a “police state” and a police city with a police court or a Municipal Court that is a court of law. She vehemently argued that the name “Pawtucket Police Court” was ill-advised from the beginning. As Pawtucket’s population became more and more diverse with more and more minority residents who often distrust the police, her pleas to change the name of the court became more urgent. After the death of George Floyd, she worked with City Council members to convey the urgent need to change the name of the court, and the City Council willingly obliged, officially changing the name to the Pawtucket Municipal Traffic Court. (See exhibit 20).

Scheduling:

By ordinance, the Pawtucket Municipal Court is considered to be in session at all times. Because of that ordinance, a Judge must be available at all times. There are occasions when a property needs to be vacated for health and/or safety reasons or the building official needs a court order to terminate utility services to a property for health and/or safety reasons. In fact, there are numerous reasons and occasions where a court order is needed, including at times when the court is not in session. For 20 years, Judge Nesselbush never traveled out of state without conferring with the other Judge to ensure that he could be and would be in Rhode Island in case an emergency Court Order were required. For 20 years, Judge Nesselbush was required to coordinate all her vacations and time out of state with the other Judge, so that a Judge is available to the city at all times. Pawtucket’s Judges are essentially always on call. Scheduling requires time-consuming coordination.

Since the judgeships are part-time jobs, the Judges usually also practice law. Scheduling can be difficult as the Judges also have to accommodate their own private practices, and their need to appear before other courts. Chief Judge Nesselbush was administratively responsible for ensuring that a Judge was available and present for each and every court session. This takes hours of coordination. (See exhibit 21)

Attending Flag Raising and Other Ceremonies:

Pawtucket commemorates many community activities. Every other year starts with the inauguration. Soon comes the St. Patrick’s Day parade and celebration in March, followed by Memorial Day events in May and Gay Pride events in June, followed by the Cape Verdean and

Colombian Independence Day Parades and Festivals in the summer, followed by Pawtucket's annual Hall of Fame event in the fall, concluding with the Mayor's Christmas party, with countless other events in between. It goes without saying that each branch of government should be represented at these community events. Judge Nesselbush always did her best to attend as many of these events as her schedule would allow.

Judge Nesselbush's Annual Gratitude Gathering:

Judge Nesselbush was appointed Associate Judge in 2004. Each year since 2004 (with the exception of the Covid years), Judge Nesselbush hosted a summer gathering at her Pawtucket home as a way to promote collegiality amongst the three branches of government and to thank the court's staff for their hard work, inviting all members of her court staff, but also police officers who worked with the court, and as well as the Mayor, members of the City Council, and several City Hall workers.

Contempt Powers:

Judge Nesselbush was concerned about decorum in her courtroom. Litigants sometimes became unruly, insulting or swearing at police officers, city officials or the judge herself. Judge Nesselbush took it upon herself to schedule meetings with City Solicitor Frank J. Milos to clarify the Courts' contempt powers and ability to incarcerate unruly litigants in the police detention center. (See exhibit 22)

Body Attachments:

Judge Nesselbush is well aware of municipal funding challenges and the impact that nonpayment of fines she imposed for a variety of city ordinance violations had on the city's coffers. from drinking alcoholic beverages in public to violations of the city's noise ordinances to any other ordinance violations, which had been properly sustained by the requisite burden of proof and for which fines were imposed, but not paid. Chief Judge Nesselbush took it upon herself to research and create appropriate court documents for the Court to issue body attachments for ability to pay hearings for those who were ordered to pay fines, but did not pay. To create this form, Judge Nesselbush contacted the Rhode Island District Court to obtain a copy of their body attachment form. She then engaged the services of a graphic designer to create a form for use by the Pawtucket Municipal Court. (See exhibit 23).

Judge Nesselbush Serves as Vice-President and President of the Municipal Court Judges Association:

Early on in her career as a Judge, in order to stay abreast of issues relevant to the Traffic Court or Housing Court, Judge Nesselbush regularly attended meetings of the Municipal Court Judges Association. In approximately 2008, she became Vice-President of the organization. When Judge Caprio resigned as President in approximately 2019, she was elected President. These meetings are essential for the judges to understand the policies and procedures of other Municipal Courts so that their own Court can employ best practices. Attending these meetings allows the Judges to pick up the phone and call one another for advice on particular cases, policies, procedures, trends or quandaries. (See exhibit 24).

Collecting Fines Imposed by the Municipal Courts:

Judge Nesselbush had numerous conversations with her Court Clerk, with other Court personnel and with other Municipal Judges throughout the state regarding what to do if a person cited with a municipal ordinance violation does not appear in court, a situation which is not uncommon but which is further complicated if the person does not own property in the municipality. (See exhibit 25).

Interfacing with Police Prosecution:

Judge Nesselbush is obviously aware of the prosecution's burden of proof. For instance, when conducting traffic trials on Friday mornings, Judge Nesselbush was keenly aware of the role of police prosecutors and that it was the police department's burden to prove to the court by clear and convincing evidence that the motorist engaged in the traffic infraction with which s/he was charged. There were certain things that the court would require in terms of testimony from the police officer who issued the violation, without the police officer stepping over the delicate line of practicing law. For instance, the court would require, among other things, for the police officer to state his or her date of commencement of employment with the city as a police officer, where he or she received her police training, whether he or she was properly trained in the use of laser or radar equipment, whether the police officer was on routine patrol or on a "Pawtucket traffic enforcement" detail, and whether the police officer was able to make a positive identification that the person at trial was, in fact, the person to whom a police officer issued the citation. Judge Nesselbush met with

countless consecutive sergeants who were in charge of the police prosecution to ensure that each new sergeant understood the court's requirements for testimony from police officers in order to sustain traffic violations at trial. These meetings, of course, had to be prepared for, scheduled, and like all meetings, took time.

Interfacing with the Probate Judge:

Many of the violations issued by Pawtucket's Zoning and Code Enforcement Department are issued against properties whose title is pending in the City Probate Court. The property owner has died, title has not yet transferred to an heir or devisee, yet there is a violation. Judge Nesselbush would routinely confer with Probate Judge Christine McBurney to determine what action, if any, to take against such properties while they were pending in Probate Court. It makes no sense for the Municipal Judge to issue a fine against a property that has no responsible owner because the Probate Court has not yet been able to resolve the estate. By the same token, if the grass is overgrown and the neighbors are complaining, the Municipal Judge has to devise some way for the property to come into compliance with the law while the matter is pending in Probate Court. These discussions and analyses take time.

Read Appellate Rulings and Case Law:

It is obviously incumbent on Pawtucket Judges to read all appellate rulings regarding violations for which the Pawtucket Municipal Courts have jurisdiction, regardless of where the violations occurred or what court issued a decision. It is crucial that Pawtucket Judges stay abreast of the current state of traffic, housing, and zoning laws, as well as laws/cases regarding the state building code.

The Challenges of Covid:

Covid created an inability to gather and the need to quarantine if one suspected s/he had been exposed to the virus. This created overwhelming challenges for all three branches of government. Chief Judge Nesselbush was in constant contact with her Traffic Court Clerk, her Housing Court Clerk and her Associate Judge to ensure that any and all of the city's needs vis-a-vis the court were met during the challenging times of Covid. Chief Judge Nesselbush routinely worked with Probate Judge Christine McBurney and RITT Chief Magistrate Dominic DiSandro to find innovative ways to operate their courts during Covid.

Implementing Good Driver Statute (GDS) dismissals via the mail:

During the pandemic, RITT was adjudicating cases (and thereby bringing in revenue) by offering GDS dismissals via the mail. Chief Judge Nesselbush decided after several conversations with Chief Magistrate DiSandro that Pawtucket Municipal Court would emulate the procedures used by RITT. To do so, Judge Nesselbush drafted a letter that conforms with the protocols of RITT and which meets the specific needs of the Pawtucket Municipal Court. She had both telephone and in person meetings with her Clerk to determine how they could together implement dismissals via the mail in Pawtucket, and together she and her Clerk worked with the police chief to have her understand the need for and legality of this approach. This was a very time-consuming endeavor. (See exhibit 26).

Zoom Court Sessions:

During Covid, Chief Judge Nesselbush thoroughly investigated the possibilities of conducting remote court sessions using Zoom or other such technology. Many Rhode Island courts turned to such remote sessions in order to dispense justice and keep caseloads flowing. Judge Nesselbush met with an outside technology specialist to explore remote court sessions. She worked with police and city officials so that her technology specialist could be fingerprinted to enable him to have access to the courtroom which happens to be located within the police department. Once the fingerprinting process was complete, the outside technology specialist worked with Judge Nesselbush to develop and implement the technology required for remote court sessions, a system that ultimately could not be utilized because of security challenges, given the Court's location inside the police station. Nonetheless, Chief Nesselbush had worked tirelessly and devoted countless hours both in the courtroom and outside the courtroom to this effort. She is to be commended for her dedication to the city, its residents/motorists and to the operation of the Courts during the Covid pandemic.

Defending the Court's Authority Against Police Incursion:

Judge Nesselbush enjoyed a collegial relationship with Pawtucket Police Chief George L. Kelley (1999-2010) and Pawtucket Police Chief Paul King (2010-2017). During Covid, Chief Judge Nesselbush noticed a disturbing trend, whereby Police Chief Tina Goncalves would cancel court sessions without so much as even contacting the Chief Judge. This was a disturbing incursion by a

Police Chief into the Court's scheduling and operational authority, so Chief Judge Nesselbush contacted and emailed the Police Chief to bring this incursion to her attention.

This was not the only instance of police over-reach. During Covid, Chief Judge Nesselbush decided to emulate the practice of Rhode Island Traffic Tribunal (RITT) whereby Chief Magistrate, Domenick DiSandro, allowed motorists to obtain good driver statute dismissals via the mail, without having to come to court, at a time when people were encouraged not to leave their homes and not to gather in public. This was a way for the police to continue to monitor speeding and other traffic conditions, and continue to issue violations that could be adjudicated and handled by the Court, without people actually coming to Court. The Rhode Island Traffic Tribunal did this without incident during Covid.

Without even contacting or notifying Chief Judge Nesselbush, Police Chief Goncalves issued a directive to Traffic Court Clerk Nadine Higgins to cease and desist from offering good driver statute dismissals via the mail. The Police Chief has no authority over how the court conducts its business and how the Court issues dispositions and adjudications. The Police Chief reports directly to the Mayor, and the Mayor's office has no statutory authority over the Judges or the operation of the Municipal Court. Accordingly, under the doctrine of the separation of powers and based upon common sense knowledge of judicial proceedings, the Police Chief is the titular head of the prosecution, one side of a court case that is before a neutral Court. This behavior by the police chief was mind boggling, as it was a clear violation of separation of powers between the judicial and executive branches.. Chief Judge Nesselbush believes that her hubris may have come from the many years that the court was known as the Pawtucket Police court; because of this misnomer, the Police Chief apparently thought that she was in charge of the police court.

Defending the authority of an institution is among the greatest responsibilities of the institution's steward(s). Chief Judge Nesselbush was infuriated by the Police Chief's ignorant or willful incursions into the Court's authority, and she was forced to wage an extremely time consuming and months' long battle to defend the Court's authority. Unable to get Police Chief Goncalves to respond to her emails, Judge Nesselbush reached out to the Mayor, to no avail. She then enlisted Roger Williams law school Dean and Professor Andrew Horwitz, ACLU chief legal consultant, Lynette Labinger, RITT Chief Magistrate, Dominic DiSandro, RITT Judge Abbate, and the Rhode Island Supreme Court's General Counsel, Kathleen Kelly. Every one of those individuals found the Police Chief's behavior to be bordering on the absurd. Finally, after many months, and countless hours, Chief Judge Nesselbush was vindicated. The Police Chief recognized the error of

her ways. Although she never apologized, she did stop trying to interfere with the operations of the Pawtucket Municipal Traffic Court. Chief Judge Nesselbush had preserved the integrity of the court. (See exhibit 27).

Defending the Judges' Pension Eligibility:

Nesselbush was shocked when she received Frank Karpinski's letter revoking her pension eligibility. Nesselbush knew that she had to correct the mis-information in his letter, or the pensions for her and all her Municipal Judge predecessors would be in peril. As the Chief Judge, Nesselbush worked very hard to provide accurate information to be able to resolve this issue. She sent numerous emails and made countless telephone calls to City officials, past and present Judges, and many outside attorneys trying to understand the legal (and political) issues in what seemed like a sudden onset pension problem. She worked with colleagues in both the Mayor's office and on the City Council in an attempt to understand and resolve the issue. Prior to 2022, Judge Nesselbush had never dealt with pension issues, either as an attorney or as a Judge, so her investigation required a great deal of legal research into the pension statutes, the equal protection clause, equitable estoppel, promissory estoppel, detrimental reliance and implied-in-fact contract, as well as cases on point that might serve as legal precedent. This dispute began with Mr. Karpinski's August 1, 2022 pension revocation letter, and Judge Nesselbush has worked many, many hours until her retirement in February 2024...and beyond as this matter is still pending.

Participation in the Driver's License Restoration Project:

In the interest of criminal justice reform, a statewide collaborative was put together to identify and notify motorists who have suspended licenses and who are legally not able to reinstate their licenses because of outstanding, aged court fines. This collaborative reached out to Chief Judge Nesselbush to determine her interest in having the Pawtucket Municipal Court, one of the state's busiest municipal courts, participate in their program. The idea was to help motorists who want to drive and often are driving, but have a suspended license. Many of these motorists do not know how to find out the nature of the impediment to their license restoration or how to ameliorate or eliminate the impediment.

Chief Judge Nesselbush had many conversations and meetings with this group, including Zoom meetings, and meetings with Pawtucket Municipal Court staff and with Pawtucket's other branches of government to determine the city's interest in participating in this endeavor. Moreover,

as President of the Municipal Court Judges' Association, Chief Judge Nesselbush also convened a special meeting of that group in order to share information with other municipal courts about this criminal justice reform effort.

After working with this group and with Professor Horowitz, Judge Nesselbush began scheduling and holding "ability to pay hearings" before suspending a motorist's license for failure to pay previously imposed fines. (See exhibit 28).

Participation in Lead Abatement & Remediation Efforts:

Chief Judge Nesselbush was contacted by attorney Jennifer Wood from the Center For Justice. Attorney Wood wanted to request the involvement of the Pawtucket Municipal Housing Court in a statewide effort to provide technical and financial assistance through available federal funds to assist with testing and lead remediation. A number of community groups, *e.g.*, Progreso Latino, were involved as well as a number of City of Pawtucket personnel, including Bianca Policastro, Pawtucket's City Planning Director, who oversees the city zoning and code enforcement department. This was another of the many special projects in which Judge Nesselbush willingly participated, out of devotion to her job, the court, the city and its residents. All of these projects require telephone calls, emails and conversations with the court staff and other City Hall personnel. (See exhibit 28).

Televising Municipal Traffic and Housing Court Sessions:

Chief Judge Nesselbush was aware that Pawtucket City Council meetings had long been televised on local cable TV, allowing residents to see their government at work and in action and to understand the issues faced by the City of Pawtucket and its governing officials.

Judge Nesselbush presided over a Municipal Court whose city was incredibly diverse, full of immigrants from other countries with different laws. Many Pawtucket residents do not know they are required to obtain a permit before performing plumbing, electrical or other types of construction work on their homes. Likewise, many residents were unaware that the city could require them to cut high grass, remove unregistered and uninspected vehicles from their property, and even to remove junk from their property. Likewise, many city residents are unaware of what is required to sustain a traffic violation or the existence of the "good driver's statute."

In an attempt to educate the Pawtucket community regarding the operation of its Municipal Court, Judge Nesselbush waged a valiant and very time consuming effort to televise her court

proceedings on Rhode Island “Public, Education and Government” PEG TV. City Council meetings were televised, and she thought the Court’s proceedings should have a similar public airing. She met with Diana Norte from RI PEG TV (and her predecessor) on countless occasions to understand what was necessary. She worked with the City Council and the City Clerk to have a Council Resolution drafted in support of her effort to televise Municipal Court sessions, a time-consuming effort, as the wheels of government turn slowly. She engaged an outside media consultant to advise as to the equipment and technology necessary to televise the court sessions. Judge Nesselbush also worked with the City Council to ensure that meager funding was made available in the city’s budget to accommodate this effort. (See emails and City Council Resolution0.

Judge Nesselbush organized meetings with the court and police prosecution staff to discuss the reasons for this endeavor and how it would operate, assuring all Pawtucket personnel that there was no obligation to be on TV or to participate in this effort. Judge Nesselbush was responsible for delivering recordings of her court sessions to the headquarters of RI PEG TV each week.

Judge Nesselbush oversaw the installation of wireless cameras and technology designed to allow for court sessions to be televised. Unfortunately, given the court’s location inside the police department, the security measures and firewalls present interfered with the operation of the wireless cameras such that court sessions were never able to be regularly televised. (See exhibit 29).

Officiate civil marriages at City Hall, in the Municipal Court or at other locations:

Civil marriages require officiants who are authorized by Rhode Island law RIGL 15-3-5 to join persons in marriage. Pawtucket Municipal Judges are authorized to officiate marriages. The City of Pawtucket is extremely diverse with a very large Spanish and Portuguese speaking population. Judge Nesselbush officiated many civil marriages for City residents. Judge Nesselbush knows of very few officiants in the state of Rhode Island who can officiate marriages in Spanish, and Judge Nesselbush knows of no other Portuguese speaking officiant. Getting married in one’s native language is an important aspect of a civil marriage. Over her 20 years as a multilingual judge, Donna Nesselbush has officiated hundreds of weddings, often making a special trip to City Hall to officiate a marriage in the City Council chambers or in her courtroom. She would also allow couples to come to her law office or her home, and she often traveled to the homes of those wishing to marry, often on weekends, to accommodate the multi-lingual wedding needs of the Pawtucket community. People would call her cell phone for weddings at all times of the day or night to inquire about her availability to officiate a marriage. These weddings take time to schedule, to prepare for

and to effectuate. Many people have questions about what they need to do to get married. Many are from other countries and are completely unaware of and unfamiliar with the need to obtain a marriage license. Judge Nesselbush would take the time to speak with residents to explain the process and the documents the Clerk's Office would need to issue a marriage license. Many would also ask her legal questions, and she of course told them they need to seek legal counsel to answer those questions, usually regarding pre-nuptial agreements and property rights. Judge Nesselbush often worked with the couple to draft the marriage ceremony that worked best for them.

Residency Requirements for Pawtucket Municipal Judges:

Judge Nesselbush was appointed Municipal Judge in 2004 when she was a resident of Pawtucket. In 2022, after living in the city of Pawtucket for nearly 40 years, Judge Nesselbush relocated her residency to North Kingstown, RI. In anticipation of moving her residency, Judge Nesselbush contacted the Mayor, then City Council President Dave Moran and President Pro Tem Terry Mercer to inform them of her impending move. Judge Nesselbush researched the City Charter and found Section 2-501 which requires Municipal judges to be electors of the city.

Sec. 2-501 Judge of the municipal court; acting judge.
[Amended 7-31-1991 by Ch. No. 2205 (Ref. of 11-6-1990, Sec. 1); Ref. of 11-2-2010]

At the first regular meeting of the council in February every third year, or as soon as may be thereafter, the council shall elect the judge of the municipal court by a majority of the council membership, to serve for a term of three years or until his or her successor shall be duly elected as aforesaid by the succeeding council. *The person so elected shall be a qualified elector of the city and be a lawyer admitted to practice before the supreme court of the state and shall have had at least two years experience in the active practice of the law.* The council shall also appoint an associate judge who shall perform the services of the judge in his or her absence, and also act as clerk of the municipal court for a three year term. The clerk shall be a qualified elector of the city, and shall be a lawyer admitted to practice before the supreme court of the state and shall have had at least two years experience in the active practice of the law. In case of sickness, absence from the city or other disability or ineligibility of the judge of the municipal court to serve, the clerk of the municipal court shall perform the duties of such judge during any such period of inability or ineligibility of the judge to serve. The acts of such clerk in the performance of such duties shall have the same effect as if performed by such judge.

However, Judge Nesselbush's research also revealed a Rhode Island trend away from residency requirements for teachers, police officers, firefighters and other groups of municipal

employees. In researching the matter, Judge Nesselbush became aware that Rhode Island law appears to proscribe residency requirements.

§ 45-2-15.2. Municipal employees — Residency within municipality not required.

Notwithstanding any prior ratification and validation by the general assembly of any home rule charter provision requiring that municipal employees reside within the employing city or town, no home rule charter provision shall require that a municipal employee reside within the city or town as a condition of appointment or continued employment. Any prior ratification and validation by the general assembly of a home rule charter provision requiring residency within a city or town as a condition for employment of a municipal employee is hereby expressly repealed by the general assembly; provided, further, no city or town council shall make or ordain any ordinance requiring a municipal employee to reside within the employing city or town as a condition of appointment or continued employment. Any existing ordinance requiring a municipal employee to reside within the employing city or town as a condition of appointment or continued employment is hereby considered contrary to the laws of this state and is thus void as being in violation of state law. Nothing in this chapter shall preclude any city or town from offering employment incentives to its employees.

Notwithstanding the foregoing, no city or town with a municipal charter shall be precluded from entering into employment contracts which contain residency requirements with their appointed town or city manager(s) and/or town or city administrator(s).

History of Section.

P.L. 2005, ch. 294, § 3; P.L. 2005, ch. 311, § 3; P.L. 2006, ch. 629, § 1.

Aware that there was a conflict of laws between the Pawtucket City Charter and the Rhode Island General Laws, Judge Nesselbush brought this conflict to the attention of the Mayor and the City Council. As a lawyer and a judge, Judge Nesselbush would never want to run afoul of the law. Given her impending move from the City of Pawtucket to the Town of North Kingstown in August 2022, Judge Nesselbush was unclear whether she would need to resign her position prior to the expiration of her appointed term in February 2024, or whether RIGL § 45-2-15.2 would allow her to finish out her term, and possibly even be re-appointed, should the Council wish to do so.

This “conflict of laws” quandary required legal research and began a series of time consuming telephone conversations, emails and discussions. Judge Nesselbush met personally with the Mayor and with members of the City Council to determine how the City wished to proceed. Having served as the city's Municipal Judge for nearly 20 years, Judge Nesselbush was concerned

and wanted the city to always have access to the widest pool of qualified judicial candidates. Quality courts that are able to dispense blind and equal justice require quality judges/individuals, so this was a valuable conversation to be had amongst Pawtucket's 3 branches of government. Ultimately, it was agreed that Judge Nesselbush would finish out her term which was set to expire in February 2024. Nonetheless, this is an example of yet another time consuming special project. (See exhibit 30).

Commemorating Pawtucket's Municipal Judges:

As stated above, after a great deal of communication back and forth between Judge Nesselbush and the Mayor's office and the City Council, it was decided that it was both lawful and prudent for Judge Nesselbush to serve out her term which expired in February, 2024. She arranged at her own expense to commission a plaque, as a parting gesture of gratitude and as a way to commemorate all of Pawtucket's past Municipal Judges, Judge Nesselbush worked with the City Clerk's Office to scour the handwritten annals of City Council meetings to determine the names and dates of service of all previous Municipal Judges since the inception of the Court. Judge Nesselbush then contacted a local company that makes plaques, and at Judge Nesselbush's own expense, a tasteful plaque was constructed bearing the names of all Pawtucket's past Municipal Judges. Judge Nesselbush sought to involve the Mayor and the City Council in a brief plaque installation ceremony. (See exhibit 31).

3. THE JOB DESCRIPTION PROMULGATED BY JUDGE NESSELBUSH IS ENTIRELY VALID:

Soon after Judge Nesselbush received Frank Karpinski's August 1, 2022 denial letter, she called him. He was cordial and reasonable when Judge Nesselbush explained that, since the inception of the Court in the 1950's, there has never been a job description for the judges with a stated number of hours. In their collegial conversation, she asked him why a job description was now required when no prior municipal judge had one? Why was this a problem now, when it had never been a problem before? Judge Nesselbush stated to Frank Karpinski that the information that was given to him and that he relied upon from Pawtucket's Human Resource Director, Sara Miranda, was incomplete and inaccurate. Judge Nesselbush explained that she has never met Sara Miranda and to Judge Nesselbush's knowledge, Sara Miranda has never stepped foot in her courtroom. Judge Nesselbush suggested that relying only on information from the City's out of date

website by a person who knows nothing about the Court or its judges might not have been the best source of reliable, complete and accurate information about the hours worked by Municipal Court Judges. As a result of their phone conversation, it was agreed that Judge Nesselbush would work to promulgate and submit an accurate job description.

Judge Nesselbush knew that the Mayor and City Councilors were busy with their 2022 electoral campaigns, fighting for the future of their own jobs. She knew she would have to wait until after the elections to take up the question of a job description for the Judges. Right after the elections, on November 18, 2022, Judge Nesselbush wrote to the Mayor's Director of Administration, Dylan Zelazo and the Mayor's City Solicitor, Frank Milos, in order to work collegially on a job description. The text of the letter was set forth in full on page 7 of this Memorandum.

Frank Milos responded on November 29, 2022 stating that the Mayor has no authority over the judges. His response is set forth on page 8 of this Memorandum.

The Mayor's Office apparently did not like the opinion of its City Solicitor. The Mayor decided to get a second opinion from Attorney Vincent F. Ragosta, Jr, who, according to Frank Milos, has vast labor experience and familiarity with the Pawtucket city charter and ordinances. On December 8, 2022, attorney Ragosta provided a written Memorandum to Mayor Grebien stating his opinion:

“[F]or the reasons that follow, and given the facts as known and presented to us, it ***is our professional opinion that the Mayor of the City of Pawtucket does not have operational authority over the City's Municipal Court.*** Rather, that authority, which includes governance over the personnel, operation, and procedures to be followed in Municipal Court, lies with the City Council by virtual of a legislative grant from the Rhode Island General Assembly (See Memorandum from Attorney Vincent Ragosta dated December 8, 2022.)

In light of the above opinions by 2 different lawyers that the Mayor has no authority over the Judges, and in light of the suggestion to reach out to the Council, Chief Judge Nesselbush called City Council President, David P. Moran. They had several conversations. Since she had already drafted a job description that she had already submitted to the Mayor, she offered to share a copy with President Moran. President Moran stated in their conversations that during his nearly 30 years on the City Council, to his knowledge, all of the Judges have always been enrolled in the pension system. He further stated that he was well aware of the overall work of the City's judiciary and well

aware of the role of the judiciary vis-a-vis the other branches of government. They agreed that Chief Judge Nesselbush would share with him the job description she had drafted for his review. Judge Nesselbush promptly did so.

Given the situation, then Pawtucket City Council President, David P Moran wrote a letter dated December 8, 2022, with input from then President *Pro Tem*, Terry Mercer. Apparently, the two Councilors with their collective 40 years in Pawtucket government reviewed the job description and together they drafted the letter President Moran has provided, dated December 8, 2022. It states in pertinent part:

As you know, I have been on the Pawtucket City Council for over 30 years and have served as council president for the last 12 years. Given that, I can confirm that all of the information you provided appears true and accurate to the best of my knowledge, in terms of the role of the judiciary/judges in our city government. ***The duties and responsibilities of our judges. -most certainly are considered city employees- as you have outlined them in the protocol/job description, appear reasonable and accurate to the best of my knowledge.***

I am well aware of all the work you...perform on a weekly basis to smoothly run our Municipal Traffic and Housing Courts. In addition, I have seen firsthand your...work with the Council to address issues affecting the judiciary, such as changing the name of the court, and adjusting court hours to better accommodate residents. Moreover, I fully understand that your...work to run the judiciary and effectuate a number of special projects, means that your position as judge...for the city involves more than just the hours you spend on the bench.

Through my participation in numerous judicial appointments over more than three decades and my annual participation and deliberations regarding the city's municipal budget, I have understood that our judges are treated like all other part-time employees in city government; that is, they receive financial compensation, have access to city health insurance, and participate in the MERS pension program that includes both employee contributions and city (employer) contributions. (bold and italics emphasis added.)

With City Solicitor Frank J. Milos, Jr. and the City's outside legal counsel, Vincent F. Ragosta, Jr. both concluding that the Mayor/executive branch has no legal authority or jurisdiction over the Chief Judge, and with City Council President Moran's dispositive letter dated December 8, 2022, endorsing the job description, the matter should have been summarily concluded in favor of Judge Nesselbush.

It is clear from the actual language cited in ***all*** the above emails that Judge Nesselbush always sought to involve the other branches of government, and the statement of the Mayor's

counsel that the job description was *ultra vires* is disingenuous at best, and mis-leading at worst. After all, it was he (Vincent Ragosta) who wrote that the Mayor/executive branch had no jurisdiction or authority over the Judges. And after all, Judge Nesselbush did exactly what was suggested by City Solicitor Milos and Attorney Ragosta: she worked in concert with the City Council to come up with a reasonable job description.

It is clear from the sentiments expressed by City Solicitor Frank Milos and Labor Attorney Vincent Ragosta, that the Mayor has no authority over the Judges. Likewise, it is clear from the statements of past City Council President Moran and current City Council President Mercer that after appointing the Judges, the Council exercises ***no supervisory or other authority over the Judges.***

This was not a job description promulgated by an entry-level City Hall worker. It was a job description created by the 20-year head of the City's judiciary, the head of a branch of government who by the City Charter and City Ordinances has vast administrative and supervisory authority over the Municipal Court. Surely this vast administrative and supervisory authority includes the basic authority to draft a job description.

Based upon her grant of vast authority by the City Charter and city ordinances and based upon the separation of powers doctrine, Chief Judge Nesselbush was well within her legal authority to write a job description, especially since she shared it with the Mayor and the City Council (the appointing authority). Accordingly, given the doctrine of "separation of powers," and given the Mayor's lack of authority and the Council's admission that it does not supervise the Judges, her job description is not only valid, it is legally irrefutable.

United States Supreme Court Justice Antonin Scalia aptly analyzed the importance of the "separation of powers" doctrine:

"The principle of separation of powers was set forth in the Constitution of the Commonwealth of Massachusetts well before it found its way into the federal document. The Massachusetts Constitution reads, with lawyer-like (if somewhat tedious) clarity: "the legislative department shall never exercise the executive and judicial powers, or either of them; the executive shall never exercise the legislative and judicial powers, or either of them; the judiciary shall never exercise the legislative and executive powers, or either of them." It goes on to emphasize the importance attached to this provision by adding: "to the end it may be a government of laws and not of men"—as though that feature, above all others, [would] assure the absence of despotism." (See, Antonin Scalia, *The Doctrine of Standing as an Essential Element of the Separation of Powers*, 17 Suffolk Univ. L. Rev. 881, 881 (1983).

Justice Scalia's words are wise and should guide the analysis here.

4. THE MARCH 11, 2024, PENSION DENIAL LETTER IS LEGALLY INSUFFICIENT:

Frank Karpinski states in his March 11, 2024 letter that “[W]e subsequently received a communication from Attorney Vincent Ragosta, an outside labor and employment counsel to the city, confirming that there is no reliable or credible evidence to support a claim that municipal court judges work in excess of 20 hours per week.” Attorney Ragosta also advised “that any purported municipal court judge “job description” should not be deemed authenticated, and should be considered to be *ultra vires*.” (See exhibits 14 & 32).

Attorney Ragosta's standing in this matter is questionable at best. After all, it is he who previously stated that:

“[F]or the reasons that follow, and given the facts as known and presented to us, it is our professional opinion that the Mayor of the City of Pawtucket does not have operational authority over the City's Municipal Court. Rather, that authority, which includes governance over the personnel, operation, and procedures to be followed in Municipal Court, lies with the City Council by virtue of a legislative grant from the Rhode Island General Assembly.

If it is Attorney Ragosta's opinion that the Mayor has no operational authority over the Municipal Court, how is it that the Mayor's attorney has standing to object to a job description put forth by the Court, a co-equal branch of government? Attorney Ragosta's February 20, 2024, can only be seen as a “rocket” in the well-known war between the Mayor and Judge Jack Gannon, and the date of this email could not be more revealing. This retaliatory email was sent the evening before the Pawtucket City Council was about to again snub the Mayor by elevating his arch rival to the position of Chief Judge.

On February 21, 2024, the Pawtucket City Council elevated Judge Jack Gannon to the position of Chief Judge. The Mayor was well aware he had lost this battle with the Council, and that the very next day, the Council was going to elevate his arch rival. Upset by his impending defeat and in retaliation, it appears he contacted his attorney, Vincent Ragosta, to concoct another effort to interfere with Gannon's pension credits. Attorney Ragosta acted immediately, drafting an email at 7:39p.m. on February 20, 2024, months after this matter had been decided in favor of the judges and on the day before the Mayor's impending defeat. In the concoction, Attorney Ragosta had supposedly suddenly discovered “indispensable facts” regarding the “ongoing appeal.” In fact, his facts failed, and there was

no ongoing appeal. The matter had been decided in favor of the judges 7 months earlier when Frank Karpinski wrote his letter dated July 3, 2023, reinstating the Judges in the MERS pension program.

For his “indispensable facts,” Ragosta again parades Sara Miranda's incomplete and inaccurate information from an out-of-date website. He bemoans a lack of “legislative action” adopting the judge's job description, without ever discussing its tacit ratification by 2 Council Presidents or the “separation of powers” doctrine which essentially precludes one branch of government from writing a job description for another branch of government. He then references the totally inapposite RIGL section 28-12-12 which is the minimum wage statute having to do with employers keeping records for hourly employees, when it is well established that the municipal judge positions are salaried positions requiring no time records. He then inappropriately throws out the term *ultra vires*, a Latin term meaning *beyond the powers*. For all the reasons discussed herein *supra and infra*, Judge Nesselbush was not acting beyond her powers when she drafted a job description for the Judges. Doing so is, in fact, well within her statutory authority.

Relying on Attorney Ragosta’s letter which Frank Karpinski did not know contained inapposite statutes and inapposite arguments, he changed his previous decision, deeming that Attorney Ragosta’s letter “confirms” that the judges do not work 20 hours per week, and that they should be removed from the MERS. With all due respect, his letter “confirms” nothing. Judge Nesselbush and her counsel have both known Frank Karpinski for a long time. He is a highly intelligent and well-informed public servant who was unfortunately misled by Attorney Ragosta’s February 20, 2024 email. Respectfully, Attorney Ragosta’s retaliatory “hail Mary” email should be seen for what it is: nonsense. (See exhibit 33).

5. EQUITABLE ESTOPPEL:

- **UNDER THE CIRCUMSTANCES PRESENTED HERE, THE RETIREMENT BOARD SHOULD BE EQUITABLY ESTOPPED FROM REMOVING JUDGE NESSELBUSH FROM THE PENSION SYSTEM;**
- **THE CITY OF PAWTUCKET SHOULD BE EQUITABLY ESTOPPED FROM OBJECTING TO JUDGE NESSELBUSH’S PENSION ELIGIBILITY, AND**

- **SHOULD HER MERS PENSION FAIL FOR ANY REASON, THE CITY SHOULD BE EQUITABLY ESTOPPED FROM FAILING TO PROVIDE HER (AND ALL HER PREDECESSORS) WITH THE PENSION BENEFITS THAT WERE PROMISED BY THE CITY.**

In 1994, the General Assembly amended the municipal pension statute, changing the definition of employee to mean “any regular and permanent employee...of any municipality, whose business time at a minimum of 20 hours a week is devoted to the service of the municipality....” RIGL 45-21-2(7).

Judge Nesselbush was not hired by the City of Pawtucket until 2004, a full 10 years after the enactment of this statute. The city is surely required to know the law, and it must have been aware of the pension statute that had been in effect for over 10 years. Well aware or at least charged with imputed knowledge of the law (remember, *ignorantia juris non excusat*...ignorance of the law is no excuse), the City’s HR personnel enrolled Judge Nesselbush (and all her predecessors) in the MERS, clearly evidencing that the City considered the position of Municipal Judge to be a 20-hour per week salaried position. That is also why the City did not keep wage and hour documentation regarding the position, as would have been required by the Department of Labor, had it been an hourly position. Also, upon information and belief, only 20 hours per week employees are eligible for City health insurance, and throughout her judgeship, Judge Nesselbush received City health insurance. Because Judge Nesselbush was a salaried employee, neither she nor her employer (the City of Pawtucket) were required to keep time slips. Since no time slips were required, the City cannot now allege or prove that Judge Nesselbush did not work 20 hours per week, nor can the Retirement Board require time slips. The idea of judges keeping time slips is rather odd.

The fact that the city enrolled Judge Nesselbush (and all previous and present judges) in their health insurance plan and in the MERS pension plan is evidence that the City considered Judge Nesselbush (and all the other judges) to be 20-hour employees. The fact that the City made the required contributions for her (and for all the others) to the pension plan and withheld money from her paycheck (and the others’ paychecks) to make the required employee contributions for 20 years is also evidence that the City considered her (and all of them) to be a 20-hour-per-week employee. Accordingly, the City and the Retirement Board should be estopped from now taking a position that is in conflict with the clear, historical evidence in this case.

Regarding equitable estoppel, Rhode Island Supreme Court Justice Indeglia found in the 2015 Supreme Court case of *Faella v. Chiodo* that, “indispensable to the successful invocation of the doctrine of equitable estoppel is the establishment of: “[F]irst, an affirmative representation or equivalent conduct on the part of the person against whom the estoppel is claimed which is directed to another for the purpose of inducing the other to act or fail to act in reliance thereon; and secondly, that representation or conduct in fact did induce the other to act or fail to act to his injury.” *Faella v. Chiodo*, 111 A.3d 351, 357 (R.I. 2015) (quoting *Cigarrilha v. City of Providence*, 64 A.3d 1208, 1213 (R.I. 2013)). Further, the applicability of equitable estoppel is dependent upon “[t]he facts and circumstances of each case * * *.” *Lerner v. Gill*, 463 A.2d 1352, 1362 (R.I.1983).

Justice Indeglia goes on to state that [the doctrine of equitable estoppel should be] “applied carefully and sparingly and only from necessity.” *Faella v. Chiodo*, 111 A.3d 351, 357 (R.I. 2015). It must be emphasized that equitable estoppel is extraordinary relief, which will not be applied unless the equities clearly are balanced in favor of the party seeking relief. The elements of estoppel must be proved with the requisite degree of certainty....” 28 *Am. Jur. 2d Estoppel and Waiver* § 166 at 633 (2011).

“Against a municipality, the route to relief relying on the doctrine of equitable estoppel is even more rigorous... *358 See *Casa DiMario, Inc. v. Richardson*, 763 A.2d 607, 612 (R.I.2000). As a general rule, courts are reluctant to invoke estoppel against the government on the basis of an action of one of its officers. *Lerner*, 463 A.2d at 1362 Estoppel against a public entity must be predicated upon the acts or conduct of its officers, agents or official bodies acting within the scope of their authority... *Potter v. Crawford*, 797 A.2d 489, 492 (R.I.2002) (quoting *Romano v. Retirement Board of the Employees' Retirement System of Rhode Island*, 767 A.2d 35, 42 (R.I.2001)). A party may not rely on estoppel for relief when a governmental employee’s actions clearly are *ultra vires*. *Waterman v. Caprio*, 983 A.2d 841, 846 (R.I.2009).

“It is axiomatic that the party seeking relief under the doctrine of equitable estoppel bears the burden of proving the necessary elements. See.. *Lichtenstein*, 81 R.I. at 138, 99 A.2d at 5. Generally, whether a party has met that burden in a particular case is an issue of fact to be resolved by the fact finder... *Herbert S. Newman and Partners, P.C. v. CFC Construction Limited Partnership*, 236 Conn. 750, 674 A.2d 1313, 1323 (1996); see 28 *Am. Jur. 2d* § 175 at 640; cf. *Lerner*, 463 A.2d at 1362 (recognizing that whether the imposition of estoppel is warranted is dependent on “the facts and circumstances of each case....”

Although equitable estoppel against a municipality is a tall order, if ever there were a case where it is warranted, this is it! Under the set of facts here, the promise of participation in the MERS pension system is self-proving. The promise was made by Chief Judge Laliberte acting for the City, and it was reiterated by Chief Judge McBurney, also acting on behalf of the City. The City enrolled Judge Nesselbush (and all of its prior judges) in the pension system. The promise became self-evident and self-proving when it was reiterated on a weekly basis over the next almost 20 years when the City withheld monies from Judge Nesselbush's check for pension contributions and when the City made its own contribution to the pension on her behalf.

Additionally, both past Council President David P. Moran and current Council President Terrence E. Mercer have plainly stated their understanding that Judge Nesselbush and all of Pawtucket Judges have always participated in the pension system. Dave Moran has been on the Pawtucket City Council for over 30 years, and Terry Mercer for over 12 years. Accordingly, Nesselbush did not rely on the actions of a mere government functionary, whose actions may have been *ultra vires*. Rather, she relied on statements made by Chief Judge Laliberte and Chief Judge McBurney and reiterated by the City's HR department. Her reliance was reasonable, as is confirmed by two City Council Presidents when they state that everyone has always known that the Judges participate in the pension system (and the City Council has exclusive authority over the appointment and compensation package for the municipal judges).

Given the initial promise of participation in the MERS pension system, given the fact that Judge Nesselbush, in reliance on this pension, never asked for a raise, and given that she continued to serve in this position, at a relatively low salary, in reliance on a future pension, *for 20 years*, given all of this detrimental reliance, Judge Nesselbush respectfully asserts that she has proved the necessary elements for imposition of the doctrine of equitable estoppel. Fairness and equity favor paying this hard-working, dedicated, and long serving Judge the pension she has been promised for nearly 20 years.

6. DETRIMENTAL RELIANCE, PROMISSORY ESTOPPEL AND IMPLIED-IN-FACT CONTRACT:

Judge Nesselbush alleges that there is an implied-in-fact contract between her and the City of Pawtucket, whereby, in exchange for her judicial services, she would receive a salary, access to city health insurance, and participation in the MERS pension system. As the Rhode Island Supreme Court has stated in the 2016 case of *Cote v. Aiello*, "an implied in fact contract is a form of express

contract, wherein the elements of the contract are found in and determined from the relations of, and the communications between the parties, rather than from a single, clearly expressed written document.” *Cote v. Aiello*, 148 A.3d 537, 545 (R.I. 2016) (quoting *Marshall Contractors, Inc. v. Brown University*, 692 A.2d 665, 669 (R.I. 1997)).

Here, the terms of the contract between Judge Nesselbush and the City of Pawtucket were clear: Donna Nesselbush would serve as Municipal Judge, in exchange for a salary, access to city health insurance and access to the MERS pension system. The salary was paid without incident or change for almost 20 years. The same is true for health insurance; Judge Nesselbush participated in the city's health insurance plan for all of her almost 20 years as Municipal Judge. Likewise, for nearly 20 years, she paid her weekly MERS pension contributions, and the city paid its weekly MERS pension contributions. For nearly 20 years, Judge Nesselbush has received periodic statements regarding her pension benefit from the MERS and more recently from TIAA.

The only difference between an express contract and an implied-in-fact contract is simply the manner by which the parties express their mutual assent. An express contract may be written, but an implied-in-fact contract can be equally enforceable when the conduct of the parties clearly proves the terms of the contract.

In *Cote v. Aiello*, Rhode Island Supreme Court Justice Goldberg stated that in determining whether mutual agreement and intent to promise are present to form an implied-in-fact contract, courts generally look to the “parties’ conduct, actions, and correspondence.” *Cote v. Aiello*, 148 A.3d 537, 545 (R.I. 2016) (quoting *Marshall Contractors, Inc. v. Brown University*, 692 A.2d 665, 669 (R.I. 1997)). Here, the parties’ conduct and actions are clear. Judge Nesselbush honorably performed all of the duties of Municipal Judge, and the City of Pawtucket, as promised, paid her a salary, offered her health insurance, enrolled her in the pension system, and made all required contributions to the MERS. These simple contract terms were performed as agreed upon by both parties for nearly 20 years. Justice Goldberg cautions that promissory estoppel cannot be based upon preliminary negotiations or minor discussions, but here, in the case at bar, the terms of the contract are not only crystal clear, they were adhered to and performed as agreed upon by both sides for nearly 20 years. The terms of this implied-in-fact contract are clear and unambiguous. In order to avoid injustice to Judge Nesselbush, the concepts of detrimental reliance and promissory estoppel should be applied against the City of Pawtucket, as they made a clear and unambiguous promise to Judge Nesselbush, a promise which they kept for 20 years, but on which they now seek to renege. We respectfully request that the hearing officer not allow this to happen.

Judge Nesselbush never requested a raise and her counsel advised her not to retire from her position of Chief Judge until the pension dispute was resolved in the belief that it would be much more difficult for her to engage in these pension negotiations as a “former judge” as opposed to the sitting Chief Judge. Accordingly, she waited until the dispute had resolved, or so she thought. On July 3, 2023, Frank J. Karpinski wrote to Judge Nesselbush reinstating her in the MERS pension system. In reliance thereon, after discussions with City Council President Terrence E. Mercer, she announced her intention to retire via email dated 8/25/23. Relying on Frank Karpinski’s letter dated July 3, 2023, Judge Nesselbush wrote to City Council President Mercer on August 25, 2023 stating her intent to retire in February, 2024.

The evidence of reliance here is overwhelming. In reliance on a pension, Judge Nesselbush never requested a raise. In reliance on the pension, she served the city as Judge for almost 20 years. In reliance on the July 3, 2023 pension reinstatement letter, she agreed to retire. She did not want to or agree to retire until her pension dispute was resolved...which it supposedly was...only to have the rug pulled out from under her by the unexpected March 11, 2023 denial letter, based on Attorney Vincent Ragosta’s inapposite legal arguments.

As you will read in the final section of this brief, Attorney Vincent Ragosta’s letters/emails and inquiries are evidence of the Mayor’s heavy handed reaction to the fact that Judge Nesselbush supported her 10 year plus, well-qualified Associate Judge (and the Mayor’s avowed enemy), John “Jack” Gannon, for the position of Chief Judge, against the Mayor’s wishes (as he favored another candidate). This form of retaliation has no place in a nation, a state or a city of laws.

7. SUPERIOR COURT PRECEDENT: RHODE ISLAND LABORERS’ DISTRICT COUNCIL V. THE EMPLOYEES’ RETIREMENT SYSTEM OF THE STATE OF RHODE ISLAND., C.A. NO.: PC 04-2905

In 2004 (the same year, coincidentally, that Judge Nesselbush was hired by the City of Pawtucket), a dispute arose between the Cranston crossing guards and the retirement board. The retirement board objected to the payment of retirement benefits for the Cranston crossing guards, based on the board’s assertion that they had not met the 20 hour per week statutory requirement of RIGL 45-21-2(7) that was enacted in 1994.

These crossing guard plaintiffs never alleged that they actually worked 20 hours per week at a designated post. Their contract was carefully worded, using the terms “crossing guard shifts” and the “school day.”

Similar to the case at bar involving Judge Nesselbush, at all times, the city of Cranston and the crossing guards both made the required contributions to the pension fund on behalf of the crossing guards. Although the pension contributions were made, the retirement board took issue with whether they met the 20 hour per week service requirement. After several hearings on the matter, on May 23, 2005, Superior Court Judge Proccacini granted the Plaintiffs' Motion for Declaratory Judgment, ordering the Defendant Retirement Board to approve and process the Plaintiffs' applications for retirement benefits. (See Rhode Island Laborers' District Council v. the Employees Retirement System of the State of Rhode Island., C.A. NO.: PC 04-2905). This legal precedent strongly favors Judge Nesselbush.

In the case at bar, counsel has set forth all of the many activities performed by Judge Nesselbush in service to the City of Pawtucket. The evidence clearly establishes that her employment as a Judge was not "casual or seasonal" in nature. Rather, far more than a preponderance of the record evidence clearly shows that she devoted far more than the requisite 20 hours per week in service to the City of Pawtucket and its residents.

If Cranston's crossing guards are eligible for a pension, so too is Judge Nesselbush.

8. ADDITIONAL INFORMATION THAT EXPLAINS THIS DISPUTE AND PLACES IT IN CONTEXT:

Judge Nesselbush is loath to cast aspersions, but unfortunately, because of the need to "raise it or waive it," we must raise the following issue in order to preserve it for possible consideration by the Superior Court, in the event of an appeal. To be clear, Judge Nesselbush sincerely hopes that this matter can be equitably decided at this level without the need for further appeal and without the need to further explore these issues via depositions of all those with possible knowledge of the situation.

Judge Nesselbush avers that the real reason behind this pension dispute is the long-standing, well-known animosity between Mayor Don Grebien and now Chief Judge Jack Gannon. There has been odd "back and forth" decision-making in this case, coupled with the gratuitous involvement of Attorney Vincent Ragosta, on behalf of the Mayor, who, by Charter and because of the "separation of powers" doctrine, has questionable (at best) standing in this matter. Particularly suspicious is the timing of Attorney Ragosta's February 20, 2024 email at 7:39 p.m. the day before the Council was slated to snub the Mayor by elevating Gannon to the position of Chief Judge of the City of Pawtucket. The Council elevated Jack Gannon on February 21, 2024 (with Judge Nesselbush

testifying in favor) and less than 3 weeks later, on March 11, 2024, the Treasurer did an about face, and revoked Nesselbush's pension eligibility which had been previously scrutinized and favorably decided. This chain of events unfortunately raises speculation that the Mayor may have "sour grapes" against Judge Gannon for being elevated, and against Judge Nesselbush for supporting said elevation.

John "Jack" Gannon has been involved in municipal government for years. He has served as the City Solicitor for the City of Central Falls, City Solicitor for the City of Pawtucket, and more recently, Director of Administration for Mayor Don Grebien, a position he held until they had a major "falling out" which has caused World War III in the City of Pawtucket.

https://www.valleybreeze.com/news/r-i-supreme-court-sides-with-city-in-gannon-firing/article_f16f0a3c-ed07-5fdc-994c-b00e9c63d7c6.html

The roots of the disagreement are highly personal. In May 2013, Jack Gannon's son was hired as a Pawtucket firefighter. In November 2013, Mayor Don Grebien fired him. Jack Gannon was furious; his boss and friend fired his son. He immediately quit his job as the Mayor's Director of Administration and later sued the City for wrongful termination of his son. Jack Gannon also filed an ethics complaint against Mayor Grebien. He and his family have also spared few words in arguing their case against the Mayor on social media channels.

Tremendous discord has ensued in City Hall and in City "politics" due to the animosity, litigation, press coverage and social media banter. Everyone in city government is well aware of this festering feud and acrimony.

Despite this animosity between the two, the Pawtucket City Council, in a nod to its power, saw fit in 2012 to appoint Jack Gannon Associate Judge and to elevate him to Chief Judge in 2024. The Mayor opposed his appointment on both occasions; he advocated strongly for other candidates.

Messages 2:16 PM Tue May 28

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R.I. Supreme Court sides with city in Gannon firing

ETHAN SHOREY, Valley Breeze Managing Editor Feb 12, 2019

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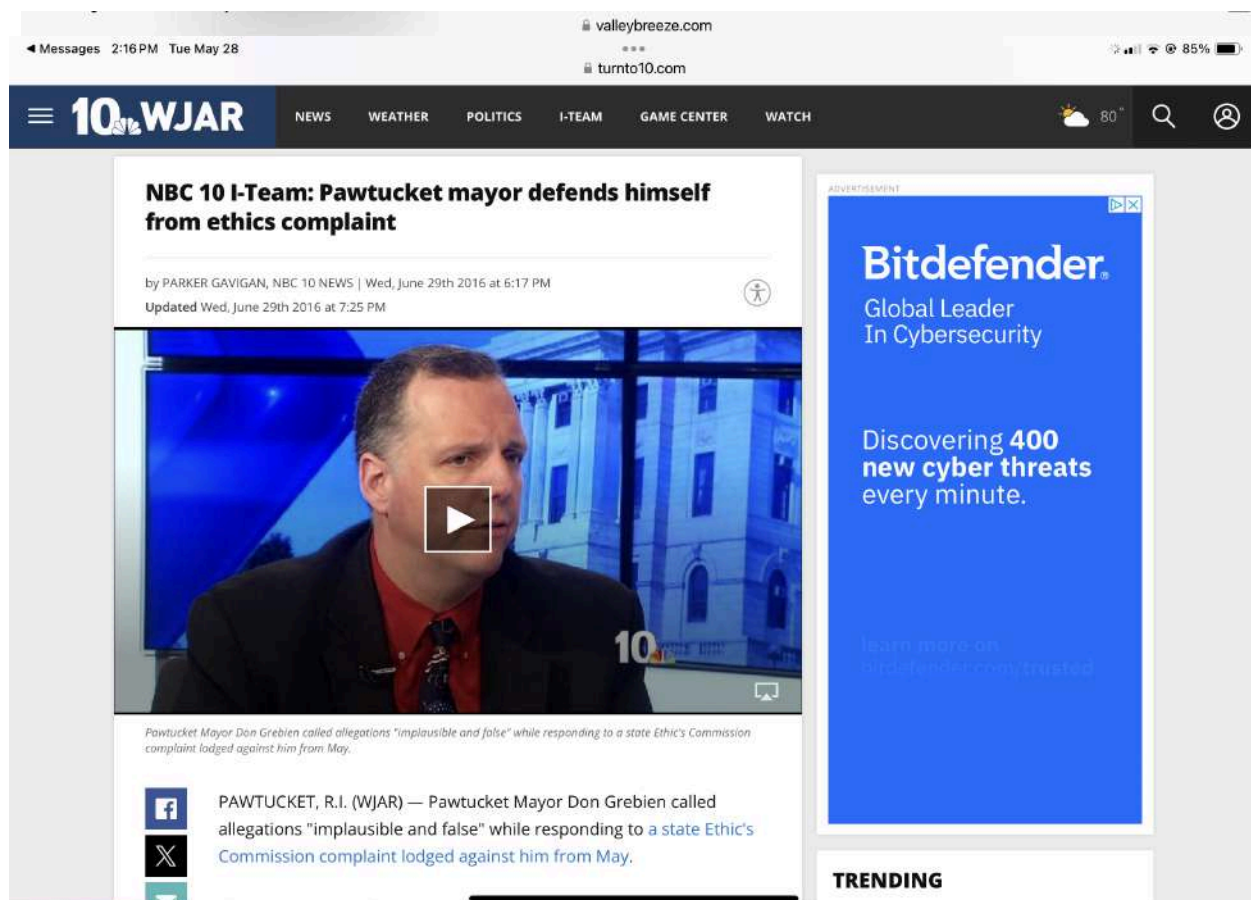
PAWTUCKET – Members of Mayor Donald Grebien's administration say they hope a Rhode Island Supreme Court decision affirming the firing of former firefighter Sean Gannon will put an end to continued "frivolous" legal action by Gannon's father, Associate Pawtucket Municipal Court Judge Jack Gannon.

The state's highest court last week sided with the city in the matter, declining to overturn a Superior Court ruling. Gannon now owes costs and attorney fees to the city, according to the Feb

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The physical proximity of the work spaces is close: the Courtroom shares a wall with the Mayor's office.



https://www.valleybreeze.com/news/mayor-gannon-s-ethics-complaint-part-of-personal-vendetta/article_b355d277-3700-5304-ad56-9e7e94bf9c62.html

<https://turnto10.com/i-team/nbc-10-i-team-pawtucket-mayor-defends-himself-from-ethics-complaint>



https://www.valleybreeze.com/news/gannon-top-contender-for-magistrate-judge-selection-process-called-into-question/article_54d35be8-cddf-11ee-ae85-f3d7f5e49cee.html



https://www.valleybreeze.com/news/council-decides-against-delay-approves-gannon-as-lead-judge/article_5daef892-d4df-11ee-be44-afc2b242f822.html

(See exhibit 33 for print outs of these digital citations).

Additionally, as for the 2024 appointment of an Associate Judge, the Mayor again advocated for a different candidate from the one the Council chose. The Council duly exercised its appointing authority and opted for the candidate of its own choosing, Patrick McBurney.

These February 21, 2024 judicial appointments appear to have infuriated the Mayor.

The timing is revealing. Just the night before the February 21, 2024 slated drubbing, the Mayor's attorney, Vincent Ragosta, sought to renew the Mayor's tired (and previously unsuccessful) efforts to deprive Jack Gannon of his pension by sending off his February 20, 2024 "rocket" email at 7:39 p.m. It certainly appears from the timing that these actions are related. It appears that the Council's choices for the judicial appointments may have prompted the Mayor to call Attorney Vincent Ragosta, requesting that he interject himself in a settled matter, by writing to the Retirement Board as if this were a legitimate concern to the City when in reality it appears to have been mayoral revenge. At any rate, just weeks later on March 11, 2024, both Judge Gannon and Chief Judge Nesselbush were again wrongfully removed from the MERS pension system.

After Judge Gannon and Judge Nesselbush were again removed from the pension system on March 11, 2024, an exasperated Judge Nesselbush had a heart to heart conversation with Judge Gannon. She stated the obvious: the Mayor's animosity towards Jack Gannon is fueling this pension battle (in the ongoing war between the two men). Judge Nesselbush averred that she is collateral damage. Judge Gannon agreed on both counts.

In the interest of removing the political impediment that is/was Jack Gannon, in the interest of quelling the Mayor's fury, and in the interest of preserving the rightful pension eligibility of all Pawtucket's hard working Judges (past and present, herself included), Judge Nesselbush personally requested that Judge Gannon not appeal his denial of service credits for his time as a Pawtucket Judge. Judge Nesselbush pointed out to Judge Gannon that all of the Judges will likely "rise or fall" from the pension system together. To Judge Gannon's credit, he willingly obliged, stating that he is well aware of the Mayor's animosity towards him, and he does not want to be the reason why Judge Nesselbush and all of the other judges lose their pension credits/benefits. That is why Judge Gannon did not appeal, and that is why Judge Nesselbush's appeal is the only appeal pending. Judge Nesselbush thought that with Jack Gannon out of the fight, clearer heads could prevail, allowing the city to deal reasonably with the fact that it had not only promised pension benefits to all previous judges, but the City also enrolled all of them in the MERS continuously before and after the 1994 passage of the 20 hour per week requirement. Upon information and belief, the MERS may have already paid pension benefits to some of Pawtucket's now deceased Judges. Upon information and

belief, the Judges and the City made *all* required pension contributions for *all* the judges over the past *30 years*.

This whole situation sadly begs many disturbing questions: why did the Mayor seek to strip the pension eligibility only of Judge Gannon and Judge Nesselbush? Why did Attorney Ragosta never question the pension eligibility of Pawtucket's previous judges? Why did the Mayor send his Director of Administration, Ryan Holt on [Channel 12 TV](#) to accuse Judge Nesselbush of nefariously drafting her own job description when, *in fact*:

- she provided her draft job description to the Mayor and the City Solicitor in 2022;
- she requested the Mayor's assistance to officially promulgate it;
- she was told the Mayor had no authority over the Judges;
- she was told to work with the City Council;
- she did work with the City Council which essentially ratified her job description.

It's been 30 years since the 1994 "20 hour per week rule." Over these past 30 years, City officials and HR/payroll employees have appropriately recognized the Judges' 20 hour per week workload without question. Why is this only being questioned now? Why did the General Treasurer not send a similar pension revocation letter to Pawtucket's Probate Judge Christine McBurney or to Judges John F. McBurney, III or William T. Noonan who previously served in the exact same Pawtucket Municipal Judge positions? Why have pension credits been given or pension benefits paid to Pawtucket deceased Judges who served after the 1994 "20 hour per week rule?" Why has the lack of a job description never been a problem before in the 30 years since the 1994 "20 hour per week rule" was adopted?

Conclusion:

Judge Nesselbush has proved by far more than a preponderance of the evidence that she honorably carried out her judicial duties, that she has worked the requisite 20 hours per week, and that she is a municipal employee as that term is defined by RIGL 45-21-2(7). If the deceased Pawtucket Judges (Mutter, Keough, Laliberte) were enrolled and received pension benefits, and if the living Pawtucket Judges (William Noonan, John F. McBurney, III and Cristine McBurney) are enrolled in the pension system and counting on benefits, it is unjust and unlawful to single out one judge...and remove her from the pension system. Chief Judge Nesselbush has established her pension eligibility based on the information provided and based on the numerous legal arguments

raised herein. Accordingly, she and all the judges should be allowed the pension benefits they were promised and upon which they have relied.

Respectfully, this whole pension controversy appears to have been “gaslighted” by the Mayor, in a thinly veiled attempt at retaliation against his arch rival, a way to hurt his enemy by attempting to strip him of his lawful pension benefits. Although the Mayor states that he respects Judge Nesselbush, the Mayor, through his attorney (Vincent Ragosta), has consistently tried to obstruct her lawful pension eligibility because she was tied to Judge Gannon. He has consistently sought to “muddy the waters” by trying to inject inapposite and hollow “dirt” into the discussion. Notice that the City Council has been dispassionate and factual, respecting the authority of the City’s judiciary and factually answering questions when asked (and they are usually only asked after the Mayor’s attorney seeks to “grasp at straws” and revive settled issues).

If all of Pawtucket’s Judges (past, present and deceased) are removed from the Municipal Employees’ Retirement System (MERS), it will likely ignite a firestorm of litigation by all parties (and their estates) against the Retirement Board and the City of Pawtucket that may well end up costing the taxpayers more than these small pensions. But this appeal is not about money; it is about justice.

Under all these circumstances, the only sensible resolution of this matter is for Judge Nesselbush (and all of Pawtucket Municipal Judges who were promised pensions) to receive the pension credits they were promised, the credits for which they worked the requisite hours and for which both the judges and the city paid into the system for over 30 years. Of course, if the City Council wishes to change the terms of the Judges’ employment in the future, it is their absolute prerogative to do so at any time.

Respectfully submitted,

John B. Hardwood, Esq.
Harwood, Garland & McKiernan Law Offices
9 Thurber Blvd., Suite D
Smithfield, RI 02917
401.723.9655
jharwood@hgmlawllc.com

EXHIBIT 1

City of Pawtucket

Payee: DONNA M NESSELBUSH

Date: 12/30/22 Net: 333.75 Check No. Dir. Dep

EARNINGS	QUANTITY	CURRENT	DEDUCTIONS	CURRENT	YEAR TO DATE
REGULAR HOURS	35.00	466.00	MUNICIPAL EMPL RET		288.92
			TIAA-CREF		908.70
			MEDICAL/COPAY/IND/	56.58	2855.58
			FEDERAL W/H	25.22	1653.02
			MEDICARE	5.94	341.54
			R.I. STATE W/H	14.63	813.48
			FICA	25.38	1460.43
			TDI	4.50	245.87
GROSS		466.00			
ACCUAL	EARNED	USED	BALANCE		
FUR			84.000		
YTD GROSS	YTD W2 WAGES	YTD SS WAGES	YTD MED WAGE		
26412.78	22359.58	23557.20	23557.20		

REMOVE DOCUMENT ALONG THIS PERFORATION

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No. Dir. Dep

CITY OF PAWTUCKET
RHODE ISLAND
PAYROLL ACCOUNT D

BANK OF AMERICA

97-1
115

DATE 12/30/22

AMOUNT

\$

PAY THE SUM ***** NON-NEGOTIABLE *** NON-NEGOTIABLE *** NON-NEGOTIABLE *****
OF

TO THE ORDER OF DONNA M NESSELBUSH



Diane E. Wynn
AUTHORIZED SIGNATURE
Joanna F. Heurich
AUTHORIZED SIGNATURE

00 00 00115000101

Payee: DONNA M NESSELBUSH

Date: 3/08/24 Net:

271.64 Check No. Dir. Dep

EARNINGS	QUANTITY	CURRENT	DEDUCTIONS	CURRENT	YEAR TO DATE
REGULAR HOURS	35.00	466.00	MUNICIPAL EMPL RET	9.32	93.20
			TIAA-CREF	23.30	233.00
			DD COPAY/FAM/20%	3.49	34.90
			MEDICAL/COPAY/FAM/	102.23	1022.30
			FEDERAL W/H	12.96	129.60
			MEDICARE	5.22	52.20
			R.I. STATE W/H	11.57	115.70
			FICA	22.34	223.40
			TDI	3.93	39.30
Gross		466.00			
ACCURAL	EARNED	USED	BALANCE		
FUR			84.000		
			YTD GROSS	YTD W2 WAGES	YTD SS WAGES
			4660.00	3276.60	3602.80
					3602.80

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Dir. Dep

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RHODE ISLAND
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BANK OF AMERICA

57-1
115

DATE 3/08/24

AMOUNT

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 OF

 TO
 THE
 ORDER
 OF

DONNA M NESSELBUSH



AUTHORIZED SIGNATURE

AUTHORIZED SIGNATURE

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EXHIBIT 2



Employees' Retirement System of Rhode Island

ERSRI Board:

Seth Magaziner
*General Treasurer
Chair*

John P. Maguire
Vice Chair

Roger P. Boudreau

Mark A. Carruolo

Joseph Codega

Paul L. Dion

Matthew K. Howard

Claire M. Newell

Raymond J. Pouliot

Jean Rondeau

Laura Shawhughes

James E. Thorsen

Michael J. Twohey

Lisa A. Whiting

Frank J. Karpinski
Executive Director

SENT VIA U.S. FIRST CLASS MAIL & CERTIFIED MAIL RETURN RECEIPT REQUESTED

August 1, 2022

91 7199 9991 7035 4497 9886

The Honorable Chief Judge Donna M. Nesselbush

Dear Honorable Chief Judge Nesselbush:

We write to provide you with information regarding your service as Municipal Traffic Court Judge for the City of Pawtucket and your membership in the Municipal Employees' Retirement System (MERS). It is our understanding that you were appointed as Associate Judge in 2004 and Chief Judge on April 25, 2012.

We have confirmed with the Human Resources Director for the City of Pawtucket the following information:

- Pawtucket Municipal courts are in session 2-3 days per week with the 2 judges present (Chief Judge and Judge)
 - Mondays at 2:00 p.m. (from the website)
 - Thursdays at 6:00 p.m. (from the website)
 - Fridays at 9:00 a.m. (from the website)
- The position is not in the city's FTE count
- Judges are appointed, and then approved by the City Council
- Judges earn \$16,000 annually (salary is the same regardless of the hours)
- While the payroll information indicates the position is for 35 hours per week, the Judges are not present 35 hours per week and in fact are not present for the statutorily required 20 hours per week, every week.

Rhode Island General Laws (RIGL) 45-21-8 entitled, Membership in system, reads in part,

- (a) Any employee of a participating municipality as defined in this chapter, who becomes an employee on and after the effective date of participation, shall, under contract of his or her employment, become a member of the retirement system;

While membership in MERS is a condition of employment, the person must meet the definition of "employee" in order to be a member. "Employee" is a defined term in the statute. Specifically, RIGL § 45-21-2 (7) defines who shall be an employee for the purpose of membership in MERS and requires the person work at least 20 hours per week.

(7) "Employee" means any regular and permanent employee or officer of any municipality, whose business time at a minimum of twenty (20) hours a week is devoted to the service of the municipality, including elective officials and officials and employees of city and town housing authorities. Notwithstanding the previous sentence, the term "employee," for the purposes of this chapter, does not include any person whose duties are of a casual or seasonal nature. The retirement board shall decide who are employees within the meaning of this chapter, but in no case shall it deem as an employee any individual who annually devotes less than twenty (20) business hours per week to the service of the municipality and who receives less than the equivalent of minimum wage compensation on an hourly basis for his or her services, except as provided in § 45-21-14.1. Casual employees mean those persons hired for an occasional period or a period of emergency to perform special jobs or functions not necessarily related to the work of regular employees. Any commissioner of a municipal housing authority, or any member of a part-time state board commission, committee or other authority is not deemed to be an employee within the meaning of this chapter.

Since the information reveals that you did not meet the definition of employee, specifically the minimum requirement of 20 hours per week, you are therefore not eligible for membership in MERS and thus your contributions will be returned to you, and you will not receive the applicable service credit towards your retirement.

Your MERS and TIAA Defined Contribution Plan employee contributions will be refunded to you by your employer.

Sincerely,



Frank J. Karpinski
Executive Director

Cc: Sara Miranda, PHR
Human Resources Director

EXHIBIT 3

ERSRI BOARD:

October 24, 2022

Seth Magaziner
General Treasurer Chair

John P. Maguire
Vice Chair

Ernest Almonte

Roger P. Boudreau

Mark A. Carrucolo

Joseph Codega

Paul L. Dion

Matthew K. Howard

Claire M. Newell

Raymond J. Pouliot

Jean Rondeau

Laura Shawhughes

James E. Thorsen

Michael J. Twohey

Lisa A. Whiting

Frank J. Karpinski
Executive Director

The Honorable Chief Judge Donna M. Nesselbush

RE: Membership in MERS

Dear Honorable Chief Judge Nesselbush:

I am writing in response to your email dated September 19, 2022 where you have indicated for yourself and on behalf Associate Judge Jack Gannon your intent to appeal the determination of the Employees' Retirement System of Rhode Island (ERSRI) that you and Judge Gannon are not eligible for membership in the Municipal Employees' Retirement System (MERS).

In making this determination, we relied upon information from the Pawtucket's Municipal Traffic Court website and Human Resources Director of the City of Pawtucket. Absent the receipt of additional information regarding the requirements for the positions of Chief Judge and Associate Judge of the Pawtucket Municipal Traffic Court, our position remains unchanged at this time.

As a reminder, any revised job descriptions for these positions which you note that you intend to submit to ERSRI for review, must be approved by the Pawtucket City Council and the Mayor of Pawtucket. You have indicated that the job requirements have not been updated in over 18 years, that it will involve the Pawtucket City Council and Mayor, and you will keep us informed as to the status.

Finally, you are requesting that you continue to make regular pension contributions during the appeal; however, we have instructed your employer to cease contributions and will do so until the conclusion of this matter. Should ERSRI reconsider the status of your employment after review of any new information provided, both you and the City of Pawtucket will be required to make all retroactive contributions and will receive all retroactive service credits.

Once we have reviewed the updated job descriptions, and any other information you may provide, we will make a final determination in writing. Should you wish to appeal the determination, pursuant to ERSRI and MERS Rules and Regulations, 120-00-1.4, Rules of Practice and

Procedure for Hearings in Contested Cases, you will have 60 days from the date of the formal administrative denial letter to appeal.

Thank you.

Sincerely,

A handwritten signature in dark ink, appearing to read "Frank J. Karpinski", written over a horizontal line.

Frank J. Karpinski
Executive Director

Cc: The Honorable Judge John Gannon

EXHIBIT 4

Milos, Frank

From: Nesselbush, Donna
Sent: Friday, November 18, 2022 2:18 PM
To: Zelazo, Dylan; Milos, Frank
Subject: Municipal Court
Attachments: Employees Retirement Letter 10.24.22.pdf; Employee Retirement System of RI.pdf; Municipal Court Judges Job Description.docx

Dear Dylan and Frank,

I am writing to you in your official capacities as Director of Administration and City Solicitor, respectively. Thank you both for speaking with me about this issue. As we are Council appointees, I have also spoken to Councilor Mercer, and I believe he has discussed this briefly with the Mayor. As you requested, attached is a judicial protocol or job description that I drafted based upon my experience serving both as the Associate Judge and then the Chief Judge of our city over the past 18 years. This document outlines the responsibilities and duties of our city's Municipal Traffic and Housing Court Judges.

Please let me know if you have any questions. After reviewing and finalizing this document (and conferring with the City Council, if that is necessary or warranted), I respectfully request that the appropriate person in city government draft a cover letter (or other appropriate document) to Frank J. Karpinsky, Executive Director of the Employees' Retirement System of Rhode Island, assenting to and enclosing the final version of the judicial protocol/job description and confirming that we are 20 hour per week employees/appointees.

Thank you for your kind attention to this matter. Your prompt response would be most greatly appreciated, as I would like to resolve this before the MERS takes any further action.

Sincerely yours,

Donna M. Nesselbush, Esq.

Donna M. Nesselbush, Esq.
Chief Judge
Pawtucket Municipal Court
www.PawtucketRI.com

COURT SESSIONS:

Pursuant to city ordinance, the Municipal Traffic and Housing Courts shall be considered to be in session at all times and in such place or places as the judges shall direct.

JUDICIAL DUTIES:

Court Procedures. The Judges Shall:

- Establish the place, days and times of all Traffic and Housing Court sessions;
- Establish Rules of Procedure for both the Traffic and Housing Courts;
- Enforce the Courts' Rules of Procedure, including but not limited to maintaining courtroom decorum and addressing disruptions from litigants or members of the public;
- Prescribe the form of all Pawtucket Municipal Traffic and Housing Court complaints, warrants, writs or other matters of legal process, consistent with the jurisdiction of the court;
- Ensure that procedures are in place for the security and protection of the Judges and Court personnel;
- Oversee and supervise the Traffic Court and Housing Court clerks;
- Ensure that all proceedings, matters of substance and/or hearings before the court are made "on the record" and preserved for use in potential appeals;

Day to Day Operations:

- Establish docketing procedures and docket sizes;
- Adjudicate all complaints filed within the court's jurisdiction, including but not limited to traffic violations, motor vehicle equipment violations, ordinance violations for liquor, parking, minimum code violations, zoning violations, vandalism and animal control issues;
- Preside over Arraignments;
- Preside over Pre-trial Conferences;
- Preside over Trials, including performing any legal research necessary to understand the legal issues involved and to be able to determine guilt/responsibility or non-guilt, and impose fines and/or other dispositions, as required;
- Prepare written and/or verbal decisions;
- Review letters regarding community service;
- Review and Authorize Requests for subpoenas to compel the presence and/or testimony of witnesses;
- Review Motions to Compel Requests for Interrogatories or Production of Documents;

- Dispose of cases in the Traffic Court by reviewing driving records and issuing Default Judgments for motorists who fail to appear;
- Dispose of cases in the Housing Court by reviewing pleadings and issuing Default Judgments for Respondents who fail to appear;
- Review and Dispose of Motions to Vacate judgments, including default judgments and/or order new proceedings/trials, as determined necessary by the judge;
- Review and Oversee Requests for Receivership proceedings;
- Personally view and/or tour properties, as necessary, that are the subject of Requests for Receivership or other action, e.g., Motions to vacate the Premises;
- Review and Sign off on all Municipal Court Orders;
- Review Appellate decisions that are issued by the RI Traffic Tribunal;
- Officiate weddings on days, evenings, or weekends, by appointment and as needed by city residents and others wishing to marry;

Special Projects:

- Oversee and participate in special projects such as camera enforcement of school speed zones and city red lights; televising Municipal Court proceedings, establishing Covid procedures, offering "Good Driver Statute Dismissals via the mail, participating in the Driver's License Restoration Project or the Lead Abatement project; attend meetings and press conferences, as required.
- Oversee all digital projects, including the possibility of judicial proceedings via zoom, drafting and maintaining appropriate content for the Traffic and Housing Court web-pages;

Interact with other Branches of Government:

The Judiciary works together with the Legislative and Executive branches to keep them informed regarding the Special Projects of the Court or the need for legislative changes, e.g., changing the courts name, jurisdiction or otherwise requesting the passage of or amendments to ordinances;

SALARY AND BENEFITS:

The position is a salaried position, with access to City health insurance and participation in the MERS pension system. There are no vacation or sick days as the two judges cover for each other because, by City ordinance, the Court is in session at all times.

City Of Pawtucket
Pawtucket Municipal Court
121 Roosevelt Avenue
Pawtucket, RI 02860

Chief Judge Donna M. Nesselbush
Associate Judge John T. Gannon

Municipal Court Judges

BRANCH OF GOV'T	JOB TITLE	HOURS	SALARY
Judiciary	Municipal Judge	20 Hours Per Week	\$17,000 - \$25,000

Pawtucket Municipal Traffic and Housing Courts:

Protocol / Job Description for Chief Judge and Associate Judge

The Pawtucket Municipal Court shall be composed of one Chief Judge and one Associate Judge. The City of Pawtucket has also established a Housing Court which conducts its day-to-day business as an adjunct to and extension of the already existing Pawtucket Municipal Traffic Court. Judges are part-time, 20 hour per week employees, and the annual salary of the Chief Judge shall be **\$25,000** and the annual salary for the Associate Judge shall be **\$17,000**.

QUALIFICATIONS:

Pursuant to Section 2-501 of the city charter, a Municipal Court judge, to be appointed, must be an elector of the city and be a lawyer in good standing who is admitted to practice before the Rhode Island Supreme Court and who shall have at least two (2) years' experience in the active practice of law. Appointment as a judge of the Municipal Court shall be by a majority vote of the City Council. Judges also must possess:

- The ability to relate to the general public, including the racial, ethnic and socioeconomic diversity that is reflected in the City of Pawtucket;
- The ability to handle a high volume of cases;
- The ability to maintain judicial impartiality and judicial temperament in all matters.



Municipal Traffic Court Clerk: Nadine Higgins (401) 727-9100 Ext. 824
Municipal Housing Court Clerk: Donna Pinto (401) 728-0500 Ext. 280

EXHIBIT 5



City of Pawtucket

City Hall
137 Roosevelt Avenue
Pawtucket, RI 02860

Office of the City Solicitor

Donald R. Grebien
Mayor

Frank J. Milos, Jr., Esq.
City Solicitor ext. 274
Lisette Gomes, Esq.
Assistant City Solicitor ext. 331

November 29, 2022

Dylan Zelazo
Director of Administration
dzelazo@pawtucketri.com

Dear Director Zelazo:

You asked me to look into the legality of the Administration creating a protocol/job description for the Municipal Court Judges that would mandate, among other things, a 20-hour work week for the Judges. As you know, the Municipal Court Judge positions are controlled by the City Charter (See § 2-501). The Judges are elected solely by the City Council. The Mayor/executive branch has no authority or jurisdiction regarding the appointment of the Judges or the hours of operation of the Municipal Court, which is essentially the City's third branch of government.

As Judge Nesselbush has recently stated, under the separation of powers doctrine, the Judges are responsible for establishing court calendars, dockets, and courtroom decorum, including case flow, case management and all aspects of court operations. Therefore, I do not believe that the executive branch has the right or authority to set the hours of operation of the Court, or to set the number of hours that the Municipal Court Judges are required to work during a given week.

Rather, as per Section 2-600 of the Charter "[t]he municipal court, and the judge[s] thereof, shall have all of the powers and duties now or hereafter vested in the municipal court and the judge[s] thereof by the laws of the state and ordinances enacted by the council in conformity therewith." As per this provision, it is my opinion that the City Council may have the express authority to pass ordinances consistent with what Judge Nesselbush is proposing. The City Council has, in fact, passed ordinances regarding the operation of the Municipal Court (See generally Chapter 26 of the Code of Ordinances).

Since my office routinely appears before the Municipal Court, in order to avoid any appearance of impropriety, it might be prudent for the City to have this issue referred to outside counsel for further review and opinion. If so, I would suggest Attorney Vincent Ragosta due to his vast labor experience and also his familiarity with our City Charter. Alternatively, the matter simply could be referred to the City Council and/or its ordinance committee for review and consideration.

(401)725-8650 – Fax (401)727-3961 – TDD (401)722-8239

Dylan Zelazo
Director of Administration
dzelazo@pawtucketri.com
November 29, 2022
Page 2

Please advise at your earliest convenience.

Thank you.

Very truly yours,

/s/ Frank J. Milos, Jr.
Frank J. Milos, Jr., Esq.
City Solicitor

cc: Mayor Donald R. Grebien
Council President David P. Moran
Chief Judge Donna M. Nesselbush

EXHIBIT 6

MEMORANDUM

DATE: DECEMBER 8, 2022

TO: MAYOR DONALD R. GREBIEN
DYLAN ZELAZO, DIRECTOR OF ADMINISTRATION

FROM: VINCENT F. RAGOSTA, JR., ESQ.
D. PETER DESIMONE, ESQ.

RE: PAWTUCKET MUNICIPAL COURT

CONFIDENTIAL ATTORNEY WORK PRODUCT

OPINION

For the reasons that follow, and given the facts as known and presented to us, it is our professional opinion that the mayor of the City of Pawtucket ("city") does not have operational authority over the city's municipal court. Rather, that authority, which includes governance over the personnel, operation, and procedure to be followed in municipal court, lies with the city council by virtue of a legislative grant from the Rhode Island general assembly.

FACTS

We have been asked for an opinion as to whether the mayor can, among other things, create or sanction a protocol/job description for municipal court judges that would mandate a 20-hour work week.¹

ANALYSIS

Pawtucket municipal court is a creature of the Rhode Island general assembly and the city council. As for the general assembly's enabling legislation, it provides in relevant part as follows:

"§ 45-2-13. City of Pawtucket — Municipal police court — Municipal housing court.

¹ The question of whether the sitting municipal court judges have actually devoted twenty business hours per week *in the past* is a factual question beyond the scope of this analysis. Based on the information we have been provided, it appears that the city's Human Resources Office has already informed ERSRI that there is no evidence that the municipal court judges work twenty hours per week.

(a) The city council of the city of Pawtucket may establish a municipal police court and confer upon the court original jurisdiction, notwithstanding any other provisions of the general laws, to hear and determine causes involving the violation of any ordinance; . . .

(b) The city council of the city of Pawtucket may establish a municipal housing court and confer upon the court original jurisdiction, notwithstanding any other provisions of the general laws, to hear and determine [various] causes . . .

...

(d) The city council of the city of Pawtucket is authorized and empowered to appoint a judge to serve as both the municipal police court judge and the municipal housing court judge. The city council of the city is authorized and empowered to enact ordinances governing the personnel, operation, and procedure to be followed in the court and to establish a schedule of fees and costs and to otherwise provide for the operation and management of the court. . . .²

The city charter in turn provides that “[t]he municipal court, and the judge thereof, shall have all of the powers and duties now or hereafter vested in the municipal court and the judge thereof by the laws of the state and ordinances enacted by the council in conformity therewith,” Pawtucket City Charter, §2-600.

Thus, because the general assembly has “authorized and empowered [the city council] to enact ordinances governing the personnel, operation, and procedure to be followed in the court and to establish a schedule of fees and costs and to otherwise provide for the operation and management of the court,” and because no similar authority has been vested in the mayor, the city council, not the mayor, has the authority to control the municipal court’s “personnel, operation, and procedure” unless and until the general assembly sees fit to amend that grant of authority. *See generally Moreau v. Flanders*, 15 A.3d 565, 580 (R.I. 2011) (“when a legislature has authorized a grant of power at the municipal level, it alone may interfere with that grant”). However, pursuant to §4-102 of the city charter, “[t]he mayor shall recommend to the council all such measures connected with the affairs of the city, the protection and improvement of its government and finances, and the promotion of the welfare of its people as he shall deem desirable.” Thus, to the extent the mayor deemed a certain number of hours of operation for the municipal court—or any other matter connected to the municipal court—to be desirable, then he could certainly recommend as much to the city council. Presumably, and conversely, if the mayor determined that any ordinance pertaining to the operation of the municipal court was ill advised, he could veto such ordinance, subject of course to being overridden by the council.³

² Although the enabling legislation authorizes the appointment of “a judge,” because “[e]very word importing the singular number only may be construed to extend to and to include the plural number,” R.I.G.L. §43-3-4, the city council’s appointment of two municipal court judges under city charter §2-501 appears to be authorized.

³ We say presumably because the enabling legislation empowers the city council “to enact ordinances,” which of course requires mayoral involvement to be effective. Nevertheless, it could be argued that the designation is to the city council alone and not subject to veto by the mayor. Since this issue needn’t be resolved for present purposes, we don’t do so.

Although the city council has afforded the municipal court with authority over when it holds its sessions, *see* City Ordinance §26-9 (“[t]he Municipal Court shall be considered to be in session at all times and in such place or places in the City as the Court or the justice holding the same shall direct”) & §26-20 (“[t]he Housing Court shall conduct business in the Pawtucket Municipal Courthouse at such times and under such conditions as the Housing Court Judge may from time to time direct”), the city council has the authority to amend that grant in accordance with its own directives, such as setting the hours of operation of municipal court or setting the minimum number of hours that its judges are required to work weekly.

Finally, we note that although the separation-of-powers construct provides a familiar analytical framework, caution must be used in its application at the municipal level because the Rhode Island Supreme Court has held “that the separation of powers doctrine is a concept foreign to municipal governance,” *Moreau v. Flanders*, 15 A.3d 565, 579 (R.I. 2011). Moreover, since the Rhode Island Supreme court has “defined the exercise of judicial power as the control of a decision in a case or the interference with its progress, or the alteration of the decision once made,” *Quattrucci v. Lombardi*, 232 A.3d 1062, 1066 (R.I. 2020), even if separation-of-powers concerns were taken into account, we do not think that the setting of the municipal court’s hours of operation (and thus derivatively setting the minimum number of hours that municipal court judges work) would result in an encroachment by the city council into the municipal court’s “judicial power.” *See generally McCabe v. Kane*, 221 A.2d 103, 107, 101 R.I. 119 (R.I. 1966) (“[w]ere the legislature to attempt to regulate or control those of his obligations *which are judicial in nature* it would exceed its powers under the constitution and trespass upon those of a coordinate branch of the government”) (emphasis added).

EXHIBIT 7



DAVID P. MORAN

Council President — First District

127 Revere Street
Pawtucket, RI 02861

December 8, 2022

Donna M. Nesselbush, Esq., Chief Judge
Pawtucket Municipal Court
137 Roosevelt Avenue
Pawtucket, RI 02860

Dear Chief Judge Nesselbush:

Thank you for your email. As you know, I have been on the Pawtucket City Council for over 30 years and have served as Council President for the last 12 years. Given that, I can confirm that all of the information you provided appears true and accurate to the best of my knowledge, in terms of the role of the judiciary/judges in our city government. The duties and responsibilities of our judges — who most certainly are considered city employees — as you have outlined them in the protocol/job description, appear reasonable and accurate to the best of my knowledge.

I am well aware of all the work you and Judge Gannon perform on a weekly basis to smoothly run our Municipal Traffic and Housing Courts. In addition, I have seen firsthand your and Judge Gannon's work with the Council to address issues affecting the judiciary, such as changing the name of the court and adjusting court hours to better accommodate residents. Moreover, I fully understand that your and Judge Gannon's work to run the judiciary and effectuate a number of special projects, means that your position as judges for the city involves more than just the hours you spend on the bench.

Through my participation in numerous judicial appointments over more than three decades and through my annual participation and deliberations regarding the city's municipal budget, I have long understood that our judges are treated like all other part-time employees in city government; that is, they receive set financial compensation, have access to city health insurance, and participate in the MERS pension program that includes both employee contributions and city (employer) contributions.

Having said that, nothing herein shall be construed to affect the Council's inherent authority to set or amend the salary and benefit parameters for future judicial or other Council appointments.

Sincerely yours,

Councilor David P. Moran, President
Pawtucket City Council

pawtward1@verizon.net
(401) 723-2597

EXHIBIT 8



TERRENCE E. MERCER

Councilor - District Three

194 First Street
Pawtucket, Rhode Island 02861

May 2, 2023

Mr. Frank J. Karpinski
Executive Director
Employee Retirement System of RI
50 Service Avenue
Warwick, RI 02886

Dear Mr. Karpinski:

I write as the current president of the Pawtucket City Council to affirm a December 6, 2022 letter sent to Pawtucket Municipal Court Chief Judge Donna Nesselbush by my predecessor in this office, Councilor David P. Moran, and forwarded recently to your office. The gist of that December letter (appended hereto) was to confirm for Judge Nesselbush (and ultimately your office) that then-President Moran had for 30-plus years as a city councilman understood that the city's Municipal Court and Probate Court judges were considered, for all intents and purposes, to be part-time employees of the city.

As President Pro-Tem last December, I worked in close contact with then-President Moran on a multitude of matters, including the drafting of his letter regarding this particular pension-qualification issue. I concurred with both the intent and content of that letter last December and remain of the same mindset now.

I don't know that I can add any more substance to the position put forth by then-President Moran, except to say this: I believe everyone involved over the last couple decades *earnestly* understood that the Municipal Court and Probate Court judges were indistinguishable from all other part-time employees in city government and, accordingly, on a proper MERS pension tract. Had that not been the earnest understanding, employee pension contributions would not have been withheld and remitted to the pension system (along with the city's employer contributions).

If you have any additional questions or would like any clarification on my stance or that of the council as a whole, please do not hesitate to contact me by cell phone at [REDACTED] or by email at tmercerc@pawtucketri.com.

Sincerely,

Terrence E. Mercer
Council President

tmercerc@pawtucketri.com

EXHIBIT 9

ERSRI BOARD: July 3, 2023

James A. Diosa
General Treasurer Chair

John B. Harwood, Esq.
Law Offices of Harwood & Garland, LLC
9 Thurber Boulevard - Suite D
Smithfield, RI 02917

John P. Maguire
Vice Chair

Ernest Almonte

RE: Municipal Court Judges - Membership in MERS

Roger P. Boudreau

Dear Attorney Harwood:

Mark A. Carruolo

We write in response to your letter of May 12, 2023 whereby you request that we issue a re-determination that Chief Judge Nesselbush and Associate Judge Gannon are eligible to participate in the MERS pension program.

Joseph Codega

Paul L. Dion

Matthew K. Howard

As we have previously noted, in order to be or remain a member of MERS, employees are required to work a minimum of 20 hours or more per week - every week, consistent with RIGL §45-21-2(7). ERSRI certifies this information by obtaining job descriptions, Collective Bargaining Agreements (CBA) or direct contact with employers when issues are identified.

Claire M. Newell

Raymond J. Pouliot

Jean Rondeau

Laura Shawhughes

At the time of our original inquiry, we were unable to secure a job description and any documented hours required for the position other than noting when the applicable municipal courts were in session. Consequently, that prompted our decision to notify Judges Nesselbush and Gannon of their ineligibility for membership in MERS consistent with RIGL §45-21-2(7).

James E. Thorsen

Michael J. Twohey

Lisa A. Whiting

Frank J. Karpinski
Executive Director

However, since the Pawtucket City Solicitor, Frank J. Milos, Jr., indicated in his letter of November 29, 2022 that the Municipal Court Judge positions are controlled by Section 2-501 of the City Charter whereby the Judges are elected solely by the City Council, and since the information you obtained from City Council President David P. Moran and current City Council President Terrence E. Mercer includes a job description with the requisite 20 minimum hours, we will consider Judges Nesselbush and Gannon's job requirements to be in line with the requirements set forth in RIGL §45-21-2(7) and have them remain members of the Municipal Employees' Retirement System (MERS).

We are interpreting your letter to indicate that the City Council members are confirming that the Pawtucket Municipal and Probate Court Judges have always worked and continue to work a minimum of 20 hours per week 52 weeks per year. Should the employment status of any of the judges change, the retirement system must immediately be notified, and retirement contributions must cease.

We will begin the process of restoring the retirement contributions and service credit for Judge Nesselbush and Judge Gannon and make any necessary adjustments to Judge Gannon's pension benefit. In addition, Pawtucket Probate Judge Cristine McBurney will remain a contributing member of MERS.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank J. Karpinski", written over a horizontal line.

Frank J. Karpinski
Executive Director

Cc: Pawtucket City Council
Judge Donna Nesselbush
Judge John Gannon
Judge Cristine McBurney

EXHIBIT 10

City Of Pawtucket
Pawtucket Municipal Court
121 Roosevelt Avenue
Pawtucket, RI 02860

Chief Judge Donna M. Nesselbush
Associate Judge John T. Gannon

August 30, 2023

Honorable Terry Mercer
President, Pawtucket City Council
137 Roosevelt Avenue
Pawtucket, Rhode Island 02860

RE: My Retirement

Dear President Mercer and Members of the City Council:

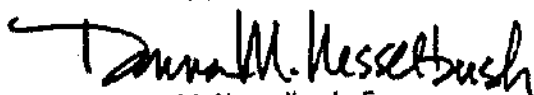
Over the past almost 20 years, it has been my honor and privilege to serve our City as Municipal Judge (2004-2011) and Chief Judge (2011-present). In these roles, I have always done my best to advance the interests of justice and run a court that makes our City proud.

I thank you and the Council for the opportunity to have served.

My most recent 3-year term of service will be up in February of 2024. After almost 20 years on the bench, I am writing to let you know that I will not be seeking another term. The time has come for me to step away and try to enjoy my golden years. I want to let you know now, so that you will have sufficient time to find a suitable replacement. If the Council finds a replacement before my term is up, and if the Council were to want to appoint said person before my term is up, I would understand and be amenable.

Again, it is and has been my honor and pleasure to serve.

Sincerely yours,


Donna M. Nesselbush, Esq.



Municipal Traffic Court Clerk: Nadine Higgins (401) 727-9100 Ext. 824
Municipal Housing Court Clerk: Donna Pinto (401) 728-0500 Ext. 280

EXHIBIT 11

VINCENT F. RAGOSTA, JR.
ATTORNEY AT LAW

CENTER PLACE
50 PARK ROW WEST - SUITE 101
PROVIDENCE, RHODE ISLAND 02903

TEL (401) 274-2100
V.RAGOSTA@VFR-LAW.COM

OF COUNSEL
TIMOTHY M. BLISS
D. PETER DESIMONE

October 11, 2023

Frank J. Karpinski
Executive Director
Employees' Retirement System
of Rhode Island
50 Service Avenue, 2nd Floor
Warwick, Rhode Island 02886-1021

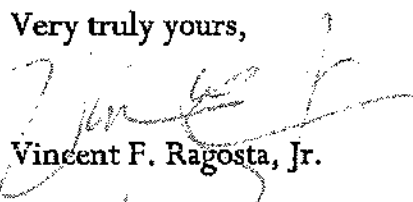
RE: City of Pawtucket-Membership in MERS-Municipal Court Judges

Dear Mr. Karpinski:

My firm serves as outside labor and employment counsel to the City of Pawtucket. In that capacity I write to inquire of the status of the appeal of an ineligibility determination for membership of the City's municipal court judges in the Municipal Employees' Retirement System.

Your prompt attention to this request is appreciated.

Very truly yours,



Vincent F. Ragosta, Jr.

VFR/mr

Copies:
Hon. Donald Grebien, Mayor
Frank J. Milos, Esq., City Solicitor
Sara Miranda, Human Resources Director

EXHIBIT 12

ERSRI BOARD: Sent via U.S. First Class Mail and Certified Mail RRR (council president only)

James A. Diossa
General Treasurer Chair

November 8, 2023

91 7199 9991 7035 4498 1339

John P. Maguire
Vice Chair

The Honorable Terence E. Mercer
Council President

Roger P. Boudreau

Pawtucket City Council
137 Roosevelt Ave.

Mark A. Carruolo

Pawtucket, RI 02860

Joseph Codega

RE: Chief Judge Donna M. Nesselbush and Associate Judge John T. Gannon

Paul L. Dion

Matthew K. Howard

Dear Council President Mercer:

Elena Mertus

Claire M. Newell

Andrew E. Nota

Raymond J. Pouliot

Jean Rondeau

Laura Shawhughes

Michael J. Twohey

Thank you for your letter dated May 2, 2023, expressing your understanding that the Pawtucket "Municipal Court and Probate Court judges were indistinguishable from all other part-time employees in city government and, accordingly, on a proper MERS pension tract." As part of the Municipal Employees' Retirement System of the State of Rhode Island ("MERS")'s continuing review of this matter, and whether or not the above-referenced individuals (and any other Municipal Court judge(s) who may be similarly situated) were properly permitted to make pension contributions to and/or be participating members of MERS, I write to request clarification of the City of Pawtucket's position.

Lisa A. Whiting

As you may be aware, these individuals were initially advised that they are not eligible for MERS membership based upon information provided to our office by the city that they did not work a minimum of twenty (20) hours per week as required for threshold eligibility pursuant to R.I.G.L. §45-21-2(7). We were thereafter provided with a document purporting to be a "Protocol/Job Description for Chief Judge and Associate Judge" of the Pawtucket Municipal Court, indicating that these judges are in fact "20 hour per week employees." *See attached Exhibit A.* This document was provided to MERS by Chief Judge Nesselbush's attorney. Accompanying this "Protocol/Job Description" was your letter of May 2, 2023, along with a letter dated December 8, 2022 from City Councilman and former Council President David P. Moran to Chief Judge Nesselbush indicating his similar understanding that Pawtucket Municipal Court judges are eligible to

Frank J. Karpinski
Executive Director

participate in MERS. *See attached Exhibit B.* Thereafter, we received a communication from Attorney Vincent Ragosta, Jr., outside labor and employment counsel to the city, inquiring as to the status of Chief Judge Nesselbush and Associate Judge Gannon's challenges to the initial ineligibility determinations for membership made by the retirement system. Upon review of that communication, and upon further review of the Protocol/Job Description provided by Chief Judge Nesselbush's attorney, we take this opportunity to request additional clarification of the city's position regarding the eligibility of these individuals for membership in the retirement system.

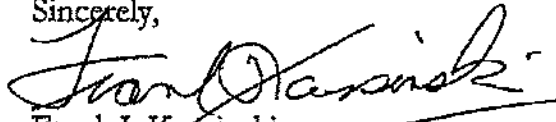
In order to fully evaluate this matter, we are therefore requesting the following additional information:

1. Does the Pawtucket City Council determine the conditions and duties of employment for the Pawtucket Municipal Court judges (including Chief Judge Nesselbush and Associate Judge Gannon, and/or any other Municipal Court judge(s) who may be similarly situated), including with respect to the number of hours worked on a weekly basis, or is there a different individual or entity that would have the authority to do so on behalf of the city with whom the retirement system should be communicating regarding this issue?
2. If the Pawtucket City Council does have the authority to determine the conditions of employment for Judge Nesselbush and Judge Gannon, does the Council as a whole certify the accuracy of the information contained in the "Protocol/Job Description for Chief Judge and Associate Judge" of the Pawtucket Municipal Court that was provided to MERS and that is attached hereto as Exhibit A, including with respect to the number of weekly hours these individuals work and have worked during the course of their municipal employment?

Once we have received responses to these questions, MERS will be able to reach a final determination as to whether or not Chief Judge Nesselbush and/or Associate Judge Gannon (and/or other similarly situated Municipal Court judges) are eligible for membership in the retirement system. If you

have any questions regarding this communication, please do not hesitate to reach out to me directly.

Sincerely,



Frank J. Karpinski
Executive Director

CC: Mayor Donald R. Grebien
Frank Milos, Esq.
John B. Harwood, Esq.
The Honorable Chief Judge Donna M. Nesselbush
The Honorable Judge John Gannon
The Honorable Cristine McBurney
Richard J. Goldstein, City Clerk
Michael P. Robinson, Esq.

EXHIBIT 13



TERRENCE E. MERCER

Councilor - District Three

194 First Street
Pawtucket, Rhode Island 02861

November 17, 2023

Director Karpinski:

I am in receipt of your letter of November 8, 2023, captioned as **RE: Chief Judge Donna M. Nesselbush and Associate Judge John T. Gannon**, through which you pose two questions for me to answer.

Before providing those requested answers, I'd like to first clarify a couple points. In your correspondence, you reference a letter I wrote to your office last May regarding this pension matter, and point to an excerpt in which I stated that it was my understanding that "Municipal Court and Probate Court judges were indistinguishable from all other part-time employees in city government, and accordingly, on a proper MERS pension tract." I don't mean to quibble with your chosen excerpt, but I'd like to point out that the greater portion of that sentences reads: "I believe everyone involved over the last couple decades *earnestly (italics in original text)* understood that the Municipal Court and Probate Court judges were indistinguishable from all other part-time employees in city government, and accordingly, on a proper MERS pension tract." Moreover, the next sentence reiterates that underlying mindset: "Had that not been the earnest understanding, employee pension contributions would not have been withheld and remitted to the pension system (along with the city's employee contributions)."

My reason for pointing out these nuances is to illustrate that my letter (as with former President Moran's earlier letter) was drafted solely to point out that we (collectively) always *believed* that the Municipal and Probate judges were "pension-eligible" simply because your office was receiving contributions from both the judges' wages and the city as their employer. Nothing more – we *believed* it to be so. I honestly never gave it a moment's thought; it just seemed to make sense that withheld contributions equaled eligibility.

As for your questions:

Q. *Does the Pawtucket City Council determine the conditions and duties of employment for the Pawtucket Municipal Court judges (including Chief Judge Nesselbush and Associate Judge Gannon, and/or any other Municipal Court judge(s) who may be similarly situated), including with respect to the number of hours worked on a weekly basis, or is there a different individual or entity that would have the authority to do so on behalf of the city with whom the retirement system should be communicating regarding this issue?*

A. The short answer to this question is **No**. To the best of my knowledge after 11 years on the Council, the city's legislative body does not determine the conditions, duties, weekly workload or weekly hours worked. The expectation is that the workload is self-dictating (by charter,

termercer@pawtucketri.com
(401) 727-4462 Home
(401) 545-2357 Cell

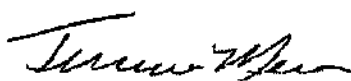
statute and/or ordinance and matters advanced by Zoning and Code Enforcement) and is accomplished in whatever time is necessary As for the second part of this question, perhaps the city's Personnel Director may provide some additional insight.

Q. If the Pawtucket City Council does have the authority to determine the conditions of employment for Judge Nesselbush and Judge Gannon, does the Council as a whole certify the accuracy of the information contained in the "Protocol/Job Description for ... Chief Judge and Associate Judge" of the Pawtucket Municipal Court that was provided to MERS and that is attached hereto as Exhibit A, including with respect to the number of weekly hours these individuals work and have worked during the course of their municipal employment?

A. Again, the short answer to this question is No. As stated above, the City Council does not determine the working conditions, and, accordingly it does not establish such "protocols and job descriptions" for the judges appointed by that body – or, for matter, for the City Sergeant or Sealers of Weight and Measures as the only other Council-appointed employees in the city. If the protocol presented as Exhibit A has been adopted, presumably it was done by the Personnel Department.

I hope I have adequately answered your questions. If not, or if you require further clarification, please do not hesitate to reach out. Finally, inasmuch as your letter asked me for my personal response, I do not intend to copy the individuals cc'd on your letter to me, although I do not object to you forwarding this correspondence to any (or all) of those individuals if you see fit.

Sincerely,



Terrence Mercer,
President
Pawtucket City Council

EXHIBIT 14

ERSRI BOARD:

James A. Diosa
General Treasurer Chair

John P. Maguire
Vice Chair

Roger P. Boudreau

Mark A. Carruolo

Joseph Codega

Paul L. Dion

Matthew K. Howard

Brenna McCabe

Claire M. Newell

Andrew E. Nota

Raymond J. Pouliot

Jean Rondeau

Laura Shawhughes

Michael J. Twohey

Lisa A. Whiting

Frank J. Karpinski
Executive Director

SENT VIA U.S. FIRST CLASS MAIL & CERTIFIED MAIL RETURN RECEIPT REQUESTED

March 11, 2024

91 7199 9991 7035 4498 1193

Donna Nesselbush

RE: Pawtucket Municipal Court Judges – Participation in MERS

Dear Ms. Nesselbush:

We are writing to you regarding your participation in the Municipal Employees' Retirement System (MERS) as a Pawtucket municipal court judge. Based upon the information available to us from the City of Pawtucket, we have determined that you should not be enrolled as a member in MERS, and accordingly our position remains as set forth in our letter dated August 1, 2022.

Rhode Island General Laws (R.I. Gen. Laws) §45-21-2(7) provides that to be considered an "employee" for purposes of MERS membership, an individual must be in a 20-hour per week position:

§ 45-21-2. Definitions.

The following words and phrases as used in this chapter have the following meanings unless a different meaning is plainly required by the context:

(7) "Employee" means any regular and permanent employee or officer of any municipality, whose business time at a minimum of twenty (20) hours a week is devoted to the service of the municipality, including elective officials and officials and employees of city and town housing authorities. Notwithstanding the previous sentence, the term "employee," for the purposes of this chapter, does not include any person whose duties are of a casual or seasonal nature. The retirement board shall decide who are employees within the meaning of this chapter, but in no case shall it deem as an employee any individual who annually devotes less than twenty (20) business hours per week to the service of the municipality and who receives less than the equivalent of minimum wage compensation on an hourly basis for his or her services, except as provided in § 45-21-14.1. Casual employees mean those persons hired for an occasional period or a period of emergency to perform special jobs or functions not necessarily related to the work of regular employees. Any commissioner of a municipal housing authority, or any member of a part-time state board commission, committee or other authority is not deemed to be an employee within the meaning of this chapter.

This office received a communication from Human Resources Director Sara Miranda, PHR, in March of 2023 indicating that you were hired in 2004, and do not (and have not) worked in excess of twenty (20) hours per week as a municipal court judge. Following receipt of a communication from your attorney on May 12, 2023, providing a purported "job description" for Pawtucket municipal court judges that seemed to indicate that you did in fact work in excess of twenty (20) hours per week, we requested clarification from the city with regard to your official job duties, and your terms and conditions of employment. We subsequently received a communication from Attorney Vincent Ragosta, as outside labor and employment counsel to the city, confirming that there is no reliable or credible evidence to support a claim that municipal court judges work in excess of twenty (20) hours per week. Attorney Ragosta also advised that any purported municipal court judge "job description" provided to ERSRI should not be deemed authenticated or an official record by ERSRI and should be considered by ERSRI to be *ultra vires* and unreliable to the extent it purported to reference any quantum of hours worked.

Based upon this information received from the City of Pawtucket, we have determined that as a Pawtucket municipal court judge, you do not work a minimum of twenty (20) hours per week, and therefore you do not meet the threshold criteria for membership in MERS. Our position therefore remains the same as originally set forth in our letter to your attention dated August 1, 2022. We are accordingly directing the city to cease making contributions on your behalf, including those contributions being transmitted to the DC Plan (TIAA), and to take steps to refund those employee contributions already paid by you.

This letter constitutes official notification of an administrative denial. Pursuant to the Regulations of the Employees' Retirement System of Rhode Island, 120-RICR-10-1.4, entitled Rules of Practice and Procedure for Hearings in Contested Cases, Section C., any member aggrieved by an administrative action may request a hearing before a Hearing Officer whose decision shall be subject to approval by the full Retirement Board. Upon such request, the matter will be deemed a contested case. Such request shall be in writing and shall be sent to the Retirement Board, 50 Service Avenue, 2nd Floor, Warwick, RI 02886, Attention: Frank J. Karpinski, Executive Director, within 60 days of date of the letter from the Executive Director or Assistant Executive Director constituting a formal administrative denial. A request for hearing shall be signed by the member and shall contain the name of the member; date and nature of decision to be contested; a clear statement of the objection

to the decision which must include the reasons the member feels he or she is entitled to relief; and a concise statement of the relief sought. Failure to strictly comply with the procedures outlined above shall be grounds to deny a request for a hearing.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank J. Karpinski". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Frank J. Karpinski
Executive Director

Enclosure

Cc:

Mayor Donald Grebian
Vincent Ragosta, Esq.
Lisa O'Connell, HR Specialist
Frank Milos, City Solicitor
John Harwood, Esq.

EXHIBIT 15



Donna Nesselbush <donnaesselbush@gmail.com>

Re: 2023 Court Statistics

1 message

Nadine Higgins <nhiggins@pawtucketpolice.com>
To: "Donna M. Nesselbush" <donnaesselbush@gmail.com>

Mon, Jul 1, 2024 at 1:57 PM

Good afternoon, Judge Nesselbush (Emeritus)

Yes, those numbers are accurate.

Best,

Nadine

From: Donna M. Nesselbush <donnaesselbush@gmail.com>
Sent: Monday, July 1, 2024 1:46 PM
To: Nadine Higgins <nhiggins@pawtucketpolice.com>
Subject: 2023 Court Statistics

Madam Clerk:

Below are the statistics you had previously given me which I have included in my pension brief. Can you please review them and confirm that these numbers are accurate to the best of your knowledge and based on your record keeping for the Traffic Court.

Thank you.

Statistics:

The statistics speak for themselves: both the Pawtucket Municipal Traffic Court and the Housing Court are both very busy courts.

The Pawtucket Municipal Traffic Court:

Pawtucket is Rhode Island's fourth largest city, and accordingly, the Pawtucket Municipal Court is one of the busiest Municipal Courts in the state, after the Rhode Island Traffic Tribunal and the Providence Municipal Court.

In 2023, Pawtucket Police Officers issued over 6,000 traffic tickets, over 2,000 parking tickets and over 100 municipal ordinance violations, for a total of over 8,000 violations. The Clerk of the Pawtucket

Municipal Traffic Court, Nadine Higgins, estimates that approximately 25% of the recipients of these tickets pay the violations, while the Municipal Court Judges adjudicate the remaining 75% (approximately 6,000) via disposition at arraignment, pre-trial or trial, or by default. That is a tremendous caseload.

In addition to violations given in-hand by a police officer, Clerk Nadine Higgins reports that in 2023 the Pawtucket Municipal Traffic Court adjudicated 1,516 camera tickets, with 891 motorists actually appearing before the court for hearings.

Donna M. Nesselbush, Esq.

EXHIBIT 16

From: **Fontes, Melissa** mfontes@pawtucketri.gov
Subject: RE: Hi there...

Date: Apr 17, 2024 at 10:25:27 AM

To: Donna Nesselbush donnanesselbush@gmail.com,
Johnson, Carl cjohnson@pawtucketri.gov

Good Morning Donna!

It's so nice to hear from you. I hope you are doing well also and I would love for all of us to get together soon.

Starting the beginning of this year, 2024, I began keeping a "Yearly Court Case" spreadsheet. From what I can see currently we typically record 104-119 cases on docket, ~ 20% that total appear in court and 20-30 court orders signed weekly. I am working on updating last years spreadsheet but I will see what I can have IT pull for records since this system we currently use is not so user friendly for reports.

Please let me know if you need anything else and as soon as I can get you better numbers I will be in touch.

We all miss you and your smile.

Take care,
MJ

-----Original Message-----

From: Donna Nesselbush <donnanesselbush@gmail.com>

From: **Fontes, Melissa** mfontes@pawtucketri.gov
Subject: **RE: Hi there...& statistics**
Date: **Apr 29, 2024 at 2:47:52 PM**
To: **Donna Nesselbush** donnanesselbush@gmail.com
Cc: **Johnson, Carl** cjohnson@pawtucketri.gov

Hi Donna,

Sorry it took me forever but the system is so old that it's difficult to get me to manipulate it to do what I really need it to do accurately.

What I was able to find for 2023:

Total cases : 4,188 (violations for year)

Total court/tack orders signed : ~651 (average 16.69% weekly)

I could not get a full count of appearances because I just started the count when I took the position . However, the appearance total from Sept.23 - Dec. 23 was ~182 appeared to court (averaged 18.2% appeared in court weekly (some may have been addressed when arrived prior to appearing before you))

I hope this helps you.

Best,
MJ

-----Original Message-----

From: Donna Nesselbush <donnanesselbush@gmail.com>

Sent: Wednesday, April 24, 2024 1:15 PM

EXHIBIT 16.1



Donna Nesselbush <donnaesselbush@gmail.com>

Fwd: Court Order - Covid.pdf

1 message

Donna Nesselbush <donnaesselbush@gmail.com>
To: donnaesselbush@gmail.com

Wed, Jul 24, 2024 at 3:44 PM

Begin forwarded message:

From: Donna Nesselbush <donnaesselbush@gmail.com>
Date: April 9, 2020 at 8:02:57 PM EDT
To: Nadine Higgins <NHiggins@pawtucketpolice.com>, dpinto@pawtucketri.com
Cc: Jack Gannon <Jack@mccorryanngannon.com>, Don Grebien <dgrebien@pawtucketri.com>, Dylan Zelazo <dzelazo@pawtucketri.com>, Tina Goncalves <tgoncalves@pawtucketpolice.com>
Subject: Court Order - Covid.pdf

Dear Nadine and Donna:

Kindly officially enter this order. I will request that the City post this on it's website and on the Municipal Traffic and Housing Court website pages.

Thank you both so much, and please feel free to contact me with any questions or concerns.

Please stay healthy and well... Donna

Scanned with
FasterScan

Donna M. Nesselbush
Chief Judge

Sent from my iPhone

**Court Order - Covid.pdf**
506K



Donna Nesselbush <donnaesselbush@gmail.com>

Fwd: Court orders

1 message

Donna Nesselbush <donnaesselbush@gmail.com>

Wed, Jul 24, 2024 at 3:19 PM

To: donnaesselbush@gmail.com

Begin forwarded message:

From: Donna Nesselbush <donnaesselbush@gmail.com>**Date:** September 7, 2022 at 11:59:24 AM EDT**To:** Donna Pinto <dpinto@pawtucketri.com>**Subject:** Court orders

Dear Donna:

Do you have any court orders that need signatures? I'm out at a meeting, so I could stop by City Hall if you have orders for me to review and sign. Let me know, and thanks so much... Donna

...Donna

Donna M. Nesselbush, Esq.



Donna Nesselbush <donnaesselbush@gmail.com>

Fwd: Court Orders

1 message

Donna M. Nesselbush <Dnesselbush@m-n-law.com>

Wed, Jul 24, 2024 at 3:31 PM

To: "donnaesselbush@gmail.com" <donnaesselbush@gmail.com>

Begin forwarded message:

From: "Pinto, Donna" <DPinto@pawtucketri.com>
Date: August 17, 2022 at 10:11:51 AM EDT
To: "Donna M. Nesselbush" <Dnesselbush@m-n-law.com>
Subject: Court Orders

Good Morning Judge,

Would you kindly review the attached court orders.

Than you, have a wonderful day.

Donna Pinto

Municipal Court Clerk

City of Pawtucket

137 Roosevelt Avenue

Pawtucket, RI 02860

Tel: 401-728-0500, ext. 280

Fax: 401-722-3356

dpinto@pawtucketri.com

2 attachments



image002.png
30K



SKMBT_42322081709520.pdf
119K



Donna Nesselbush <donnaesselbush@gmail.com>

Fwd: Court orders

1 message

Donna Nesselbush <donnaesselbush@gmail.com>
To: donnaesselbush@gmail.com

Wed, Jul 24, 2024 at 3:32 PM

Begin forwarded message:

From: "Pinto, Donna" <DPinto@pawtucketri.com>
Date: September 7, 2022 at 12:30:19 PM EDT
To: Donna Nesselbush <donnaesselbush@gmail.com>
Subject: RE: Court orders

Thank you so much Judge, I was just getting ready to contact you. Yes, can you please stop by the office for signatures.

Thank you,
Donna

-----Original Message-----

From: Donna Nesselbush <donnaesselbush@gmail.com>
Sent: Wednesday, September 07, 2022 11:59 AM
To: Pinto, Donna <DPinto@PAWTUCKETRI.com>
Subject: Court orders

Dear Donna:

Do you have any court orders that need signatures? I'm out at a meeting, so I could stop by City Hall if you have orders for me to review and sign. Let me know, and thanks so much... Donna

...Donna

Donna M. Nesselbush, Esq.



Donna Nesselbush <donnaesselbush@gmail.com>

Fwd: Court Orders

1 message

Donna Nesselbush <donnaesselbush@gmail.com>

Wed, Jul 24, 2024 at 3:32 PM

To: donnaesselbush@gmail.com

Begin forwarded message:

From: "Pinto, Donna" <DPinto@pawtucketri.com>
Date: September 28, 2022 at 11:54:57 AM EDT
To: Donna Nesselbush <donnaesselbush@gmail.com>
Subject: Court Orders

Good Morning Judge,

I've attached some court orders for your viewing. Please let me know when you'll be available for signatures.

Have a lovely day,

Donna

Donna Pinto

Municipal Court Clerk

City of Pawtucket

137 Roosevelt Avenue

Pawtucket, RI 02860

Tel: 401-728-0500, ext. 280

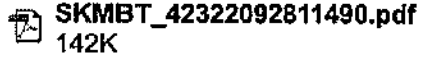
Fax: 401-722-3356

dpinto@pawtucketri.com

2 attachments



Image001.png
30K





Donna Nesselbush <donnaesselbush@gmail.com>

Fwd: Court Orders

1 message

Donna Nesselbush <donnaesselbush@gmail.com>

Wed, Jul 24, 2024 at 3:33 PM

To: donnaesselbush@gmail.com

Begin forwarded message:

From: "Pinto, Donna" <DPinto@pawtucketri.com>
Date: September 29, 2022 at 3:19:52 PM EDT
To: Donna Nesselbush <donnaesselbush@gmail.com>
Subject: Re: Court Orders

Thank you Judge. Tomorrow will be fine.

Donna

Get Outlook for iOS

From: Donna Nesselbush <donnaesselbush@gmail.com>
Sent: Thursday, September 29, 2022 3:02:13 PM
To: Pinto, Donna <DPinto@PAWTUCKETRI.com>
Subject: Re: Court Orders

Dear Donna,

I have reviewed these court orders. I will be at City Hall later today and tomorrow. I can sign them today or tomorrow, and I also think I will be sitting on Monday, so I can sign them then as well. Just let me know when you need them...

Thank you,
Donna

Donna M. Nesselbush, Esq.

On Sep 28, 2022, at 11:54 AM, Pinto, Donna <DPinto@pawtucketri.com> wrote:

Good Morning Judge,

I've attached some court orders for your viewing. Please let me know when you'll be available for signatures.

Have a lovely day,

Donna

Donna Pinto

Municipal Court Clerk

City of Pawtucket

137 Roosevelt Avenue

Pawtucket, RI 02860

Tel: 401-728-0500, ext. 280

Fax: 401-722-3356

dpinto@pawtucketri.com



Pawtucket
JOIN THE EVOLUTION

EXHIBIT 17







EXHIBIT 18

Donna M. Nesselbush

From: Pinto, Donna <DPinto@PAWTUCKETRI.com>
Sent: Wednesday, August 16, 2017 1:40 PM
To: Donna M. Nesselbush; Jack Gannon
Cc: D'Ambra, Kevin
Subject: Housing Court FAQ's
Attachments: FAQ.docx

Follow Up Flag: Follow up
Flag Status: Flagged

Okay guys, so I've attached a list of FAQ's for the webpage. Can either of you please fill in the answer to question #6 and make any necessary changes or additions that you would like to add. See everyone tomorrow night!

Thanks, Donna

Donna Pinto
Municipal Court Clerk
City of Pawtucket
137 Roosevelt Avenue
Pawtucket, RI 02860
Tel: 401-728-0500, ext. 280
Fax: 401-722-3356
dpinto@pawtucketri.com



Pawtucket

RI 02860-1000

FAQ's FOR MUNICIPAL HOUSING COURT

1. Where is housing court located?

**At the Pawtucket Police Department, 121 Roosevelt Ave.,
Pawtucket, RI 02860**

2. What time does housing court begin?

Housing court begins at 9:30 a.m. on Friday mornings. It is recommended that you appear at 9:00 a.m. Cases are heard on a first come, first serve basis.

3. How much is my court cost?

Court costs are \$35.00.

4. How can I reschedule my court date?

You may contact the Municipal Housing Court Clerk at 401-728-0500, ext. 280 for rescheduling.

5. I'm unable to attend can I send someone to represent me?

You may send a spouse or anyone else listed as an owner of the property. In the case of elderly parents unable to attend the court would make exceptions.

6. How do I appeal the court's decision?

Please fill in this one.

7. How do I register as an absentee landlord?

You can either contact the Zoning Department at 137 Roosevelt Ave., Pawtucket, RI 02860 or 401-728-0500, ext. 291 or visit our City of Pawtucket website at: www.pawtucketri.com to download the form located on the Zoning Department homepage.

8. How much time do I have to pay my fine and court costs?

Generally a Municipal Court Judge will work with property owners who request an extension to pay fines and court costs. Usually 30 days would be allowed.

9. Who can I contact regarding my violations and court date?

You can contact the Municipal Housing Court Clerk at 401-728-0500, ext. 280, Monday – Friday 8:30 a.m. – 4:30 p.m.



Donna Nesselbush <donnanelbush@gmail.com>

Re: Municipal Court Website

1 message

Hersh Cristino <cristinoh@psdri.net>

Sun, Mar 13, 2016 at 3:34 PM

To: Donna Nesselbush <donnanelbush@gmail.com>

Cc: "Cristino, Hersh" <HCristino@pawtucketri.com>, Roberto DaSilva <RDaSilva@pawtucketpolice.com>, Jack Gannon <Jack@mccorryandgannon.com>

I can meet, unfortunately I can only meet until 2PM since I have a training that I must run afterwards. If you think that will be enough time to have a preliminary discussion then I will make sure I am there. If that doesn't work, I can also do Tuesday. If not let me know what else would work for you.

Hersh



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On Fri, Mar 11, 2016 at 2:55 PM, Donna Nesselbush <donnanelbush@gmail.com> wrote:

Dear Hersh:

I hope this email finds you well. Would it be possible to meet at 1:30pm on Monday in my chambers to discuss getting the Municipal Court web page on the City's website and sprucing it up?

Thank you, and please let me know if that might work for you.

Donna Nesselbush
Chief Judge
Pawtucket Municipal Court

Sent from my iPhone; please pardon my brevity and any typos.



Donna Nesselbush <donnaesselbush@gmail.com>

Fwd: Mun. Court Website

1 message

Donna M. Nesselbush <Dnesselbush@m-n-law.com>
To: "donnaesselbush@gmail.com" <donnaesselbush@gmail.com>

Wed, Jul 24, 2024 at 4:12 PM

Begin forwarded message:

From: "Donna M. Nesselbush" <Dnesselbush@m-n-law.com>
Date: March 19, 2022 at 1:35:15 PM EDT
To: Natasha King <Nking@m-n-law.com>
Cc: Nadine Higgins <NHiggins@pawtucketpolice.com>
Subject: Mun. Court Website

My Dearest Natasha and Nadine a/k/a...my dream team!

Since I'm away next week, and we don't have court, I wonder if it might be possible for you gals to have a zoom meeting to review our website. Perhaps one of you knows how to share the website via your computer screen? I realize there is no information at all about the camera enforcement program currently on our website, and the program has been in operation for over two years. It would probably makes sense to have some navigation on the homepage, distinguishing camera tickets from "tickets given to you by a police officer." I don't think we should call them e citations, as that term is meaningless to the general public.

Once we establish the navigation, we will need to provide some basic information about the camera enforcement program. I will try to reduce my intro speech to writing.

Nadine, you will probably know most about what information we should provide, such as the costs associated with paying by credit card, among many other "frequently asked questions. We certainly need to let people know that they do not need to come to court; they can just pay online. We also need to let them know that if they decide to come to court to contest the citation, that there are \$35 of court costs associated with the tickets. You know, essentially, my introductory speech.

You certainly don't have to finish everything, but if my absence this week and if the closing of the court allows you gals to get a good start, we are only two years overdue! Lol

Donna M. Nesselbush
(She/her/hers)

(O): 401-709-4955
(F): 401-274-0104

685 Westminster Street
Providence, RI 02903

www.M-N-Law.com

Please be advised that we are a full service law firm, focusing on Social Security Disability, Personal Injury, Car Accidents, Medical Malpractice, Premises Liability, Product Liability, and Catastrophic Injury.

EXHIBIT 19



Donna Nesselbush <donnaesselbush@gmail.com>

Re: Email Account for City

1 message

Donna Nesselbush <donnaesselbush@gmail.com>
To: Hersh Cristino <cristinoh@psdri.net>

Mon, Dec 7, 2020 at 11:39 AM

Hersh,

TY so much! Happy Holidays...Donna

Senator Donna M. Nesselbush
District 15 - Pawtucket & North ProvidenceRhode Island Senate Chamber
Room 212, Rhode Island State House
Providence, Rhode Island 02903401.276.5568 - Phone
401.222.4263 - Fax
sen-nesselbush@rilegislature.gov

Sent from my iPhone

On Dec 7, 2020, at 11:36 AM, Hersh Cristino <cristinoh@psdri.net> wrote:

Good Morning,

I was asked to create a City of Pawtucket email account for you. Below is your account information. There are also some short instructions on how you can check your email from the web. Thank you and if you have any questions, please let me know.

Username: [REDACTED]
Password: [REDACTED]
E-mail address: dnesselbush@pawtucketri.comGo to <https://mail.pawtucketri.com/owa>Type in your username as: [REDACTED]
Enter in your password and choose sign in.

From: Donna M. Nesselbush donnanelbush@gmail.com
Subject: Fwd: Email Account for City
Date: Dec 7, 2020 at 2:23:53 PM
To: Natasha King Nking@m-n-law.com

----- Forwarded message -----

From: **Hersh Cristino** <cristinoh@psdri.net>
Date: Mon, Dec 7, 2020 at 11:36 AM
Subject: Email Account for City
To: Donna Nesselbush <donnanelbush@gmail.com>

Good Morning,

I was asked to create a City of Pawtucket email account for you. Below is your account information. There are also some short instructions on how you can check your email from the web.

Thank you and if you have any questions, please let me know.

Username: [REDACTED]
Password: [REDACTED]
E-mail address: dnesselbush@pawtucketri.com

Go to <https://mail.pawtucketri.com/owa>

Type in your username as: [REDACTED]
Enter in your password and choose sign in.



image.png
192 KB



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intended recipient, please contact me and destroy all copies of this message.

--

Senator Donna M. Nesselbush
Pawtucket - District 15

From: Donna M. Nesselbush Dnesselbush@m-n-law.com
Subject: FW: Any progress...
Date: Jul 12, 2022 at 1:13:30 PM
To: Donna Nesselbush donnanesselbush@gmail.com



Tap to Download
image001.jpg
8 KB

**Donna M.
Nesselbush
(She/her/
hers)**

(O):
401-709-4955

(F):
401-274-0104

685
Westminster
Street
Providence, RI
02903

[www.M-N-
Law.com](http://www.M-N-Law.com)

Please be advised that we are a full service law firm, focusing on Social Security Disability, Personal Injury, Car Accidents, Medical Malpractice, Premises Liability, Product Liability, and Catastrophic Injury.

From: Donna M. Nesselbush
Sent: Thursday, May 5, 2022 5:47 PM
To: Dylan Zelazo <dzelazo@PAWTUCKETRI.com>
Cc: Hersh Cristino <cristinoh@psdri.net>
Subject: Fwd: Any progress...

Dear Dylan,

Judge Peretti from the North Providence Municipal Court called me this afternoon. I tried to call him back from my cell phone, but I have very bad cell service in the courtroom and in the police department, so it would not go through.

It cannot be too much to ask to have email addresses, a working computer and a telephone in our chambers. I love everyone, but can you please let me know why this is taking so long? It's been months, no?

Hope all is well, and kindly advise...Donna

Donna M. Nesselbush
(She/her/hers)

(O): 401-709-4955
(F): 401-274-0104

685 Westminster Street
Providence, RI 02903

www.M-N-Law.com

Please be advised that we are a full service law firm, focusing on Social Security Disability, Personal Injury, Car Accidents, Medical Malpractice, Premises Liability, Product Liability, and Catastrophic Injury.

Begin forwarded message:

From: "Donna M. Nesselbush" <Dnesselbush@m-n-law.com>
Date: April 27, 2022 at 12:38:03 PM EDT
To: Dylan Zelazo <dzelazo@pawtucketri.com>
Cc: Nadine Higgins <NHiggins@pawtucketpolice.com>
Subject: Any progress...

Dear Dylan,

I am writing to follow up on my age old request for a computer, a telephone, and a city email address. Whenever I send emails regarding the Municipal Court Judges Association, I always do so from my law firm, wishing I had a city or judicial email address.

Let me know if you are making any progress...

Thanks so much... Donna

Donna M. Nesselbush
(She/her/hers)

(O): 401-709-4955
(F): 401-274-0104

685 Westminster Street

Providence, RI 02903

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Donna Nesselbush <donnaesselbush@gmail.com>

A working phone, computer and email addresses

1 message

Donna Nesselbush <donnaesselbush@gmail.com>

Tue, Jul 12, 2022 at 1:24 PM

To: Donald Grebien <dgrebien@pawtucketri.com>

Bcc: nlhiggins528@gmail.com, NKing@rn-n-law.com

Dear Don:

I'm sorry these are all coming at once, but this has become maddening. I have trying to be patient for months as these issues sit, and now they have festered!

I should not have to write to the mayor to get this done, but your staff is just not responding. Can you please forward this email to someone in your administration who can get us working email addresses, a working computer and a working phone. Nadine first wrote to Hersh in February (and neither she not I ever heard anything) and I wrote to Dylan on April 27, 2022 and again on May 5, 2022, copying Hersh, and I have never heard anything from either of them which is unprofessional and uncharacteristic of Dylan. It's now July, and still nothing has happened. Is it too much to ask for the city's judges to have an email address, computer and telephone? This is so frustrating...Donna

From: Donna M. Nesselbush**Sent:** Thursday, May 5, 2022 5:47 PM**To:** Dylan Zelazo <dzelazo@PAWTUCKETRI.com>**Cc:** Hersh Cristino <cristinoh@psdri.net>**Subject:** Fwd: Any progress...

Dear Dylan,

Judge Peretti from the North Providence Municipal Court called me this afternoon. I tried to call him back from my cell phone, but I have very bad cell service in the courtroom and in the police department, so it would not go through.

It cannot be too much to ask to have email addresses, a working computer and a telephone in our chambers. I love everyone, but can you please let me know why this is taking so long? It's been months, no?

Hope all is well, and kindly advise...Donna

Donna M. Nesselbush

(She/her/hers)

(O): 401-709-4955

(F): 401-274-0104

685 Westminster Street

Providence, RI 02903

www.M-N-Law.com

Please be advised that we are a full service law firm, focusing on Social Security Disability, Personal Injury, Car Accidents, Medical Malpractice, Premises Liability, Product Liability, and Catastrophic Injury.

From: Donna M. Nesselbush
Sent: Wednesday, April 27, 2022 12:38 PM
To: Dylan Zelazo <dzelazo@PAWTUCKETRI.com>
Cc: Nadine Higgins <NHiggins@PAWTUCKETPOLICE.COM>
Subject: Any progress...

Dear Dylan,

I am writing to follow up on my age old request for a computer, a telephone, and a city email address. Whenever I send emails regarding the Municipal Court Judges Association, I always do so from my law firm, wishing I had a city or judicial email address.

Let me know if you are making any progress...

Thanks so much... Donna

Donna M. Nesselbush

(She/her/hers)

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Please be advised that we are a full service law firm, focusing on Social Security Disability, Personal Injury, Car Accidents, Medical Malpractice, Premises Liability, Product Liability, and Catastrophic Injury.

From: Nadine Higgins <NHiggins@PAWTUCKETPOLICE.COM>
Sent: Monday, February 28, 2022 3:18 PM
To: Cristino, Hersh <hcristino@pawtucketri.com>
Cc: Donna M. Nesselbush <Dnesselbush@m-n-law.com>; Dylan Zelazo <dzelazo@Pawtucketri.com>
Subject: PHONE IN JUDGE'S CHAMBER

Good afternoon Hersh,

Judge Nesselbush was unable to make an outgoing call from her office today. Her office is located on the 2nd floor of the police station. However, the phone is a City Hall line 728-0500 ext. 268

Thank you in advance for your time on this matter!

Best,

Nadine L. Higgins

Police Senior Municipal Court Clerk

Pawtucket Police Department

401-727-9100 ext 824

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Donna Nesselbush <donnaesselbush@gmail.com>

Fwd: A working phone, computer and email addresses

1 message

Donna M. Nesselbush <donnaesselbush@gmail.com>

Tue, Sep 6, 2022 at 6:21 PM

To: Don Grebien <dgrebien@pawtucketri.com>

Cc: Dylan Zelazo <dzelazo@pawtucketri.com>, Nadine Higgins <nhiggins@pawtucketpolice.com>

Dear Don and Dylan,

I just sent an email to Patrick Butler, the Court Administrator for the Providence Municipal Court, and I realize that I still don't have a city email address.

I also realize that another two months have passed since my last email regarding the judges' need for a working telephone, computer and email addresses.

Please...it's been well over 6 months. Why is this sooo hard?

Thank you for your kind and prompt attention to this aged matter.

All best regards... Donna

Donna M. Nesselbush, Esq.
Chief Judge
Pawtucket Mun. Court

----- Forwarded message -----

From: Donna Nesselbush <donnaesselbush@gmail.com>

Date: Tue, Jul 12, 2022 at 1:24 PM

Subject: A working phone, computer and email addresses

To: Donald Grebien <dgrebien@pawtucketri.com>

Dear Don:

I'm sorry these are all coming at once, but this has become maddening. I have trying to be patient for months as these issues sit, and now they have festered!

I should not have to write to the mayor to get this done, but your staff is just not responding. Can you please forward this email to someone in your administration who can get us working email addresses, a working computer and a working phone. Nadine first wrote to Hersh in February (and neither she not I ever heard anything) and I wrote to Dylan on April 27, 2022 and again on May 5, 2022, copying Hersh, and I have never heard anything from either of them which is unprofessional and uncharacteristic of Dylan. It's now July, and still nothing has happened. Is it too much to ask for the city's judges to have an email address, computer and telephone? This is so frustrating...Donna

From: Donna M. Nesselbush

Sent: Thursday, May 5, 2022 5:47 PM

To: Dylan Zelazo <dzelazo@PAWTUCKETRI.com>

Cc: Hersh Cristino <cristinoh@psdri.net>

Subject: Fwd: Any progress...

Dear Dylan,

Judge Peretti from the North Providence Municipal Court called me this afternoon. I tried to call him back from my cell phone, but I have very bad cell service in the courtroom and in the police department, so it would not go through.

Donna M. Nesselbush

(She/her/hers)

(O): 401-709-4955

(F): 401-274-0104

685 Westminster Street

Providence, RI 02903

www.M-N-Law.com

Please be advised that we are a full service law firm, focusing on Social Security Disability, Personal Injury, Car Accidents, Medical Malpractice, Premises Liability, Product Liability, and Catastrophic Injury.

From: Nadine Higgins <NHiggins@PAWTUCKETPOLICE.COM>

Sent: Monday, February 28, 2022 3:18 PM

To: Cristino, Hersh <hcristino@pawtucketri.com>

Cc: Donna M. Nesselbush <Dnesselbush@m-n-law.com>; Dylan Zelazo <dzelazo@Pawtucketri.com>

Subject: PHONE IN JUDGE'S CHAMBER

Good afternoon Hersh,

Judge Nesselbush was unable to make an outgoing call from her office today. Her office is located on the 2nd floor of the police station. However, the phone is a City Hall line 728-0500 ext. 268

Thank you in advance for your time on this matter!

Best,

Nadine L. Higgins

Police Senior Municipal Court Clerk

Pawtucket Police Department

401-727-9100 ext 824

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--

Donna M. Nesselbush, Esq.



Donna Nesselbush <donnanesselbush@gmail.com>

A working phone, computer and email addresses

1 message

Donna Nesselbush <donnanesselbush@gmail.com>

Tue, Jul 12, 2022 at 1:24 PM

To: Donald Greblen <dgreblen@pawtucketri.com>

Bcc: nlhiggins528@gmail.com, NKing@m-n-law.com

Dear Don:

I'm sorry these are all coming at once, but this has become maddening. I have trying to be patient for months as these issues sit, and now they have festered!

I should not have to write to the mayor to get this done, but your staff is just not responding. Can you please forward this email to someone in your administration who can get us working email addresses, a working computer and a working phone. Nadine first wrote to Hersh in February (and neither she nor I ever heard anything) and I wrote to Dylan on April 27, 2022 and again on May 5, 2022, copying Hersh, and I have never heard anything from either of them which is unprofessional and uncharacteristic of Dylan. It's now July, and still nothing has happened. Is it too much to ask for the city's judges to have an email address, computer and telephone? This is so frustrating...Donna

From: Donna M. Nesselbush

Sent: Thursday, May 5, 2022 5:47 PM

To: Dylan Zelazo <dzelazo@PAWTUCKETRI.com>

Cc: Hersh Cristino <cristinoh@psdri.net>

Subject: Fwd: Any progress...

Dear Dylan,

Judge Peretti from the North Providence Municipal Court called me this afternoon. I tried to call him back from my cell phone, but I have very bad cell service in the courtroom and in the police department, so it would not go through.

It cannot be too much to ask to have email addresses, a working computer and a telephone in our chambers. I love everyone, but can you please let me know why this is taking so long? It's been months, no?

Hope all is well, and kindly advise...Donna

Donna M. Nesselbush

(She/her/hers)

(O): 401-709-4955

(F): 401-274-0104

685 Westminster Street



Donna Nesselbush <donnaesselbush@gmail.com>

Bathroom Access

1 message

Nesselbush, Donna <dnesselbush@pawtucketri.com>
To: "Goncalves, Tina" <tgoncalves@pawtucketpolice.com>
Cc: Peter Spetelunas <PSpetelunas@pawtucketpolice.com>

Fri, Sep 30, 2022 at 9:22 AM

 **Danger:** External (dnesselbush@pawtucketri.com)
Spoofed VIP [Details](#)

[Report This Email](#) [FAQ](#) [Protection by INKY](#)

Good Morning, Chief,

Thank you for your participation and assistance in figuring out how our city administers justice in a manner consistent with the separation of powers and judicial independence.

Just a quick note to let you know that my fob still does not have access to the third floor door outside my office. As you know, I need that access to return to my office after using the women's room on the second floor. (My fob does work to get me onto the 2nd floor, just not back up to the 3rd floor). I know you said you thought it had been taken care of, so thanks for looking into this again for me.

All the best and have a nice weekend...Donna

Donna M. Nesselbush, Esq.
Chief Judge
Pawtucket Municipal Court

https://urldefense.proofpoint.com/v2/url?u=http-3A__www.PawtucketRI.com&d=DwlGaQ&c=euGZstcaTDIlvimEN8b7jXrwqOf-v5A_CdpnVfiMM&r=o4M0MPrqEW9UDogRFC0l5-ltOV4wiKX0OQoylcyee4&m=Bl8ixnby2vtKPGxoiY8P6buodAqlaYK_1MyGotV2sfc&s=nnL2DkF6ce2KyM3UTYVphde84kxRFJROvo6QGVJ8lsg&e=

Providence, RI 02903

www.M-N-Law.com

Please be advised that we are a full service law firm, focusing on Social Security Disability, Personal Injury, Car Accidents, Medical Malpractice, Premises Liability, Product Liability, and Catastrophic Injury.

From: Donna M. Nesselbush
Sent: Wednesday, April 27, 2022 12:38 PM
To: Dylan Zelazo <dzelazo@PAWTUCKETRI.com>
Cc: Nadine Higgins <NHiggins@PAWTUCKETPOLICE.COM>
Subject: Any progress...

Dear Dylan,

I am writing to follow up on my age old request for a computer, a telephone, and a city email address. Whenever I send emails regarding the Municipal Court Judges Association, I always do so from my law firm, wishing I had a city or judicial email address.

Let me know if you are making any progress...

Thanks so much... Donna

Donna M. Nesselbush

(She/her/hers)

(O): 401-709-4955

(F): 401-274-0104

685 Westminster Street

Providence, RI 02903

www.M-N-Law.com

Please be advised that we are a full service law firm, focusing on Social Security Disability, Personal Injury, Car Accidents, Medical Malpractice, Premises Liability, Product Liability, and Catastrophic Injury.

EXHIBIT 20



Donna Nesselbush <donnaesselbush@gmail.com>

Municipal Court: Charter & Ordinance

1 message

Donna M. Nesselbush <Dnesselbush@m-n-law.com>
To: "donnaesselbush@gmail.com" <donnaesselbush@gmail.com>

Tue, Feb 14, 2023 at 6:24 PM

From: Goldstein, Richard <RGoldstein@PAWTUCKETRI.com>
Sent: Wednesday, December 21, 2022 4:04 PM
To: Donna M. Nesselbush <Dnesselbush@m-n-law.com>
Subject: RE: Municipal Court: Charter and Ordinance

Attached is what I found on the municipal court.

Regarding the clerk, read the duties carefully, I think only a judge can perform some of them. Nadine would come under Sec. 26-7. I think your situation is similar to the Probate Court. While I am technically the Clerk of the Probate Court, Stephanie handles those duties, or Lillian when Stephanie is out.

If you want to make any changes to our ordinances, make sure they are in line with our enabling state legislation Sec 45-2-13 (See 4th attachment).

Richard Goldstein, MMC
Pawtucket City Clerk
137 Roosevelt Ave.
Pawtucket, RI 02860
(401) 728-0500 ext. 348
(401) 728-8932 fax
rgoldstein@pawtucketri.com

-----Original Message-----

From: Donna M. Nesselbush <Dnesselbush@m-n-law.com>
Sent: Wednesday, December 21, 2022 2:35 PM
To: Goldstein, Richard <RGoldstein@PAWTUCKETRI.com>
Subject: Municipal Court: Charter and Ordinance

Hi Rick,

Happy holidays, and it was great to see you at the Pawtucket holiday party! I'm happy to report that I won a \$25 gift card to Wildflour!

Anyway, I am technologically challenged and unable to find online the charter sections that discuss the municipal court and the city ordinances that establish and govern the municipal traffic court and the municipal housing court. If it's not too much to ask, could you please email me those charter and ordinance sections (I think it's article 1, section 26, but I'm not sure).

I think there are still references to the police court, and the ordinances do not really jive with how the court really operates. For instance, I think the ordinance refers to the associate judge as the clerk of the court, when, in reality, we refer to Nadine Higgins as the clerk of the court.

Thank you so much, and again... Happy Holidays!

...Donna

Donna M. Nesselbush, Esq.

Sent from my iPhone

4 attachments



municipal court; judges-Charter Sec 2-501.docx

14K



municipal & probate court judges powers-Charter Sec 2-600.docx

13K



Municipal and Housing Court-Ch 26.docx

20K



municipal & housing court-RIGL 45-2.docx

15K



Donna Nesselbush <donnanelbush@gmail.com>

Fwd: Letter to John Barry

1 message

Donna Nesselbush <donnanelbush@gmail.com>
To: donnanelbush@gmail.com

Wed, Jul 24, 2024 at 3:52 PM

Begin forwarded message:

From: Donna Nesselbush <donnanelbush@gmail.com>
Date: August 31, 2020 at 3:34:12 PM EDT
To: Nadine Higgins <NHiggins@pawtucketpolice.com>
Subject: Letter to John Barry

Nadine,

Can you kindly draft this letter on my stationary to John Barry. Please give it to the clerks office and ask them to get it to him as soon as possible.

Dear Councilor Barry:

During the recent Covid shut down, I was reviewing several city ordinances having to do with our Municipal Court. In doing so, I was reminded that the official name of our Municipal Court is the "Pawtucket Police Court." I'm not sure why it was named that way, but I believe it is a misnomer. We are not the police's court; we are the City's Municipal Court, working on behalf of the diverse people who make up our city. We are not a police court because we do not live in a "police state" or a "police city."

At this time of racial unrest and in order to correct what I believe to be a misnomer, I respectfully request that you introduce legislation officially changing our name to the Pawtucket Municipal Court. The Pawtucket Municipal Court would continue with the same jurisdiction, hearing both traffic and housing court matters.

Sincerely yours,

Donna M. Nesselbush
Chief Judge of the Pawtucket Municipal Court

Sent from my iPhone

From: Grebien, Donald DGrebien@pawtucketri.com
Subject: Re: Increasing Housing Court fines to \$35
Date: Mar 11, 2016 at 11:42:42 AM
To: Nesselbush, Donna donnanesselbush@gmail.com
Cc: Goldstein, Richard RGoldstein@pawtucketri.com;
Milos, Frank FMilos@pawtucketri.com, John Barry
jbarry@dioceseofprovidence.org, King, Paul
pking@pawtucketpolice.com, Jack Gannon
Jack@micorryandgannon.com, Pires, Antonio
APires@pawtucketri.com, Dylan Zelazo
dzelazo@pawtucketri.com, Dave P Moran
MORAND@nationwide.com, Grebien, Donald
DGrebien@pawtucketri.com, LHeureux, Joanna
JLHeureux@pawtucketri.com

Donna,

Thanks for your the suggestion. We'll have an internal meeting with Council Leadership and the appropriate departments then get back to you. I'm sure we are going to have questions once we figure out the finances.

Talk soon.

On Mar 11, 2016, at 11:17 AM, Donna Nesselbush
<donnanesselbush@gmail.com<<mailto:donnanesselbush@gmail.com>>> wrote:

Esteemed Colleagues:

For years I have noticed the inequity between \$35 of Traffic Court costs and \$30 of Housing Court costs. It is especially palpable on Fridays when we hold both Traffic and Housing court dockets, and

litigants see and hear the disparity.

So, as Chief Judge of the City, I am officially requesting that the city ordinance be amended to increase the housing court costs to \$35, to be commensurate with the Traffic Court costs.

And I have a proposed good use for the extra \$5!! I have spoken with many of you about the idea of putting our court sessions on Public Access TV. The idea has been well received by all. I am very proud of the manner in which we conduct our court proceedings, and I think it reflects well on our city. I already have the name..."Picked Up In Pawtucket." Accordingly, I would like to propose that the additional \$5 be (unofficially) used to fund the meager costs that will be associated with that endeavor.

I say unofficially because I do not think these two should be linked in the ordinance. In the event that, for whatever reason, we do not put the court on TV or in the event that we cease to do so in the

future, raising the housing court costs to \$35 is still the right thing to do.

Please let me know if you have any questions or concerns. I enjoy working with all of you on behalf of the city we love, and I look forward to doing so into the future.

If all is a go, kindly take whatever steps are necessary to draft the amendment to the appropriate city ordinance.

Enjoy the early spring weather...Donna

Donna M. Nesselbush
Chief Judge of the City of Pawtucket

Sent from my iPhone

From: Donna Nesselbush donnanelselbush@gmail.com
Subject: Various proposals
Date: Nov 3, 2016 at 12:06:19 PM
To: Richard Goldstein RGoldstein@pawtucketri.com
Cc: Dave Moran morand@nationwide.com

Dear Rick:

I am writing in my role as the City's Chief Judge. As you know, there are three proposals which I would respectfully request the city to consider.

I know everyone's schedule is tight, and I am not sure where we have landed regarding a meeting time to formally begin these discussions.

In order to formally apprise the City Council of these proposals, Council President Moran, whom I spoke with this morning, suggested that these proposals be placed on the agenda of the upcoming November 9th Council meeting. Councilor Moran suggested they be placed on the consent calendar for referral to the appropriate subcommittee. The subcommittee may determine, as Solicitor Milos suggests, that one or more of the proposals do not require a new or amended ordinance, but, as they say, the Council can make that determination at the appropriate time.

The three proposals are as follows:

To increase the housing court costs to \$35 to be consistent with the traffic court costs;

To allow municipal court sessions to be televised on the public

access channels (similar to the City Council sessions), at an approximate cost of \$2500 per year.

To remove criminal sanctions from our ordinances since we cannot provide access to legal representation in accordance with the United States Constitution. This item most certainly would require ordinance changes to be considered by the City Council.

Anyway, if you can kindly place these matters on the Council's agenda, I will further explain them to everyone at our hopefully forthcoming meeting and as well by letter directly to the City Councilors.

That way, everyone is "in the loop."

Thanks so much, and have a great day... Donna

Donna M Nesselbush
Chief Judge
Pawtucket Municipal Court

Senator Donna M. Nesselbush
District 15 - Pawtucket & North Providence



Donna Nesselbush <donnanelbush@gmail.com>

Fwd: Meeting on the Municipal/Housing Courts

Donna M. Nesselbush <donnanelbush@gmail.com>
Draft

Thu, Jun 20, 2024 at 2:09 PM

Begin forwarded message:

From: Donna Nesselbush <donnanelbush@gmail.com>
Date: October 30, 2016 at 10:54:55 PM EDT
To: Rick <rickjgold@yahoo.com>
Cc: David Moran <morand@nationwide.com>, John Barry <j.barry48@yahoo.com>, Frank Milos <FMilos@pawtucketri.com>, Don Grebien <dgrebien@pawtucketri.com>, "Gonzalez, Lizeth" <lgonzalez@pawtucketri.com>
Subject: Re: Meeting on the Municipal/Housing Courts

Hi All:

Works well for me...Donna

Senator Donna M. Nesselbush
District 15 - Pawtucket & North Providence

Rhode Island Senate Chamber
Room 212, Rhode Island State House
Providence, Rhode Island 02903

401.276.5568 - Phone
401.222.4263 - Fax
sen-nesselbush@rilegislature.gov

On Oct 30, 2016, at 3:43 PM, Rick <rickjgold@yahoo.com> wrote:

Sorry, Thursday, November 10 at 3:30 pm.

Rick Goldstein

Sent from my T-Mobile 4G LTE Device

----- Original message -----

From: Rick <rickjgold@yahoo.com>
Date: 10/30/16 3:24 PM (GMT-05:00)
To: David Moran <morand@nationwide.com>, John Barry <j.barry48@yahoo.com>, Frank Milos <FMilos@PAWTUCKETRI.com>
Cc: "Nesselbush, Donna" <donnanelbush@gmail.com>, Don Grebien <dgrebien@pawtucketri.com>, "Gonzalez, Lizeth" <lgonzalez@PAWTUCKETRI.com>
Subject: Meeting on the Municipal/Housing Courts

David, John and Frank:

Judge Nesselbush has some ideas she wants to discuss for an ordinance regarding fees and penalties of the municipal / housing courts. She also wants to move forward with televising her court.

Mayor Grebien would like to discuss these issues on Thursday, May 10, at 3:30 pm., here at the mayor's office.

Can you be here?

Rick Goldstein

Sent from my T-Mobile 4G LTE Device

--

Donna M. Nesselbush, Esq.

EXHIBIT 21



Donna Nesselbush <donnanelbush@gmail.com>

Fwd: 4/29 docket

1 message

Donna Nesselbush <donnanelbush@gmail.com>
To: donnanelbush@gmail.com

Wed, Jul 24, 2024 at 3:38 PM

Begin forwarded message:

From: Donna Nesselbush <donnanelbush@gmail.com>
Date: April 9, 2019 at 5:52:50 PM EDT
To: Nadine Higgins <NHiggins@pawtucketpolice.com>
Cc: Natasha King <Nking@m-n-law.com>
Subject: 4/29 docket

Na,

I have a Family Court matter on the calendar for 4/29 at 2pm. Can you please let me know how many cases are on the docket. I may switch w Jack or cancel, but before figuring that out, can you let me know how many cases are on the docket? TY...Donna

Senator Donna M. Nesselbush
District 15 - Pawtucket

Rhode Island Senate Chamber
Room 212, Rhode Island State House
Providence, Rhode Island 02903

401.276.5568 - Phone
401.222.4263 - Fax
sen-nesselbush@rilegislature.gov



Donna Nesselbush <donnanesselbush@gmail.com>

Fwd: Need to cancel court on Monday 3/25

1 message

Donna Nesselbush <donnanesselbush@gmail.com>
To: donnanesselbush@gmail.com

Wed, Jul 24, 2024 at 3:37 PM

Begin forwarded message:

From: Donna Nesselbush <donnanesselbush@gmail.com>
Date: March 6, 2019 at 7:24:07 PM EST
To: Nadine Higgins <NHiggins@pawtucketpolice.com>
Subject: Need to cancel court on Monday 3/25

Na,

Neither Jack or I are available on Monday 3/25. How many cases are already on the docket? Can we cancel and re-schedule? Sorry for the inconvenience. Please let me know your thoughts...Donna

Donna M. Nesselbush



Donna Nesselbush <donnaesselbush@gmail.com>

Fwd: Municipal Court

1 message

Donna Nesselbush <donnaesselbush@gmail.com>
To: donnaesselbush@gmail.com

Wed, Jul 24, 2024 at 3:56 PM

Begin forwarded message:

From: Donna Nesselbush <donnaesselbush@gmail.com>
Date: October 15, 2020 at 1:29:45 PM EDT
To: dholden@pawtucketpolice.com
Cc: Nadine Higgins <NHiggins@pawtucketpolice.com>
Subject: Municipal Court

Dave,

I just want to say thank you for reaching out yesterday. I have always enjoyed such a nice, collegial relationship with the police. Thanks for your help in figuring out our backlog and docket times/numbers going forward.

Thanks again. Have a great day... Donna

Donna M. Nesselbush
Chief Judge
Pawtucket Municipal Court



Donna Nesselbush <donnaesselbush@gmail.com>

Fwd: REVISED COURT DATES FOR OCTOBER, NOVEMBER AND DECEMBER

1 message

Donna Nesselbush <donnaesselbush@gmail.com>
To: donnaesselbush@gmail.com

Wed, Jul 24, 2024 at 3:55 PM

Begin forwarded message:

From: Donna Nesselbush <donnaesselbush@gmail.com>
Date: October 15, 2020 at 10:10:22 AM EDT
To: Nadine Higgins <NHiggins@pawtucketpolice.com>
Cc: Natasha King <Nking@m-n-law.com>
Subject: Re: REVISED COURT DATES FOR OCTOBER, NOVEMBER AND DECEMBER

Na,

I had a lovely conversation yesterday with Captain Dave Holder. Can you please confirm his email address. Is it dholder@pawtucketpolice.com?

Also, can you please give me Suzanne's email address?

Dave tells me that we have about 22,000 backlogged camera tickets, and that we add about 7000 per week. Can you confirm that we are scheduling approximately 1000 cases per court docket for the upcoming sessions that are scheduled?

Also, I'm looking to know the total number of trials pending and the underlying offense dates of the trials we have currently scheduled and whether they are E citations or camera tickets?

Also, I'm thinking that Mondays at 12:30 or 1 PM will be the best time for the Housing Court to meet. I'm going to reach out to Bill Viera and our clerk Donna Pinto today. Do you see any concerns for our traffic court if Housing Court meets at 1pm? I'm going to ask that they summons people to court for 12:30 PM, and that the inspectors/housing court personnel meet with the property owners to "pre-try" the cases, so that those that don't need to go before the judge can simply go do what they need to do, and those that do need to see a judge can be most of the way to where they need to be, such that we can handle all the cases in one hour before traffic court starts at 2 PM. That's the plan, let me know your thoughts?

... Donna

Senator Donna M. Nesselbush
District 15 - Pawtucket & North Providence

Rhode Island Senate Chamber
Room 212, Rhode Island State House
Providence, Rhode Island 02903

401.276.5568 - Phone
401.222.4263 - Fax
sen-nesselbush@rilegislature.gov

Sent from my iPhone

On Oct 14, 2020, at 3:58 PM, Nadine Higgins <NHiggins@pawtucketpolice.com> wrote:

Good afternoon Donna,

I'm assuming the Chief and Major Kane made the decision. Yesterday, Suzanne had a meeting with the Chief and Major Kane. She contacted me after the meeting and told me she rallied for (municipal court) to stay open. She wanted the City to see "us" as essential personnel. Unfortunately, she didn't succeed.

Suzanne then informed me to move all the Friday cases (this included the trials) to a January 2021.

Also, we have approximately 11,000 camera tickets scheduled between October 22nd and December 17th.

Hope this helps!

Nadine

From: Donna Nesselbush [mailto:donnanesselbush@gmail.com]
Sent: Wednesday, October 14, 2020 3:33 PM
To: Nadine Higgins
Cc: Jack Gannon; Tina Goncalves
Subject: Re: REVISED COURT DATES FOR OCTOBER, NOVEMBER AND DECEMBER

Dear Nadine,

I don't want to put you in the middle of this, as I'm sure it was not you, but can you let me know who authorized the rescheduling of court cases and dates? No one even contacted me (or Judge Gannon)? Was there a meeting? Did I miss something? I met with Chief Goncalves on Friday morning. She told me we were waiting on a vote from some of the unions, and that's the last I heard of it.

Also, can you let me know who authorized the rescheduling of Municipal Court trials into next year? I have concerns about that, especially in that motorists have a right to a speedy trial. I would like to know the underlying date of the traffic violations that are the subject of the trials?

I love serving as the Chief Judge of our city, and I always try to be flexible and available, but my law firm has over 60 employees and over 5,000 pending cases so rescheduling meetings, client appointments, court dates, arbitrations and the like, especially during the workday...well, let's just say it takes a little finessing. I assume Judge Gannon has similar concerns. If the furloughs have been approved by both unions, I will also need to reschedule Housing Court, so I will want to do so in a manner that works for everyone (me, Judge Gannon, the Housing Court personnel *and* the Traffic Court personnel).

Also, I would like to be apprised regarding the overall number of camera tickets which appear to require 3-5 different court dockets per week. Yikes.

Again, I don't want to put you in the middle, but please let me know whom I should speak with? I'm copying Chief Goncalves as she was the last one with whom I spoke about this. If you or she can let me know, I will reach directly out to the appropriate person.

I'm sure we can work something out, but there are a lot of moving pieces here that need to be considered before I make a final decision as to new dates for the Pawtucket Municipal Court. Thanks so much... Donna

Donna M. Nesselbush

Chief Judge

Pawtucket Municipal Court

On Oct 14, 2020, at 2:33 PM, Nadine Higgins <NHiggins@pawtucketpolice.com> wrote:

Good afternoon Donna,

Good afternoon Jack,

Attached please find the revised court scheduled for October, November and December. Please note all the Friday cases have been moved to January 2021.

Thank you!!

Nadine L. Higgins

Police Senior Municipal Court Clerk

Pawtucket Police Department

401-727-9100 ext 824

This e-mail transmission, including any attachments, is intended only for the named recipient(s) and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you have received this transmission in error, or are not the named recipient(s), please notify Nadine Higgins 401-727-9100 ext 824 immediately by return e-mail and permanently delete this transmission, including any attachments



Donna Nesselbush <donnaesselbush@gmail.com>

Fwd: REVISED COURT DATES FOR OCTOBER, NOVEMBER AND DECEMBER

1 message

Donna Nesselbush <donnaesselbush@gmail.com>
To: donnaesselbush@gmail.com

Wed, Jul 24, 2024 at 3:54 PM

Begin forwarded message:

From: Donna Nesselbush <donnaesselbush@gmail.com>
Date: October 14, 2020 at 3:32:44 PM EDT
To: Nadine Higgins <NHiggins@pawtucketpolice.com>
Cc: Jack Gannon <jack@gbdvlaw.com>, Tina Goncalves <tgoncalves@pawtucketpolice.com>
Subject: Re: REVISED COURT DATES FOR OCTOBER, NOVEMBER AND DECEMBER

Dear Nadine,

I don't want to put you in the middle of this, as I'm sure it was not you, but can you let me know who authorized the rescheduling of court cases and dates? No one even contacted me (or Judge Gannon)? Was there a meeting? Did I miss something? I met with Chief Goncalves on Friday morning. She told me we were waiting on a vote from some of the unions, and that's the last I heard of it.

Also, can you let me know who authorized the rescheduling of Municipal Court trials into next year? I have concerns about that, especially in that motorists have a right to a speedy trial. I would like to know the underlying date of the traffic violations that are the subject of the trials?

I love serving as the Chief Judge of our city, and I always try to be flexible and available, but my law firm has over 60 employees and over 5,000 pending cases so rescheduling meetings, client appointments, court dates, arbitrations and the like, especially during the workday...well, let's just say it takes a little finessing. I assume Judge Gannon has similar concerns. If the furloughs have been approved by both unions, I will also need to reschedule Housing Court, so I will want to do so in a manner that works for everyone (me, Judge Gannon, the Housing Court personnel *and* the Traffic Court personnel).

Also, I would like to be apprised regarding the overall number of camera tickets which appear to require 3-5 different court dockets per week. Yikes.

Again, I don't want to put you in the middle, but please let me know whom I should speak with? I'm copying Chief Goncalves as she was the last one with whom I spoke about this. If you or she can let me know, I will reach directly out to the appropriate person.

I'm sure we can work something out, but there are a lot of moving pieces here that need to be considered before I make a final decision as to new dates for the Pawtucket Municipal Court. Thanks so much... Donna

Donna M. Nesselbush
Chief Judge
Pawtucket Municipal Court

On Oct 14, 2020, at 2:33 PM, Nadine Higgins <NHiggins@pawtucketpolice.com> wrote:

Good afternoon Donna,

Good afternoon Jack,

Attached please find the revised court scheduled for October, November and December. Please note all the Friday cases have been moved to January 2021.

Thank you!!

Nadine L. Higgins

Police Senior Municipal Court Clerk

Pawtucket Police Department

401-727-9100 ext 824

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20201014130022020.pdf
197K



Donna Nesselbush <donnaesselbush@gmail.com>

Fwd: Possible Tuesday Night Court

1 message

Donna Nesselbush <donnaesselbush@gmail.com>

Wed, Jul 24, 2024 at 3:53 PM

To: donnaesselbush@gmail.com

Begin forwarded message:

From: Donna Nesselbush <donnaesselbush@gmail.com>

Date: September 24, 2020 at 12:20:27 PM EDT

To: Nadine Higgins <NHiggins@pawtucketpolice.com>

Cc: Jack Gannon <jack@gbdvlaw.com>, Peter Spetelunas <PSpetelunas@pawtucketpolice.com>, Natasha King <Nking@m-n-law.com>

Subject: Re: Possible Tuesday Night Court

Nadine,

That is fine. We have to give people an opportunity to be heard, if they want to. I may want to schedule a Municipal Court staff meeting so we can discuss various issues together as a team. I know director Viera would like a different court date, and I'm not sure if that is possible.

In the meantime, feel free to schedule whatever Tuesday nights we need... Donna

Senator Donna M. Nesselbush
District 15 - Pawtucket & North Providence

Rhode Island Senate Chamber
Room 212, Rhode Island State House
Providence, Rhode Island 02903

401.276.5568 - Phone
401.222.4263 - Fax
sen-nesselbush@rilegislature.gov

Sent from my iPhone

On Sep 24, 2020, at 11:21 AM, Nadine Higgins <NHiggins@pawtucketpolice.com> wrote:

Good morning Donna,

Good morning Jack,

Sgt., Spetelunas would like to know if either of you are available to sit on a Tuesday evening in November and December? As you know, court is closed for Thanksgiving and of course (Thursday) Christmas Eve.

Due to five speed cameras that went live on September 14th We have an overwhelming amount of tickets coming in. Sgt. Spetelunas anticipates court dates being giving for April 2021 if we don't get on top of this.

Also, please know Sgt. Spetelunas is open to any suggestions you may have.

Please let me know as soon as possible.

Thank you!!

Nadine

Nadine L. Higgins

Police Senior Municipal Court Clerk

Pawtucket Police Department

401-727-9100 ext 824

Thanks,

Sergeant Peter Spetelunas

Traffic Administrator/ Investigator

Pawtucket Police Department

121 Roosevelt Avenue

Pawtucket, RI 02860

(401) 727-9100

 image001

Fwd: END OF AUGUST - COURT DATES

1 message

Donna Nesselbush <donnaesselbush@gmail.com>
To: donnaesselbush@gmail.com

Wed, Jul 24, 2024 at 3:51 PM

...Donna

Donna M. Nesselbush, Esq.

Begin forwarded message:

From: Donna Nesselbush <donnaesselbush@gmail.com>
Date: May 28, 2020 at 3:22:23 PM EDT
To: Nadine Higgins <NHiggins@pawtucketpolice.com>
Subject: Re: END OF AUGUST - COURT DATES

Of course!

Sent from my iPhone

On May 28, 2020, at 2:28 PM, Nadine Higgins <NHiggins@pawtucketpolice.com> wrote:

Good afternoon Donna,

Good Afternoon Jack,

Normally we close court the last week in August. However, due to Covid, are you both available to sit if I have to reschedule cases?

Nadine

Nadine L. Higgins***Police Senior Municipal Court Clerk******Pawtucket Police Department******401-727-9100 ext 824***

Fwd: What the Municipal Courts are doing

1 message

Donna Nesselbush <donnaesselbush@gmail.com>
To: donnaesselbush@gmail.com

Wed, Jul 24, 2024 at 3:45 PM

Begin forwarded message:

From: Donna Nesselbush <donnaesselbush@gmail.com>
Date: April 9, 2020 at 8:42:03 PM EDT
To: Dylan Zelazo <dzelazo@pawtucketri.com>
Cc: Don Grebien <dgrebien@pawtucketri.com>
Subject: Fwd: What the Municipal Courts are doing

Dear Dylan,

I have issued a Court Order regarding the cancellation of Municipal Court sessions for both the traffic court and the housing court. Can you request that the Municipal Court closure (and the Court Order?) be placed on the City's homepage. I see that the closure of City Hall (the executive branch) and the cancellation of City Council sessions (legislative branch) are on the homepage, so it would be great if the court cancellations (judicial branch) could be posted as well. Additionally, there is a webpage on the PawtucketRI site for both the Pawtucket Municipal Traffic Court and the Pawtucket Municipal Housing Court. Can you please ask Hersh or whoever else is working and responsible to please spread the word on the appropriate websites or Facebook pages.

I will forward this information to David Bazar who is my Vice President of the Municipal Court Judges' Association. He will update the Rhode Island Bar Association's website with our information.

Thanks so much. Please stay healthy and well... Donna

Donna M. Nesselbush
Chief Judge

Sent from my iPhone

Begin forwarded message:

From: "Donna M. Nesselbush" <Dnesselbush@m-n-law.com>
Date: April 9, 2020 at 2:04:43 PM EDT
To: Tina Goncalves <TGoncalves@PAWTUCKETPOLICE.COM>
Cc: Donald Grebien <DGrebien@pawtucketri.com>
Subject: Fwd: What the Municipal Courts are doing

FYI...

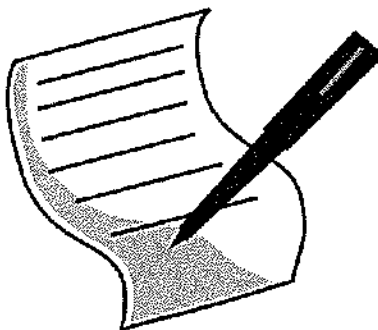
From: David N. Bazar, President, Rhode Island Bar Association <kbridge@ribar.com>
Sent: Monday, April 6, 2020 1:57:48 PM
To: Cristine McBurney <cris@mcburneylawri.com>
Subject: Your Monthly Update is Here!



RHODE ISLAND Bar Association

April 2020 E-Newsletter

Request for COVID-19 Related Articles



The Rhode Island Bar Journal editors are interested in possibly putting together a special electronic-only version of the Bar Journal with articles dedicated to COVID-19 law-related issues and information. We are especially interested in Rhode Island-specific informative articles. If any Bar members are interested in writing and submitting such articles with very little lead time, please email Kathleen Bridge at kbridge@ribar.com by **Wednesday, April 8, 2020** with your idea.

COVID-19 Probate & Municipal Court Operations

COVID-19 Probate & Municipal Court Operations

City/Town	Probate Court	Municipal Court	Clerk's Contact Information
Barrington	Town hall is closed and open to the public by appointment only. For Probate Court, we plan to hold a teleconference with the judge, Attorney, Probator and Clerk. It was advertised for 3 weeks with additional information. Due to the circumstances if anyone would like to be heard regarding an estate that has been listed please call or email the town clerk. Check our website for updates: http://www.barringtonri.org	The Municipal Court is closed until further notice, we only schedule court once a month and at this time we have no pending cases.	Town Clerk - Meredith J. DeFesta 401-347-1000 ext. 1 info@barringtonri.org Municipal Court Clerk - Aimee Appen 401-347-1010
Bristol	Bristol Town Hall remains open for regular office hours (M-F, 9-5) with staff assisting working a staggered schedule. Judges for both courts will be making decisions regarding court operations in the next week. Please check back soon for updates.		Town Clerk - Louis P. Carbo 401-253-7000 lpcarbo@bristolri.org Probate Court Clerk - probateclerk@bristolri.org Municipal Court Clerk - municipalclerk@bristolri.org
Burrillville	The Burrillville Town Hall is closed to the public until further notice. We are available on a limited basis to provide necessary services or respond to requests as may be required. Please check www.burrillville.org for updates. The Clerk's office will accept last evidence recordings by appointment only. If you can send last evidence in the mail, please do so. We will continue to process recordings that come in the mail. Call the Clerk's office about making an appointment.	The Municipal Court has cancelled all calendar for the month of April. At this time, all cases have been rescheduled to Monday, 10AM-4PM, at 6 pm. The clerk's office is closed for in-person payments, but we have a 24-hour drop box for payments inside the Burrillville Police Department lobby. Payments can be mailed to PO Box 419, Burrillville, RI 02810. And online payments may be made by accessing our website at www.burrillville.org/municipalcourt	Town Clerk - Vicki Maras 401-568-4366 ext. 180 info@burrillville.org Municipal Court Clerk - Lisa Palodeni 401-568-9484, ext. 4 info@burrillville.org

We are excited to announce that Bar Association staff have organized a chart of probate and municipal court operations information during the pandemic. To access the chart, click on the image above or visit our website at ribar.com by clicking on **FOR ATTORNEYS** on the home page menu and then clicking on **COVID-19 PROBATE & MUNICIPAL COURT OPERATIONS** on the dropdown menu. We will regularly update the chart on our website as we receive updated information.



CLE Corner

Although we are not hosting any in-person CLE programs, you can still earn live CLE credits by attending a live webcast, and you can earn up to 6.0 credits by viewing on-demand courses. Below are just some of the webcasts we're offering in April. With all the live CLE programming options, members can earn up to 10.0 general credits, of which 5.0 are in ethics.

The Law of Service Animals
Thursday, April 9, 2020
12:45 – 1:45 p.m., 1.0 credit

COVID-19 – Employment Law Update
Friday, April 10, 2020
11:00 am – 12:00 pm, 1.0 credit

Service-Connected VA Benefits: Legacy Appeals and the New Appellate Process
Friday, April 17, 2020
9:00 – 11:00 a.m., 2.0 credits

To view all our live webcast offerings, visit the **CLE Calendar**. To view all our on-demand programs, visit the **on-demand catalog**. New programs

Important **INFORMATION**

UPDATE - Rhode Island Bar Association Annual Meeting

We at the Bar Association are aware that many of you are wondering if the 2020 Annual Meeting will go forward as scheduled for June 18th and 19th. At this time, we are still considering our options.

We will notify all Bar members if there are any developments.



Change in Support Hours

Due to the COVID-19 pandemic, Casemaker's customer support hours will be temporarily changing to better support staff working from home.

Casemaker Support will be open from 9am to 5pm EST Monday-Friday. They are available by phone (877.659.0801), email (support@casemakerlegal.com) and live chat during those hours.

are added weekly, so be sure to check back often!

Follow Us on Social Media So You Never Miss an Update!



Facebook: [@RIBarAssociation](#)

Twitter: [@RIBarAssoc](#)

Instagram: [@RIBarAssociation](#)

LinkedIn: [RI Bar Association](#)



Pro Bono Corner

Thank you to all members of the Lawyer Referral Service (LRS) for your support and willingness to provide much needed initial consultations by telephone. There continues to be many in need of legal advice during this difficult time that necessitates physical distancing. The staff is working remotely from home to facilitate these referrals that are such an important resource for the public.

If you are not a member of the Lawyer Referral Service but would be interested in joining now, we are



5 Tips to Make Working From Home Work For You

At first, working from home might seem like a dream: no commute, no distracting co-workers and think of all those chores you'll be able to sneak in! But after the novelty wears off, things get real. It can be lonely and there's no real end to your workday. Here are five tips to help you stay well-balanced.

Take a Break: Let's be honest: You don't work eight hours straight in the office. There are coffee breaks, lunch walks and chats with co-workers that give some respite from work. Just because you are working from home

offering a **FREE** 6 month introductory membership. The regular annual membership fee is \$100.00. The applications may be found by clicking [here](#) or in the Members Only section on our website. Please contact Caitlin Poland, cpoland@ribar.com or Elisa King, eking@ribar.com for an application or any questions you may have. The LRS makes over 8,000 referrals a year to attorneys located statewide!

We would also like to thank the members of the pro bono programs for your ongoing commitment to our low-income Rhode Islanders who would not have representation without you. We appreciate your willingness to continue to accept matters that are pending. Your compassion is amazing.

If you are not a member of the Volunteer Lawyer Program, Pro Bono Program for the Elderly or US Armed Forces Legal Services Project and are interested in knowing more please contact Susan Fontaine, sfontaine@ribar.com. We need you!

Thank you all again for your dedication to public service.

As a reminder, a Constant Contact email urging the public service program members to limit non-essential contact and consider providing initial consultations by telephone rather than in the office for their health and safety and those of others was sent on March 17th.

doesn't mean you aren't entitled to the same breathers. Stepping away for breaks are part of productivity; they actually make you smarter and give you perspective and answers.

Get Structured: Be thoughtful about where you choose to work in your new environment, but don't feel like you have to limit yourself to one spot in your house. Make sure to preserve some spaces in your home that you never do work in. It is very hard to relax at night when you start to associate those spaces with work.

Repurpose your Commute: A major perk of working from home is ditching the commute. But that doesn't mean your workday can start earlier. Use your commute time in the morning for self-renewal or family time.

Set a Schedule: Working from home doesn't mean you are working more hours. Set a clear scheduled and stick to it! When your workday ends, put away your work equipment and change into your evening or lounge clothes to help signal the shift to personal time.

Stay Social: Social interaction can still happen from home -- you just have to be more proactive. Set up regular check-ins with your team, that allows you to not only provide progress updates, but also sort through any problems or brainstorm ideas. When possible, use video over the standard conference call to help create more interactions and avoid loneliness.

Technology Tip



The continued spread of the coronavirus, and extension of social distancing rules, means that everyone, including lawyers, is flocking to web conferencing like never before. That has, however, exposed the issue of security on web conferencing software, including the popular product, Zoom. Of course, there are ways you can better secure Zoom, including by using the paid version; and, there are other choices, too, including those with additional security options.

This tech tip is brought to you by the Bar Association's Law Practice Management Consultant, Jared Correia, of Red Cave Law Firm Consulting. If you need help with billing, client relations, data management, financial management, marketing, office technology, time management, disaster prevention & recovery, or any other area related to managing your practice, Red Cave Law Firm Consulting will provide Rhode Island Bar Association members with unlimited virtual consulting services (email, telephone, chat, video) **FREE OF CHARGE.** To get started, visit the Bar's LPM page [here](#), or just email Jared directly at jared@redcavelegal.com.



Make Sure Nonexempt Employees Do Not Perform Work Off the Clock

Employers should implement a policy that requires employees to track time.

There are new challenges for employers in not having direct oversight of employees working from home, many for the first time. Employers must therefore take action to ensure that nonexempt employees are not performing work off the clock and not working overtime without authorization.

Employers must count as hours worked the time employees perform work, even at home, if the employer knows or has reason believe that the



Disaster Preparedness Resources from Coastline EAP

In light of the COVID-19 Pandemic, Coastline EAP has created a section on their website dedicated to disaster preparedness resources. In this special resource section, you can learn about coronavirus, find resources related to the current spread of the illness, and discover the steps you should take to prepare your family for the daily living challenges that may arise as the virus spreads to your local community. From caring for children in isolation and adjusting to remote work from home, to how to find remote employment and properly seek medical attention to treat the

work is being performed. Therefore, if an hourly, nonexempt employee is sending work emails to his or her supervisor while off the clock, the employer may be charged with knowing the employee performed work for which he or she was not compensated.

This tip was brought to you by Aon Attorneys' Advantage, the Bar's recommended professional liability insurance provider for members. Through a combination of Affinity Insurance Services, Inc. offices and a network of Independent Territorial Administrators, the AON Attorneys' Advantage program is able to provide broad coverage, competitive rates outstanding local service and risk management service. To learn more about the benefits and features of the program visit the AON website at www.attorneys-advantage.com.

illness, these resources will help you take charge of your situation.

To view Coastline EAP's disaster preparedness resources, please click [here](#) and enter RIBAR as the company username.

Coastline EAP is a private, non-profit consulting service contracted by the Association to assist you at no charge. The professionals at Coastline EAP provide confidential consultation for a wide range of personal concerns. If you are in need of assistance, you can contact Coastline EAP and identify yourself as a Rhode Island Bar Association member seeking help. To contact Coastline EAP please call 1-800-445-1195. Even though most of our interactions with others at this time are being conducted virtually, there is always someone happy to listen and assist you.

Rhode Island Bar Association

401-421-5740 | info@ribar.com | ribar.com

FOLLOW US



Rhode Island Bar Association | 41 Sharpe Dr, Cranston, RI 02920

Unsubscribe cris@mcburneylawri.com

[Update Profile](#) | [About Constant Contact](#)

Sent by kbridge@ribar.com in collaboration with



Try email marketing for free today!

EXHIBIT 22

Fwd: Housing Court - Contempt Power

1 message

Donna M. Nesselbush <Dnesselbush@m-n-law.com>
To: "donnanelbush@gmail.com" <donnanelbush@gmail.com>

Wed, Jul 24, 2024 at 4:35 PM

Begin forwarded message:

From: "Milos, Frank" <FMilos@pawtucketri.com>
Date: March 6, 2023 at 3:51:11 PM EST
To: "Donna M. Nesselbush" <Dnesselbush@m-n-law.com>
Subject: RE: Housing Court - Contempt Power

Judge:

Also, I meant to include the statute in my previous email (see attached).

Frank J. Milos, Jr., Esq.
City Solicitor
137 Roosevelt Avenue
Pawtucket, RI 02861
Tel.: 401-728-0500 (Ext. 274)
Fax: 401-727-3961

e-mail: familos@pawtucketri.com <<mailto:familos@pawtucketri.com>>

This transmittal is intended for a particular addressee(s). It may constitute a confidential attorney-client communication. If it is not clear that you are the intended recipient, you are hereby notified that you have received this transmittal in error; any review, copying or distribution or dissemination is strictly prohibited. If you suspect that you have received this transmittal in error, please notify the Pawtucket Law Department immediately at 401-728-0500 (Ext. 308), or by email reply to the sender, and delete the transmittal and any attachments. Documents attached to this message are not encrypted.

From: Milos, Frank
Sent: Monday, March 6, 2023 3:25 PM
To: Donna M. Nesselbush <Dnesselbush@m-n-law.com>
Subject: RE: Housing Court - Contempt Power

Judge:

We talked about the concept of "contempt" about three years ago. Here are a few cases that we discussed when we met. The takeaway on both cases is to distinguish between criminal and civil contempt. Per the cases, criminal contempt requires advanced notice, is unavoidable/unconditional, and the penalties "are typically punitive and irredeemable". Criminal contempt, as per these cases, requires advanced notice and

an opportunity to be heard. On the other hand, civil contempt is remedial and designed to coerce a person into compliance with an order of the court (as well as to compensate a party for any losses that may have resulted from another's failure to comply with a valid court order).

Call with any questions.

Frank J. Milos, Jr., Esq.

City Solicitor

137 Roosevelt Avenue

Pawtucket, RI 02861

Tel.: 401-728-0500 (Ext. 274)

Fax: 401-727-3961

e-mail: familos@pawtucketri.com <<mailto:familos@pawtucketri.com>>

This transmittal is intended for a particular addressee(s). It may constitute a confidential attorney-client communication. If it is not clear that you are the intended recipient, you are hereby notified that you have received this transmittal in error; any review, copying or distribution or dissemination is strictly prohibited. If you suspect that you have received this transmittal in error, please notify the Pawtucket Law Department immediately at 401-728-0500 (Ext. 308), or by email reply to the sender, and delete the transmittal and any attachments. Documents attached to this message are not encrypted.



R.I. Gen. Laws _ 45-2-13.docx

20K

EXHIBIT 23

Fwd: Pawtucket Municipal Court Doc

1 message

Donna Nesselbush <donnaesselbush@gmail.com>
To: donnaesselbush@gmail.com

Wed, Jul 24, 2024 at 3:41 PM

Begin forwarded message:

From: "Donna M. Nesselbush" <donnaesselbush@gmail.com>
Date: December 3, 2019 at 4:02:57 PM EST
To: Frank Milos <FMilos@pawtucketri.com>, Nadine Higgins <NHiggins@pawtucketpolice.com>, William Vieira <wvieira@pawtucketri.com>
Cc: Germane Amponsah <gamponsah@pawtucketri.com>
Subject: Fwd: Pawtucket Municipal Court Doc

Dear Frank,

In the housing court, we are dealing with a property on Cleveland Street owned by a [REDACTED]. The City alleges that his grandson is essentially running a transfer station on the property. There is often a "failure to appear," but the owner is very elderly and when the grandson appeared recently, I found him in contempt and had him charged and locked up.

His case and others raise an issue of what to do when respondents "fail to appear" and take the attitude that "You can't stop me." As we discussed in your office recently, when a defendant fails to appear in District Court for a criminal case, an arrest warrant is issued. In a civil case, a "body attachment" is ordered.

My clerk, Nadine Higgins, has obtained a copy of the District Court civil body attachment form. I have edited the document in an attempt to make it a City of Pawtucket (as opposed to District Court) document. However, before we start using it, I am wondering if you or Lisette or Germane could take a look at it to make sure you think it is correct and does not expose the City or the Court to any liability.

I wasn't actually sure by what statutory authority we can issue a body attachment, so I left that part blank. Is that a problem? We should, at least, make sure we have the legal authority to issue body attachments and bring respondents who fail to appear before the court. Let me know if you think we should include the statutory (or ordinance) reference in the actual document.

Thanks so much, and I look forward to hearing your thoughts so we can begin using this document to better compel compliance, especially with recalcitrant respondents.

In the meantime, happy holidays to you and yours and thanks for everything... Donna



MUNICIPAL COURT

WRIT OF BODY ATTACHMENT

City of Pawtucket v. Respondent	Civil Action File Number:
	Address of the Property:
Pawtucket Municipal Court 121 Roosevelt Avenue Pawtucket, RI 02860 (401) 727-9100	Name and Address of Plaintiff's Attorney, if any:

TO THE DULY AUTHORIZED OFFICER:

Please execute a Body Attachment on the following:

Respondent:	Address:

This Court respectfully requests the police to attach the body of the Respondent whose name and address are listed above, and bring the Respondent before the Pawtucket Municipal Court forthwith, to answer for contempt in failing to appear before this court relative to a municipal violation issued by the City of Pawtucket and scheduled for hearing on: _____

**FAIL NOT TO EXECUTE THIS WRIT OF BODY ATTACHMENT
AND
RETURN THE RESPONDENT TO THIS MUNICIPAL COURT.**

Order of:
Chief Judge/Associate Judge

/s/

This Writ of Body Attachment was entered on _____	/s/ Clerk

Witness the seal/watermark of the Pawtucket Municipal Court



**MUNICIPAL COURT
WRIT OF BODY ATTACHMENT**

City of Pawtucket v. Respondent	Civil Action File Number: Address of the Property: Name and Address of Plaintiff's Attorney, if any:
Pawtucket Municipal Court 121 Roosevelt Avenue Pawtucket, RI 02860 (401) 727-9100	

TO THE DULY AUTHORIZED OFFICER:

Please execute a Body Attachment on the following:

Respondent:	Address:

This Court respectfully requests the police to attach the body of the Respondent whose name and address are listed above, and bring the Respondent before the Pawtucket Municipal Court forthwith, to answer for contempt in failing to appear before this court relative to a municipal violation issued by the City of Pawtucket and scheduled for hearing on: _____.

**FAIL NOT TO EXECUTE THIS WRIT OF BODY ATTACHMENT
AND
RETURN THE RESPONDENT TO THIS MUNICIPAL COURT.**

Order of:
Chief Judge/Associate Judge

/s/ _____

This Writ of Body Attachment was entered on _____	/s/ Clerk

Witness the seal/watermark of the Pawtucket Municipal Court

STATE OF RHODE ISLAND AND



PROVIDENCE PLANTATIONS

DISTRICT COURT

WRIT OF BODY ATTACHMENT

Plaintiff	Civil Action File Number
Defendant	Attorney for the Plaintiff or the Plaintiff
J. Joseph Garrahy Judicial Complex 6th Division District Court One Dorrance Plaza Providence RI 02903 (401) 458-5400	Address for the Plaintiff's Attorney or the Plaintiff

TO THE DULY AUTHORIZED OFFICER IN ACCORDANCE WITH TITLE 9, CHAPTER 5 (WRITS, SUMMONS, AND PROCESS) OF THE RHODE ISLAND GENERAL LAWS, WITHIN OUR SEVERAL COUNTIES

Please select one (1) of the following:

Select	Defendant	Address
☐	STATE OF RHODE ISLAND	STATE OF RHODE ISLAND
☐	PROVIDENCE PLANTATIONS	PROVIDENCE PLANTATIONS

We command you to attach the body of the Defendant, whose address is listed above, so that you have the Defendant before the District Court listed above, forthwith, to answer for contempt in failing or refusing to appear for a citation bearing at the District Court on 12/17/2018, and further to do and receive what the District Court shall in that behalf consider.

HEREOF FAIL NOT AND MAKE TRUE RETURN OF THIS WRIT OF BODY ATTACHMENT AND OF YOUR DOINGS THEREON

Order of: /s/

Chief Judge/Associate Judge/Magistrate

This Writ of Body Attachment was entered on	/s/ Clerk

Witness the seal/watermark of the District Court

DC-CMS-9 (revised December 2014)



Donna Nesselbush <donnaesselbush@gmail.com>

Fwd: RI TRAFFIC TRIBUNAL BODY ATTACHMENTS - MAURICE SASSEVILLE - JOSEPH SASSELVILLE

1 message

Donna M. Nesselbush <Dnesselbush@m-n-law.com>
To: "donnaesselbush@gmail.com" <donnaesselbush@gmail.com>

Wed, Jul 24, 2024 at 4:42 PM

Begin forwarded message:

From: Nadine Higgins <NHiggins@pawtucketpolice.com>
Date: September 11, 2019 at 11:26:09 AM EDT
To: "Donna M. Nesselbush" <Dnesselbush@m-n-law.com>, fmiros@pawtucketri.com
Cc: wvieira@pawtucketri.com, "Amponsah, Germain (gamponsah@PAWTUCKETRI.com)" <gamponsah@pawtucketri.com>
Subject: RI TRAFFIC TRIBUNAL BODY ATTACHMENTS - MAURICE SASSEVILLE - JOSEPH SASSELVILLE

Good morning Donna,

Good morning Frank,

I spoke with Mike Egan at the RI Traffic Tribunal today. Unfortunately, RITT's "body attachment" is verbal only. The motorist is informed verbally in person when he or she is attempting to pay their fine. At that time, they are told they need to see the Judge and they are brought into a courtroom.

Mike Egan recommended that we speak to our City Clerk about enacting something in our City Charter.

Also, I am awaiting a phone call from Officer John MacKay who is our Elderly Affairs Officer. I spoke with Officer MacKay Friday and apprised him of Maurice Sasseville, his possible Dementia and his grandson Joseph contempt case with Municipal Court.

For the record, we have two incident reports on file (19-3597-OF 6/9/19) and (19-4707-OF 7/26/19) regarding Maurice Sasseville. I've attached both for your review. The third attachment is images from 19-4707-OF. In any event, both cases involve checking on the well-being of Maurice Sasseville.

I will contact you once I hear back from Officer MacKay.

Best,

Nadine L. Higgins

Police Senior Municipal Court Clerk

Pawtucket Police Department

401-727-9100 ext 824

3 attachments

 **19-3597-OF.pdf**
469K

 **19-4707-OF.pdf**
1655K

 **20190911103603269.pdf**
579K

Natasha King

From: Donna M. Nesselbush
Sent: Thursday, September 12, 2019 12:31 PM
To: Nadine Higgins
Cc: wvieira@pawtucketri.com; Amponsah, Germain (gamponsah@PAWTUCKETRI.com); FMILOS@PAWTUCKETRI.COM
Subject: Re: MAURICE SASSEVILLE

Nadine,

Thank you for obtaining this information for us. We are contemplating "body attachments" only for our most recalcitrant offenders. We are trying to obtain compliance from people who rarely show up to court; hence our need to issue a body attachment and send the police out to execute, bringing them in in custody.

Although the traffic tribunal does not do this, I think the enabling legislation we reviewed with Frank allows us to do so, mirroring the procedures of the District Court.

Accordingly, please obtain a copy of the District Court civil "body attachment" form, and see if you can create an almost identical one on your computer, using the city/court logo.

I'll be in tomorrow morning. Perhaps we can discuss it more in person then.

Thanks so much, and Frank, let us know if you have any input. Once these individuals are brought to the court, by then we will have figured out criminal versus civil contempt, including how to notify them of the contempt charge/proceedings against them as well as their right to be represented by an attorney.

Frank, am I missing anything?

Thank you all... Donna

Donna M. Nesselbush, Esq.



Marasco & Nesselbush
685 Westminister Street
Providence, RI 02903
401.274-7400 (tel) 401.274.0104 (fax)

Excellence is achieved by training and habituation. We do not act rightly because we have virtue or excellence, but we rather have those because we have acted rightly. We are what we repeatedly do. Excellence, then, is not an act but a habit. - Aristotle

Sent from my iPhone

On Sep 12, 2019, at 11:29 AM, Nadine Higgins <NHiggins@pawtucketpolice.com> wrote:



Donna Nesselbush <donnaesselbush@gmail.com>

Fwd: Pawtucket Municipal Court Doc: Body Attachment

1 message

Donna Nesselbush <donnaesselbush@gmail.com>
To: donnaesselbush@gmail.com

Wed, Jul 24, 2024 at 4:44 PM

Begin forwarded message:

From: Donna Nesselbush <donnaesselbush@gmail.com>
Date: July 24, 2024 at 3:41:32 PM EDT
To: donnaesselbush@gmail.com
Subject: Fwd: Pawtucket Municipal Court Doc

Begin forwarded message:

From: "Donna M. Nesselbush" <donnaesselbush@gmail.com>
Date: December 3, 2019 at 4:02:57 PM EST
To: Frank Milos <FMilos@pawtucketri.com>, Nadine Higgins <NHiggins@pawtucketpolice.com>, William Vieira <wvieira@pawtucketri.com>
Cc: Germane Amponsah <gamponsah@pawtucketri.com>
Subject: Fwd: Pawtucket Municipal Court Doc

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My clerk, Nadine Higgins, has obtained a copy of the District Court civil body attachment form. I have edited the document in an attempt to make it a City of Pawtucket (as opposed to District Court) document. However, before we start using it, I am wondering if you or Lisette or Germane could take a look at it to make sure you think it is correct and does not expose the City or the Court to any liability.

I wasn't actually sure by what statutory authority we can issue a body attachment, so I left that part blank. Is that a problem? We should, at least, make sure we have the legal authority to issue body attachments and bring respondents who fail to appear before the court. Let me know if you think we should include the statutory (or ordinance) reference in the actual document.

Thanks so much, and I look forward to hearing your thoughts so we can begin using this document to better compel compliance, especially with recalcitrant respondents.

In the meantime, happy holidays to you and yours and thanks for everything... Donna



MUNICIPAL COURT

WRIT OF BODY ATTACHMENT

City of Pawtucket vs. Respondent	Civil Action File Number:
	Address of the Property:
Pawtucket Municipal Court 121 Roosevelt Avenue Pawtucket, RI 02860 (401) 727-9100	Name and Address of Plaintiff's Attorney, if any:

TO THE DULY AUTHORIZED OFFICER:

Please execute a Body Attachment on the following:

Respondent:	Address:

This Court respectfully requests the police to attach the body of the Respondent whose name and address are listed above, and bring the Respondent before the Pawtucket Municipal Court forthwith, to answer for contempt in failing to appear before this court relative to a municipal violation issued by the City of Pawtucket and scheduled for hearing on:

**FAIL NOT TO EXECUTE THIS WRIT OF BODY ATTACHMENT
AND
RETURN THE RESPONDENT TO THIS MUNICIPAL COURT.**

Order of:
Chief Judge/Associate Judge

/s/

This Writ of Body Attachment was entered on	/s/ Clerk

Witness the seal/watermark of the Pawtucket Municipal Court



DISTRICT COURT

WRIT OF BODY ATTACHMENT

Plaintiff v. Defendant	Civil Action File Number
J. Joseph Garrahy Judicial Complex 6th Division District Court One Dorrance Plaza Providence RI 02903 (401) 458-5400	Attorney for the Plaintiff or the Plaintiff
	Address for the Plaintiff's Attorney or the Plaintiff

TO THE DULY AUTHORIZED OFFICER IN ACCORDANCE WITH TITLE 9, CHAPTER 5 (WRITS, SUMMONS, AND PROCESS) OF THE RHODE ISLAND GENERAL LAWS, WITHIN OUR SEVERAL COUNTIES

Please select one (1) of the following:

Select	Defendant	Address
☐		
☐		

We command you to attach the body of the Defendant, whose address is listed above, so that you have the Defendant before the District Court listed above, forthwith, to answer for contempt in failing or refusing to appear for a citation hearing at the District Court on 12/17/2018, and further to do and receive what the District Court shall in that behalf consider.

HEREOF FAIL NOT AND MAKE TRUE RETURN OF THIS WRIT OF BODY ATTACHMENT AND OF YOUR DOINGS THEREON

Order of: /s/

Chief Judge/Associate Judge/Magistrate

This Writ of Body Attachment was entered on	/s/ Clerk

Witness the seal/watermark of the District Court

EXHIBIT 24

Donna M. Nesselbush

From: Donna M. Nesselbush
Sent: Monday, June 7, 2021 4:44 PM
To: dbazar@bazarlaw.com; Valentino Lombardi; 'jgrasso@grassolaw.net'
Cc: fconnor@bartongilman.com; jhowlett@cox.net; Paul Silva, Esquire; kdh@hcalawri.com; joseph.carroll; rkyte1@cox.net; rcooneyesq@cox.net; bmccConnell@motleyrice.com; lenihanlaw1@verizon.net; Arthur G. Capaldi (agc@cblaw.necoxmail.com); jboulanger11@verizon.net; matthew.smith1989@verizon.net; mesmithesq@gmail.com; jbolton@hinckleyallen.com; rragosta@aol.com; frank.cslawoffice@gmail.com; coia@nelhsf.com; scott@b-plaw.com; gfurtado@lwfmlaw.com; mdichiro@1405lawoffices.com; marzillilaw@yahoo.com; lgrande@bbglaw.us; rmsilva@silvalawgroup.com; jdecubellis@nea.org; jrj@jacksononeill.com; jwhite@rc.com; Bob Peretti; Joseph Flynn; Valentino Lombardi; aram@jarretlaw.com; wdevereaux@pdlaw.com; jack@gbdvlaw.com; ftcaprio@gmail.com; jayomay@aol.com; mckiernanlawri@gmail.com; Tom Dickenson; wrampone@aol.com; david@iglozzireis.com; wpoore@poorerosenbaum.com; jdonnelly@donnpan.com; Jay Rego; John Brunero; plewiss@lewislaw.com; tmpriolesq@verizon.net; Richard D'addario; office@capriolaw.com; frank.cslawoffice@gmail.com; Lisette Gomes; ddisandro@courts.ri
Subject: Municipal Court Judges' Association Meeting

Dear Municipal Court Judge:

I'm writing to formally invite you to our Municipal Court Judges' Association luncheon on Tuesday, June 29, 2021, to be held at the Capital Grille in Downtown Providence.

Unfortunately, the Aurora Club will be closed that week so our meeting will be held at the Capital Grille this year. They can accommodate us with a fabulous "prix fixe" meal at the cost of \$45 per person which includes tax and tip. I will send a subsequent email with meal choices.

Please pre-pay for the luncheon (or bring a check that day), making your check payable to the Municipal Court Judges' Association. Please send the check to our Treasurer, North Providence Judge Valentino Lombardi, 959 Mineral Spring Ave., North Providence, RI, 02904.

Given Covid, it has been a while since we have been able to get together. I hope to have both a substantive meeting and some social time afterwards, so please feel free to stick around afterwards, if that works with your schedule.

Chief Magistrate Domenic DiSandro will address all of us as to the challenges and repercussions of Covid on traffic courts as well as pertinent appellate issues from the last few years.

I will also be asking Magistrate Joseph Abbate to chair an ad hoc committee to plan a CLE for Municipal Court Judges in the fall. If any of you would like to be on the committee, please let me know. Otherwise, I will announce the ad hoc committee at our June meeting and request participation. I think it's important that new (and existing) Municipal Court Judges have some training and some idea of the appellate issues that have been active and on the table during the past several years.

Municipal Court Judges can change frequently, so we may not have an accurate list. If you know of any Municipal Court Judge who is not on this email, please forward this email to her/him, and copy me so that I can update our ever-changing list.

Thank you, and I look forward to seeing you on June 29, 2021. Please send in your check as soon as possible.

Sincerely yours,

Donna M. Nesselbush

President, Municipal Court Judges' Association

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From: jgrasso@grassolaw.net <jgrasso@grassolaw.net>
Sent: Wednesday, May 18, 2022 5:24 PM
To: 'Donna Nesselbush' <donnaneselbush@gmail.com>
Cc: Horwitz, Andrew <ahorwitz@rwu.edu>
Subject: [EXT] RE: Thank you & Connecting you

Thank you, Donna. Andy, it would be great if you can have a presentation at our future Mun. Court CLE. I wasn't too familiar with the Driver License Restoration Project and would like this as one of the subject matters of the CLE. I can coordinate with you over the next week or so.

My cell number is [REDACTED]

Jacqueline M. Grasso, Esq.

<https://nam02.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.grassolaw.net%2F&data=05%7C01%7Cahorwitz%40rwu.edu%7Cc445be1c94e14501ae1d08da39acfe44%7Cd84edea239e2410aa672331c49c8c4e2%7C0%7C0%7C637885712400980205%7CUnknown%7CTWFpbGZsb3d8eyJWljoImMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTil6lk1haWwiLCJXVCi6Mn0%3D%7C3000%7C%7C%7C&sdata=kO3d9shcC%2FzZGCvRxsRbn9u7syKudLr087MQ%2BLq2DyQ%3D&reserved=0>

Grasso Law Offices

1310 Atwood Avenue

Johnston, RI 02919

401-946-4500; 508-336-5600; fax: 401-946-4502

-----Original Message-----

From: Donna Nesselbush <donnanesselbush@gmail.com>

Sent: Wednesday, May 18, 2022 5:07 PM

To: Jacqueline Grasso <jgrasso@grassolaw.net>

Cc: Andrew Horwitz <ahorwitz@rwu.edu>

Subject: Thank you & Connecting you

Dear Jacqui and Andy,

Thank you both for participating in today's meeting. This email will serve to connect the two of you for our upcoming CLE or other purposes.

Have a great evening... Donna

Donna M. Nesselbush, Esq.

--

This email has been checked for viruses by AVG.

<https://nam02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.avg.com%2F&data=05%7C01%7Cahorwitz%40rwu.edu%7Cc445be1c94e14501ae1d08da39acfe44%7Cd84edea239e2410aa672331c49c8c4e2%7C0%7C0%7C637885712400980205%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTil6lk1haWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&sdata=11IB1YgeqNJyYzmC9%2FnNAV6wlDrn5J1xeuTe8rj1vYw%3D&reserved=0>



Donna Nesselbush <donnanelbush@gmail.com>

Fwd: Recording

1 message

Donna Nesselbush <donnanelbush@gmail.com>
To: donnanelbush@gmail.com

Wed, Jul 24, 2024 at 3:39 PM

Begin forwarded message:

From: Donna Nesselbush <donnanelbush@gmail.com>
Date: June 19, 2019 at 2:00:37 PM EDT
To: Nadine Higgins <NHiggins@pawtucketpolice.com>
Cc: jgrasso@grassolaw.net
Subject: Recording

Nadine,

Judge Grasso from Johnston May be contacting you for information about our recording system. Please help her out anyway you can. TY...Donna

Senator Donna M. Nesselbush
District 15 - Pawtucket & North Providence

Rhode Island Senate Chamber
Room 212, Rhode Island State House
Providence, Rhode Island 02903

401.276.5568 - Phone
401.222.4263 - Fax
sen-nesselbush@rilegislature.gov

Sent from my iPhone

EXHIBIT 25

From: Donna Nesselbush donnanesselbush@gmail.com
Subject: Fwd: Enforcement of Municipal Ordinances
Date: Jun 19, 2024 at 12:24:51 PM
To: donnanesselbush@gmail.com

See the section in the brief entitled

Collecting fines imposed by the municipal courts, page 38
...Donna

Donna M. Nesselbush, Esq.

Begin forwarded message:

From: Bob Peretti <bob@lp.legal>
Date: April 3, 2023 at 4:07:40 PM EDT
To: Donna Nesselbush <donnanesselbush@gmail.com>, "Donna M. Nesselbush" <Dnesselbush@m-n-law.com>, David Bazar <dbazar@bazarlaw.com>, Jacqueline Grasso <jgrasso@grassolaw.net>, Valentino Lombardi <vnl66@aol.com>
Cc: fconnor@bartongilman.com, jhowettlaw@cox.net, psilvalaw@cox.net, NickGorham@gorhamlaw.com, Joseph@molinaflynn.com, municipalcourt@hopkintonri.org, agc@cblaw.necoxmail.com, jboulanger11@verizon.net, matthew.smith1989@verizon.net, mforteri@gmail.com, angelyne.e.cooper@gmail.com, mdiscristofaro@rils.org, nsolitro@gmail.com, rragosta@aol.com, scott@b-plaw.com, Lisette Gomes <lisette.gomes3@gmail.com>, mtourgee@itwlaw.com, aram@jarretlaw.com, NickGorham@gorhamlaw.com, municipalcourt@hopkintonri.org, Frank <fmanni@1405lawoffices.com>, municipalcourt@lincolnri.org, fholbrook@millerscott.com, MunicipalCourt@northkingstown.org,

Jalyward@northkingstown.org, aram@jarretlaw.com,
jhowettlaw@cox.net, Jack@gbdvlaw.com, Richard D'addario
<rdaddario@daddariolaw.com>, mckiernanlawri@gmail.com,
office@capriolaw.com, lisa.bortolotti@gmail.com,
rh@rhumphreylaw.com, Thomas Dickinson <tmd@appealri.com>,
mikeursillo@utrlaw.com, Norman Landroche
<norman@murphyandfay.com>, Imanfred@cox.net, Domenic
DiSandro <ddisandro@courts.ri.gov>, Joseph Abbate
<jabbate@courts.ri.gov>, WNoonan@courts.ri.gov,
agoulart@courts.ri.gov, EParker@courts.ri.gov,
ekruseweller@courts.ri.gov, mdichiro@courts.ri.gov,
jdecubellis@nea.org, jtarro@narragansetttri.gov,
steven@moretti.legal, Nadine Higgins
<NHiggins@pawtucketpolice.com>

Subject: RE: Enforcement of Municipal Ordinances

Dear Judge Nesselbush –

Thank you very much for reaching out to our fellow judges for their ideas on this subject.

I welcome their input and ideas.

I would like to thank you all in advance and to wish everyone a blessed Easter and Passover season.

Best regards,

Bob Peretti

Robert A. Peretti, Esq.

Chief Municipal Court Judge

Town of North Providence

1140 Reservoir Avenue – Suite 201

Cranston, RI 02920

(401) 273-7747 (o)

(401) 946-6333 (fax)

e-mail: bob@peretti.legal or bob@lp.legal



**PLEASE VERIFY AND CONFIRM OUR WIRING INSTRUCTIONS VERBALLY
BEFORE SENDING FUNDS TO THIS OFFICE.**

From: Donna Nesselbush <donnanesselbush@gmail.com>

Sent: Monday, April 3, 2023 2:02 PM

To: Donna M. Nesselbush <Dnesselbush@m-n-law.com>; David Bazar
<dbazar@bazarlaw.com>; Jacqueline Grasso <jgrasso@grassolaw.net>; Valentino Lombardi
<vnl66@aol.com>

Cc: fconnor@bartongilman.com; jhowettlaw@cox.net; psilvalaw@cox.net;
NickGorham@gorhamlaw.com; Joseph@molinaflynn.com; municipalcourt@hopkintonri.org;
agc@cblaw.necoxmail.com; jboulanger11@verizon.net; matthew.smith1989@verizon.net;
mforteri@gmail.com; angelyne.e.cooper@gmail.com; mdiscristofaro@rils.org;
nsolitro@gmail.com; rragosta@aol.com; scott@b-plaw.com; Lisette Gomes
<lisette.gomes3@gmail.com>; mtourgee@itwlaw.com; aram@jarretlaw.com;
NickGorham@gorhamlaw.com; municipalcourt@hopkintonri.org; Frank
<fmanni@1405lawoffices.com>; municipalcourt@lincolnri.org; fholbrook@millerscott.com;
MunicipalCourt@northkingstown.org; Jalyward@northkingstown.org; Bob Peretti
<bob@lp.legal>; aram@jarretlaw.com; jhowettlaw@cox.net; Jack@gbdvlaw.com; Richard
D'addario <rdaddario@daddariolaw.com>; mckiernanlawri@gmail.com;
office@capriolaw.com; lisa.bortolotti@gmail.com; rhh@rhumphreylaw.com; Thomas Dickinson
<tmd@appealri.com>; mikeursillo@utrlaw.com; Norman Landroche
<norman@murphyandfay.com>; Imanfred@cox.net; Domenic DiSandro
<ddisandro@courts.ri.gov>; Joseph Abbate <jabbate@courts.ri.gov>;
WNoonan@courts.ri.gov; agoulart@courts.ri.gov; EParker@courts.ri.gov;
ekruseweller@courts.ri.gov; mdichiro@courts.ri.gov; jdecubellis@nea.org;
jtarro@narragansett.ri.gov; steven@moretti.legal; Nadine Higgins
<NHiggins@pawtucketpolice.com>

Subject: Enforcement of Municipal Ordinances

Dear Judges:

Greetings, and I hope this email finds you well. Hopefully, the stars will align to allow us to schedule our annual Municipal Court Judges' luncheon this coming June.

In the meantime, Judge Peretti from North Providence has reached out to me inquiring about possible enforcement ideas regarding Municipal ordinances. For example, he wonders what to do when residents or non-residents have been cited for smoking tobacco or cannabis in public, drinking in public, curfew violations, and/or violations of similar ordinances. Essentially the question is what do we do if the person cited does not appear and does not own property in the municipality?

Judge Peretti suggested having a central municipal registry of violators who failed to appear or otherwise owe fines to the municipality, suggesting that perhaps they could be denied other municipal services until they deal with the issue, whether that be by appearing in court on a motion to vacate, or for an ability to pay hearing or by paying the fine.

I thought I would put this out to the group to see if anyone has any procedures that are working for their municipality or any ideas.

If you do have procedures or ideas, please respond using "reply all," so we can all benefit from this information.

Also, as always, if you notice that any people/judges are on this list or not on this list in error, please let me know. I do my best to maintain an active list.

Thank you, and hope to see you all in June... Donna.

Donna M. Nesselbush, Esq.



**Donna M.
Nesselbush
(She/her/hers)**

(O): 401-709-4955

(F): 401-274-0104

**685 Westminster
Street
Providence, RI
02903**

**www.M-N-
Law.com**

Please be advised that we are a full service law firm, focusing on Social Security Disability, Personal Injury, Car Accidents, Medical Malpractice, Premises Liability, Product Liability, and Catastrophic Injury.

...Donna

Donna M. Nesselbush, Esq.

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EXHIBIT 26



Donna Nesselbush <donnaesselbush@gmail.com>

Fwd: Municipal Court-Covid

1 message

Donna Nesselbush <donnaesselbush@gmail.com>
To: donnaesselbush@gmail.com

Wed, Jul 24, 2024 at 3:43 PM

Begin forwarded message:

From: Donna Nesselbush <donnaesselbush@gmail.com>
Date: April 9, 2020 at 12:22:15 PM EDT
To: Nadine Higgins <NHiggins@pawtucketpolice.com>
Subject: Re: Municipal Court

Nadine,
How does this look? Did I leave anything out? LMK. Thanks...Donna

April 9, 2020

The Pawtucket Municipal Traffic and Housing Court sessions have been cancelled, due to the Covid pandemic, since March 19, 2020. Court sessions will remain cancelled until further notice.

Both courts remain open for inquiries and emergency matters.

For inquiries or emergencies regarding the municipal traffic court, please contact Clerk Nadine Higgins at 401-727-9100 X824, or email: NHiggins@PawtucketPolice.com.

For inquiries or emergencies relative to the housing court, please contact Clerk Donna Pinto at 401-616-2280, or email: DPinto@PawtucketRI.com.

Matters that were scheduled before either court have been rescheduled, and notices have been sent out to the affected motorists and/or property owners.

Parking tickets can be paid via mail, or online or through a dropbox located in front of City Hall.

For more information, please visit PawtucketRI.com  Government  Municipal Traffic Court and/or  Municipal Housing Court.

During this pandemic, the court remains dedicated to high-quality public service, urging all motorists and residents to remain healthy and well.

By Order:

Donna M. Nesselbush
Pawtucket Municipal Court
Chief Judge



Donna Nesselbush <donnaesselbush@gmail.com>

Fwd: GDS letter to motorists

1 message

Donna Nesselbush <donnaesselbush@gmail.com>
 To: donnaesselbush@gmail.com

Wed, Jul 24, 2024 at 3:48 PM

Begin forwarded message:

From: Donna Nesselbush <donnaesselbush@gmail.com>
Date: May 13, 2020 at 12:11:49 PM EDT
To: Nadine Higgins <NHiggins@pawtucketpolice.com>
Cc: Jack Gannon <jack@gbdvlaw.com>, Natasha King <Nking@m-n-law.com>
Subject: GDS letter to motorists

Nadine,

Hope this email finds you healthy and well, and I'm sure you are glad to be back to work! Anyway, this letter was harder and took me longer than I thought. Below is my first draft. I'm sure I have forgotten things. Also, I'm going to reach out to the judge in Johnston to see if I can get a copy of whatever letter they might be sending out, in case they had any better ideas. I listed the options in the order I assume we would prefer which is electronically, by mail, by appointment at the clerks office and lastly by coming into court.

Let me know your thoughts. Feel free to make any edits. Give me a call if it's easier.

Also, how many tickets do we have pending on a regular docket and how many are pending from the camera enforcement program? Are the red light cameras working and are tickets or warnings being issued?

I'm copying Judge Gannon just to keep him in the loop.

Give me a call when it's convenient, and thanks for everything... Donna

Dear Motorist:

As you know, you have been cited by Pawtucket Police with an alleged traffic violation. A court date was scheduled, but due to the coronavirus, has been postponed.

We have reviewed your driving record, and we are writing to inform you that you qualify for a dismissal of the violation based upon the "good driver's statute" (see RIGL §31-??-?).

Normally, a motorist must personally appear in court to request dismissal under the "good driver statute." However, in an effort to keep people safe and practice "social distancing," we are providing motorists the opportunity to have the matter dismissed electronically or via the mail, with no need to appear in court.

If you feel you are guilty of the traffic violation as alleged, you can request that the matter be dismissed under the good drivers statute upon payment of sixty dollars (\$60). The \$60 consists of a \$25 surcharge to use the good driver's statute and \$35 of court processing costs.

There are four (4) ways you can request a good driver's statute dismissal:

- 1.) You can copy and paste the declaration at the bottom of this page into an email and send it to the Pawtucket Municipal Court Clerk, Nadine Higgins, at nhiggins@pawtucketpolice.com. Then, go online at www.PawtucketRI.com (Na, provide the exact link) and pay the \$60 electronically.
- 2.) you can sign the declaration at the bottom of the page, and regular mail it to: Pawtucket Mun. Court, 121 Roosevelt Ave., Pawtucket, RI with a check or money order made out to the Pawtucket Municipal Court in the amount of \$60.
- 3.) you can call the Pawtucket Mun. Court Clerk at 401-xxx-xxxx to schedule an appointment time to go to City Hall, sign the declaration at the bottom of this page and pay \$60 by check, money order or cash.

4.) You can also choose to wait until the Pawtucket Municipal Court reopens for court sessions, and you can opt to appear in person to request dismissal under the good drivers statute. If you choose this option, you will be notified of your court date. If you do not receive notification or do not know when to appear in court, Please call Clerk Nadine Higgins at 401-xxx-xxxx.

Please be advised that a good driver's statute dismissal is only available upon a guilty plea, Meeting the motorist must feel s/he is guilty of the violation. However, motorists also have the legal right to plead not guilty. If you wish to plead not guilty, you may do so by appearing personally in court once the court reopens and your case is scheduled on the court's docket.

Good Driver's Statute Declaration:

I, _____, declare that I wish to plead guilty to the traffic violation with which I was charged (do we need to more specifically identify it?), and I request that the matter be dismissed under the good driver's statute. Enclosed is my payment of \$60.

Signature Date

Senator Donna M. Nesselbush
District 15 - Pawtucket & North Providence

Rhode Island Senate Chamber
Room 212, Rhode Island State House
Providence, Rhode Island 02903

401.276.5568 - Phone
401.222.4263 - Fax
sen-nesselbush@rilegislature.gov

Sent from my iPhone



Donna Nesselbush <donnaesselbush@gmail.com>

Fwd: GDS letter to motorists

1 message

Donna Nesselbush <donnaesselbush@gmail.com>

Wed, Jul 24, 2024 at 3:48 PM

To: donnaesselbush@gmail.com

Begin forwarded message:

From: Donna Nesselbush <donnaesselbush@gmail.com>**Date:** May 19, 2020 at 1:12:28 PM EDT**To:** Nadine Higgins <NHiggins@pawtucketpolice.com>, Natasha King <Nking@m-n-law.com>**Subject:** Fwd: GDS letter to motorists

Nadine, please take another look. You made an edit I did not understand regarding waiting 2 days for the website to update to \$60. Call me to let me know what that means and to discuss other things, but please give this a final eyeball, so I can try to move it forward. Thanks and call me when you can....Donna

Dear Motorist:

As you know, you have been cited by Pawtucket Police with an alleged traffic violation. A court date was scheduled, but has been postponed due to the coronavirus.

We have reviewed your driving record, and we are writing to inform you that you qualify for a dismissal of the violation based upon the "good driver's statute" (see RIGL § 31-41.1-7).

Normally, a motorist must personally appear in court to request dismissal under the "good driver statute." However, in an effort to keep people safe and practice "social distancing," we are providing motorists the opportunity to have the matter dismissed electronically or via the mail, with no need to appear in court.

If you feel you are guilty of the traffic violation as alleged, you can request that the matter be dismissed under the good driver's statute upon payment of sixty dollars (\$60). The \$60 consists of a \$25 surcharge to use the good driver's statute and \$35 of court processing costs.

There are four (4) ways you can request a good driver's statute dismissal:

- 1.) You can copy and paste the declaration at the bottom of this page into an email and send it to the Pawtucket Municipal Court Clerk, Nadine Higgins, at nhiggins@pawtucketpolice.com. If you choose to pay the \$60 online, go to www.paybill.com/pawtucketpolice and pay the \$60 electronically.
- 2.) you can sign the declaration at the bottom of the page, and drop it and your check or money order in the "Drop Box" outside City Hall or regular mail it to: Pawtucket Municipal Court, 121 Roosevelt Ave., Pawtucket, RI with a check or money order made out to the Pawtucket Municipal Court in the amount of \$60.
- 3.) you can call the Pawtucket Municipal Court Clerk at 401-727-9100 ext 824 to schedule an appointment time to go to City Hall, sign the declaration at the bottom of this page and pay \$60 by check, money order or cash.
- 4.) You can also choose to wait until the Pawtucket Municipal Court reopens for court sessions, and you can opt to appear in person to request dismissal under the good driver's statute. If you choose this option, you will be notified at a later date of your court date. If you do not receive notification or do not know when to appear in court, please call Clerk Nadine Higgins at 401-727-9100 ext 824.

Please be advised that a good driver's statute dismissal is only available upon a guilty plea, meaning the motorist must feel s/he is guilty of the violation. However, motorists also have the legal right to plead not guilty. If you wish to plead not guilty, you may do so by appearing personally in court once the court reopens and your case is scheduled on the court's docket.

This process is only available through June 30, 2020.

Good Driver's Statute Declaration:

I, _____, declare that I wish to plead guilty to the traffic violation with which I was charged, and I request that the matter be dismissed under the good driver's statute. Enclosed is my payment of \$60.

Signature

Date

Senator Donna M. Nesselbush
District 15 - Pawtucket & North Providence

Rhode Island Senate Chamber
Room 212, Rhode Island State House
Providence, Rhode Island 02903

401.276.5568 - Phone
401.222.4263 - Fax
sen-nesselbush@rilegislature.gov

Sent from my iPhone

2 attachments

 **20200513130925724.pdf**
71K

 **20200513131056982.pdf**
31K



Donna Nesselbush <donnanesselbush@gmail.com>

Fwd: Authorization to adjudicate GDR without police prosecution present

1 message

Donna Nesselbush <donnanesselbush@gmail.com>
To: donnanesselbush@gmail.com

Wed, Jul 24, 2024 at 3:49 PM

Begin forwarded message:

From: Donna Nesselbush <donnanesselbush@gmail.com>
Date: May 20, 2020 at 3:50:53 PM EDT
To: Dylan Zelazo <dzelazo@pawtucketri.com>
Cc: Tina Goncalves <tgoncalves@pawtucketpolice.com>, Frank Milos <FMilos@pawtucketri.com>, Nadine Higgins <NHiggins@pawtucketpolice.com>
Subject: Fwd: Authorization to adjudicate GDR without police prosecution present

Hi All...

I forgot to send this this with my last email about offering the GDS by mail. This is just to show you what RITT sent to all municipalities, and we here in Pawtucket opted in.

Thanks...Donna

Senator Donna M. Nesselbush

District 15 - Pawtucket

Rhode Island Senate Chamber
Room 212, Rhode Island State House
Providence, Rhode Island 02903

401.276.5568 - Phone
401.222.4263 - Fax
sen-nesselbush@rilegislature.gov

Begin forwarded message:

From: Nadine Higgins <NHiggins@PAWTUCKETPOLICE.COM>
Date: May 8, 2020 at 12:35:53 PM EDT
To: "donnanesselbush@gmail.com" <donnanesselbush@gmail.com>, "Donna M. Nesselbush" <Dnesselbush@m-n-law.com>
Subject: FW: Authorization to adjudicate GDR without police prosecution present

From: Ricci, John <jricci@courts.ri.gov>
Sent: Friday, April 17, 2020 12:32 PM
To: Nadine Higgins <NHiggins@PAWTUCKETPOLICE.COM>
Subject: FW: Authorization to adjudicate GDR without police prosecution present

From: DiSandro, Domenic A.
Sent: Thursday, April 16, 2020 9:41 AM
To: Ricci, John
Subject: Authorization to adjudicate GDR without police prosecution present



Document1.docx
15K



Donna Nesselbush <donnaesselbush@gmail.com>

Fwd: Authorization to adjudicate GDR without police prosecution present

1 message

Donna Nesselbush <donnaesselbush@gmail.com>

Wed, Jul 24, 2024 at 3:50 PM

To: donnaesselbush@gmail.com

Begin forwarded message:

From: Donna Nesselbush <donnaesselbush@gmail.com>**Date:** May 27, 2020 at 5:23:41 PM EDT**To:** Dylan Zelazo <dzelazo@pawtucketri.com>**Cc:** "Goncalves, Tina" <tgoncalves@pawtucketpolice.com>, "Milos, Frank" <FMilos@pawtucketri.com>, "Higgins, Nadine" <nhiggins@pawtucketpolice.com>**Subject:** Re: Authorization to adjudicate GDR without police prosecution present

Dylan,

No worries. I know you all have a lot on your plate! Yes, a zoom call would be a great idea. I know Johnston is doing GDS's by mail. I'm quite friendly with their judge and city solicitor so I will reach out and inquire regarding their thoughts on charging court costs??

Just give me one or two times for a zoom call, and I'll make it work!!

Thanks so much...Donna

Senator Donna M. Nesselbush

District 15 - Pawtucket & North Providence

Rhode Island Senate Chamber

Room 212, Rhode Island State House

Providence, Rhode Island 02903

401.276.5568 - Phone

401.222.4263 - Fax

sen-nesselbush@rilegislature.gov

Sent from my iPhone

On May 27, 2020, at 1:51 PM, Dylan Zelazo <dzelazo@pawtucketri.com> wrote:

Judge/Senator,

Please excuse my delayed response. Thought I had responded, but just checked and realized that I didn't.

Can we meet (via Zoom) to discuss? I'd like to discuss the administrative/operational implications as well as the budgetary. It's important for me to be able to understand the timeline a bit better, too, which I'm sure is still a bit of a moving target, but you likely have the best information on the topic.

Please let me know and I apologize again.

Dylan

----- Original message -----

From: Donna Nesselbush <donnaesselbush@gmail.com>

Date: 5/20/20 3:50 PM (GMT-05:00)

To: Dylan Zelazo <dzelazo@PAWTUCKETRI.com>

Cc: "Goncalves, Tina" <tgoncalves@pawtucketpolice.com>, "Milos, Frank" <FMilos@PAWTUCKETRI.com>, "Higgins, Nadine" <nhiggins@pawtucketpolice.com>

Subject: Fwd: Authorization to adjudicate GDR without police prosecution present

Hi All...

I forgot to send this this with my last email about offering the GDS by mail. This is just to show you what RITT sent to all municipalities, and we here in Pawtucket opted in.

Thanks...Donna

Senator Donna M. Nesselbush

District 15 - Pawtucket

Rhode Island Senate Chamber

Room 212, Rhode Island State House

Providence, Rhode Island 02903

401.276.5568<tel:401.276.5568> - Phone

401.222.4263<tel:401.222.4263> - Fax

sen-nesselbush@rilegislature.gov<mailto:sen-nesselbush@rilegislature.gov>

Begin forwarded message:

From: Nadine Higgins <NHiggins@PAWTUCKETPOLICE.COM>

Date: May 8, 2020 at 12:35:53 PM EDT

To: "donnalesselbush@gmail.com" <donnalesselbush@gmail.com>, "Donna M. Nesselbush" <Dnesselbush@m-n-law.com>

Subject: FW: Authorization to adjudicate GDR without police prosecution present

From: Ricci, John <jricci@courts.ri.gov>

Sent: Friday, April 17, 2020 12:32 PM

To: Nadine Higgins <NHiggins@PAWTUCKETPOLICE.COM>

Subject: FW: Authorization to adjudicate GDR without police prosecution present

From: DiSandro, Domenic A.

Sent: Thursday, April 16, 2020 9:41 AM

To: Ricci, John

Subject: Authorization to adjudicate GDR without police prosecution present

 **winmail.dat**
9K



Donna Nesselbush <donnaesselbush@gmail.com>

Mun. Ct. / Sep of Powers

1 message

Donna Nesselbush <donnaesselbush@gmail.com>

Mon, Sep 12, 2022 at 8:11 AM

To: Frank Milos <FMilos@pawtucketri.com>, Tina Goncalves <tgoncalves@pawtucketpolice.com>

Cc: Don Grebien <dgrebien@pawtucketri.com>, Dylan Zelazo <dzelazo@pawtucketri.com>

Bcc: tmerc@pawtucketri.com, nking@m-n-law.com, nlhiggins528@gmail.com

Dear Frank and Tina,

Thanks for a great meeting last Friday. I think we are off to a good start. Tina, thanks for coming by, even after all the DHL commotion.

Below is some information regarding how Providence administers their court. As I expected, they keep things separate.

I look forward to discussing this and more at our next meeting on September 23. See you both then.

...Donna

Donna M. Nesselbush, Esq.

Begin forwarded message:

From: "Butler, Patrick" <Pbutler@providenceri.gov>

Date: September 9, 2022 at 11:45:41 AM EDT

To: "Donna M. Nesselbush" <donnaesselbush@gmail.com>

Subject: Answers

Judge,

I'm sorry for the delay. Here is the information you requested.

Patrick

What are the titles of the various positions?

1. Court Administrator, 2. Clerk of the Court (this is at the moment only a part-time position currently held by retired Clerk of Court), 3. Deputy Court Administrator, 4. Deputy Clerk of Court, 5. Court Clerk II(2 positions), 6. Court Clerk-Grade 21(3 positions), 7. Bilingual Clerk-Grade 16

8. Court Clerk-Grade 15

Are those employees considered employees of the Municipal Court, or employees of the police department?

Municipal Court

Is the funding (that pays Providence Municipal Court employees) part of the city's budget, or part of the police department's budget?

City's Budget

Are the employees of the Providence Municipal Court supervised by police personnel or by court personnel/judges?

Court Personnel/Judges

I understand that the Providence Municipal Court is physically located in the public safety complex. How would you describe the relationship between the Providence Municipal Court and Providence Police Department, given that you are both housed in the same building? Is there any overlap in terms of jobs or job responsibilities or supervision? Or, are those two entities totally and completely separate?

The 2 entities are completely separate.

What entities are housed in the Providence public safety complex? The fire department? The police department? The Municipal Court? The public safety department? Any other entities?

Police Department, Fire Department, Municipal Court, Housing Court, Commissioner's Office

Is each entity separate? Do any staff members work simultaneously for more than one entity that is housed in the public safety complex?

Municipal Court employees have no other job responsibilities in any departments.

No we do not

Do any Providence Municipal Court employees have any job responsibilities for any other city department (the police department or any other department)?

No they do not.



Donna Nesselbush <donnaesselbush@gmail.com>

Fwd: Covid GDS via the mail

1 message

Donna Nesselbush <donnaesselbush@gmail.com>

Mon, Nov 30, 2020 at 12:04 PM

To: Tina Goncalves <tgoncalves@pawtucketpolice.com>

Cc: Nadine Higgins <NHiggins@pawtucketpolice.com>, Dylan Zelazo <dzelazo@pawtucketri.com>

Bcc: Nking@m-n-law.com

Dear Chief:

I hope you had a wonderful Thanksgiving. Here is the response I received from RITT Chief Judge DiSandro. I'm not sure who stated that if a motorist does not appear in court, you cannot charge court costs? As I thought, the Chief's email corroborates the fact that RITT has been doing this, without incident, essentially since the pandemic began.

Given the holidays and the potential for a "surge upon a surge," I do think that we should begin a conversation in earnest as to how we can offer GDS dismissal via email or snail mail.

Nadine, do you have those letters I drafted sometime ago? I'd like to read them again in light of what I have learned about how RITT has been doing this.

We have so many camera tickets. If the pandemic does allow for any court sessions, I would rather have our judicial and prosecutorial resources available for those, as opposed to the GDS dismissals.

Nadine, if you have those draft letters, please forward them to all of us on this email in case anyone has any input or concerns.

Dylan, any progress on my getting an email address from the city?

Stay safe, and thanks so much... Donna

Senator Donna M. Nesselbush
District 15 - Pawtucket & North Providence

Rhode Island Senate Chamber
Room 212, Rhode Island State House
Providence, Rhode Island 02903

401.276.5568 - Phone
401.222.4263 - Fax
sen-nesselbush@rilegislature.gov

Sent from my iPhone

Begin forwarded message:

From: "DiSandro, Domenic A." <DDiSandro@courts.ri.gov>
Date: November 25, 2020 at 5:21:31 PM EST
To: Donna Nesselbush <donnaesselbush@gmail.com>
Subject: RE: Covid GDS via the mail

Dear Judge Nesselbush,

Sorry for my delayed response to your email of November 23, 2020 as I have been swamped with disposition at the Traffic Tribunal. I find myself down several Judges due to health and vacation issues and have been covering calendars. As we discussed during our recent phone conversation relative to the administrations of your court and covid issues, The Traffic tribunal remains under Chief Justice Suttell's Emergency Order restricting court calendars to emergency matters and remote hearing as well as greatly

restricting the capacity of courthouse attendance by members of the public. To this end, with the written authorization of all the prosecution officers, we have been very active in reaching out to motorist ahead of scheduled hearing dates in attempt to settle and dispose of as many matters without requiring the motorist attendance before the court. All Tribunal tickets scheduled are screened for possible dispositions to include : cell phone violations, seat belt violations, dismissal for good driving, inspection stickers, registration violations, proof of insurance violations, stipulated guilty pleas for moving violations, stipulated disposition pleas regarding Chemical Breath refusals. All motorist with a poor driving record, serious moving violation, or contested hearing is required to attend a court hearing. Motorist are phoned, emailed, or mailed USPS in attempt to make contact to determine if the motorist has any documentation to show corrective action. In all disposition, the Tribunal has been assessing an "administration fee" to cover the cost of disposing the case. This is standard court costs irrespective of the motorist attending any court appearance. The motorist are informed of the administration fee and seem more than willing to understand and accept it for the convenience of not appearing in person. In fact, most motorist have expressed their sincere thanks and appreciation to our staff. To date the Tribunal has been very successful in disposing of traffic case. In fact the Traffic Tribunal has no backlog of cases. Please review the above and feel free to contact me regarding any question or concern you may have. As always I remain accessible to help you in the administration of your court. Best of luck.

Very truly yours,
Chief DiSandro

-----Original Message-----

From: Donna Nesselbush <donnaesselbush@gmail.com>
Sent: Monday, November 23, 2020 10:52 AM
To: DiSandro, Domenic A. <DDiSandro@courts.ri.gov>
Cc: Tina Goncalves <tgoncalves@pawtucketpolice.com>; Dylan Zelazo <dzelazo@PAWTUCKETRI.com>
Subject: Covid GDS via the mail

Dear Chief DiSandro:

Thank you for all you have done and are doing to keep the Rhode Island Traffic Tribunal running and operating during this pandemic. Rhode Island owes you a debt of gratitude!

It is my understanding that for many months now RITT has been adjudicating traffic violations, whenever possible, without the motorist actually going to court. It is my understanding that your staff calls alleged violators, offering the "good driver's statute" when applicable via email or snail mail, and that the same is true with inspection/registration violations, again, whenever possible.

We in Pawtucket probably do not have the staff capability to call all motorists, but we are considering sending out a standard letter. We would start with those who appear to qualify for the good driver's statute, allowing them (via email, snail mail or our Dropbox) to plead guilty, with GDS consideration and pay the \$25 GDS surcharge, plus the \$35 court costs. It is also my understanding that you are calling the \$35 fee an "administrative fee" rather than "court costs."

I am interested in following suit here in Pawtucket, but our police chief, Chief Tina Goncalves believes that RITT policy is that we cannot charge court costs if the motorist does not actually appear in court?? This is inconsistent with the information we discussed last Thursday and inconsistent with the quantity of administrative/court work involved in processing these cases without a court appearance.

Can you please confirm whether you see any issues with us in Pawtucket adjudicating good driver statue dismissals via email, snail mail or our drop box, charging the customary \$60? If you don't see any issues, I would like to move in this direction as quickly as possible in order to keep our court operating while minimizing the risk of Covid spread.

Once this issue is resolved and in light of our state's upcoming two week "pause," in my capacity as President of the Municipal Court Judges Association, I will take steps to organize a zoom meeting with you so that we can discuss these issues with all municipalities.

Thank you again for everything... Donna

Donna M. Nesselbush
Chief Judge
Pawtucket Municipal Court

Sent from my iPhone



Donna Nesselbush <donnaesselbush@gmail.com>

GDS by mail letter

1 message

Donna M. Nesselbush <donnaesselbush@gmail.com>

Wed, Dec 2, 2020 at 5:11 PM

To: "Goncalves, Tina" <tgoncalves@pawtucketpolice.com>, Dylan Zelazo <dzelazo@pawtucketri.com>

Cc: Nadine Higgins <nhiggins@pawtucketpolice.com>, Jack Gannon <jack@gbdvlaw.com>

Dear Chief and Dylan:

With the green light from RITT, I have finalized the letter to qualifying motorists, offering them the opportunity to have their tickets dismissed via the "good driver's statute," without needing to appear personally in court.

This is time sensitive because Nadine needs to reschedule all the cases from these two weeks (and more if the "pause" lasts longer than two weeks?). I don't want her to have to send out all those reschedule letters, only to have to waste the time and money to do the work all over again sending these letters out. We will look foolish to motorists if we send one letter one day and another soon thereafter. Accordingly, unless either of you has any concerns, I will ask Nadine (as my clerk) to send the attached letter to motorists who qualify for the GDS.

Thanks so much. Let me know your thoughts. I think this approach makes a lot of sense. Stay healthy...Donna

Donna M. Nesselbush

—

Senator Donna M. Nesselbush
Pawtucket - District 15

2 attachments **Document1 2.docx**
11K **GDS By Mail Letter.pdf**
671K



CITY OF PAWTUCKET
PAWTUCKET MUNICIPAL HOUSING & POLICE COURT
121 ROOSEVELT AVENUE
PAWTUCKET, RHODE ISLAND 02860

CHIEF JUDGE DONNA M. NESSLEBUSH
ASSOCIATE JUDGE JOHN T. GANNON

Dear Motorist:

As you know, you have been cited by Pawtucket Police for an alleged traffic violation. A court date was scheduled but has been postponed due to the coronavirus.

We have reviewed your driving record, and we are writing to inform you that you qualify for a dismissal of the violation based upon the "good driver's statute" (see RIGL § 31-41.1-7).

Normally, a motorist must personally appear in court to request dismissal under the "good driver statute." However, in an effort to keep people safe and practice "social distancing," we are providing motorists the opportunity to have the matter dismissed, with no need to appear in court.

If you feel you are guilty of the traffic violation as alleged, you can request that the matter be dismissed under the good driver's statute upon payment of sixty dollars (\$60). The \$60 consists of a \$25 surcharge to use the good driver's statute and \$35 of processing costs.

There are four (4) ways you can request a good driver's statute dismissal:

- 1.) You can copy and paste the declaration at the bottom of this page into an email and send it to the Pawtucket Municipal Court Clerk, Nadine Higgins, at NHiggins@PawtucketPolice.com. She, in turn, will contact you to inform you if the ticket has been dismissed and how you can pay the \$60.
- 2.) You can sign the declaration at the bottom of the page, and drop it and your check or money order (NO CASH) in the "Drop Box" outside City Hall or regular mail it to: Pawtucket Municipal Court, 121 Roosevelt Ave., Pawtucket, RI with a check or money order made out to the Pawtucket Municipal Court in the amount of \$60.
- 3.) You can call the Pawtucket Municipal Court Clerk at 401-727-9100 ext. 824 to schedule an appointment time to go to City Hall, sign the declaration at the bottom of this page and pay \$60 by check, money order or cash.
- 4.) If you wish to appear personally in court to request dismissal under the good driver's statute or to plead not guilty, you MUST call the clerk's office at 401-727-9100 ext. 739, or ext. 822 to obtain your court date over the phone.

(401) 727-9100 EXT. 822

♻️ Printed on recycled paper

Please be advised that a good driver's statute dismissal is only available upon a guilty plea, meaning the motorist must feel s/he is guilty of the violation. However, motorists also have the legal right to plead not guilty. If you wish to plead not guilty, you may do so by appearing personally in court once the court reopens and your case is scheduled on the court's docket. If you plead not guilty, a trial will be scheduled at which you and the police officer who gave you the ticket will appear and give testimony, and the Judge will then render a decision.

Sincerely yours,



Chief Judge Donna M. Nesselbush

Good Driver's Statute Declaration:

Summons No. _____

I, _____, declare that I wish to plead guilty to the traffic violation with which I was charged, and I request that the matter be dismissed under the good driver's statute.

Please check which method you prefer to deal with this matter: (see page 1)

1. _____ I will "copy and paste" and email the declaration to Nadine Higgins, and I will wait to hear from her as to how I can pay the \$60;
2. _____ I will sign the declaration and drop it off in the DROP BOX outside of City Hall, along with my check or money order, (NO CASH) payable to the City of Pawtucket for \$60;
3. _____ I will call Clerk Nadine Higgins to schedule an appointment to go to City Hall to provide the declaration and to pay the \$60 via check, credit card, money order or cash;
4. _____ I would like to appear personally in court, and I will call the clerk's office to obtain my court date. I understand that if I choose this option, I do not need to send this paper to the court. I need only call the clerk's office for my court date.

FAILURE TO DEAL WITH AND RESOLVE YOUR TRAFFIC TICKET WITHIN 30 DAYS MAY RESULT IN YOUR BEING FOUND GUILTY BY DEFAULT, AND YOUR LICENSE MAY BE SUSPENDED.

Signature

Telephone Number

Date

Email Address

Dear Motorist:

As you know, you have been cited by Pawtucket Police for an alleged traffic violation. A court date was scheduled but has been postponed due to the coronavirus.

We have reviewed your driving record, and we are writing to inform you that you qualify for a dismissal of the violation based upon the "good driver's statute" (see RIGL § 31-41.1-7).

Normally, a motorist must personally appear in court to request dismissal under the "good driver statute." However, in an effort to keep people safe and practice "social distancing," we are providing motorists the opportunity to have the matter dismissed, with no need to appear in court.

If you feel you are guilty of the traffic violation as alleged, you can request that the matter be dismissed under the good driver's statute upon payment of sixty dollars (\$60). The \$60 consists of a \$25 surcharge to use the good driver's statute and \$35 of processing costs.

There are four (4) ways you can request a good driver's statute dismissal:

1.) You can copy and paste the declaration at the bottom of this page into an email and send it to the Pawtucket Municipal Court Clerk, Nadine Higgins, at NHiggins@PawtucketPolice.com. She, in turn, will contact you to inform you if the ticket has been dismissed and how you can pay the \$60.

2.) You can sign the declaration at the bottom of the page, and drop it and your check or money order (NO CASH) in the "Drop Box" outside City Hall or regular mail it to: Pawtucket Municipal Court, 121 Roosevelt Ave., Pawtucket, RI with a check or money order made out to the Pawtucket Municipal Court in the amount of \$60.

3.) You can call the Pawtucket Municipal Court Clerk at 401-727-9100 ext. 824 to schedule an appointment time to go to City Hall, sign the declaration at the bottom of this page and pay \$60 by check, money order or cash.

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Please be advised that a good driver's statute dismissal is only available upon a guilty plea, meaning the motorist must feel s/he is guilty of the violation. However, motorists also have the legal right to plead not guilty. If you wish to plead not guilty, you may do so by appearing personally in court once the court reopens and your case is scheduled on the court's docket. If you plead not guilty, a trial will be scheduled at which you and the police officer who gave you the ticket will appear and give testimony, and the Judge will then render a decision.

Sincerely yours,

Chief Judge Donna M. Nesselbush

Good Driver's Statute Declaration:

Summons No. _____

I, _____, declare that I wish to plead guilty to the traffic violation with which I was charged, and I request that the matter be dismissed under the good driver's statute.

Please check which method you prefer to deal with this matter: (see page 1)

_____ I will "copy and paste" and email the declaration to Nadine Higgins, and I will wait to hear from her as to how I can pay the \$60;

_____ I will sign the declaration and drop it off in the DROP BOX outside of City Hall, along with my check or money order, (NO CASH) payable to the City of Pawtucket for \$60;

_____ I will call Clerk Nadine Higgins to schedule an appointment to go to City Hall to provide the declaration and to pay the \$60 via check, credit card, money order or cash;

_____ I would like to appear personally in court, and I will call the clerk's office to obtain my court date. I understand that if I choose this option, I do not need to send this paper to the court. I need only call the clerk's office for my court date.

FAILURE TO DEAL WITH AND RESOLVE YOUR TRAFFIC TICKET WITHIN 30 DAYS MAY RESULT IN YOUR BEING FOUND GUILTY BY DEFAULT, AND YOUR LICENSE MAY BE SUSPENDED.

Signature	Telephone Number

Date	Email Address



Donna Nesselbush <donnanelbush@gmail.com>

Fwd: GDS via mail

1 message

Donna Nesselbush <donnanelbush@gmail.com>
 To: "Jack Gannon, Esq." <jack@gbdvia.com>
 Bcc: nhiggins528@gmail.com, NKing@m-n-law.com

Sat, Jul 23, 2022 at 3:54 PM

Dear Judge Gannon;

I want to be sure that, as Pawtucket's Associate Judge, you are up to date regarding the unfortunate situation with Pawtucket's Police Chief whose incursion into the administration of justice is quite concerning to me. Please review the email thread below, and I will contact you to discuss this matter.

Thank you...Donna

Donna M. Nesselbush, Esq.
 Chief Judge
 Pawtucket Municipal Court

Begin forwarded message:

From: Natasha King <Nking@m-n-law.com>
Date: July 23, 2022 at 1:06:04 PM EDT
To: donnanelbush@gmail.com
Subject: Fwd: FW: GDS via mail

----- Forwarded message -----

From: Peter Spetelunas <Pspetelunas@pawtucketpolice.com>
Date: Fri, Jul 22, 2022 at 10:11 AM
Subject: Re: Pawtucket Municipal Court
To: Nadine Higgins <NHiggins@pawtucketpolice.com>, Tina Goncalves <TGoncalves@pawtucketpolice.com>, donnanelbush@gmail.com <donnanelbush@gmail.com>

Nadine,

We are to take no further action on the "GDS" via the mail until further notice and proper authorization is given by Chief Goncalves. In the future, per my conversation with Judge Nesselbush all communications are to come through me regarding staffing and the function of Pawtucket Municipal Court.

Respectfully,

Sgt. P. spetelunas

From: Nadine Higgins <NHiggins@PAWTUCKETPOLICE.COM>
Sent: Friday, July 22, 2022 8:35 AM
To: Donna Nesselbush <donnanelbush@gmail.com>
Cc: Peter Spetelunas <Pspetelunas@PAWTUCKETPOLICE.COM>; Holly St Jean <hstjean@pawtucketpolice.com>; Karen Leclaire <KLeclaire@pawtucketpolice.com>; Karen Magill <KMagill@PAWTUCKETPOLICE.COM>; Suzanne Andrews <SAndrews@PAWTUCKETPOLICE.COM>
Subject: Re: Pawtucket Municipal Court

Good morning Donna,

As of today, no one on the August 1st docket qualifies for the GDS. Seventy-five percent of the docket is Owner's Liability ticket. The remaining twenty-five percent do not qualify.

I will pass this email to my team. Going forward we will resume the GDS via the mail.

Best,

Nadine

From: Donna Nesselbush <donnanelbush@gmail.com>
Sent: Thursday, July 21, 2022 5:03 PM
To: Nadine Higgins <NHiggins@PAWTUCKETPOLICE.COM>
Cc: Peter Spetelunas <Pspetelunas@PAWTUCKETPOLICE.COM>
Subject: Fwd: Pawtucket Municipal Court

Dear Madam Clerk and Sgt. Spetelunas,

As I already knew, had previously confirmed and had previously communicated to you, offering "good driver statute" (GDS) dismissals via the mail comports with the rules of the Rhode Island Traffic Tribunal. Please see the forwarded email in which Chief Magistrate Domenic DiSandro indicates not only that offering GDS dismissals by mail complies with RITT rules, but also it's popularity with motorists and the fact that Pawtucket prosecution has long ago indicated their agreement with this procedure.

Based thereon, please accept this email as a Pawtucket Municipal Court Order to continue offering GDS dismissals via the mail. Madam Clerk, please make sure our procedures comply with all of the steps outlined by Chief Magistrate DiSandro in his email, and this is a Court Order to please resume offering GDS dismissals via the mail, in accordance with the procedures outlined in the Chief's email.

If anyone has any questions or concerns, please contact me directly. Otherwise, any further attempts to interfere with offering "good driver statue dismissals" (GDS) via the mail will be considered an obstruction of justice.

Should you have any questions, please do not hesitate to contact me. Thank you.

Yours very truly,

Donna M. Nesselbush, Esq.
Chief Judge
Pawtucket Municipal Court

Begin forwarded message:

From: "DiSandro, Domenic A." <DDiSandro@courts.ri.gov>
Date: July 21, 2022 at 2:43:52 PM EDT
To: Donna Nesselbush <donnaesselbush@gmail.com>
Subject: RE: Pawtucket Municipal Court

Good afternoon Chief Nesselbush,

Thank you for your request to clarify procedures currently followed by the Rhode Island Traffic Tribunal pertaining to dismissal of citations based upon Rhode Island Traffic Tribunal Rule 7 (b) Good Driving Record and Rule 5 Administrative Payments. Due to the Covid health crisis and in attempt to alleviate and limit congestion and overcrowding of the Traffic Tribunal Courtrooms, the Tribunal adopted the procedure to allow for motorists seeking dismissal under the good driving record to forward said request for dismissal by mail, email, and fax communications. In each case, the written request is scanned into the court record, the citation and motorist driving record is reviewed by a Judge or Magistrate to determine eligibility for dismissal. The written request to dismiss is either approved or denied. Where the request is approved, mandated administrative fees are assessed and the motorist is forwarded notice of said assessment via mail. Where the request is denied, the case is further scheduled for mandatory appearance and notice is forwarded to the motorist via mail. This procedure has been flawlessly followed throughout the pandemic resulting in thousands of citations being disposed of without the physical appearance of the motorist. Additionally to my understanding, this procedure has been adopted and implemented in every Municipal Court as well without complaint. In fact, the procedure has worked so smoothly, many motorist take time to forward written communication acknowledging how beneficial that procedure was to them personally. Prior to the Tribunal implementing this procedure, I sought the approval from all 39 City and Town Prosecutors as well as the State Police. Each and every State, City and Town Prosecutor evidenced their consent and authority to dispose of these cases by written authorization. The City of Pawtucket thru Nadine L. Higgins, Sgt. Spetalunas, and Officer Luccetti forwarded such authorization to the Tribunal on April 22, 2020. Please review the above and feel free to contact me regarding any further questions or concerns you may have. Thank you for your attention in this matter.

Regards,
Chief DiSandro

-----Original Message-----

From: Donna Nesselbush <donnaesselbush@gmail.com>
Sent: Thursday, July 21, 2022 12:36 PM
To: DiSandro, Domenic A. <DDiSandro@courts.ri.gov>
Subject: Pawtucket Municipal Court

***CYBERSECURITY WARNING: This email is sent from outside of the Rhode Island Judicial Network.
DO NOT click links or open attachments unless you recognize the sender and have verified the content is safe.***

Dear Chief Magistrate DiSandro:

Thank you for all that you did to lead the Rhode Island Traffic Tribunal and the Municipal Courts through the crazy era of Covid. I think one of your best ideas was offering good driver statute (GDS) dismissals via the mail. Here in Pawtucket, we followed your lead and began doing that during Covid, and we have continued to do so since. We find it is more efficient both for the court staff and for the motorists.

Now that we are hopefully moving into a post-Covid (crisis) era, I would like for our court to continue offering GDS dismissals to qualified motorists via the mail. Our court follows RITT's Rules of Procedure, so I'm writing to confirm that offering GDS dismissals via the mail comports with said RITT rules?

Please advise, as we always want to be sure we are in compliance. Thank you for your kind attention to this matter.

Donna M. Nesselbush, Esq.
Chief Judge
Pawtucket Municipal Court

----- Forwarded message -----

From: Donna Nesselbush <donnaesselbush@gmail.com>
Date: Tue, Jul 12, 2022 at 1:03 PM
Subject: Separation of Powers & Court Employees
To: Donald Greblen <dgreblen@pawtucketri.com>

Dear Don:

In anticipation of speaking with you later today, here is an email that spells out the issue.

I state the obvious when I state that the separation of powers between the three co-equal branches of government is fundamental to our American system of government and jurisprudence.

I also state the obvious when I state that George Floyd's tragic death tarnished (to say the least) the relationship between the police and communities of color. The judicial branch of government has long been an important check on the unfortunate issue of police brutality, and courts can only function properly with independence and autonomy, especially autonomy from police departments. Historically, when police departments have not been able to police themselves in terms of police behavior, the courts have had to step in to dispense justice. Although police brutality is the far extreme of police over-reaching, police over-reaching is exactly the issue we are dealing with here.

It is fundamental that courts be neutral, independent and autonomous as they arbitrate between the police/prosecution and the defense of litigants, even vis-à-vis traffic tickets. In my opinion, it is quintessentially important that court employees be employees of the court (just a line in the city's budget) and not employees of the police department (they cannot be paid under the police department's budget). Although not ideal, one person can work both for the police department and the court, but they

must have separate titles, separate duties, separate supervisors and separate lines in the budget.

Municipal Court employees must report to the court; they cannot be supervised by the police chief (or her designee) without seriously undermining the community's faith in the independence and neutrality of the courts, especially communities of color which constitute the majority of our city's population.

This is conceptual in nature and should have no actual budgetary consequences. The city can still have the same employees, serving both the police and the court, doing the exact same duties they have now, for the exact same pay and benefits. There just needs to be a clear line between their work for the court and their work for the police/prosecution. How can motorists ever feel like they get a fair shake in our city if police personnel issue the tickets and are involved in the adjudication process? This is precisely why we changed the name of our court from the ill-advised misnomer of a "Police Court" to the "Pawtucket Municipal Court." The current situation of blurred lines is precisely why we are in an untenable situation where I am instructing court employees to do one thing and the police chief is instructing them to do the exact opposite. This can't continue and must be resolved.

I know you share my commitment to the separation of powers doctrine and equal justice, and I look forward to the implementation of changes by your administration that reflect the importance of these doctrines and values.

Sincerely yours,

Donna M. Nesselbush, Esq.
Chief Judge
Pawtucket Municipal Court

PS: (with no city email from which to send you this email...more to come on that!)

----- Forwarded message -----

From: Donna Nesselbush <donnaesselbush@gmail.com>
Date: Mon, Jul 11, 2022 at 1:51 PM
Subject: Municipal Court
To: Don Grebien <dgrebien@pawtucketri.com>

Dear Don:

Thanks so much for meeting with me a couple of weeks ago. I enjoyed our conversation and time together. How are things going vis-à-vis the various things we discussed?

I know you are busy with the Tidewater development project, but I'm just checking in regarding the good driver statute (GDS) dismissals via the mail and my access to a bathroom. I'll send you a separate email about our conversation regarding supervision/authority over court employees.

I need my fob to work on the third-floor door outside my office, so I have access to the second floor women's room. Currently, I have to leave the door propped open with some object (which I'm pretty sure defeats the purpose of having locked doors in the police department!), or I can't get back to my office.

Alternatively, you suggested possibly providing me with access to a bathroom in the mayor's office. I'm fine with either one; whatever works best.

Let me know your thoughts on all. Thanks...Donna

Donna M. Nesselbush, Esq.

From: Donna M. Nesselbush
Sent: Tuesday, June 7, 2022 9:18 AM
To: tgoncalves@pawtucketpolice.com
Subject: GDS via mail

Dear Chief:

I'm writing because perhaps there has been some misunderstanding. My clerk, Nadine Higgins, reported to me today that (as I understand it) Suzanne informed her that the Chief of Police said there would be no more "good driver statute" dismissals done via the mail. Again, I'm sure there has been some sort of misunderstanding. I know you are a lawyer who understands the separation of powers between the three co-equal branches of government and that you would not seek to alter or amend the policies or procedures of another branch of government, and certainly not without talking to the titular head of said branch.

Good driver statute dismissals via the mail are popular with residents and motorists who (because of this procedure) are not unnecessarily inconvenienced by having to take time out of work to come to court to have their cases dismissed. Our system works well and is highly accurate and efficient.

As you know, I always seek to be collegial with the other branches of government, so please let me know if there has been some sort of misunderstanding between the executive branch's Police Chief and the Chief Judge of the judicial branch. If you, as a spokesperson for the prosecution, have any thoughts about the good driver statute or how the court administers said statute, I'd be more than happy to hear your thoughts, but any ultimate decisions about the administration of justice by the Pawtucket Municipal Court would be solidly within my purview.

Thank you, and please feel free to request a meeting if you would like to discuss this issue further. In the meantime, our court will continue to offer GDS dismissals to motorists who qualify and comply.

Donna M. Nesselbush, Esq.
Pawtucket Municipal Court
Chief Judge

--

Donna M. Nesselbush, Esq.

Best,

Natasha

Sent from my iPhone. Please excuse brevity, spelling and punctuation.



Donna Nesselbush <donnaesselbush@gmail.com>

Fwd: Pawtucket Municipal Court-police incursion

Donna Nesselbush <donnaesselbush@gmail.com>
 To: donnaesselbush@gmail.com

Thu, Jun 20, 2024 at 11:17 AM

...Donna

Donna M. Nesselbush, Esq.

Begin forwarded message:

From: "Donna M. Nesselbush" <donnaesselbush@gmail.com>
 Date: August 24, 2022 at 5:02:48 PM EDT
 To: lmercer@pawtucketri.com
 Subject: Pawtucket Municipal Court

Dear Councilor Mercer:

It was a pleasure to run into you the other day, and I am pleased to report that my meeting with the Mayor and Chief Goncalves went well. Please be advised that the Pawtucket Municipal Court will resume offering motorists the option of a good drivers statute (GDS) dismissal via the mail. More discussion needs to occur regarding how to approach the dual roles of the clerks, going forward, to avoid confusion and to comply with the separation of powers doctrine. The Mayor mentioned all of us working with the City Solicitor and with the City Council, if need be. Below is the email thread so you can better understand the issues involved (read up from the bottom as they are in chronological order).

As I dealt with this issue and reviewed our city ordinances relative to the statutory authority and powers of our Municipal Court, I realized that there are "issues" regarding confusing language used in the ordinances. I believe you are the Chair of the Ordinance Committee, so I will write to you separately to explain those issues and request your opinion/consideration of them.

Sincerely yours,

Donna M. Nesselbush, Esq.
 Chief Judge
 Pawtucket Municipal Court

----- Forwarded message -----

From: Donna Nesselbush <donnaesselbush@gmail.com>
 Date: Tue, Aug 23, 2022 at 5:48 PM
 Subject: Re: Pawt. Mun. Court Order re: GDS via the mail
 To: Tina Goncalves <tgoncalves@pawtucketpolice.com>
 Cc: Domenic A. DiSandro <ddisandro@courts.nj.gov>, Abbate, Joseph A. <jabbate@courts.nj.gov>, Donald Grebien <dgrebien@pawtucketri.com>, Frank Milos <FMilos@pawtucketri.com>, Jack Gannon <jack@gbdlaw.com>, Nadine Higgins <NHiggins@pawtucketpolice.com>

Donna Nesselbush <donnaesselbush@gmail.com>

Dear Chief Goncalves:

Thank you for your email. With all due respect, the police department has no legal standing to have a "pressing concern whether the Pawtucket Municipal Court could continue to utilize GDS dismissals via the mail, despite the fact Municipal Court was fully operational." That is an issue for the court to decide because the police department has no authority over the court. Additionally, Chief Magistrate DiSandro clarified this matter (in the affirmative) in his thorough email dated July 21, 2022, yet after receiving his email, you apparently instructed the court's clerks (who regrettably and unconstitutionally have been allowed to be police department employees) not to send out the GDS letters for possible dismissal via the mail. The root of the problem is the fact that the court's clerks are paid for by (and arguably supervised by) the police department, and this must now be remedied. I know that you are an attorney, and as an attorney, I know you will agree that if the City of Pawtucket is to have a Municipal Court, the court must have its own clerks who work for the city/court and not for the police department. Court employees working for the police department not only suggests the appearance of impropriety (police overreaching) but also is plainly unconstitutional.

I very much look forward to discussing these issues tomorrow. If there is any remaining confusion after our meeting tomorrow, I do believe Chief Magistrate DiSandro would be happy to provide his opinion as to the relative roles of the police department/prosecution, the court and its employees.

Sincerely yours,

Chief Judge Nesselbush

Donna M. Nesselbush, Esq.

On Aug 22, 2022, at 5:55 PM, Tina Goncalves <tgoncalves@pawtucketpolice.com> wrote:

Dear Judge Nesselbush,

I believe you may have misconstrued the Pawtucket Police Department's concerns regarding good driver statute (GDS) dismissals. The pressing concern was whether the Pawtucket Municipal Court could continue to utilize GDS dismissals via mail, despite the fact municipal court was fully operational. I would like to thank Chief Magistrate

DiSandro for his clarification on the matter. As you are aware, although the police department does not maintain authority over municipal court, the court operates with the continued support it receives from police department employees. Therefore, it is incumbent on me to consider the financial and operational impacts decisions such as this have on the police department.

If you have any further concerns please reach out to me directly.

Chief Tina Goncalves

Pawtucket Police Department

121 Roosevelt Ave

Pawtucket, RI 02860

401-727-9100 Ext. 715

From: Donna M. Nesselbush

Sent: Tuesday, August 23, 2022 9:24 AM

To: Tina Goncalves <tgoncalves@pawtucketpolice.com>

Cc: Don Grebien <dgrebien@pawtucketri.com>

Subject: Re: GDS via mail

Dear Chief Goncalves:

Thank you for the courtesy of your reply email. As I stated in my June 7, 2022 email to you, "[I]f you...have any thoughts about the good driver stature or how the court administers said statute, I'd be more than happy to hear your thoughts." I'm sorry it has taken this long, but I look forward to a collegial, professional and productive conversation tomorrow.

Best regards,

Judge Nesselbush

Donna M. Nesselbush
(She/her/hers)

(O): 401-709-4955

(F): 401-274-0104

685 Westminster Street
Providence, RI 02903

www.M-N-Law.com

Please be advised that we are a full service law firm, focusing on Social Security Disability, Personal Injury, Car Accidents, Medical Malpractice, Premises Liability, Product Liability, and Catastrophic Injury.

From: Tina Goncalves <Tgoncalves@PAWTUCKETPOLICE.COM>

Sent: Monday, August 22, 2022 6:01 PM

To: Donna M. Nesselbush <Dnesselbush@m-n-law.com>

Subject: RE: GDS via mail

 External (tgoncalves@pawtucketpolice.com)

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Judge Nesselbush,

I'd like to meet to discuss the implications the GDS dismissals via mail have on police department employees. I realize we are scheduled to meet with the Mayor on Wednesday and can utilize that time to discuss it in detail.

Chief Tina Goncalves
Pawtucket Police Department
121 Roosevelt Ave
Pawtucket, RI 02860
401-727-9100 Ext. 715

Donna M. Nesselbush <donnanesselbush@gmail.com>
to Domenic, Joseph, Donald, Frank, Tina, Jack, Nadine.

Mon, Aug 22, 2:02 PM (2 days ago)

Dear Chief Magistrate DiSandro:

As you know, there has been some confusion in the Pawtucket Police Department regarding who has authority over the operations of the Pawtucket Municipal Court, specifically who has authority over the manner by which good driver statute (GDS) dismissals are administered. After consulting with you, Associate RITT Judge Joseph Abbate, Kathleen Kelly, Esq., General Counsel to the Rhode Island Supreme Court, Andrew Horwitz, Esq., Dean and Professor of Law at Roger Williams Law School, and Lynette Labinger, Esq., of the RI ACLU, I have decided to issue the attached Court Order. At the suggestion of the Rhode Island Ethics Commission, I have also reached out to Pawtucket City Solicitor, Frank Milos, Esq., so I am confident that cooler heads will prevail.

Please be advised that the Pawtucket Municipal Court will continue to follow RITT's lead and rules regarding GDS dismissals, and the court will protect its authority, as granted by state statute and city ordinance, to the fullest extent of the law.

Thank you for the email you have previously provided, and for your kind attention and guidance regarding this matter.

Sincerely yours,

Donna M. Nesselbush, Esq.
Chief Judge
Pawtucket Mun. Court

----- Forwarded message -----

From: Donna M. Nesselbush <donnaesselbush@gmail.com>

Date: Wed, Aug 17, 2022 at 12:17 PM

Subject: Fwd: Pawtucket Municipal Court

To: Frank Milos <FMilos@pawtucketri.com>

Cc: Greblian, Donald <DGreblian@pawtucketri.com>, Jack Gannon <jack@gbdvlaw.com>, Nadine Higgins <nhiggins@pawtucketpolice.com>

Dear Frank:

We hope this email finds you well. Our Municipal Court finds itself in an odd quandary. I have discussed our predicament with the mayor over coffee, and I have formally written to him and to the police chief. (Please see the email thread below.)

Please call me at your earliest convenience. This impasse has been going on for over two months and is becoming irritating. The mayor has been trying to schedule lunch for the three of us to get together, but it keeps getting postponed. Yesterday, Anna called me again to try to postpone our August 24 luncheon, and I told her that the matter could not wait. In fact, I think you need to speak with them before we meet because, respectfully, they seem oblivious to some basic concepts of American government.

I know you will agree that the police chief does not run the Municipal Court. The chief's and the prosecution's notions about their running the court are not only absurd, they also violate the separation of powers doctrine, and smack of police over-reaching. I have always gotten along well with all of the police chiefs and none of them has ever tried to interfere with the operations of the court...until now. I have long known that having the court staff under the police department in the city budget is a little "funky" but it really has never been a problem...until now! Working with police who think they run the operations of our court is an incursion on the court's authority, and frankly, it's annoying. It is also antithetical to democracy, antithetical to the American system of government and antithetical to the concept of an independent judiciary. Judges are responsible for establishing court calendars, dockets, and courtroom decorum, including case flow, case management and all aspects of court operations. Sergeant Spetalunas is a super nice guy, and I have enjoyed working with him, but he persists with this absurd assertion (apparently at the police chief's insistence) that he "runs the operations" and "supervises" the court, and as you can see from the email chain, the chief and he have unilaterally changed the court's long standing policy (which I put into effect during Covid and which is in accordance with what RITT currently does) of offering GDS dismissals via the mail. As I said to the mayor when we met, we either have a police court, or we have a municipal court which presides over and adjudicates alleged violations, charged and prosecuted by the police and admitted to or defended by litigants and their attorneys. I think the mayor is just busy with other things, and it appears that the police chief doesn't understand these basic concepts or how badly the situation reflects on our city.

In the wake of the political sign ordinance being on the front page, I don't want there to be additional, unflattering headlines. I don't want the city to be embarrassed by an apparent lack of understanding of the three co-equal branches of government and embarrassed by their willingness to inconvenience the taxpayers. Additionally, although GDS by mail is an obvious time saver, they indicate that it takes the court staff an extra hour per docket. It looks so bad that they would rather inconvenience approximately 25-50 residents/motorists (tax payers) who qualify per docket for the GDS, making them take time out of work or out of their day to come to court, rather than the court employees spending one hour of time per docket, even though my clerk, Nadine Higgins, assures me (of the obvious) that it takes less total time to do GDS by mail than in person/in court. I have already tried to explain everything in emails but nothing has changed, I think they need to hear from you. If you cannot convince them, I feel like I have no choice but to ask the ACLU to file a Complaint for Declaratory Judgment with the Superior Court. What should a judge do when a police chief tries to trump her court order? This is a clear violation of the separation of powers doctrine, a doctrine that is enshrined in our state constitution (and I know that it would then just come back to you to defend their indefensible position/actions).

Astonishingly, the police chief has never even had the professionalism or common courtesy to respond to my email or contact me to discuss this. I'm really not sure what to make of that? I read in the newspaper that she did the same thing to Councilor DaRosa. I hope you can advise her to "get back in her own lane." I think even those who watch court TV shows know that the police don't run the courts.

Please give me a call to discuss. I hope you can advise the mayor and the police chief regarding the error of their ways. As I have stated to the mayor, I don't think there needs to be any staffing changes or any additional staff. Simply, the same employees who work part time for the police department and part time for the court, just need to have separate titles, separate job duties and separate supervisors. When those employees are working for the court, they must be supervised by the court, and its duly elected judges (not by police). All court business including GDS dismissals and how the court handles them are within the clear authority of the court, not the prosecution.

Please give me a call as soon as possible to discuss; this defiance and incursion understandably has become irritating.

From: Nadine Higgins <NHiggins@PAWTUCKETPOLICE.COM>
Sent: Friday, July 22, 2022 8:35 AM
To: Donna Nesselbush <donnaesselbush@gmail.com>
Cc: Peter Spetelunas <PSpetelunas@PAWTUCKETPOLICE.COM>; Holly St Jean <hstjean@pawtucketpolice.com>; Karen Leclaire <KLeclaire@pawtucketpolice.com>; Karen Magill <KMagill@PAWTUCKETPOLICE.COM>; Suzanne Andrews <SAndrews@PAWTUCKETPOLICE.COM>
Subject: Re: Pawtucket Municipal Court

Good morning Donna,

As of today, no one on the August 1st docket qualifies for the GDS. Seventy-five percent of the docket is Owner's Liability ticket. The remaining twenty-five percent do not qualify.

I will pass this email to my team. Going forward we will resume the GDS via the mail.

Best,

Nadine

From: Donna Nesselbush <donnaesselbush@gmail.com>
Sent: Thursday, July 21, 2022 5:03 PM
To: Nadine Higgins <NHiggins@PAWTUCKETPOLICE.COM>
Cc: Peter Spetelunas <PSpetelunas@PAWTUCKETPOLICE.COM>
Subject: Fwd: Pawtucket Municipal Court

Dear Madam Clerk and Sgt. Spetelunas,

As I already knew, had previously confirmed and had previously communicated to you, offering "good driver statute" (GDS) dismissals via the mail comports with the rules of the Rhode Island Traffic Tribunal. Please see the forwarded email in which Chief Magistrate Domenico DiSandro indicates not only that offering GDS dismissals by mail complies with RITT rules, but also it's popularity with motorists and the fact that Pawtucket prosecution has long ago indicated their agreement with this procedure.

Based thereon, please accept this email as a Pawtucket Municipal Court Order to continue offering GDS dismissals via the mail. Madam Clerk, please make sure our procedures comply with all of the steps outlined by Chief Magistrate DiSandro in his email, and this is a Court Order to please resume offering GDS dismissals via the mail, in accordance with the procedures outlined in the Chief's email.

If anyone has any questions or concerns, please contact me directly. Otherwise, any further attempts to interfere with offering "good driver statute dismissals" (GDS) via the mail will be considered an obstruction of justice.

Should you have any questions, please do not hesitate to contact me. Thank you.

Yours very truly,

Donna M. Nesselbush, Esq.
 Chief Judge
 Pawtucket Municipal Court

Begin forwarded message:

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Date: July 21, 2022 at 2:43:52 PM EDT
To: Donna Nesselbush <donnaesselbush@gmail.com>
Subject: RE: Pawtucket Municipal Court

Good afternoon Chief Nesselbush,

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court record, the citation and motorist driving record is reviewed by a Judge or Magistrate to determine eligibility for dismissal. The written request to dismiss is either approved or denied. Where the request is approved, mandated administrative fees are assessed and the motorist is forwarded notice of said assessment via mail. Where the request is denied, the case is further scheduled for mandatory appearance and notice is forwarded to the motorist via mail. This procedure has been flawlessly followed throughout the pandemic resulting in thousands of citations being disposed of without the physical appearance of the motorist. Additionally it my understanding, this procedure has been adopted and implemented in every Municipal Court as well without complaint. In fact, the procedure has worked so smoothly, many motorist take time to forward written communication acknowledging how beneficial that procedure was to them personally. Prior to the Tribunal implementing this procedure, I sought the approval from all 39 City and Town Prosecutors as well as the State Police. Each and every State, City and Town Prosecutor evidenced their consent and authority to dispose of these cases by written authorization. The City of Pawtucket thru Nadine L. Higgins, Sgt. Spetelunas, and Officer Luccetti forwarded such authorization to the Tribunal on April 22, 2020. Please review the above and feel free to contact me regarding any further questions or concerns you may have. Thank you for your attention in this matter.

Regards,
Chief DiSandro

-----Original Message-----

From: Donna Nesselbush <donnaesselbush@gmail.com>
Sent: Thursday, July 21, 2022 12:36 PM
To: DiSandro, Domenic A. <DDiSandro@courts.ri.gov>
Subject: Pawtucket Municipal Court

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Dear Chief Magistrate DiSandro:

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Now that we are hopefully moving into a post-Covid (crisis) era, I would like for our court to continue offering GDS dismissals to qualified motorists via the mail. Our court follows RITT's Rules of Procedure, so I'm writing to confirm that offering GDS dismissals via the mail comports with said RITT rules?

Please advise, as we always want to be sure we are in compliance. Thank you for your kind attention to this matter.

Donna M. Nesselbush, Esq.
Chief Judge
Pawtucket Municipal Court

----- Forwarded message -----

From: Donna Nesselbush <donnaesselbush@gmail.com>
Date: Tue, Jul 12, 2022 at 1:03 PM
Subject: Separation of Powers & Court Employees
To: Donald Grebien <dgrebien@pawtucketri.com>

Dear Don:

In anticipation of speaking with you later today, here is an email that spells out the issue.

I state the obvious when I state that the separation of powers between the three co-equal branches of government is fundamental to our American system of government and jurisprudence.

I also state the obvious when I state that George Floyd's tragic death tarnished (to say the least) the relationship between the police and communities of color. The judicial branch of government has long been an important check on the unfortunate issue of police brutality, and courts can only function properly with independence and autonomy, especially autonomy from police departments. Historically, when police departments have not been able to police themselves in terms of police behavior, the courts have had to step in to dispense justice. Although police brutality is the far extreme of police over-reaching, police over-reaching is exactly the issue we are dealing with here.

It is fundamental that courts be neutral, independent and autonomous as they arbitrate between the police/prosecution and the defense of litigants, even vis-à-vis traffic tickets. In my opinion, it is quintessentially important that court employees be employees of the court (just a line in the city's budget) and not employees of the police department (they cannot be paid under the police department's budget). Although not ideal, one person can work both for the police department and the court, but they must have separate titles, separate duties, separate supervisors and separate lines in the budget.

Municipal Court employees must report to the court; they cannot be supervised by the police chief (or her designee) without seriously undermining the community's faith in the independence and neutrality of the courts, especially communities of color which constitute the majority of our city's population.

This is conceptual in nature and should have no actual budgetary consequences. The city can still have the same employees, serving both the police and the court, doing the exact same duties they have now, for the exact same pay and benefits. There just needs to be a clear line between their work for the court and their work for the police/prosecution. How can motorists ever feel like they get a fair shake in our city if police personnel issue the tickets and are involved in the adjudication process? This is precisely why we changed the name of our court from the ill-advised misnomer of a "Police Court" to the "Pawtucket Municipal Court." The current situation of blurred lines is precisely why we are in an untenable situation where I am instructing court employees to do one thing and the police chief is instructing them to do the exact opposite. This can't continue and must be resolved.

I know you share my commitment to the separation of powers doctrine and equal justice, and I look forward to the implementation of changes by your administration that reflect the importance of these doctrines and values.

Sincerely yours,

Donna M. Nesselbush, Esq.
Chief Judge
Pawtucket Municipal Court

PS: (with no city email from which to send you this email...more to come on that!)

----- Forwarded message -----

From: Donna Nesselbush <donnaesselbush@gmail.com>
 Date: Mon, Jul 11, 2022 at 1:51 PM
 Subject: Municipal Court
 To: Don Grebien <dgrebien@pawtucketri.com>

Dear Don:

Thanks so much for meeting with me a couple of weeks ago. I enjoyed our conversation and time together. How are things going vis-à-vis the various things we discussed?

I know you are busy with the Tidewater development project, but I'm just checking in regarding the good driver statute (GDS) dismissals via the mail and my access to a bathroom. I'll send you a separate email about our conversation regarding supervision/authority over court employees.

I need my fob to work on the third-floor door outside my office, so I have access to the second floor women's room. Currently, I have to leave the door propped open with some object (which I'm pretty sure defeats the purpose of having locked doors in the police department!), or I can't get back to my office.

Alternatively, you suggested possibly providing me with access to a bathroom in the mayor's office. I'm fine with either one; whatever works best.

Let me know your thoughts on all. Thanks...Donna

Donna M. Nesselbush, Esq.

From: Donna M. Nesselbush
 Sent: Tuesday, June 7, 2022 9:18 AM
 To: tgoncalves@pawtucketpolice.com
 Subject: GDS via mail

Dear Chief:

I'm writing because perhaps there has been some misunderstanding. My clerk, Nadine Higgins, reported to me today that (as I understand it) Suzanne informed her that the Chief of Police said there would be no more "good driver statute" dismissals done via the mail. Again, I'm sure there has been some sort of misunderstanding. I know you are a lawyer who understands the separation of powers between the three co-equal branches of government and that you would not seek to alter or amend the policies or procedures of another branch of government, and certainly not without talking to the titular head of said branch.

Good driver statute dismissals via the mail are popular with residents and motorists who (because of this procedure) are not unnecessarily inconvenienced by having to take time out of work to come to court to have their cases dismissed. Our system works well and is highly accurate and efficient.

As you know, I always seek to be collegial with the other branches of government, so please let me know if there has been some sort of misunderstanding between the executive branch's Police Chief and the Chief Judge of the judicial branch. If you, as a spokesperson for the prosecution, have any thoughts about the good driver statute or how the court administers said statute, I'd be more than happy to hear your thoughts, but any ultimate decisions about the administration of justice by the Pawtucket Municipal Court would be solidly within my purview.

Thank you, and please feel free to request a meeting if you would like to discuss this issue further. In the meantime, our court will continue to offer GDS dismissals to motorists who qualify and comply.

Donna M. Nesselbush, Esq.
 Pawtucket Municipal Court
 Chief Judge

This e-mail transmission, including any attachments, is intended only for the named recipient(s) and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you have received this transmission in error, or are not the named recipient(s), please notify GANNON BAILEY & VOTOLATO, PC, immediately by return e-mail and permanently delete this transmission, including any attachments.

EXHIBIT 27



Donna Nesselbush <donnaesselbush@gmail.com>

Re: What the Municipal Courts are doing

1 message

Donna Nesselbush <donnaesselbush@gmail.com>

Thu, Apr 9, 2020 at 10:54 PM

To: "Grebien, Donald" <DGrebien@pawtucketri.com>

Cc: Dylan Zelazo <dzelazo@pawtucketri.com>

Bcc: Nking@m-n-law.com

Don and Dylan,

Just saw this. I'm sending this only to the two of you in case you somehow think I am misguided. Thanks for all you are doing. Don, I see your emails and receive your Robo-calls and Dylan, I see your many tweets and emails. You both must be exhausted. Hope you and your families are healthy and well. What crazy times. Correct me if I'm wrong, but...

I agree: we all need to work together, but we are supposed to be 3 co-equal branches of government. Legally, I don't think the Executive branch can cancel Council sessions or Court sessions. Of course, as one government, we all need to be on the same page, and I'm so happy to work together, but each branch needs to do the perfunctory job a issuing its own order(s).

These same conversations are happening statewide. I think Gina is doing a fabulous job, but the Supreme Court issues its own order cancelling court sessions as does each legislative leader (Mattiello and Ruggiero).

I'm always collegial and happy to share with you and work together. I'm also happy to share with Police Chief Tina Goncalves all that I am thinking, so we are on the same page operationally. Her staff is the police prosecution handling traffic court matters and Director Viera and his staff handle the Housing Court prosecutions.

I already spoke to Judge McBurney who weeks ago issued her own Court Order that was referenced in the Bar Association's email. Her Court Order I'm sure was consistent with the executive branch (city clerk) operations, but she issued her own Probate Court declaration.

Correct me if I'm wrong, but you (the executive) can't cancel Council or Court sessions, correct? Constitutionally, I think the executive works in concert with the Council and the Court to request that the Council and the Court cancel their meetings (which makes all the sense in the world that we do so, given this virus).

Of course I am happy to work with you and our Police Chief. I texted her (and you) weeks ago, and I emailed both of you earlier today. I think the 3 branches of government should always be team players. It's just that, as a lawyer (and a Senator seeing these same conversations at the state level), I understand the separation of powers: executive, legislative and judicial. Cumbersome as it may be, I think each branch must act for itself.

Correct me if I am wrong, but the Municipal Court doesn't come "under" the executive branch or under the police department. Doesn't each branch [executive, legislative and judicial] have to act (hopefully in concert with one another) for itself?

Again, I love and respect all my colleagues in municipal and state government, and I'm happy to work together on behalf of the public we are sworn to serve, but as the ACLU says, let's do so, together, in a way that honors our constitution and the separation of powers.

Call me or let me know your thoughts. I'm always happy to talk...Donna

Donna M. Nesselbush

Sent from my iPhone

> On Apr 9, 2020, at 9:06 PM, Grebien, Donald <DGrebien@pawtucketri.com> wrote:

>

> Donna,

>

> I appreciate and understand where you are coming from on this. I agree with the decision. However, you need to run things through Chief G. so we are consistent with the operations.

>

> I've included Judge McBurney who is working with the Clerks Office to be consistent with the daily operations. This way we are all on the same page.

>

> I'm working directly with the Council week to week on the operational decisions. We may need the courts to be in session if the needs arises.

>

> The current Executive order is for all city operations including the courts and in effect. Therefore, the city and courts all closed through next Friday 4/10/2020. We will revisit this weekly. Please check in with Chief Goncalves weekly. There is no reason for a separate notification or postings.

>

> I appreciate your understanding and anticipated cooperation.

>

> Sincerely.....

> Don Grebien

> Mayor-Pawtucket

>

> On Apr 9, 2020, at 8:42 PM, Donna Nesselbush <Donnanelbush@gmail.com> wrote:

>

> Dear Dylan,

>

> I have issued a Court Order regarding the cancellation of Municipal Court sessions for both the traffic court and the housing court. Can you request that the Municipal Court closure (and the Court Order?) be placed on the City's homepage. I see that the closure of City Hall (the executive branch) and the cancellation of City Council sessions (legislative branch) are on the homepage, so it would be great if the court cancellations (judicial branch) could be posted as well. Additionally, there is a webpage on the PawtucketRI site for both the Pawtucket Municipal Traffic Court and the Pawtucket Municipal Housing Court. Can you please ask Hersh or whoever else is working and responsible to please spread the word on the appropriate websites or Facebook pages.

>

> I will forward this information to David Bazar who is my Vice President of the Municipal Court Judges' Association. He will update the Rhode Island Bar Association's website with our information.

>

> Thanks so much. Please stay healthy and well... Donna

>

> Donna M. Nesselbush

> Chief Judge

>

> Sent from my iPhone

>

> Begin forwarded message:

>

> From: "Donna M. Nesselbush" <Dnesselbush@m-n-law.com>

> Date: April 9, 2020 at 2:04:43 PM EDT

> To: Tina Goncalves <TGoncalves@PAWTUCKETPOLICE.COM>

> Cc: Donald Grebien <DGrebien@pawtucketri.com>

> Subject: Fwd: What the Municipal Courts are doing

>

> FYI...

>

> From: David N. Bazar, President, Rhode Island Bar Association <kbridge@ribar.com>

> Sent: Monday, April 6, 2020 1:57:48 PM

> To: Cristine McBurney <cris@mcburneylawri.com>

> Subject: Your Monthly Update is Here!

>

> April 2020 E-Newsletter

> [http://r20.rs6.net/on.jsp?ca=84bb7ffd-6328-4d81-9a27-ec2b5ac38cb5&a=1102581637893&c=f2a85720-48a1-11e3-b36f-d4ae528eaf6c&ch=f46fa9a0-48a1-11e3-b682-d4ae528eaf6c]

>

>

>

>

>



Donna Nesselbush <donnaesselbush@gmail.com>

Fwd: Court

1 message

Donna Nesselbush <donnaesselbush@gmail.com>

Thu, Feb 24, 2022 at 3:27 PM

To: "Jack Gannon, Esq." <jack@gbdvlaw.com>

Jack,

Please see the emails below. I will give you a call to discuss so we can be on the same page as to the best operations for the Municipal Court.

...Donna

Donna M. Nesselbush, Esq.

Begin forwarded message:

From: Donna Nesselbush <donnaesselbush@gmail.com>

Date: February 24, 2022 at 3:25:31 PM EST

To: Tina Goncalves <tgoncalves@pawtucketpolice.com>

Subject: Re: Court

Chief,

Thanks for reaching out; I'm always happy to collaborate with my colleagues towards the most efficient operations for our Municipal Court. I'm sitting on Monday for the Housing Court at 1 PM and Traffic Court at 2 PM. Might noon or 3 PM work for you on Monday? If you prefer 3 PM, it might have to be a soft start, as I'm never entirely sure how long it will take for me to get through our docket. Let me know if Monday works, or I could also meet anytime on Wednesday after noon, Thursday at 3 PM before court or next Friday morning after court?

In the meantime, I'm sitting later today. I'll be sure to ask your police prosecutors/staff if they have any concerns or other duties tomorrow (parking ban/snow tow?) which will help determine whether we should hold or cancel court tomorrow morning?

Thanks so much...Donna

Donna M. Nesselbush, Esq.

On Feb 23, 2022, at 5:27 PM, Tina Goncalves <tgoncalves@pawtucketpolice.com> wrote:

Welcome back from vacation! During your absence several issues were brought to my attention regarding Municipal Court. The most concerning was the lack of coverage for court, civilian access to secured areas in the police station and the proposal of zoom. I was hoping we could set up a time next week to discuss. Let me know your availability and I will arrange my schedule to accommodate.

Sincerely,

Chief Tina Goncalves

Pawtucket Police Department

121 Roosevelt Ave

Pawtucket, RI 02860

401-727-9100 Ext. 715





Donna Nesselbush <donnaesselbush@gmail.com>

Re: Court

1 message

Tina Goncalves <TGoncalves@pawtucketpolice.com>
To: Donna Nesselbush <donnaesselbush@gmail.com>

Mon, Feb 28, 2022 at 3:19 PM

Thank You! I'm available Wednesday or Friday just let me know which works best for you.

Sent from my iPhone

On Feb 24, 2022, at 3:25 PM, Donna Nesselbush <donnaesselbush@gmail.com> wrote:

Chief,

Thanks for reaching out; I'm always happy to collaborate with my colleagues towards the most efficient operations for our Municipal Court. I'm sitting on Monday for the Housing Court at 1 PM and Traffic Court at 2 PM. Might noon or 3 PM work for you on Monday? If you prefer 3 PM, it might have to be a soft start, as I'm never entirely sure how long it will take for me to get through our docket. Let me know if Monday works, or I could also meet anytime on Wednesday after noon, Thursday at 3 PM before court or next Friday morning after court?

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Sincerely,

Chief Tina Goncalves

Pawtucket Police Department

121 Roosevelt Ave

Pawtucket, RI 02860

401-727-9100 Ext. 715



Donna Nesselbush <donnaesselbush@gmail.com>

Fwd: Pawtucket Municipal Court

1 message

Donna Nesselbush <donnaesselbush@gmail.com>
 To: donnaesselbush@gmail.com

Wed, Jun 19, 2024 at 12:26 PM

Re-police, chief incursion, page 42
 ...Donna

Donna M. Nesselbush, Esq.

Begin forwarded message:

From: Donna Nesselbush <donnaesselbush@gmail.com>
 Date: August 4, 2022 at 6:32:42 PM EDT
 To: Cris McBurney <cris@mcburneylawl.com>
 Subject: Fwd: Pawtucket Municipal Court

Judge,

Check out this imitating email thread! Let's chat...Donna

Donna M. Nesselbush, Esq.

Begin forwarded message:

On Jul 25, 2022, at 4:11 PM, Peter Spetelunas <PSpetelunas@pawtucketpolice.com> wrote:

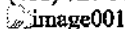
July 25, 2022

Chief Judge Nesselbush,

I have received and appreciate your e-mail regarding the good driving statute(GDS) dismissals via the mail. Thank you for contacting the R.I. Traffic Tribunal and Chief Magistrate D. DiSandro III to verify that the state is still authorizing the GDS dismissals via the mail despite the courts being open, and fully operational. Although I agree that this is less of a burden on the violator and reduces the judiciary workload, this practice requires additional work from the Pawtucket Municipal Court clerical staff. The clerical staff has had to undertake additional responsibilities to accommodate the GDS dismissals via the mail. These responsibilities result in at least an hour of additional time spent on each docket, approximately three hours a week. During the Covid-19 pandemic, these additional responsibilities were offset by the reduction in the Municipal Court clerk's normal daily activities.

I understand you will be meeting with Mayor Grebien and Chief Goncalves regarding this matter so I have instructed the clerks to wait until they hear from me when a resolution has been reached. As a reminder, all concerns regarding the operation of Pawtucket Municipal Court are to be directed to me as I'm not only the supervisor of the court but also responsible for the court's security when it's in session.

Respectfully,

Sergeant Peter Spetelunas
 Traffic Administrator/ Investigator
 Pawtucket Police Department
 121 Roosevelt Avenue
 Pawtucket, RI 02860
 (401) 727-9100


----- Forwarded message -----

From: Peter Spetelunas <PSpetelunas@pawtucketpolice.com>
 Date: Fri, Jul 22, 2022 at 10:11 AM
 Subject: Re: Pawtucket Municipal Court
 To: Nadine Higgins <NHiggins@pawtucketpolice.com>, Tina Goncalves <TGoncalves@pawtucketpolice.com>, donnaesselbush@gmail.com <donnaesselbush@gmail.com>

Nadine,

We are to take no further action on the "GDS" via the mail until further notice and proper authorization is given by Chief Goncalves. In the future, per my conversation with Judge Nesselbush all communications are to come through me regarding staffing and the function of Pawtucket Municipal Court.

Respectfully,

Sgt. P. spetelunas

From: Nadine Higgins <NHiggins@PAWTUCKETPOLICE.COM>
 Sent: Friday, July 22, 2022 8:35 AM

To: Donna Nesselbush <donnaesselbush@gmail.com>
 Cc: Peter Spetelunas <PSpetelunas@PAWTUCKETPOLICE.COM>; Holly St Jean <hstjean@pawtucketpolice.com>; Karen Leclaire <KLeclaire@pawtucketpolice.com>; Karen Magill <KMagill@PAWTUCKETPOLICE.COM>; Suzanne Andrews <SAndrews@PAWTUCKETPOLICE.COM>
 Subject: Re: Pawtucket Municipal Court

Good morning Donna,

As of today, no one on the August 1st docket qualifies for the GDS. Seventy-five percent of the docket is Owner's Liability ticket. The remaining twenty-five percent do not qualify.

I will pass this email to my team. Going forward we will resume the GDS via the mail.

Best,

Nadine

From: Donna Nesselbush <donnaesselbush@gmail.com>
 Sent: Thursday, July 21, 2022 5:03 PM
 To: Nadine Higgins <NHiggins@PAWTUCKETPOLICE.COM>
 Cc: Peter Spetelunas <PSpetelunas@PAWTUCKETPOLICE.COM>
 Subject: Fwd: Pawtucket Municipal Court

Dear Madam Clerk and Sgt. Spetelunas,

As I already knew, had previously confirmed and had previously communicated to you, offering "good driver statute" (GDS) dismissals via the mail comports with the rules of the Rhode Island Traffic Tribunal. Please see the forwarded email in which Chief Magistrate Domenic DiSandro indicates not only that offering GDS dismissals by mail complies with RITT rules, but also it's popularity with motorists and the fact that Pawtucket prosecution has long ago indicated their agreement with this procedure.

Based thereon, please accept this email as a Pawtucket Municipal Court Order to continue offering GDS dismissals via the mail. Madam Clerk, please make sure our procedures comply with all of the steps outlined by Chief Magistrate DiSandro in his email, and this is a Court Order to please resume offering GDS dismissals via the mail, in accordance with the procedures outlined in the Chief's email.

If anyone has any questions or concerns, please contact me directly. Otherwise, any further attempts to interfere with offering "good driver statute dismissals" (GDS) via the mail will be considered an obstruction of justice.

Should you have any questions, please do not hesitate to contact me. Thank you.

Yours very truly,

Donna M. Nesselbush, Esq.
 Chief Judge
 Pawtucket Municipal Court

Begin forwarded message:

From: "DiSandro, Domenic A." <DDiSandro@courts.ri.gov>
 Date: July 21, 2022 at 2:43:52 PM EDT
 To: Donna Nesselbush <donnaesselbush@gmail.com>
 Subject: RE: Pawtucket Municipal Court

Good afternoon Chief Nesselbush,

Thank you for your request to clarify procedures currently followed by the Rhode Island Traffic Tribunal pertaining to dismissal of citations based upon Rhode Island Traffic Tribunal Rule 7 (b) Good Driving Record and Rule 5 Administrative Payments. Due to the Covid health crisis and in attempt to alleviate and limit congestion and overcrowding of the Traffic Tribunal Courtrooms, the Tribunal adopted the procedure to allow for motorists seeking dismissal under the good driving record to forward said request for dismissal by mail, email, and fax communications. In each case, the written request is scanned into the court record, the citation and motorist driving record is reviewed by a Judge or Magistrate to determine eligibility for dismissal. The written request to dismiss is either approved or denied. Where the request is approved, mandated administrative fees are assessed and the motorist is forwarded notice of said assessment via mail. Where the request is denied, the case is further scheduled for mandatory appearance and notice is forwarded to the motorist via mail. This procedure has been flawlessly followed throughout the pandemic resulting in thousands of citations being disposed of without the physical appearance of the motorist. Additionally to my understanding, this procedure has been adopted and implemented in every Municipal Court as well without complaint. In fact, the procedure has worked so smoothly, many motorists take time to forward written communication acknowledging how beneficial that procedure was to them personally. Prior to the Tribunal implementing this procedure, I sought the approval from all 39 City and Town Prosecutors as well as the State Police. Each and every State, City and Town Prosecutor evidenced their consent and authority to dispose of these cases by written authorization. The City of Pawtucket thru Nadine L. Higgins, Sgt. Spetelunas, and Officer Luccetti forwarded such authorization to the Tribunal on April 22, 2020. Please review the above and feel free to contact me regarding any further questions or concerns you may have. Thank you for your attention in this matter.

Regards,
 Chief DiSandro

—Original Message—

From: Donna Nesselbush <donnaesselbush@gmail.com>
 Sent: Thursday, July 21, 2022 12:36 PM
 To: DiSandro, Domenic A. <DDiSandro@courts.ri.gov>
 Subject: Pawtucket Municipal Court

***CYBERSECURITY WARNING: This email is sent from outside of the Rhode Island Judicial Network.
 DO NOT click links or open attachments unless you recognize the sender and have verified the content is safe.***

Dear Chief Magistrate DiSandro:

Thank you for all that you did to lead the Rhode Island Traffic Tribunal and the Municipal Courts through the crazy era of Covid. I think one of your best ideas was offering good driver statute (GDS) dismissals via the mail. Here in Pawtucket, we followed your lead and began doing that during Covid, and we have continued to do so since. We find it is more efficient both for the court staff and for the motorists.

Now that we are hopefully moving into a post-Covid (crisis) era, I would like for our court to continue offering GDS dismissals to qualified motorists via the mail. Our court follows RITT's Rules of Procedure, so I'm writing to confirm that offering GDS dismissals via the mail comports with said RITT rules?

Please advise, as we always want to be sure we are in compliance. Thank you for your kind attention to this matter.

Donna M. Nesselbush, Esq.
Chief Judge
Pawtucket Municipal Court

----- Forwarded message -----

From: Donna Nesselbush <donnaesselbush@gmail.com>
Date: Tue, Jul 12, 2022 at 1:03 PM
Subject: Separation of Powers & Court Employees
To: Donald Greblien <dgreblien@pawtucketri.com>

Dear Don:

In anticipation of speaking with you later today, here is an email that spells out the issue.

I state the obvious when I state that the separation of powers between the three co-equal branches of government is fundamental to our American system of government and jurisprudence.

I also state the obvious when I state that George Floyd's tragic death furnished (to say the least) the relationship between the police and communities of color. The judicial branch of government has long been an important check on the unfortunate issue of police brutality, and courts can only function properly with independence and autonomy, especially autonomy from police departments. Historically, when police departments have not been able to police themselves in terms of police behavior, the courts have had to step in to dispense justice. Although police brutality is the far extreme of police over-reaching, police over-reaching is exactly the issue we are dealing with here.

It is fundamental that courts be neutral, independent and autonomous as they arbitrate between the police/prosecution and the defense of litigants, even vis-à-vis traffic tickets. In my opinion, it is quintessentially important that court employees be employees of the court (just a line in the city's budget) and not employees of the police department (they cannot be paid under the police department's budget). Although not ideal, one person can work both for the police department and the court, but they must have separate titles, separate duties, separate supervisors and separate lines in the budget.

Municipal Court employees must report to the court; they cannot be supervised by the police chief (or her designee) without seriously undermining the community's faith in the independence and neutrality of the courts, especially communities of color which constitute the majority of our city's population.

This is conceptual in nature and should have no actual budgetary consequences. The city can still have the same employees, serving both the police and the court, doing the exact same duties they have now, for the exact same pay and benefits. There just needs to be a clear line between their work for the court and their work for the police/prosecution. How can motorists ever feel like they get a fair shake in our city if police personnel issue the tickets and are involved in the adjudication process? This is precisely why we changed the name of our court from the ill-advised misnomer of a "Police Court" to the "Pawtucket Municipal Court." The current situation of blurred lines is precisely why we are in an untenable situation where I am instructing court employees to do one thing and the police chief is instructing them to do the exact opposite. This can't continue and must be resolved.

I know you share my commitment to the separation of powers doctrine and equal justice, and I look forward to the implementation of changes by your administration that reflect the importance of these doctrines and values.

Sincerely yours,

Donna M. Nesselbush, Esq.
Chief Judge
Pawtucket Municipal Court

PS: (with no city email from which to send you this email...more to come on that!)

----- Forwarded message -----

From: Donna Nesselbush <donnaesselbush@gmail.com>
Date: Mon, Jul 11, 2022 at 1:51 PM
Subject: Municipal Court
To: Don Greblien <dgreblien@pawtucketri.com>

Dear Don:

Thanks so much for meeting with me a couple of weeks ago. I enjoyed our conversation and time together. How are things going vis-à-vis the various things we discussed?

I know you are busy with the Tidewater development project, but I'm just checking in regarding the good driver statute (GDS) dismissals via the mail and my access to a bathroom. I'll send you a separate email about our conversation regarding supervision/authority over court employees.

I need my fob to work on the third-floor door outside my office, so I have access to the second floor women's room. Currently, I have to leave the door propped open with some object (which I'm pretty sure defeats the purpose of having locked doors in the police department!), or I can't get back to my office.

Alternatively, you suggested possibly providing me with access to a bathroom in the mayor's office. I'm fine with either one; whatever works best.

Let me know your thoughts on all. Thanks...Donna

Donna M. Nesselbush, Esq.

From: Donna M. Nesselbush
Sent: Tuesday, June 7, 2022 9:18 AM

To: lgoncalves@pawtucketpolice.com
Subject: GDS via mail

Dear Chief:

I'm writing because perhaps there has been some misunderstanding. My clerk, Nadine Higgins, reported to me today that (as I understand it) Suzanne informed her that the Chief of Police said there would be no more "good driver statute" dismissals done via the mail. Again, I'm sure there has been some sort of misunderstanding. I know you are a lawyer who understands the separation of powers between the three co-equal branches of government and that you would not seek to alter or amend the policies or procedures of another branch of government, and certainly not without talking to the titular head of said branch.

Good driver statute dismissals via the mail are popular with residents and motorists who (because of this procedure) are not unnecessarily inconvenienced by having to take time out of work to come to court to have their cases dismissed. Our system works well and is highly accurate and efficient.

As you know, I always seek to be collegial with the other branches of government, so please let me know if there has been some sort of misunderstanding between the executive branch's Police Chief and the Chief Judge of the judicial branch. If you, as a spokesperson for the prosecution, have any thoughts about the good driver statute or how the court administers said statute, I'd be more than happy to hear your thoughts, but any ultimate decisions about the administration of justice by the Pawtucket Municipal Court would be solidly within my purview.

Thank you, and please feel free to request a meeting if you would like to discuss this issue further. In the meantime, our court will continue to offer GDS dismissals to motorists who qualify and comply.

Donna M. Nesselbush, Esq.
Pawtucket Municipal Court
Chief Judge



Donna Nesselbush <donnaesselbush@gmail.com>

RE: Pawt. Mun. Court Order re: GDS via the mail

1 message

Tina Goncalves <TGoncalves@pawtucketpolice.com>

Mon, Aug 22, 2022 at 5:56 PM

To: "Donna M. Nesselbush" <donnaesselbush@gmail.com>, "Domenic A. DiSandro" <ddisandro@courts.ri.gov>

Cc: "Abbate, Joseph A." <jabbate@courts.ri.gov>, Donald Grebien <DGrebien@pawtucketri.com>, Frank Milos

<FMilos@pawtucketri.com>, Jack Gannon <jack@gbdvlaw.com>, Nadine Higgins <NHiggins@pawtucketpolice.com>

Dear Judge Nesselbush,

I believe you may have misconstrued the Pawtucket Police Department's concerns regarding good driver statute (GDS) dismissals. The pressing concern was whether the Pawtucket Municipal Court could continue to utilize GDS dismissals via mail, despite the fact municipal court was fully operational. I would like to thank Chief Magistrate DiSandro for his clarification on the matter. As you are aware, although the police department does not maintain authority over municipal court, the court operates with the continued support it receives from police department employees. Therefore, it is incumbent on me to consider the financial and operational impacts decisions such as this have on the police department.

If you have any further concerns please reach out to me directly.

Chief Tina Goncalves

Pawtucket Police Department

121 Roosevelt Ave

Pawtucket, RI 02860

401-727-9100 Ext. 715



From: Donna M. Nesselbush <donnaesselbush@gmail.com>
Sent: Monday, August 22, 2022 2:02 PM
To: Domenic A. DiSandro <ddisandro@courts.ri.gov>
Cc: Abbate, Joseph A. <jabbate@courts.ri.gov>; Donald Grebien <Dgrebien@PAWTUCKETRI.com>; Frank Milos <FMilos@pawtucketri.com>; Tina Goncalves <TGoncalves@PAWTUCKETPOLICE.COM>; Jack Gannon <jack@gbdvlaw.com>; Nadine Higgins <NHiggins@PAWTUCKETPOLICE.COM>
Subject: Pawt. Mun. Court Order re: GDS via the mail

Dear Chief Magistrate DiSandro:

As you know, there has been some confusion in the Pawtucket Police Department regarding who has authority over the operations of the Pawtucket Municipal Court, specifically who has authority over the manner by which good driver statute (GDS) dismissals are administered. After consulting with you, Associate RITT Judge Joseph Abbate, Kathleen Kelly, Esq., General Counsel to the Rhode Island Supreme Court, Andrew Horwitz, Esq., Dean and Professor of Law at Roger Williams Law School, and Lynette Labinger, Esq., of the RI ACLU, I have decided to issue the attached Court Order. At the suggestion of the Rhode Island Ethics Commission, I have also reached out to Pawtucket City Solicitor, Frank Milos, Esq, so I am confident that cooler heads will prevail.

Please be advised that the Pawtucket Municipal Court will continue to follow RITT's lead and rules regarding GDS dismissals, and the court will protect its authority, as granted by state statute and city ordinance, to the fullest extent of the law.

Thank you for the email you have previously provided, and for your kind attention and guidance regarding this matter.

Sincerely yours,

Donna M. Nesselbush, Esq.
Chief Judge
Pawtucket Mun. Court



Donna Nesselbush <donnaesselbush@gmail.com>

Re: Good driver statue (GDS) dismissals via the mail

1 message

Grebien, Donald <DGrebien@pawtucketri.com>

Fri, Aug 26, 2022 at 2:46 PM

To: "Milos, Frank" <FMilos@pawtucketri.com>

Cc: "Goncalves, Tina" <tgoncalves@pawtucketpolice.com>, Peter Spetelunas <PSpetelunas@pawtucketpolice.com>, "Higgins, Nadine" <nhiggins@pawtucketpolice.com>, Donna Nesselbush <Donnaesselbush@gmail.com>, "Grebien, Donald" <DGrebien@pawtucketri.com>

Frank - thank you for taking the lead on this. Donna has laid out the concerns from her perspective from the Municipal Courts position in this email. Chief Goncalves has also laid out the operational issues and costs from the city side.

The separation of powers has never been an issue beforehand. I'm confident that between Chief G., Donna, yourself and the support of the team, we'll be able to find alternatives and move forward.

Please keep me in the loop and let me know the final options. Thank you.

Sincerely...Don Grebien

Mayor - City of Pawtucket

Click here to sign up for the city updates.

<http://www.pawtucketri.com>

On Aug 25, 2022, at 10:03 AM, Donna Nesselbush <Donnaesselbush@gmail.com> wrote:

Dear Mayor Grebien and Chief Goncalves:

I want to thank you both for a productive meeting yesterday. I think we are all now in agreement regarding the respective roles of the three branches of government and that the Pawtucket Municipal Court will continue to offer the option of good driver statute dismissals via the mail.

In a recent email, Chief Goncalves "hit the nail on the head" when she stated "although the police department does not maintain authority over municipal court, the court operates with the continued support it receives from police department employees." It appears that this is the root of the problem and the crux of the matter which requires further discussion.

It is my understanding from our meeting yesterday that we will continue conversations with city solicitor Frank Milos and the City Council, if necessary, to effectuate what the ordinance appears to countenance: article 1, section 26-7 is entitled "Employment of Clerical Assistance by Clerk." It states "the Clerk of the Municipal Court, with the approval of the Judge thereof, is hereby authorized and empowered to employ such clerical assistance as he or she may require in his or her office in copying, recording, indexing and attending upon the files of said Court." I actually believe that when using the word "Clerk," the ordinance actually is referring to the Associate Judge, but these are language inconsistencies in the ordinance which should probably be cleaned up by the City Council.

In any event, it seems logical that if the city is to have a Municipal Court, the court requires employees to accomplish its statutory functions. I guess we now have to figure out how the city will employ and structure the clerical assistance required. I will contact The Providence Municipal Court to obtain information regarding how they approach and provide clerical assistance for their court.

I look forward to all of us meeting with the City Solicitor at your earliest possible convenience.

Thank you again...Donna

Donna M. Nesselbush, Esq.

Chief Judge

Pawtucket Municipal Court



Donna Nesselbush <donnaesselbush@gmail.com>

Pawt. Mun. Court Order re: GDS via the mail

1 message

Donna M. Nesselbush <donnaesselbush@gmail.com>

Mon, Aug 22, 2022 at 2:02 PM

To: "Domenic A. DiSandro" <ddisandro@courts.ri.gov>

Cc: "Abbate, Joseph A." <jabbate@courts.ri.gov>, "Grebien, Donald" <DGrebien@pawtucketri.com>, Frank Milos <FMilos@pawtucketri.com>, "Goncalves, Tina" <tgoncalves@pawtucketpolice.com>, Jack Gannon <jack@gbdvlaw.com>, Nadine Higgins <nhiggins@pawtucketpolice.com>
Bcc: Andrew Horwitz <ahorwitz@rwu.edu>

Dear Chief Magistrate DiSandro:

As you know, there has been some confusion in the Pawtucket Police Department regarding who has authority over the operations of the Pawtucket Municipal Court, specifically who has authority over the manner by which good driver statute (GDS) dismissals are administered. After consulting with you, Associate RITT Judge Joseph Abbate, Kathleen Kelly, Esq., General Counsel to the Rhode Island Supreme Court, Andrew Horwitz, Esq., Dean and Professor of Law at Roger Williams Law School, and Lynette Labinger, Esq., of the RI ACLU, I have decided to issue the attached Court Order. At the suggestion of the Rhode Island Ethics Commission, I have also reached out to Pawtucket City Solicitor, Frank Milos, Esq, so I am confident that cooler heads will prevail.

Please be advised that the Pawtucket Municipal Court will continue to follow RITT's lead and rules regarding GDS dismissals, and the court will protect its authority, as granted by state statute and city ordinance, to the fullest extent of the law.

Thank you for the email you have previously provided, and for your kind attention and guidance regarding this matter.

Sincerely yours,

Donna M. Nesselbush, Esq.
Chief Judge
Pawtucket Mun. Court

**MX-6071_20220819_115345.pdf**

357K



Chief Judge Donna M. Nesselbush
Associate Judge John T. Gannon

CITY OF PAWTUCKET
PAWTUCKET MUNICIPAL COURT
121 ROOSEVELT AVENUE
PAWTUCKET, RI 02860



COURT ORDER

PROTOCOL Re: Good Driving Statute Via the Mail

It is here Ordered, Adjudged and Decreed That:

The Pawtucket Municipal Court will offer Good Driving Statute (GDS) dismissals via the mail, in accordance with the procedures set forth by the Rhode Island Traffic Tribunal.

Anyone seeking to interfere with this Court Order is advised to seek counsel from the Pawtucket City Solicitor as anyone interfering will be immediately held in contempt of court, pursuant to the Court's contempt powers, as provided by Pawtucket Ordinance, Article I, Section 26-3: "Said Court shall have the power to issue writs of summons for witnesses, and compel attendance, and to punish for contempt by fine. In addition, said Court shall have the power to execute search warrants to the extent the warrants could be executed by a Judge of the District Court."

SO ORDERED BY:

Donna M. Nesselbush

ENTERED BY:

Nadine Higgins

Chief Judge Donna Nesselbush

Clerk Nadine Higgins

Date:

8/19/22

Date:

8-19-22



Donna Nesselbush <donnaesselbush@gmail.com>

Fwd: Enforcement of Municipal Ordinances

1 message

Donna Nesselbush <donnaesselbush@gmail.com>

Wed, Jun 19, 2024 at 12:24 PM

To: donnaesselbush@gmail.com

See the section in the brief entitled

Collecting fines imposed by the municipal courts, page 38

...Donna

Donna M. Nesselbush, Esq.

Begin forwarded message:

From: Bob Peretti <bob@lp.legal>**Date:** April 3, 2023 at 4:07:40 PM EDT**To:** Donna Nesselbush <donnaesselbush@gmail.com>, "Donna M. Nesselbush" <Dnesselbush@m-n-law.com>, David Bazar <dbazar@bazarlaw.com>, Jacqueline Grasso <jgrasso@grassolaw.net>, Valentino Lombardi <vnl66@aol.com>**Cc:** fconnor@bartongilman.com, jhowettlaw@cox.net, psilvalaw@cox.net, NickGorham@gorhamlaw.com, Joseph@molinaflynn.com, municipalcourt@hopkintonri.org, agc@cblaw.necoxmail.com, jboulanger11@verizon.net, matthew.smith1989@verizon.net, mforteri@gmail.com, angelyne.e.cooper@gmail.com, rndiscristofaro@rils.org, nsolitro@gmail.com, rragosta@aol.com, scott@b-plaw.com, Lisette Gomes <lisette.gomes3@gmail.com>, mtourgee@itwlaw.com, aram@jarretlaw.com, NickGorham@gorhamlaw.com, municipalcourt@hopkintonri.org, Frank <fmanni@1405lawoffices.com>, municipalcourt@lincolnri.org, fholbrook@millerscott.com, MunicipalCourt@northkingstown.org, Jalyward@northkingstown.org, aram@jarretlaw.com, jhowettlaw@cox.net, Jack@gbdlaw.com, Richard D'addario <rdaddario@daddariolaw.com>, mckiernanlawri@gmail.com, office@capriolaw.com, lisa.bortolotti@gmail.com, rhh@rhumphreylaw.com, Thomas Dickinson <tmd@appealri.com>, mikeursillo@utrlaw.com, Norman Landroche <norman@murphyandfay.com>, lmanfred@cox.net, Domenic DiSandro <ddisandro@courts.ri.gov>, Joseph Abbate <jabbate@courts.ri.gov>, WNoonan@courts.ri.gov, agoulart@courts.ri.gov, EParker@courts.ri.gov, ekruseweller@courts.ri.gov, mdichiro@courts.ri.gov, jdecubellis@nea.org, jtarro@narragansetttri.gov, steven@moretti.legal, Nadine Higgins <NHiggins@pawtucketpolice.com>**Subject: RE: Enforcement of Municipal Ordinances**

Dear Judge Nesselbush –

Thank you very much for reaching out to our fellow judges for their ideas on this subject.

I welcome their input and ideas.

I would like to thank you all in advance and to wish everyone a blessed Easter and Passover season.

Best regards,

Bob Peretti

Robert A. Peretti, Esq.**Chief Municipal Court Judge****Town of North Providence**

1140 Reservoir Avenue – Suite 201

Cranston, RI 02920

(401) 273-7747 (o)

(401) 946-6333 (fax)

e-mail: bob@peretti.legal or bob@lp.legal



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PLEASE VERIFY AND CONFIRM OUR WIRING INSTRUCTIONS VERBALLY BEFORE SENDING FUNDS TO THIS OFFICE.

From: Donna Nesselbush <donnaesselbush@gmail.com>

Sent: Monday, April 3, 2023 2:02 PM

To: Donna M. Nesselbush <dnesselbush@m-n-law.com>; David Bazar <dbazar@bazarlaw.com>; Jacqueline Grasso <jgrasso@grassolaw.net>; Valentino Lombardi <vnl66@aol.com>

Cc: fconnor@bartongilman.com; jhowettlaw@cox.net; psilvalaw@cox.net; NickGorham@gorhamlaw.com; Joseph@molinaflynn.com; municipalcourt@hopkintonri.org; agc@cblaw.necoxmail.com; jboulanger11@verizon.net; matthew.smith1989@verizon.net; mforteri@gmail.com; angelyne.e.cooper@gmail.com; mdiscristofaro@rils.org; nsolitro@gmail.com; rragosta@aol.com; scott@b-plaw.com; Lisette Gomes <lissette.gomes3@gmail.com>; mtourgee@itwlaw.com; aram@jarrelllaw.com; NickGorham@gorhamlaw.com; municipalcourt@hopkintonri.org; Frank <fmanni@1405lawoffices.com>; municipalcourt@lincolnrri.org; fholbrook@millerscott.com; MunicipalCourt@northkingstown.org; Jalyward@northkingstown.org; Bob Peretti <bob@lp.legal>; aram@jarrelllaw.com; jhowettlaw@cox.net; Jack@gbdvlaw.com; Richard D'addario <rdaddario@daddariolaw.com>; mckiernanlawri@gmail.com; office@capriolaw.com; lisa.bortolotti@gmail.com; rhh@rhumphreylaw.com; Thomas Dickinson <tmd@appealri.com>; mikeursillo@utrlaw.com; Norman Landroche <norman@murphyandfay.com>; lmanfred@cox.net; Domenic DiSandro <ddisandro@courts.ri.gov>; Joseph Abbate <jabbate@courts.ri.gov>; WNoonan@courts.ri.gov; agoulart@courts.ri.gov; EParker@courts.ri.gov; ekruseweller@courts.ri.gov; mdichiro@courts.ri.gov; jdecubellis@nea.org; jtarro@narragansett.ri.gov; steven@moretti.legal; Nadine Higgins <NHiggins@pawtucketpolice.com>

Subject: Enforcement of Municipal Ordinances

Dear Judges:

Greetings, and I hope this email finds you well. Hopefully, the stars will align to allow us to schedule our annual Municipal Court Judges' luncheon this coming June.

In the meantime, Judge Peretti from North Providence has reached out to me inquiring about possible enforcement ideas regarding Municipal ordinances. For example, he wonders what to do when residents or non-residents have been cited for smoking tobacco or cannabis in public, drinking in public, curfew violations, and/or violations of similar ordinances. Essentially the question is what do we do if the person cited does not appear and does not own property in the municipality?

Judge Peretti suggested having a central municipal registry of violators who failed to appear or otherwise owe fines to the municipality, suggesting that perhaps they could be denied other municipal services until they deal with the issue, whether that be by appearing in court on a motion to vacate, or for an ability to pay hearing or by paying the fine.

I thought I would put this out to the group to see if anyone has any procedures that are working for their municipality or any ideas.

If you do have procedures or ideas, please respond using "reply all," so we can all benefit from this information.

Also, as always, if you notice that any people/judges are on this list or not on this list in error, please let me know. I do my best to maintain an active list.

Thank you, and hope to see you all in June... Donna.

Donna M. Nesselbush, Esq.



**Donna M.
Nesselbush
(She/her/hers)**

(O): 401-709-4955

(F): 401-274-0104

**685 Westminster
Street**

**Providence, RI
02903**

**www.M-N-
Law.com**

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...Donna

Donna M. Nesselbush, Esq.

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Donna Nesselbush <donnaesselbush@gmail.com>

Separation of Powers & Court Employees

1 message

Donna Nesselbush <donnaesselbush@gmail.com>

Tue, Jul 12, 2022 at 1:03 PM

To: Donald Grebien <dgrebien@pawtucketri.com>

Bcc: NKing@m-n-law.com, nlhiggins528@gmail.com, jack@gbdvlaw.com

Dear Don:

In anticipation of speaking with you later today, here is an email that spells out the issue.

I state the obvious when I state that the separation of powers between the three co-equal branches of government is fundamental to our American system of government and jurisprudence.

I also state the obvious when I state that George Floyd's tragic death tarnished (to say the least) the relationship between the police and communities of color. The judicial branch of government has long been an important check on the unfortunate issue of police brutality, and courts can only function properly with independence and autonomy, especially autonomy from police departments. Historically, when police departments have not been able to police themselves in terms of police behavior, the courts have had to step in to dispense justice. Although police brutality is the far extreme of police over-reaching, police over-reaching is exactly the issue we are dealing with here.

It is fundamental that courts be neutral, independent and autonomous as they arbitrate between the police/prosecution and the defense of litigants, even vis-à-vis traffic tickets. In my opinion, it is quintessentially important that court employees be employees of the court (just a line in the city's budget) and not employees of the police department (they cannot be paid under the police department's budget). Although not ideal, one person can work both for the police department and the court, but they must have separate titles, separate duties, separate supervisors and separate lines in the budget.

Municipal Court employees must report to the court; they cannot be supervised by the police chief (or her designee) without seriously undermining the community's faith in the independence and neutrality of the courts, especially communities of color which constitute the majority of our city's population.

This is conceptual in nature and should have no actual budgetary consequences. The city can still have the same employees, serving both the police and the court, doing the exact same duties they have now, for the exact same pay and benefits. There just needs to be a clear line between their work for the court and their work for the police/prosecution. How can motorists ever feel like they get a fair shake in our city if police personnel issue the tickets and are involved in the adjudication process? This is precisely why we changed the name of our court from the ill-advised misnomer of a "Police Court" to the "Pawtucket Municipal Court." The current situation of blurred lines is precisely why we are in an untenable situation where I am instructing court employees to do one thing and the police chief is instructing them to do the exact opposite. This can't continue and must be resolved.

I know you share my commitment to the separation of powers doctrine and equal justice, and I look forward to the implementation of changes by your administration that reflect the importance of these doctrines and values.

Sincerely yours,

Donna M. Nesselbush, Esq.
Chief Judge
Pawtucket Municipal Court

PS: (with no city email from which to send you this email...more to come on that!)



Donna Nesselbush <donnaesselbush@gmail.com>

FW: Pawtucket Municipal Court - Traffic Jurisdiction

1 message

Kelly, Kathleen <kkelly@courts.ri.gov>

Wed, Aug 3, 2022 at 10:12 AM

To: "donnaesselbush@gmail.com" <donnaesselbush@gmail.com>, "Correa, Justin" <jcorrea@courts.ri.gov>

Here you go!

Kathleen Kelly

General Counsel

Rhode Island Supreme Court

Licht Judicial Complex

250 Benefit Street

Providence, Rhode Island 02903

(401) 222-8714

From: Correa, Justin <jcorrea@courts.ri.gov>**Sent:** Tuesday, August 2, 2022 10:14 AM**To:** Kelly, Kathleen <kkelly@courts.ri.gov>**Subject:** Pawtucket Municipal Court - Traffic Jurisdiction

Kathy,

Per our discussion, attached please find the authorities I pulled relating to Pawtucket Municipal Court Chief Judge Donna M. Nesselbush's inquiry regarding the extent of her jurisdiction over traffic-related matters before the court (with specific focus on the good driving statute). The first two attachments, (1) G.L. 1956 § 45-2-13 and (2) City of Pawtucket Ordinances § 26, address the court's general structure, powers, and jurisdiction over city ordinances and housing matters. They do not address traffic matters, however.

Attachments (3) and (4) are the State and Municipal Court Compact, G.L. 1956 §§ 8-18-1 et seq., and the RI Traffic Tribunal Rules of Procedure, respectively. Attention should be paid to several provisions therein, as they directly address the matter at hand. First, G.L. 1956 § 8-18-3 establishes the municipal courts' co-equal jurisdiction over traffic matters with the Traffic Tribunal. Second, G.L. 1956 § 8-18-4(b) specifically provides that "[m]unicipal courts shall have jurisdiction over matters brought pursuant to § 31-41.1-7." Section 31-41.1-7 is the good driving statute. Similarly, Rule 1(a) of the Traffic Tribunal Rules of Procedure establishes that these rules pertain equally to the several municipal courts and the Traffic Tribunal. Rule 7 addresses the courts' jurisdiction to hear and decide matters involving the good driving statute. Taken together, these authorities evince the municipal courts' clear power to hear and decide traffic matters involving the good driving statute, in the same manner as the Traffic Tribunal.

Finally, attachment (5) is a copy of the good driving statute, G.L. 1956 § 31-41.1-7, provided for the reader's further reference.

Please let me know if I can be of any further help in this matter. Thank you.

Justin D. Correa, Esq.

Staff Attorney

Rhode Island Supreme Court

Office of General Counsel

jcorrea@courts.ri.gov

401-222-3267

5 attachments

-  **(1) City of Pawtucket Municipal Court (45-2-13).pdf**
101K
-  **(2) City of Pawtucket Ordinances - Courts.pdf**
86K
-  **(3) State and Municipal Court Compact (8-18-1 et seq.).pdf**
160K
-  **(4) Traffic Tribunal Rules of Procedure.pdf**
301K
-  **(5) Good Driving Statute (31-41.1-7).pdf**
103K

West's General Laws of Rhode Island Annotated
Rhode Island State Court Rules
Rules of Procedure for the Traffic Tribunal
V. General Provisions

Traffic Tribunal Rule 35
Formerly cited as RI R TRAF TRIB Rule 36

Rule 35. Obligations of Authorized Law Enforcement Agencies

Currentness

(a) Mandatory eCitation. The issuance of eCitation summonses shall be mandatory for all authorized law enforcement agencies within one (1) year from the Effective Date set forth in Rule 36.

(b) Submission of eCitation Summons to the Traffic Tribunal. Every eCitation summons issued shall be submitted to the traffic tribunal on a daily basis. The authorized law enforcement agency shall also submit the eCitation to the respective municipal court.

(c) Mandatory Electronic Submission of the Summons. All other summonses issued from authorized law enforcement agencies shall be submitted electronically to the traffic tribunal on a daily basis. The authorized law enforcement agency shall also submit all other summonses to the respective municipal court.

(d) Language Assistance Notices. In an effort to provide language assistance to limited English proficient persons, service of the summons shall include the Language Assistance Notices which informs the recipient of the right to a foreign language interpreter at no cost and contains instructions about how to obtain language assistance services. The most current version of the Language Assistance Notices are located on the Judiciary's website at www.courts.ri.gov under the heading of Public Resources, Forms.

(e) Universal Summons. All authorized law enforcement agencies shall use the summons in Rule 3(a) to issue violations.

(f) Scheduling of the First Appearance. All authorized law enforcement agencies shall schedule the first appearance within the time frame prescribed by the chief magistrate of the traffic tribunal.

(g) Refusal Packets. All refusal packets shall be delivered to the Traffic Tribunal no later than seven (7) days before the first appearance.

Credits

[Former Rule 36 renumbered as Rule 35 and amended July 22, 2013. Amended eff. June 8, 2015; July 18, 2016.]

Traffic Tribunal Rule 35, RI R TRAF TRIB Rule 35

Rule 35. Obligations of Authorized Law Enforcement Agencies, RI R TRAF TRIB Rule 35

Current with amendments received through June 15, 2022. Some rules may be more current, see credits for details.

End of Document

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West's General Laws of Rhode Island Annotated
Rhode Island State Court Rules
Rules of Procedure for the Traffic Tribunal
V. General Provisions

Traffic Tribunal Rule 36
Formerly cited as RI R TRAF TRIB Rule 34; RI R TRAF TRIB Rule 35

Rule 36. Effective Date

Currentness

These rules shall take effect on June 8, 2015.

Credits

[Former Rule 35 renumbered as Rule 34 and amended July 22, 2013. Renumbered as Rule 36 and amended eff. June 8, 2015.]

Traffic Tribunal Rule 36, RI R TRAF TRIB Rule 36

Current with amendments received through June 15, 2022. Some rules may be more current, see credits for details.

End of Document

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West's General Laws of Rhode Island Annotated
Title 8. Courts and Civil Procedure--Courts
Chapter 18. State and Municipal Court Compact

Gen.Laws 1956, § 8-18-1

§ 8-18-1. Legislative findings

Currentness

It is hereby found and declared as follows:

(1) The general assembly has authorized the establishment of municipal courts, in order to promote the health and safety of the residents of each city or town and to insure compliance with any and all local ordinances.

(2) In furtherance of this finding there is hereby created a compact between the state courts and agencies and the local municipal courts to establish and define jurisdictional responsibility for law enforcement powers within the state.

Credits

P.L. 1992, ch. 488, § 1; P.L. 2006, ch. 650, § 1, eff. July 20, 2006.

Gen. Laws, 1956, § 8-18-1, RI ST § 8-18-1

Current with effective legislation through Chapter 122 of the 2022 Regular Session of the Rhode Island Legislature.

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West's General Laws of Rhode Island Annotated
Title 8. Courts and Civil Procedure--Courts
Chapter 18. State and Municipal Court Compact

Gen.Laws 1956, § 8-18-2

§ 8-18-2. Universal summons

Currentness

All state agencies and municipalities that have law enforcement powers shall be issued and authorized a form for summons and complaint to be used for all violations specified in chapters 27, 41.1 and 41.2 of title 31 and no other summons shall be substituted except as provided by § 31-12-12. All fines, assessments, fees, and other financial charge or any other responsibility not changed by the following shall be deemed enforceable even when the summons is issued by a municipality and adjudicated by a municipal court, or issued by state agencies or a municipality without a court and adjudicated by the traffic tribunal. All summonses, once issued, must be recorded by the traffic tribunal prior to a hearing, arraignment, or trial. If the summons is answered by payment without personal appearance pursuant to § 31-41.1-2, it shall be recorded by the traffic tribunal upon return from the financial institution.

Credits

P.L. 1992, ch. 488, § 1; P.L. 1999, ch. 218, art. 5, § 1; P.L. 2013, ch. 144, art. 9, § 12, eff. July 3, 2013; P.L. 2014, ch. 528, § 48, eff. Dec. 31, 2014.

Gen. Laws, 1956, § 8-18-2, RI ST § 8-18-2

Current with effective legislation through Chapter 122 of the 2022 Regular Session of the Rhode Island Legislature.

End of Document

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§ 8-18-3. Jurisdiction for certain violations, RI ST § 8-18-3

West's General Laws of Rhode Island Annotated
Title 8. Courts and Civil Procedure--Courts
Chapter 18. State and Municipal Court Compact

Gen.Laws 1956, § 8-18-3

§ 8-18-3. Jurisdiction for certain violations

Currentness

(a) Subject to subsection (b) of this section, jurisdiction over the adjudication of matters relating to violations enumerated in the following sections of the general laws is hereby conferred upon the municipal courts and the traffic tribunal:

31-13-4	31-13-9	31-13-11	31-14-3	31-14-9	31-15-1	31-15-3
31-15-4	31-15-5	31-15-6	31-15-7	31-15-9	31-15-11	31-15-12
31-15-13	31-16-1	31-16-2	31-16-4	31-16-5	31-16-7	31-16-9
31-17-1	31-17-2	31-17-4	31-17-6	31-17-7	31-18-12	31-20-1
31-20-2	31-20-9	31-21-4	31-22-2	31-22-4	31-22-5	31-22-6
31-22-7	31-22-8	31-22-9	31-23-1	31-23-8	31-23-13	31-23-14
31-23-15	31-24-1	31-24-4	31-24-5	31-24-7	31-24-12	31-38-4
31-12-12	37-15-7	31-3-29	31-3-30	31-3-34	31-3-35	31-8-1
31-10-32	31-10.1-1	31-10.1-4	31-10.1-5	31-10.1-6	31-13-6	31-15-8
31-23-45	31-14-1	31-17-3	31-23-4	31-23-10	31-23-17	31-23-19
31-23-20	31-23-26	31-23-27	31-23-40	31-23-42.1	31-3-18	31-10-27
31-18-3	31-10.1-7	31-38-3	31-14-12	31-17-5	31-25-9	31-25-11
31-25-12	31-25-12.1	31-25-10	31-22-1	31-24-34	31-27-9	31-3-9
31-15-10	31-18-8	31-25-17	31-10.1-4	31-23-43	31-23-29	31-24-45
31-17-8	31-24-10	31-23-47	31-12-9	31-15-16	24-10-18	31-19-5
31-3-12	31-24-9	31-22-22	31-28-7	31-28-7.1	31-3-32	31-18-4
24-10-18	31-18-5	31-18-15	31-18-18	31-21-14	31-22-3	31-23-16
31-24-6	31-24-8	31-24-31	31-27-16	31-22-23	31-10-30	31-10-10
31-19-3	31-3-40	31-22-24	31-23-51	31-7-1	31-15-2	31-15-12.1
31-16-8	31-20-17	31-24-16	31-24-17	31-24-20	31-24-22	31-24-23

§ 8-18-3. Jurisdiction for certain violations, RI ST § 8-18-3

31-24-24	31-24-25	31-24-26	31-24-27	31-24-28	31-24-29	31-24-30
31-24-32	31-24-33	31-24-36	31-24-38	31-24-39	31-24-40	31-24-41
31-24-42	31-24-43	31-24-46	31-24-49	31-24-51	31-24-53	31-26-3.1
31-27-17	31-27-19	31-33-2	31-45-1	4-1-26	31-10.1-2	31-20-10
31-22-13	31-24-13	31-27-10	31-41.1-4 (Speeding (A)).			

(b) Except as provided in §§ 8-18-9, 8-18-10, and 31-41.1-11 jurisdiction over violations enumerated in subsection (a) shall be exercised as follows:

(1) By the traffic tribunal over all violations for which the summons is issued by a state agency;

(2) By the traffic tribunal over all violations for which the summons is issued by a city or town which has not established a municipal court; and

(3) By the municipal court over all violations for which the summons is issued by a city or town which has established a municipal court.

Credits

P.L. 1992, ch. 488, § 1; P.L. 1999, ch. 218, art. 5, § 1; P.L. 2006, ch. 650, § 1, eff. July 20, 2006.

Gen. Laws, 1956, § 8-18-3, RI ST § 8-18-3

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Title 8. Courts and Civil Procedure--Courts
Chapter 18. State and Municipal Court Compact

Gen.Laws 1956, § 8-18-4

§ 8-18-4. Adjudication of summonses by municipal courts

Currentness

- (a) All summonses to be adjudicated by a municipal court shall be forwarded to the municipal court.
- (b) Summonses to be adjudicated by a municipal court shall be adjudicated by a judge of the municipal court pursuant to § 31-41.1-6 and the rules established by the chief magistrate of the traffic tribunal subject to the approval of the supreme court pursuant to § 8-6-2. Municipal courts shall have jurisdiction over matters brought pursuant to § 31-41.1-7.
- (c) If a motorist fails to appear to answer a summons before a municipal court, the municipal court may proceed pursuant to § 31-41.1-5 to enter a default judgment and determine whether the charges have been established. Where a determination is made that a charge has been established, an appropriate order shall be entered and the motorist's license and registration privileges may be ordered by the municipal court to be suspended by the division of motor vehicles as provided by law.
- (d) All summonses which have been adjudicated by the municipal court and entered into the data electronic system shall be returned to the traffic tribunal for storage as required by § 8-14-1.
- (e) All municipal courts shall be courts of record, shall tape record all sessions, maintain dockets, and adjudicate all violations on the summonses and shall be responsible for data entry into an electronic data processing system of all citations heard and decided by said municipal courts pursuant to procedures and rules promulgated by the chief magistrate of the Rhode Island traffic tribunal subject to the approval of the supreme court pursuant to § 8-6-2.
- (f) Municipal court judges may, in their discretion, order driver retraining courses in appropriate cases.
- (g) A thirty-five dollar (\$35.00) hearing fee shall be assessed by both municipal courts and the traffic tribunal against each person pleading guilty to or found guilty of a traffic offense or violation, as provided in the general laws. In no case shall any municipal court exercising jurisdiction pursuant to this chapter impose or assess any fees or costs except as expressly authorized by state law.
- (h) If a payment for any fine assessed in the municipal court for any violation is attempted with a check written against insufficient funds, then an additional penalty not to exceed twenty-five dollars (\$25.00) may be added to the amount due.

§ 8-18-4. Adjudication of summonses by municipal courts, RI ST § 8-18-4

Credits

P.L. 1992, ch. 488, § 1; P.L. 1999, ch. 218, art. 5, § 1; P.L. 2003, ch. 437, § 1; P.L. 2008, ch. 1, § 8, eff. Jan. 30, 2008; P.L. 2008, ch. 100, art. 12, § 1, eff. July 1, 2008; P.L. 2012, ch. 415, § 14, eff. June 22, 2012.

Gen. Laws, 1956, § 8-18-4, RI ST § 8-18-4

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§ 8-18-5. Administration of funds, RI ST § 8-18-5

West's General Laws of Rhode Island Annotated
Title 8. Courts and Civil Procedure--Courts
Chapter 18. State and Municipal Court Compact

Gen.Laws 1956, § 8-18-5

§ 8-18-5. Administration of funds

Currentness

The cities and towns and the state shall enter into an agreement which will authorize the transfer of funds and guarantee against misuse, misdirection, and nontransference of funds owed to the appropriate jurisdiction by means of a financial institution compact.

Credits

P.L. 1992, ch. 488, § 1.

Gen. Laws, 1956, § 8-18-5, RI ST § 8-18-5

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§ 8-18-6. Joint violation fines--Distribution of funds, RI ST § 8-18-6

West's General Laws of Rhode Island Annotated
Title 8. Courts and Civil Procedure--Courts
Chapter 18. State and Municipal Court Compact

Gen.Laws 1956, § 8-18-6

§ 8-18-6. Joint violation fines--Distribution of funds

Currentness

Cities or towns with municipal courts shall dedicate four dollars (\$4.00) for reimbursement from each summons to the general fund. Cities or towns without a municipal court shall dedicate six dollars (\$6.00) for reimbursement from each summons to the general fund. State agencies shall dedicate twenty-two dollars (\$22.00) from each summons to the general fund. Provided that cities, towns and state agencies shall also dedicate all revenues generated directly as a result of fee increases effective July 1, 2002 and July 1, 2008 to the general fund.

Credits

P.L. 1992, ch. 488, § 1; P.L. 1999, ch. 218, art. 5, § 1; P.L. 2002, ch. 65, art. 13, § 23; P.L. 2008, ch. 100, art. 12, § 1, eff. July 1, 2008.

Gen. Laws, 1956, § 8-18-6, RI ST § 8-18-6

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§ 8-18-7. Repealed by P.L. 1999, ch. 218, art. 5, § 2, eff. July 1, 1999, RI ST § 8-18-7



KeyCite Red Flag - Severe Negative Treatment

KeyCite Red Flag Negative Treatment § 8-18-7. Repealed by P.L. 1999, ch. 218, art. 5, § 2, eff. July 1, 1999

West's General Laws of Rhode Island Annotated
Title 8. Courts and Civil Procedure--Courts
Chapter 18. State and Municipal Court Compact

Gen.Laws 1956, § 8-18-7

§ 8-18-7. Repealed by P.L. 1999, ch. 218, art. 5, § 2, eff. July 1, 1999

Currentness

Gen. Laws, 1956, § 8-18-7, RI ST § 8-18-7

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Gen.Laws 1956, § 8-18-8

§ 8-18-8. Judicial conduct

Currentness

All judges of any municipal court which exercises jurisdiction under the provisions of this chapter shall be subject to and governed by the canons of judicial ethics or code of judicial conduct in effect at the time, as prescribed by the Rhode Island supreme court, and the provisions of chapter 16 of this title.

Credits

P.L. 1992, ch. 488, § 1.

Gen. Laws, 1956, § 8-18-8, RI ST § 8-18-8

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West's General Laws of Rhode Island Annotated Title 8. Courts and Civil Procedure--Courts Chapter 18. State and Municipal Court Compact

Gen.Laws 1956, § 8-18-9

§ 8-18-9. Appeals

Currentness

Any person desiring to appeal from an adverse decision of a municipal court pursuant to the provisions of this chapter may seek review thereof pursuant to the procedures set forth in § 31-41.1-8.

Credits

P.L. 1992, ch. 488, § 1; P.L. 1999, ch. 218, art. 5, § 1.

Gen. Laws, 1956, § 8-18-9, RI ST § 8-18-9

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Title 8. Courts and Civil Procedure--Courts
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Gen.Laws 1956, § 8-18-10

§ 8-18-10. Exclusive jurisdiction

Currentness

The universal summons shall also be used for any violations of those sections not listed in § 8-18-3; provided, however that the following violations shall remain the exclusive jurisdiction of the traffic tribunal or the other state courts and shall not be within the jurisdiction of any municipal court:

31-11-16	31-11-17	31-11-18	31-11-19
31-11-20	31-12-3	31-14-1	31-20-12
31-26-1	31-26-2	31-26-4	31-26-5
31-27-1	31-27-2	31-27-4	31-26-3
31-3-1	31-8-2	31-8-3	31-9-1
31-9-2	31-9-5	31-9-6	31-10-1
31-10-28	31-11-12	3-8-9	31-8-10
31-38-9	31-41.1-1	31-25-13	31-25-4
31-25-5	31-25-6	31-25-7	31-27-6
31-25-24	31-23-37	31-24-37	31-25-20
31-25-3	31-25-16	31-25-19	11-44-29
31-22-21.1	31-27-2.1	11-44-22	31-19.1-2
31-19.2-2	31-9-3	31-10-26	31-27-2.3
31-36.1-17	31-9-1--31-9-11	31-4-3	
31-11-18.1	31-27-1.1	31-27-2.2	31-15-14
31-23-49	31-12-26	31-22-13	31-22-14
31-23-28	31-27-5	31-23-13.1	31-27-2.7
31-27-2.4	31-41.1-4		

(Speeding (B)).

§ 8-18-10. Exclusive jurisdiction, RI ST § 8-18-10

Credits

P.L. 1992, ch. 488, § 1; P.L. 1999, ch. 218, art. 5, § 1; P.L. 1999, ch. 445, § 2; P.L. 2001, ch. 86, § 20.

Gen. Laws, 1956, § 8-18-10, RI ST § 8-18-10

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§ 8-18-11. Municipal court adherence to promulgated procedures, RI ST § 8-18-11

West's General Laws of Rhode Island Annotated
Title 8. Courts and Civil Procedure--Courts
Chapter 18. State and Municipal Court Compact

Gen.Laws 1956, § 8-18-11

§ 8-18-11. Municipal court adherence to promulgated procedures

Currentness

All municipal courts which shall hear and decide traffic matters pursuant to the authority of this chapter shall do so in a manner consistent with the procedures of the traffic tribunal. If it shall appear to the chief magistrate of the traffic tribunal that said procedures are not being followed by any municipal court he or she shall inform the municipal court in question that it appears that it is not in compliance with the procedures of the traffic tribunal. If, thereafter, the chief magistrate is not satisfied that compliance is forthcoming he shall have standing under § 8-1-2 to petition the supreme court for appropriate relief.

Credits

P.L. 1999, ch. 218, art. 5, § 3; P.L. 2008, ch. 119, § 1, eff. July 1, 2008.

Gen. Laws, 1956, § 8-18-11, RI ST § 8-18-11

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Chapter 26

COURTS

[HISTORY: Adopted by the Council of the City of Pawtucket as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Judge of Probate Court—See Secs. 2-500 and 2-600 of Charter. Judge of Municipal Court—See Secs. 2-501 and 2-600 of Charter.

ARTICLE I
Municipal Court¹

[Approved 6-21-1973 by Ch. No. 1401; amended in its entirety 11-12-2020 by Ch.
No. 3235]

§ 26-1. Establishment.

Pursuant to R.I.G.L. § 45-2-13, as amended, there is hereby established a Municipal Court in the City of Pawtucket.

§ 26-2. Judge and Associate Judge of Municipal Court.

Said Court shall be composed of one Judge and one Associate Judge who shall be elected in accordance with all of the provisions of Section 2-501 of the City Charter.

§ 26-3. Witnesses; attendance; subpoenas; warrants.

Said Court shall have power to issue writs of summons for witnesses, and compel their attendance, and to punish for contempt by fine. In addition, said Court shall have the power to execute search warrants to the extent the warrants could be executed by a Judge of the District Court.

§ 26-4. Associate Justice/Clerk.

(Reserved)

§ 26-5. Duties of Clerk.

In case of the sickness, absence from the City or other disability or ineligibility of the Judge of the Municipal Court to serve, the Clerk of the Municipal Court shall perform the duties of said Judge during the sickness, absence or other inability or ineligibility of said Judge. The acts of said Clerk in the performance of said duties shall have the same effect as if performed by said Judge. The Clerk of said Court shall keep a regular docket of all cases therein, including a record of all cases disposed of, shall record the judgments, orders and sentences of said Court and shall furnish certified copies thereof when required, for which copies said clerk shall charge the same fees as are by law allowed to Clerks of the Superior Court. He or she shall keep his or her office open to the public during such hours as the Court shall determine.

§ 26-6. Power of Clerk to arraign and take recognizance to state.

The Clerk of the Municipal Court shall have the power to arraign and take recognizance to the state.

§ 26-7. Employment of clerical assistance by Clerk.

The Clerk of the Municipal Court, with the approval of the Judge thereof, is hereby authorized and empowered to employ such clerical assistance as he or she may require in his or her office in copying, recording, indexing and attending upon the files of said

1. Editor's Note: See R.I.G.L. § 45-2-13 for statutory authority.

Court.

§ 26-8. Seal; oaths.

The Municipal Court shall have a seal which shall contain such words and device as the Court shall adopt. The Judge of the Municipal Court shall have power to administer oaths and affirmations.

§ 26-9. Sessions; time; place.

The Municipal Court shall be considered to be in session at all times and in such place or places in the City as the Court or the justice holding the same shall direct.

§ 26-10. Jurisdiction.

The Municipal Court shall have original jurisdiction to hear and determine causes involving violation of any ordinance of the City of Pawtucket.

§ 26-11. Sentencing; appeals.

- A. The Municipal Court may impose a fine not in excess of \$500. Fines so imposed shall be paid over and disposed of in like manner as moneys had been obtained for violations of City ordinances previously handled in the District Court.
- B. Every person aggrieved by any fine or sentence of said Municipal Court may within seven days of such conviction appeal from such sentence to the Superior Court in and for Providence County, in the same manner and with the same procedure, and such appeal shall be disposed of in said Superior Court in like manner as is prescribed in the case of appeals in criminal cases from the sentence of any District Court.

§ 26-12. Complaints, warrants and writs.

It shall be lawful for the Judge of said Court so to prescribe and vary the form of all complaints, warrants, writs or other process as to make the same consistent with the organization, style and jurisdiction of said Court, and such complaints, warrants, writs and other process shall have the same effect, validity and extent, and be served, obeyed, enforced and returned, in the same manner and by the same officers as if issued from the District Courts, and they may also be served by any constables of said town who are authorized to serve process in civil or criminal cases.

§ 26-13. Costs.

Costs taxed by said Municipal Court shall be the same as those taxed by District Courts, and the payment of the costs shall be a part of the sentence to the extent they would be in the District Courts, or as otherwise authorized by state law.

§ 26-14. Appeal costs.

All moneys derived from such appeals, whether for fine and costs, or otherwise, including costs imposed in said Municipal Court on such appealed cases, shall be paid

over and disposed of in like manner as moneys obtained in cases of appeal from District Courts to said Superior Courts in criminal cases are paid over and disposed of.

§ 26-15. Effect of Charter.

The provisions of the Charter shall apply to the Municipal Court of the City and to the functions within the jurisdiction of the Court to the extent that such provisions are consistent with this article. To the extent that such provisions are inconsistent with this article, the provisions of the City Charter shall control.

ARTICLE II
Housing Court
[Approved 5-5-1995 by Ch. No. 2384]

§ 26-16. Title.

This article shall be known and may be cited as the "Housing Court Act."

§ 26-17. Purpose.

This article shall be liberally construed to the end that all people be housed in dwellings that are safe, sanitary and fit for human habitation and that levels of residential environmental quality be achieved and maintained as will protect and promote the health, safety and general welfare of the people of the City of Pawtucket.

§ 26-18. Establishment; Judge; jurisdiction; seal; oaths.

- A. In accordance with the express enabling authority granted by the General Assembly in R.I.G.L. § 45-2-13, there is hereby established in the City of Pawtucket a Housing Court, which shall conduct its day-to-day business as an adjunct to and extension of the already existing Pawtucket Municipal Police Court.
- B. There shall be a Housing Court Judge and an Associate Housing Court Judge to hear and determine causes brought before the Housing Court by the Director of Zoning and Code Enforcement and the City Solicitor's Office involving violation of the zoning ordinances of the City and any violation of the provisions of Chapter 24 of Title 45 of the General Laws of the State of Rhode Island entitled the "State Zoning Enabling Act," and any violation of the provisions of Chapter 27.3 of Title 23 of the General Laws of the State of Rhode Island entitled the Rhode Island "State Building Code," and any violation of the provisions of those regulations promulgated by the State Building Code Commission entitled "SBC-1 Rhode Island State Building Code," "SBC-4 Rhode Island State One and Two family dwelling code," "SBC-5 Rhode Island State Electrical Code," "SBD-6 State Property Maintenance Code," "SBC-8 Rhode Island State Energy Conservation Code" and to hear and determine any other causes brought to promote, protect or enhance the residential environmental quality of the people. **[Amended 7-12-2012 by Ch. No. 3003]**
- C. The Housing Court Judge shall serve simultaneously as the Judge of the Pawtucket Municipal Police Court. **[Amended 5-9-2013 by Ch. No. 3025]**
- D. The Associate Housing Court Judge shall serve simultaneously as the Associate Judge of the Pawtucket Municipal Court. **[Amended 5-9-2013 by Ch. No. 3025]**
- E. The Housing Court will commence upon the passage of this article. Upon commencement, the Housing Court shall assume jurisdiction over all matters then pending in the District Court and the Superior Court or remanded to District Court or Superior Court pursuant to Court Order.
- F. Pursuant to R.I.G.L. § 8-18-4(e), the Housing Court shall be a court of record and shall, at a minimum, tape record all sessions.

- G. The Housing Court shall have a seal which shall contain such words and devices as the Court shall adopt.
- H. The Housing Court Judge and the Associate Housing Court Judge shall have the power to administer oaths and affirmations, compel the attendance of witnesses, punish persons for contempt and to execute search warrants to the extent warrants could be executed by a Judge of the District Court.

§ 26-19. Powers of the Housing Court.

- A. The Housing Court shall be a court of City-wide jurisdiction; and no order, decree, judgment, sentence, warrant, writ or process made, issued or pronounced by it need set out any adjudication or circumstances with greater particularity than would be required in courts of superior and general jurisdiction. The writs, subpoenas, citations, orders, notices, executions and all other processes issued by the Housing Court shall be under the seal of the Housing Court, signed by the Housing Court Clerk and bear the signature of the Housing Court Judge and shall run throughout the state.
- B. In all matters within its jurisdiction, the Housing Court shall have the power to proceed according to equity to:
 - (1) Restrain, prevent, enjoin, abate or correct a violation.
 - (2) Order the repair, vacation or demolition of any dwelling existing in violation.
 - (3) Otherwise compel compliance with all of the provisions of these ordinances or statutes.
 - (4) Order a dwelling into receivership and to order the removal of any clouds on the title to the building or property which shall be binding upon all those claiming by, through, under or by virtue of any inferior liens or encumbrances pursuant to Chapter 44 et seq. of Title 34 of the General Laws of the State of Rhode Island.
- C. In all matters within its jurisdiction, the Housing Court may impose a fine not in excess of \$500. [Amended 4-20-2017 by Ch. No. 3125; 5-24-2018 by Ch. No. 3160]
- D. All fees and costs assessed by the Housing Court shall be the same as the Police Court, or as otherwise authorized by state law. [Added 4-20-2017 by Ch. No. 3125]

§ 26-20. Sessions.

The Housing Court shall conduct business in the Pawtucket Municipal Courthouse at such times and under such conditions as the Housing Court Judge may from time to time direct.

§ 26-21. Housing Court Registry.

Within the Housing Court there shall be a registry, to be administered by the Housing Court Clerk, which shall receive and disburse all payments made by direction of the

Court, voluntary payments and those pursuant to the minimum standards housing ordinances,² which shall be regularly and promptly paid to the City Treasurer.

§ 26-22. Administration of operation.

- A. The Housing Court Judge shall be Administrative Judge of said Court and shall be the head of said Court and have supervision and control of the calendars and the assignments of his or her Associate Judge.
- B. All court stenographers and secretaries shall be under the supervision of the Housing Court Judge whose duty it shall be to gather such statistics as shall reflect accurately the work of the Court, for the information of the Court and such other use as may be deemed expedient.
- C. The Housing Court Judge shall also be charged with the general responsibility for any recommendations that may be important for the work of said Court.

§ 26-23. Rule of practice and procedure.

The Housing Court, through its Judge, may from time to time make and promulgate rules for regulating practice and conducting business therein. In all matters wherein the Housing Court is authorized or directed to make or promulgate rules, said Court shall have the authority, until such time as such rules may be promulgated, to provide by order in special cases.

§ 26-24. Authority and duties of Clerks.

The Housing Court Clerk shall serve simultaneously as the Clerk of the Pawtucket Municipal Court. In addition to any other authority or duties provided by this article, the Housing Court Clerk shall have the authority to carry out the duties with respect to the Housing Court that are exercised or performed by the Clerks of the District Courts or Superior Court in housing and zoning enforcement matters.

§ 26-25. Report of trials; transcripts.

- A. A court stenographer, except where a tape recording device is employed, shall report stenographically the proceedings in the trial of every action or proceeding in the Housing Court. If ordered to do so by the Judge, the stenographer shall transcribe the report and file the same with the papers in the case.
- B. The stenographer shall also make a transcript of the whole or any part of such report upon the written request filed with the Clerk, by either party to such action or proceeding, and when completed and within the time limited by the Court for filing the same, shall immediately deliver the same to the party ordering it, to the attorney of record of such party and for such service shall be paid a reasonable compensation to be allowed by the Court; and in case the transcript is used in subsequent proceedings in the cause, the cost of the same may be allowed as part of the costs.

2. Editor's Note: See Ch. 247, Housing Standards.

§ 26-26. Appeal.

Any party aggrieved by final judgment, decree or order of the Housing Court may, within 20 days after entry of judgment, petition to the Supreme Court for the State of Rhode Island for a writ of certiorari to review any errors involved. The petition for the writ of certiorari shall set forth the errors claimed. Upon the filing of such a petition with the clerk of the Supreme Court, the Supreme Court may, if it sees fit, issue a writ of certiorari to the Housing Court to certify to the Supreme Court the record of the proceedings of the case, together with any transcript of the proceedings furnished by the petitioner at his or her expense.

§ 26-27. Annual appropriations.

The City Council shall annually appropriate such sums as shall be necessary to carry out the purposes of this article, and the City Treasurer is hereby authorized and directed to draw their order for the payment of such sum, or so much thereof as may be required from time to time, upon receipt by them of duly authenticated vouchers approved by the Housing Court Judge.

 KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

West's General Laws of Rhode Island Annotated
Title 45. Towns and Cities
Chapter 2. General Powers

Gen.Laws 1956, § 45-2-13

§ 45-2-13. City of Pawtucket--Municipal police court--Municipal housing court

Currentness

(a) The city council of the city of Pawtucket may establish a municipal police court and confer upon the court original jurisdiction, notwithstanding any other provisions of the general laws, to hear and determine causes involving the violation of any ordinance; provided, that any defendant found guilty of any offense, excluding violations of the city's minimum housing ordinances and zoning ordinances, may, within seven (7) days of conviction, file an appeal from the conviction to the Providence superior court and be entitled in the latter court to a trial de novo.

(b) The city council of the city of Pawtucket may establish a municipal housing court and confer upon the court original jurisdiction, notwithstanding any other provisions of the general laws, to hear and determine causes involving the violation of the zoning ordinances of the city and any violation of the provisions of chapter 24 of this title, entitled the Rhode Island zoning enabling act of 1991, and any violation of the provisions of chapter 27.3 of title 23 entitled the Rhode Island state building code, and any violation of the provisions of those regulations promulgated by the state building code commission entitled SBC-1 Rhode Island state building code, SBC-2 Rhode Island state one and two (2) family dwelling code, SBC-3 Rhode Island state plumbing code, SBC-4 Rhode Island state mechanical code, SBC-5 Rhode Island state electrical code, SBC-6 state property maintenance code, and SBC-8 Rhode Island state energy conservation code; and provided, further, that any party aggrieved by a final judgment, decree or order of the Pawtucket housing court may, within twenty (20) days after entry of this judgment, decree or order, petition to the supreme court for the state of Rhode Island for a writ of certiorari to review any errors involved. The petition for the writ of certiorari shall state the errors claimed. Upon the filing of a petition with the clerk of the supreme court, the supreme court may, if it sees fit, issue a writ of certiorari to the Pawtucket housing court to certify to the supreme court the record of the proceedings of the case together with and transcript of the proceedings by the petitioner at his expense.

(c) With respect to violations of either municipal ordinances dealing with minimum housing or zoning regulations, or chapter 24.3 et seq., of this title dealing with housing maintenance and occupancy, or chapter 24 et seq., of this title dealing with enforcement of zoning regulations, the city council may also confer upon the Pawtucket housing court, in furtherance of its jurisdiction, the power to proceed according to equity:

- (1) To restrain, prevent, enjoin, abate, or correct a violation;
- (2) To order the repair, vacation, or demolition of any dwelling existing in violation;
- (3) To otherwise compel compliance with all of the provisions of those ordinances and statutes; or

(4) To order a dwelling into receivership and to order the removal of any cloud on the title to the building or property which shall be binding upon all those claiming by, through, under, or by virtue of any inferior liens or encumbrances pursuant to chapter 44 et seq., of title 34.

(d) The city council of the city of Pawtucket is authorized and empowered to appoint a judge to serve as both the municipal police court judge and the municipal housing court judge. The city council of the city is authorized and empowered to enact ordinances governing the personnel, operation, and procedure to be followed in the court and to establish a schedule of fees and costs and to otherwise provide for the operation and management of the court. The municipal courts created by this section may impose a sentence not to exceed thirty (30) days in jail and impose a fine not in excess of one thousand dollars (\$1,000), or both. The courts are empowered to administer oaths, compel the attendance of witnesses, and punish persons for contempt, and to execute search warrants to the extent the warrants could be executed by a judge of the district court.

Credits

P.L. 1995, ch. 17, § 2; P.L. 2012, ch. 57, § 1, eff. May 8, 2012; P.L. 2012, ch. 73, § 1, eff. May 14, 2012.

Gen. Laws, 1956, § 45-2-13, RI ST § 45-2-13

Current with effective legislation through Chapter 122 of the 2022 Regular Session of the Rhode Island Legislature.

End of Document

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Donna Nesselbush <donnanelbush@gmail.com>

Fwd: Pawtucket Municipal Court

1 message

Donna M. Nesselbush <donnanelbush@gmail.com>
To: Donna Nesselbush <Donnanelbush@gmail.com>

Thu, Jul 25, 2024 at 11:11 AM

From: Donna Nesselbush <donnanelbush@gmail.com>
Sent: Wednesday, August 3, 2022 7:00 PM
To: Kelly, Kathleen <kkelly@courts.ri.gov>
Cc: Correa, Justin <jcorrea@courts.ri.gov>
Subject: Re: Pawtucket Municipal Court

HYPERSECURITY WARNING: This email is sent from outside of the Rhode Island Judicial Network.

DO NOT click links or open attachments unless you recognize the sender and have verified the content is safe.

Dear Kathy and Justin:

Thank you so much for your kind and competent assistance with my quandary. Pawtucket has had several police chiefs during my 18 year tenure as a Municipal Court judge. We have never had any issues, and no other police chief has ever tried to exert authority over the municipal court.

The information you provided is great, illustrating the jurisdiction and powers of the municipal court. The Police Chief does not take issue with the fact that the municipal court has this jurisdiction or these powers. The problem is that she thinks she has authority over the "operations" of the municipal court and over the municipal Court staff who also work for the police department and I believe are included in their budget.

Below is the relevant email thread. I apologize for its length, but I think it will give you a better sense of the problem. It is astounding to me that after receiving an email from the chief judge, our police chief has never had a professional courtesy to respond to my email or speak with me in anyway. She sent the police prosecutor, Sergeant Spetelunas, to tell me that all communications regarding the Municipal Court must go through him. Ridiculous. I just laughed and asked him if he sees the absurdity in all of this, and he does not. He just tells me he has to answer to the police chief.

Is it possible for me to seek in advisory opinion that specifically addresses the separation of powers and the obvious need for the police not to have authority over the operations or staff of the court. The staff have always done anything I asked, but then again, no police chief ever went against me, telling them to do exactly the opposite. The municipal court clerks/staff are in a terrible position not knowing whom to obey, and they are afraid of being "written up," if they don't obey the police chief.

This is obviously absurd and is an embarrassment to the city I have loved, served (both as a state senator for 10 years and municipal judge for 18) and called home for almost 40 years. The emails show either a complete misunderstanding

of the doctrine of separation of powers, or a complete disregard therefore. The mayor either does not understand the importance of this, acquiesces, or is too busy with the Tidewater development project care? I think the only way I can get the attention of the city solicitor, Frank Milos, is if I send him a letter requesting that he acknowledge the seriousness of the situation and rectify it, or... and here's where the problem comes in. Or I will find the police chief in contempt of court and file a Motion for an Advisory Opinion from a court of competent jurisdiction? Is that too nuclear? Do I have the ability to request an Advisory Opinion, and I am sorry to say that I am quite certain if I were to hold the police chief in contempt, she would say nothing and do nothing and tell the court staff to continue to follow her orders. If I were to request an Advisory Opinion, what would be the court of competent jurisdiction? I think the city would be embarrassed if I were to hold the police chief in contempt, or threaten to do so if she did not "back off and get back into her own lane," or if I were to file for an advisory opinion. I feel like I need some basic authority that explains the role of the court, the police prosecution and the motorist/defense. It appears that she does not understand that those are three completely different, separate roles. It seems ridiculous to be discussing this, but alas this is my predicament. Thanks for any suggestions you may have, and here's the long email thread. Have a wonderful evening.

Again, I cannot thank you both enough... Donna

Donna M. Nesselbush

Chief Judge

Pawtucket Mun. Court

EXHIBIT 28

.



Donna Nesselbush <donnaesselbush@gmail.com>

Fwd: Pawtucket Municipal Court schedule for housing matters

Donna M. Nesselbush <donnaesselbush@gmail.com>
Draft

Thu, May 30, 2024 at 12:44 PM

----- Forwarded message -----

Begin forwarded message:

From: "Grebien, Donald" <DGrebien@pawtucketri.com>
Date: September 26, 2022 at 9:47:47 AM EDT
To: Jennifer Wood <jwood@centerforjustice.org>, "Policastro, Bianca" <bpolicastro@pawtucketri.com>, Donna Nesselbush <donnaesselbush@gmail.com>
Cc: "Zelazo, Dylan" <dzelazo@pawtucketri.com>, "Moran, David" <dmoran@pawtucketri.com>, "Mercer, Terrence" <tmercer@pawtucketri.com>, "Pinto, Donna" <DPinto@pawtucketri.com>, "Grebien, Donald" <DGrebien@pawtucketri.com>
Subject: Re: Pawtucket Municipal Court schedule for housing matters

Jenn - thank you for your advocacy and willingness to support. I've just reviewed the thread and suggest you need to connect to set up discussions with the City Planning Director, Bianca Policastro who oversees the Zoning Department.

Donna - as the Municipal Court Judge, your welcome to sit in on these preliminary meetings with Bianca and her team.

Bianca - please reach out to everyone and set up time with everyone. You may want to schedule this once the new Zoning Director is in place. Please get a good understanding of the support to the residents and the overall process. Once you have flushed this out, please schedule time to review.

Thank you.

Sincerely...Don Grebien
Mayor - City of Pawtucket
Click here to sign up for the city updates.
<http://www.pawtucketri.com>

From: Donna Nesselbush <donnaesselbush@gmail.com>
Sent: Monday, September 19, 2022 3:01 PM
To: Jennifer Wood <jwood@centerforjustice.org>
Cc: Grebien, Donald <DGrebien@PAWTUCKETRI.com>; Zelazo, Dylan <dzelazo@PAWTUCKETRI.com>; Moran, David <dmoran@PAWTUCKETRI.com>; Mercer, Terrence <tmercer@PAWTUCKETRI.com>; Pinto, Donna <DPinto@PAWTUCKETRI.com>
Subject: Re: Pawtucket Municipal Court schedule for housing matters

Dear Jenn,

All appropriate Pawtucket officials have been notified about this Center for Justice initiative that will assist property owners with lead remediation.

Please feel free to have the appropriate people on your end contact my Housing Court Clerk, Donna Pinto, copied here, to confirm scheduling and/or the presence of lead cases on our docket so as to have the most efficacy.

Thank you...Donna Nesselbush
Chief Judge
Pawtucket Municipal Court

On Sep 12, 2022, at 10:55 AM, Jennifer Wood <jwood@centerforjustice.org> wrote:

Absolutely! That's why I reached out to you first. I certainly recognize that diplomacy is the first priority in making an initiative like this a success. Take whatever time you need to build awareness with the Pawtucket elected officials. The goal of RI Housing in engaging in partnership with Progreso Latino and the Center for Justice is to be sure that Pawtucket residents who have lead issues and concerns will have all the information they need to get technical and financial assistance through available federal funds to assist with testing, remediation etc. The Lead Safe funding is completely voluntary for Pawtucket residents but may be a huge help to those who face challenges in meeting legal requirements for their home. I'm also happy to meet with any of the elected officials who would like to discuss the Center for Justice role in supporting Pawtucket residents to access the help they need. Progreso Latino, as I understand it, has been engaged to help folks with language access and guide them through the application process for Lead Safe funding and the Center for Justice is a partner to answer legal questions that landlords or tenants might have about the Lead Safe program.

I won't do a thing until I hear back from you because I want to be sure that the communication is very smooth and complete. I figured that given your role you would be the perfect person to reach out to in order that everyone would understand the goal and feel very confident that this can only be a good thing for Pawtucket residents.

I'll wait for your further instructions! Best, Jenn

Jennifer L. Wood
Executive Director
R.I. Center for Justice
1 Empire Plaza, Suite 410
Providence, RI 02903
(401) 491-1101



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On Mon, Sep 12, 2022 at 10:48 AM Donna Nesselbush <donnaesselbush@gmail.com> wrote:

Jenn,

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Thanks so much...Donna

Donna M. Nesselbush, Esq.

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I am going to reach out to Donna Pinto and get her assistance to know which Monday's will be the best for us to visit the court and begin to develop a plan for offering assistance to confused property owners. I really appreciate your pointing me in her direction - and I'm confident that we will be able to develop a routine presence to assist Pawtucket residents with lead issues.

Have a great week, Jenn

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Making this process easier and more "user-friendly" would be a great step forward for humankind.

Yes, our housing court meets on Mondays at 1 PM. Your folks are always welcome, but we don't always have lead cases on the docket. Feel free to be in contact with my fabulous clerk of the housing court, Donna Pinto. She could let you know about the lead cases currently pending in our court. It would be great if your project could help them as well as others.

Thanks for always doing such great work. Good luck, and always feel free to let me know how I can help or be of service.

All the best... Donna

..Donna

Donna M. Nesselbush, Esq.

On Sep 12, 2022, at 12:14 AM, Jennifer Wood <jwood@centerforjustice.org> wrote:



External (jwood@centerforjustice.org)

[Report This Email](#) [FAQ](#) [Protection by INKY](#)

Good morning Donna!

It was so great to see you at the announcement of the Drivers License Restoration program last week!

Meanwhile the Center for Justice has also been working with RI Housing and Progreso Latino to offer support to property owners and tenants who are affected by unsafe lead conditions in a property they own or reside in. In the coming weeks I'm hoping to introduce our new legal fellows as well as our colleague from Progreso Latino, Miguel Bernal, to the housing court process. Progreso Latino will be assisting property owners in applying for interest free, forgivable loans for lead remediation work through the Lead Safe program administered by RI Housing.

I'm reaching out to confirm that the Court is still hearing housing matters on Mondays at 1pm? If yes I hope to send one or more of our new staff over to observe in the coming weeks so they can become familiar with the court's procedure.

Thanks so much for the work you're doing with the Municipal Judge's association!

Best regards, Jenn

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--

Donna M. Nesselbush, Esq.



Donna Nesselbush <donnaesselbush@gmail.com>

Re: Pawtucket Municipal Court schedule for housing matters

1 message

Moran, David <dmoran@pawtucketri.com> Mon, Sep 12, 2022 at 8:08 AM
 To: Donna Nesselbush <donnaesselbush@gmail.com>, "Grebien, Donald" <DGrebien@pawtucketri.com>
 Cc: "Zelazo, Dylan" <dzelazo@pawtucketri.com>, "Hanley, John" <JHanley@pawtucketri.com>, "Pinto, Donna" <DPinto@pawtucketri.com>

Thank you Donna

Get Outlook for iOS

From: Donna Nesselbush <donnaesselbush@gmail.com>
Sent: Monday, September 12, 2022 7:55:31 AM
To: Grebien, Donald <DGrebien@PAWTUCKETRI.com>; Moran, David <dmoran@PAWTUCKETRI.com>
Cc: Zelazo, Dylan <dzelazo@PAWTUCKETRI.com>; Hanley, John <JHanley@PAWTUCKETRI.com>; Pinto, Donna <DPinto@PAWTUCKETRI.com>
Subject: Fwd: Pawtucket Municipal Court schedule for housing matters

Dear Don and Dave,

Hope all is well with you and in your worlds. Just a quick note to let you know that there is some work being done in the community to assist with lead remediation. These cases often come before the court, and lead remediation often seems daunting for homeowners and dangerous for tenants. Just an FYI...

Thanks, and have a great week...Donna

Donna M. Nesselbush, Esq.

Begin forwarded message:

From: Donna Nesselbush <donnaesselbush@gmail.com>
Date: September 12, 2022 at 7:48:54 AM EDT
To: Jennifer Wood <jwood@centerforjustice.org>
Cc: Donna Pinto <dpinto@pawtucketri.com>
Subject: Pawtucket Municipal Court schedule for housing matters

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Donna Nesselbush <donnaesselbush@gmail.com>

Re: Pawtucket Municipal Court schedule for housing matters

1 message

Donna Nesselbush <donnaesselbush@gmail.com>

Mon, Sep 19, 2022 at 3:00 PM

To: Jennifer Wood <jwood@centerforjustice.org>

Cc: Don Grebien <dgrebien@pawtucketri.com>, Dylan Zelazo <dzelazo@pawtucketri.com>, David Moran <dmoran@pawtucketri.com>, tmercer@pawtucketri.com, Donna Pinto <dpinto@pawtucketri.com>

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Thanks for always doing such great work. Good luck, and always feel free to let me know how I can help or be of service.

All the best... Donna



Donna Nesselbush <donnaesselbush@gmail.com>

Re: Pawtucket Municipal Court & Lead Remediation

1 message

PolICASTRO, Bianca <bpolICASTRO@pawtucketri.com>
To: Donna Nesselbush <donnaesselbush@gmail.com>
Cc: "Grebien, Donald" <DGrebien@pawtucketri.com>

Thu, Sep 29, 2022 at 8:19 PM

Good evening Judge

For some reason I'm just seeing this now, thank you for the kind words and the brownie points lol.

Best

Bianca

Get Outlook for iOS

From: Donna Nesselbush <donnaesselbush@gmail.com>
Sent: Wednesday, September 28, 2022 10:53 AM
To: PolICASTRO, Bianca <bpolICASTRO@pawtucketri.com>
Cc: Grebien, Donald <DGrebien@PAWTUCKETRI.com>
Subject: Re: Pawtucket Municipal Court & Lead Remediation

Dear Bianca,

Look at you emailing me during the evening hours! Thank you for always being such a bright spot, with a kind and welcoming smile, and thank you for being such a dedicated public servant to our city.

Yes, I agree that our city and our municipal court are involved in a number of *avant garde*, interesting projects to benefit our residents.

I look forward to meeting our new Director of Zoning and Code Enforcement and would be happy to go to lunch if the stars were ever to align for that to occur!

I enjoy and look forward to our continued work together, and I am emailing the mayor to get you some brownie points!
... Donna

Donna M. Nesselbush, Esq.

On Sep 27, 2022, at 9:16 PM, PolICASTRO, Bianca <bpolICASTRO@pawtucketri.com> wrote:

Good evening Judge,

I think I need to attend court more frequently we are definitely more active than other communities lol. Unless there are unexpected fires, either myself or staff will bring the new Director, on Monday by to meet you, that being said maybe we should schedule a lunch meeting with you. Me, Donna, John and the new Director to have a touch base (I think so highly of the staff and the work they do I want to ensure that there are no disruptions). If you need to touch base with me at any time my cell is 401-699-2307.

Best

Bianca

Sent from my iPhone

On Sep 27, 2022, at 5:07 PM, Donna Nesselbush <donnaesselbush@gmail.com> wrote:

Dear Bianca,

It was so nice to see you in court on Monday!! Thanks for keeping our new director in the loop. I'm always happy to help anyway I can...

Hope to see you soon...Donna

Donna M. Nesselbush, Esq.

On Sep 26, 2022, at 12:40 PM, Policastro, Bianca <bpolicastro@pawtucketri.com> wrote:

Good afternoon Judge

My new Director of Zoning starts next week, I will set up a meeting once he is onboarded. Both he and I are very familiar with RI Housings Program so that should assist in this.

Thank you

Bianca

From: Donna Nesselbush <donnaesselbush@gmail.com>

Sent: Monday, September 26, 2022 10:17 AM

To: Grebien, Donald <DGrebien@PAWTUCKETRI.com>

Cc: Jennifer Wood <jwood@centerforjustice.org>; Policastro, Bianca <bpolicastro@pawtucketri.com>; Zelazo, Dylan <dzelazo@PAWTUCKETRI.com>; Moran, David <dmoran@PAWTUCKETRI.com>; Mercer, Terrence <tmerc@PAWTUCKETRI.com>; Pinto, Donna <DPinto@PAWTUCKETRI.com>

Subject: Re: Pawtucket Municipal Court & Lead Remediation

Dear Don,

I'm glad I shared this information with you and the City Council, so that we can make sure all of the appropriate people are informed and involved. Jennifer Wood is a great lawyer, administrator, advocate and coalition builder, so I know this project will be successful.

We in the Municipal Court will do our part!!

...Donna

Donna M. Nesselbush, Esq.

On Sep 26, 2022, at 9:47 AM, Grebien, Donald <DGrebien@pawtucketri.com> wrote:

Jenn - thank you for your advocacy and willingness to support. I've just reviewed the thread and suggest you need to connect to set up discussions with the City Planning Director, Bianca Policastro who oversees the Zoning Department.

Donna - as the Municipal Court Judge, your welcome to sit in on these preliminary meetings with Bianca and her team.

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Mayor – City of Pawtucket
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Subject: Re: Pawtucket Municipal Court schedule for housing matters

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Have a great week, Jenn

Jennifer L. Wood
Executive Director
R.I. Center for Justice
1 Empire Plaza, Suite 410
Providence, RI 02903
(401) 491-1101

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2 attachments

image001.jpg
1K

image001.jpg
1K



Donna Nesselbush <donnanelbush@gmail.com>

Re: Pawtucket Municipal Court & Lead Remediation

1 message

Jennifer Wood <jwood@centerforjustice.org>

Thu, Sep 29, 2022 at 6:12 PM

To: "Policastro, Bianca" <bpolicastro@pawtucketri.com>

Cc: Donna Nesselbush <donnanelbush@gmail.com>, "Grebien, Donald" <DGrebien@pawtucketri.com>, "Zelazo, Dylan" <dzelazo@pawtucketri.com>, "Moran, David" <dmoran@pawtucketri.com>, "Mercer, Terrence" <tmerc@pawtucketri.com>, "Pinto, Donna" <DPinto@pawtucketri.com>

Thank you so much Bianca,

I look forward to scheduling an opportunity to meet when your new colleague is on board.

Please don't hesitate to contact me by email or on my cell at [REDACTED] when the time is right for us to get together.

Looking forward to meeting with you, Jenn

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Sent: Monday, September 26, 2022 10:17 AM

To: Grebien, Donald <DGrebien@PAWTUCKETRI.com>
Cc: Jennifer Wood <jwood@centerforjustice.org>; PolICASTRO, Bianca <bpolICASTRO@pawtucketri.com>; Zelazo, Dylan <dzelazo@PAWTUCKETRI.com>; Moran, David <dmoran@PAWTUCKETRI.com>; Mercer, Terrence <tmercer@PAWTUCKETRI.com>; Pinto, Donna <DPinto@PAWTUCKETRI.com>
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Fwd: Pawtucket Municipal Court & Lead Remediation

Donna M. Nesselbush <donnaesselbush@gmail.com>
Draft

Thu, May 30, 2024 at 12:49 PM

Donna M. Nesselbush, Esq.

Begin forwarded message:

From: "PolICASTRO, Bianca" <bpolICASTRO@pawtucketri.com>
Date: September 29, 2022 at 8:19:10 PM EDT
To: Donna Nesselbush <donnaesselbush@gmail.com>
Cc: "Grebien, Donald" <DGrebien@pawtucketri.com>
Subject: Re: Pawtucket Municipal Court & Lead Remediation

Good evening Judge

For some reason I'm just seeing this now, thank you for the kind words and the brownie points lol.

Best

Blanca

Get Outlook for iOS

From: Donna Nesselbush <donnaesselbush@gmail.com>
Sent: Wednesday, September 28, 2022 10:53 AM
To: PolICASTRO, Bianca <bpolICASTRO@pawtucketri.com>
Cc: Grebien, Donald <DGrebien@PAWTUCKETRI.com>
Subject: Re: Pawtucket Municipal Court & Lead Remediation

Dear Bianca,

Look at you emailing me during the evening hours! Thank you for always being such a bright spot, with a kind and welcoming smile, and thank you for being such a dedicated public servant to our city.

Yes, I agree that our city and our municipal court are involved in a number of *avant garde*, interesting projects to benefit our residents.

I look forward to meeting our new Director of Zoning and Code Enforcement and would be happy to go to lunch if the stars were ever to align for that to occur!

I enjoy and look forward to our continued work together, and I am emailing the mayor to get you some brownie points!
... Donna

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On Sep 27, 2022, at 9:16 PM, PolICASTRO, Bianca <bpolICASTRO@pawtucketri.com> wrote:

Good evening Judge,

I think I need to attend court more frequently we are definitely more active than other communities lol. Unless there are unexpected fires, either myself or staff will bring the new Director, on Monday by to meet you, that being said maybe we should schedule a lunch meeting with you. Me, Donna, John and the new Director to have a touch base (I think so highly

of the staff and the work they do I want to ensure that there are no disruptions). If you need to touch base with me at any time my cell is 401-699-2307.

Best

Bianca

Sent from my iPhone

On Sep 27, 2022, at 5:07 PM, Donna Nesselbush <donnaesselbush@gmail.com> wrote:

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Fwd: Pawtucket Municipal Court & Lead Remediation

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Pawtucket Municipal Court

On Sep 12, 2022, at 10:55 AM, Jennifer Wood <jwood@centerforjustice.org> wrote:

Absolutely! That's why I reached out to you first. I certainly recognize that diplomacy is the first priority in making an initiative like this a success. Take whatever time you need to build awareness with the Pawtucket elected officials. The goal of RI Housing in engaging in partnership with Progreso Latino and the Center for Justice is to be sure that Pawtucket residents who have lead issues and concerns will have all the information they need to get technical and financial assistance through available federal funds to assist with testing, remediation etc. The Lead Safe funding is completely voluntary for Pawtucket residents but may be a huge help to those who face challenges in meeting legal requirements for their home. I'm also happy to meet with any of the elected officials who would like to discuss the Center for Justice role in supporting Pawtucket residents to access the help they need. Progreso Latino, as I understand it, has been engaged to help folks with language access and guide them through the application process for Lead Safe funding and the Center for Justice is a partner to answer legal questions that landlords or tenants might have about the Lead Safe program.

I won't do a thing until I hear back from you because I want to be sure that the communication is very smooth and complete. I figured that given your role you would be the perfect person to reach out to in order that everyone would understand the goal and feel very confident that this can only be a good thing for Pawtucket residents.

I'll wait for your further instructions! Best, Jenn

Jennifer L. Wood

Executive Director

R.I. Center for Justice

1 Empire Plaza, Suite 410

Providence, RI 02903

(401) 491-1101



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On Mon, Sep 12, 2022 at 10:48 AM Donna Nesselbush <donnaesselbush@gmail.com> wrote:

Jenn,

Sounds good, but please hold off contacting Donna Pinto, until I reach out in a collegial manner to the City Council and the mayor. I always give them an FYI about court initiatives just for their information and support and to make sure they don't have any objection. I know it's hard to object to lead remediation, but please give me one week before contacting Donna Pinto.

Thanks so much...Donna

Donna M. Nesselbush, Esq.

On Sep 12, 2022, at 10:31 AM, Jennifer Wood <jwood@centerforjustice.org> wrote:

Thanks so much for your quick reply and your encouragement!

I am going to reach out to Donna Pinto and get her assistance to know which Monday's will be the best for us to visit the court and begin to develop a plan for offering assistance to confused property owners. I really appreciate your pointing me in her direction - and I'm confident that we will be able to develop a routine presence to assist Pawtucket residents with lead issues.

Have a great week, Jenn

Jennifer L. Wood

Executive Director

R.I. Center for Justice

1 Empire Plaza, Suite 410

Providence, RI 02903

(401) 491-1101

|

<image001.jpg>

IMPORTANT: The contents of this email and any attachments contain information that is privileged, confidential, or otherwise exempt from disclosure under applicable law. If you have received this communication in error, please immediately notify me, delete this message from your computer and destroy all copies.

On Mon, Sep 12, 2022 at 7:48 AM Donna Nesselbush <donnanelbush@gmail.com> wrote:

Jenn,

Great to see you last week as well. This sounds like a great new endeavor. So many homeowners/landlords don't know about our lead laws, the dangers of lead, how to get a lead inspection, how to remediate...and most fear that they don't have the time or money to deal.

Making this process easier and more "user-friendly" would be a great step forward for humankind.

Yes, our housing court meets on Mondays at 1 PM. Your folks are always welcome, but we don't always have lead cases on the docket. Feel free to be in contact with my fabulous clerk of the housing court, Donna Pinto. She could let you know about the lead cases currently pending in our court. It would be great if your project could help them as well as others.

Thanks for always doing such great work. Good luck, and always feel free to let me know how I can help or be of service.

All the best... Donna

...Donna

Donna M. Nesselbush, Esq.

On Sep 12, 2022, at 12:14 AM, Jennifer Wood <jwood@centerforjustice.org> wrote:

----- Forwarded message -----



External (jwood@centerforjustice.org)

[Report This Email](#) [FAQ](#) [Protection by INKY](#)

Good morning Donna!

It was so great to see you at the announcement of the Drivers License Restoration program last week!

Meanwhile the Center for Justice has also been working with RI Housing and Progreso Latino to offer support to property owners and tenants who are affected by unsafe lead conditions in a property they own or reside in. In the coming weeks I'm hoping to introduce our new legal fellows as well as our colleague from Progreso Latino, Miguel

Bernal, to the housing court process. Progreso Latino will be assisting property owners in applying for interest free, forgivable loans for lead remediation work through the Lead Safe program administered by RI Housing.

I'm reaching out to confirm that the Court is still hearing housing matters on Mondays at 1pm? If yes I hope to send one or more of our new staff over to observe in the coming weeks so they can become familiar with the court's procedure.

Thanks so much for the work you're doing with the Municipal Judge's association!

Best regards, Jenn

Jennifer L. Wood
Executive Director
R.I. Center for Justice
1 Empire Plaza, Suite 410
Providence, RI 02903
(401) 491-1101

|

<image001.jpg>

IMPORTANT: The contents of this email and any attachments contain information that is privileged, confidential, or otherwise exempt from disclosure under applicable law. If you have received this communication in error, please immediately notify me, delete this message from your computer and destroy all copies.

--

Donna M. Nesselbush, Esq.



Donna Nesselbush <donnanelbush@gmail.com>

Fwd: Municipal Court Drivers license restoration

1 message

Donna Nesselbush <donnanelbush@gmail.com>

Thu, Jun 20, 2024 at 11:12 AM

To: donnanelbush@gmail.com

...Donna

Donna M. Nesselbush, Esq.

Begin forwarded message:

From: Donna Nesselbush <donnanelbush@gmail.com>**Date:** March 17, 2022 at 11:10:46 AM EDT**To:** "Mercer, Terrence" <tmrcer@pawtucketri.com>, "Mark J. Wildenhain" <MJWildenhain@pawtucketri.com>**Cc:** "Zelazo, Dylan" <dzelazo@pawtucketri.com>**Subject:** Re: Municipal Court

Dear Terry and Dylan,

Terry, clearly, you should have been a lawyer! Thanks for researching all of that, and so fast!

After my communication to the other branches of government regarding our participation in the Driver's License Restoration Project, I heard back from Dylan and Councilors Mercer and Wildenhain. I, of course, wanted to follow up personally with all three of you. I've had a nice, long conversation with Terry and Mark, but Dylan we have yet to catch up. Hopefully, we can do so in the near future.

First things first: I think I may have won my bet with Councilor Mercer! Lol.

Regarding the Drivers' License Restoration Project, as I mentioned in my communication, Judge Gannon and I have long been doing this on a case by case basis, and I have no problem just continuing in that vein. I will let Professor Horwitz know, but please be advised that there is an entire coalition (I participated in a zoom conference call with about four people who presented me with a PowerPoint presentation) working on this project, so it would not surprise me if they reach out directly to the mayor or the city council. I obviously have no control over that.

As to the flashing lights at each end of the school zones, my only concern is that we be consistent. Either we have them in all school zones, flashing when the cameras are in operation, or we have them in none. If you all decide to have them in none, then I would also request that the nonworking flashing lights be removed, as their presence and absence (given that they are there but not working/flashing) could certainly be mis-constructed by and confusing to motorists.

It's always a pleasure to work together. Dylan, I am away next week but maybe you could suggest some times the following week that we could meet or at least catch up via phone or zoom. I could still use a working computer and telephone, and I would like to discuss updating the court's website pages, as our current website doesn't even mention the camera enforcement program, and it may give the impression that the camera tickets are amenable to dismissal under the Good Driver's statute (which of course they are not.) Let's also chat about the Chief's idea of potentially relocating our office. I'd certainly like to be involved in those discussions from the ground up!

Thanks guys...Donna

Donna M. Nesselbush, Esq.

On Mar 16, 2022, at 6:57 PM, Mercer, Terrence <tmrcer@pawtucketri.com> wrote:

Dylan:

Mark and I spoke at length with Judge Nesselbush (copied here) yesterday, primarily about the "forgiveness" program for license reinstatements that we'd touched on briefly before by email. We ultimately agreed that she (and Judge Gannon) should continue to exercise her always-thoughtful discretion in these matters and not further publicize it. She also mentioned the issue evolved out of discussions with Prof. Horowitz from Roger Williams School of Law, who happens be her neighbor here in Pawtucket. She thought he may intend to further pursue the issue here and elsewhere, but we assured her President Moran has said he has no intention of putting the issue on the council agenda and to inform the professor. I think we're all good on that front.

We also talked about a number of other topics as well and the judge brought up school zone speed cameras -- in a sort of general way. We told her that issue was an Administration prerogative and we had nothing to do with the operational times or anything else. She was mostly wondering about the uniformity of signage, etc. in school zones, especially the flashing-light signs that predate the camera installation (by decades). Essentially, she says many motorists who appear before her insist that some zones have operational flashing lights and others don't (or at least they're not always working). I promised her I'd look into speed limits in school zones and signage requirements in the same and get back to her. I did a little research last night and figured I'd loop your office in here...

I've confirmed that RIGL § 31-14-2(a) (4) sets school zone speed limits at Twenty miles per hour (20 mph) in the area within three hundred feet (300') of any school house grounds' entrances and exits during the daytime during the days when schools shall be open.

I had mistakenly told the judge I thought it was 20 mph 24/7/365 (but that it just wasn't enforced that way). Turns out, I was wrrrrroong (phew, I've never had to type that phrase before, lol). That's not the case - RIGL § 31-14-2(a) (1) sets "default" speed limits at 25 mph in such zones when the 20 mph is not in effect. So that settles that.

Moreover, I confirmed that while the school zone speed camera statute requires 3-foot-by-4-foot signs alerting motorists to the camera enforcement, the statute does not require flashing lights.

I cannot find anything, however, about the requirement of yellow-flashing-light speed signs being mandated in school zones (regardless of cameras). I know they've been around for decades, but not sure they're actually mandated. Whether they're mandated or not, we should probably try to either get on top of things for operational uniformity (that is, make sure they're all always working) or consider removing them altogether in all school zones.

Personally, I'd argue for operational upkeep as a more prudent approach (safety first!). Kinda the opposite of "if it ain't broke, don't fix it" (lol). In this case if they are broke, lets just fix them instead of removing them.

Anyway I just figured I'd kill two birds with one stone by getting the answers (as best I could) for the judge as promised and bringing you in to the loop. Not sure if this is actually a DPW concern or the school department (or both).

Any questions, let me know.

Terry

Terrence E. Mercer

City Councilman, District 3

6/20/24, 2:00 PM

Gmail - Fwd: Municipal Court Drivers license restoration





Donna Nesselbush <donnanelbush@gmail.com>

Fwd: Driver's License Restoration Collaborative

1 message

Donna Nesselbush <donnanelbush@gmail.com>
 To: donnanelbush@gmail.com

Thu, Jun 20, 2024 at 11:10 AM

...Donna

Donna M. Nesselbush, Esq.

Begin forwarded message:

From: "Zelazo, Dylan" <dzelazo@pawtucketri.com>**Date:** February 7, 2022 at 10:22:09 AM EST**To:** "Wildenhain, Mark J." <MJWildenhain@pawtucketri.com>, "Mercer, Terrence" <tmercer@pawtucketri.com>, "Donna M. Nesselbush" <donnanelbush@gmail.com>

Cc: "Grebien, Donald" <DGrebien@pawtucketri.com>, "Araujo, Michael" <maraujo@pawtucketri.com>, "DaRosa, Melissa" <mdarosa@pawtucketri.com>, "Vasquez, Elena" <evasquez@pawtucketri.com>, "Moran, David" <dmoran@pawtucketri.com>, "Schuette, Alexis" <aschuette@pawtucketri.com>, "Gregor, Clovis" <cgregor@pawtucketri.com>, "Martins Stachowiak, Marlena" <mstachowiak@pawtucketri.com>, Jack Gannon <jack@gbdvlaw.com>, "Higgins, Nadine" <nhiggins@pawtucketpolice.com>, "Goncalves, Tina" <tgoncalves@pawtucketpolice.com>, Peter Spetelunas <PSpetelunas@pawtucketpolice.com>, "Milos, Frank" <FMilos@pawtucketri.com>, "Arboleda, Wilder" <warboleda@pawtucketri.com>, "Rizzo, Emily" <erizzo@pawtucketri.com>, "LHeureux, Joanna" <JLHeureux@pawtucketri.com>

Subject: RE: Driver's License Restoration Collaborative

Judge Nesselbush,

I hope you are well.

First, let me thank you for reaching out prior to the potential implementation of this concept. I feel compelled, however, to echo the call for the "pause button" to be pushed on this matter until the Council and Administration are able to discuss with you and get on the same page.

Generally, I agree with the Council President Pro Tem and Finance Chairman that the concept raises a lot of very important questions that need to be discussed prior to a final decision. I think the questions and concerns they've raised are legitimate and necessary to be discussed as a policy matter before programmatic implementation. Additionally, from my perspective, I have a number of questions from court caseload to administrative workload increases. I am also interested in understanding the projected budgetary impact of such a program before any decision is made to move forward. There are likely a number of statewide implications to these policy discussions as well, and we may need to discuss the implications with state administrative and legislative officials.

I appreciate the proactive approach that you continue to bring to the bench regarding new programs. I think the up-front dialogue moving forward will be important to both the City Councilors (as Councilor Wildenhain expressed) and the Administration. As always, Public Safety Director Goncalves and I stand ready with our teams to be good partners with you on behalf of Pawtucket's residents and taxpayers.

Thank you,

Dylan M. Zelazo

Director of Administration

City of Pawtucket

137 Roosevelt Avenue

Pawtucket, RI 02860

Office: (401) 728-0500 ext. 281

Cell: (860) 729-0712

From: Wildenhain, Mark J.

Sent: Thursday, February 3, 2022 11:22 PM

To: Mercer, Terrence <tmerc@PAWTUCKETRI.com>; Donna M. Nesselbush <donnaesselbush@gmail.com>
Cc: Grebien, Donald <Dgreb@PAWTUCKETRI.com>; Araujo, Michael <maraujo@PAWTUCKETRI.com>; DaRosa, Melissa <mdarosa@PAWTUCKETRI.com>; Vasquez, Elena <evasquez@PAWTUCKETRI.com>; Moran, David <dmoran@PAWTUCKETRI.com>; Schuette, Alexis <aschuette@PAWTUCKETRI.com>; Gregor, Clovis <cgregor@pawtucketri.com>; Martins Stachowiak, Marlena <mstachowiak@pawtucketri.com>; Jack Gannon <jack@gbdvlaw.com>; Higgins, Nadine <nhiggins@pawtucketpolice.com>; Goncalves, Tina <tgoncalves@pawtucketpolice.com>; Peter Spetelunas <PSpetelunas@pawtucketpolice.com>; Milos, Frank <FMilos@PAWTUCKETRI.com>; Zelazo, Dylan <dzelazo@PAWTUCKETRI.com>
Subject: Re: Driver's License Restoration Collaborative

Judges,

I agree with Councilor Mercer and have a level of concern with what the courts are looking to do, rather than enforce the statutes as they have been written. I'm uneasy with the statement "that their failure to understand the need to participate in the process". If they are given a pass they will not learn from the process, but will be destined to be repeat offenders in the process.

The lack of discussion of all three branches is also concerning and is a source of contention for some of us. The more information we are provided with, allows us to make the best decisions for the city. Like in your positions the more background that you are provided with, allow you to make the best judgments under the law. We feel the same way. My thoughts.

Respectfully,

Mark

From: "Mercer, Terrence" <tmerc@PAWTUCKETRI.com>

Date: Thursday, February 3, 2022 at 10:14 PM

To: "Donna M. Nesselbush" <donnaesselbush@gmail.com>

Cc: "Grebien, Donald" <Dgreb@PAWTUCKETRI.com>, "Araujo, Michael" <maraujo@PAWTUCKETRI.com>, "DaRosa, Melissa" <mdarosa@PAWTUCKETRI.com>, "Vasquez, Elena" <evasquez@PAWTUCKETRI.com>, "Moran, David" <dmoran@PAWTUCKETRI.com>, "Wildenhain, Mark J." <MJWildenhain@PAWTUCKETRI.com>, "Schuette, Alexis" <aschuette@PAWTUCKETRI.com>, "Gregor, Clovis" <cgregor@pawtucketri.com>, "Martins Stachowiak, Marlena" <mstachowiak@pawtucketri.com>,

The project was started as a means of criminal justice reform. Apparently, the number one reason for arrests in Providence is driving on a suspended license. Suspended licenses often come from a motorist's inability to pay traffic/court fines, or their failure to understand the need to participate in the process. One of the stated purposes of this project is to reduce and/or eliminate unnecessary arrests and involvement in the criminal justice system.

The collaborative has been able to identify and initially vet motorists who are not able to reinstate their licenses because of outstanding, often aged court debt/fines. I have agreed to have Pawtucket's Court participate in this project. I have offered space on our dockets so that these cases can be brought before Judge Gannon and me. We will hear from the prosecution and defense to further assess the situation and resolve the issues.

Judge Gannon and I will use our best judgment and legal discernment in conducting "ability to pay" hearings in an attempt to fairly resolve these cases. Once resolved, we hope these motorists can reinstate their licenses and return to law-abiding citizenship/residency/driving.

As President of the Municipal Court Judges' Association, I will be scheduling a Zoom meeting in the near future in an attempt to involve other Municipal Courts in the Collaborative.

Thank you for your kind attention...Donna

Donna M. Nesselbush, Esq.

Chief Judge

Pawtucket Municipal Court



Donna Nesselbush <donnaesselbush@gmail.com>

Fwd: Driver's License Restoration Collaborative

Donna Nesselbush <donnaesselbush@gmail.com>
To: donnaesselbush@gmail.com

Thu, Jun 20, 2024 at 11:10 AM

...Donna

Donna M. Nesselbush, Esq.

Begin forwarded message:

From: "Donna M. Nesselbush" <donnaesselbush@gmail.com>
Date: February 3, 2022 at 2:47:09 PM EST
To: "Grebien, Donald" <DGrebien@pawtucketri.com>, maraujo@pawtucketri.com, mdarosa@pawtucketri.com, evasquez@pawtucketri.com, dmoran@pawtucketri.com, mjwildenhain@pawtucketri.com, Terrence Mercer <tmercer@pawtucketri.com>, aschuette@pawtucketri.com, cgregor@pawtucketri.com, mstachowiak@pawtucketri.com
Cc: Jack Gannon <jack@gbdvlaw.com>, Nadine Higgins <NHiggins@pawtucketpolice.com>, "Goncalves, Tina" <tgoncalves@pawtucketpolice.com>, Peter Spetelunas <PSpetelunas@pawtucketpolice.com>, Frank Milos <FMilos@pawtucketri.com>, Dylan Zelazo <dzelazo@pawtucketri.com>
Subject: Driver's License Restoration Collaborative

Dear Mayor Grebien and Members of the City Council,

As the Chief Judge and head of our City's judicial branch, I'm writing to my colleagues in the executive and legislative branches to share with you some information about a worthy endeavor. The Pawtucket Municipal Court has been invited to join the Driver's License Restoration Collaborative. This Collaborative was spearheaded by the *pro bono* collaborative at Roger Williams Law School, along with many community partners including Open Doors, Amos House, House of Hope and The Center For Justice. The Collaborative first requested that the Providence Municipal Court join, and they did. They have now requested that our Court join as well.

I have discussed this with my Associate, Judge Gannon, and we both agree that this is indeed a worthy endeavor. Accordingly, I enthusiastically agreed, and I write in order to keep Pawtucket's other branches of government informed regarding our Court's involvement in this project.

The project was started as a means of criminal justice reform. Apparently, the number one reason for arrests in Providence is driving on a suspended license. Suspended licenses often come from a motorist's inability to pay traffic/court fines, or their failure to understand the need to participate in the process. One of the stated purposes of this project is to reduce and/or eliminate unnecessary arrests and involvement in the criminal justice system.

The collaborative has been able to identify and initially vet motorists who are not able to reinstate their licenses because of outstanding, often aged court debt/fines. I have agreed to have Pawtucket's Court participate in this project. I have offered space on our dockets so that these cases can be brought before Judge Gannon and me. We will hear from the prosecution and defense to further assess the situation and resolve the issues.

Judge Gannon and I will use our best judgment and legal discernment in conducting "ability to pay" hearings in an attempt to fairly resolve these cases. Once resolved, we hope these motorists can reinstate their licenses and return to law-abiding citizenship/residency/driving.

As President of the Municipal Court Judges' Association, I will be scheduling a Zoom meeting in the near future in an attempt to involve other Municipal Courts in the Collaborative.

Thank you for your kind attention...Donna

Donna M. Nesselbush, Esq.
Chief Judge
Pawtucket Municipal Court



Donna Nesselbush <donnaesselbush@gmail.com>

Fwd: Driver's License Restoration Collaborative

1 message

Donna Nesselbush <donnaesselbush@gmail.com>
To: donnaesselbush@gmail.com

Thu, Jun 20, 2024 at 11:02 AM

...Donna

Donna M. Nesselbush, Esq.

Begin forwarded message:

From: Donna Nesselbush <donnaesselbush@gmail.com>
Date: March 1, 2022 at 1:48:51 PM EST
To: "Schuette, Alexis" <aschuette@pawtucketri.com>
Subject: Re: Driver's License Restoration Collaborative

I'll call you tomorrow at this number: 336-782-4908.

Have a great rest of your day...Donna

Donna M. Nesselbush, Esq.

On Mar 1, 2022, at 1:03 PM, Schuette, Alexis <aschuette@pawtucketri.com> wrote:

Thanks Donna.

Tomorrow at 11am would be great!

Just to disclose some topics in advance:

- the topic covered in this thread and other Councilmember reactions
- I'm looking for a personal injury lawyer related to a car accident I was in on 2/22. I'll be honest, I've not had great experiences with lawyers throughout my life so I'm struggling. But I trust your help or judgment if you would be open to offering.
- any other Pawtucket topics that might come up

Thanks so much!

Alexis

Get Outlook for iOS

From: Donna Nesselbush <donnaesselbush@gmail.com>
Sent: Tuesday, March 1, 2022 12:06:41 PM
To: Schuette, Alexis <aschuette@PAWTUCKETRI.com>
Subject: Re: Driver's License Restoration Collaborative

Alexis,

No apology needed. Sorry life has been so crazy. I'm happy to chat about what I believe is a worthy endeavor as well as anything else. I could chat tomorrow or Thursday at 11AM, if either of those times works for you? Otherwise, let me know what works for you, and I do my best.

Be well...Donna

Donna M. Nesselbush, Esq.

On Mar 1, 2022, at 11:24 AM, Schuette, Alexis <aschuette@pawtucketri.com> wrote:

Good morning Chief,

Apologies for the delayed reply. My life has been ridiculous.

Are you free for a 5-10 min call in the next couple days? Would love to discuss this thread as well as a few other things. Thanks!

Alexis
336-782-4908

Get Outlook for iOS

From: Donna Nesselbush <donnaesselbush@gmail.com>
Sent: Monday, February 7, 2022 6:26:00 PM
To: Zelazo, Dylan <dzelazo@PAWTUCKETRI.com>
Cc: Wildenhain, Mark J. <MJWildenhain@PAWTUCKETRI.com>; Mercer, Terrence <tmercer@PAWTUCKETRI.com>; Grebien, Donald <DGrebien@PAWTUCKETRI.com>; Araujo, Michael <maraujo@PAWTUCKETRI.com>; DaRosa, Melissa <mdarosa@PAWTUCKETRI.com>; Vasquez, Elena <evasquez@PAWTUCKETRI.com>; Moran, David <dmoran@PAWTUCKETRI.com>; Schuette, Alexis <aschuette@PAWTUCKETRI.com>; Gregor, Clovis <cgregor@pawtucketri.com>; Martins Stachowiak, Marlena <mstachowiak@pawtucketri.com>; Jack Gannon <jack@gbdvlaw.com>; Higgins, Nadine <nhiggins@pawtucketpolice.com>; Goncalves, Tina <tgoncalves@pawtucketpolice.com>; Peter Spetelunas <PSpetelunas@pawtucketpolice.com>; Milos, Frank <FMilos@PAWTUCKETRI.com>; Arboleda, Wilder <warboleda@PAWTUCKETRI.com>; Rizzo, Emily <erizzo@PAWTUCKETRI.com>; LHeureux, Joanna <JLHeureux@PAWTUCKETRI.com>
Subject: Re: Driver's License Restoration Collaborative

Dear Councilors Mercer and Wildenhain, Dylan, et. al:

Thank you so much for sharing your thoughts and concerns about the work of this collaborative and our city's potential participation therein. Actually, I viewed our participation in this collaborative not as something new, but simply as a more organized approach to what our court has long been doing. Our city currently does not identify and follow up on unpaid Municipal Court debt, whether from the Housing Court or the Traffic Court, but it is not uncommon for a motorist who wants to reinstate her/his license to come to Municipal Court seeking to resolve aged and outstanding tickets (the motorist may have been defaulted or may have failed to pay assessed fines or court costs). I adjudicated one of those cases today based on a defaulted ticket from 2009. Judge Gannon and I routinely work with the motorists to fairly resolve these cases.

What is new and different here is that this collaborative is working to identify motorists who have outstanding tickets/court debt that interferes with the motorist's ability to reinstate her/his license. Some motorists may not know how to go about resolving the unpaid debt, and as I understand it, many often face other challenges including mental illness, homelessness, poverty and other issues which make it more difficult for them to prioritize and handle aged, unpaid court debt.

I understand that you are not aware of "any City ordinance or state statute that includes a provision regarding ability to pay or the authority of municipal judges to conduct 'ability to pay hearings.'" Actually, the Pawtucket Municipal Court (as do virtually all Municipal Courts) follows the Rhode Island Traffic Tribunal (RITT) Rules of Procedure. RITT Rule 5(b) specifically states that "[P]ayment is due immediately following the disposition of the case. If payment is not made in full, the court **shall** set a date for a court hearing for a determination of the defendant's **ability to pay**. If the defendant fails to appear at the ability to pay hearing, the court may suspend the license and/or registration and/or issue a civil body attachment in the manner set forth in RIGL section 8-8.2-3.

You aptly point out that we "don't want to return to the days of debtor's prisons." In fact, the current state of U.S. Constitutional law regarding "due process" precludes treating people differently just because of (in)ability to pay. In other words, we cannot suspend one person's license just because of an inability to pay, while not suspending another person's license just because they have the ability to pay their fines.

Additionally, RITT rule 20(f) specifically states that "the court may, upon motion or on its own initiative, relieve a party... from a judgment or order for any of the following reasons, including...that the relief is warranted in the interests of justice."

Because Judge Gannon and I have resolved these types of cases in the past and because our authority to do so is solidly based on the RITT Rules of Procedure, I did not view this issue as one that was charting any new course for our city or our judiciary. I am happy that this "Collaborative" has formed because truthfully far more motorists fail to appear (resulting in a default and suspension of license) than actually appear to have their cases adjudicated. Accordingly, too many motorists are in this situation and for whatever reasons, they (and we) don't address it. This means that the city and/or state are getting no money in fines or court costs, and the motorist is unable to reinstate, a standoff which serves no one. Additionally, the Collaborative estimates that they will be bringing only approximately 2-5 such motorists per month with unpaid debt from the Pawtucket Municipal Court. After an "ability to pay" proceeding, those with an ability to pay will be required to pay, and for those who are truly unable to pay, the judge will craft a resolution, using her/his judicial discretion. In today's case, the motorist whose license was suspended based on a 2009 Pawtucket defaulted ticket was on SSI, meaning her income is less than \$1,000 per month. In her case, I agreed to clear the underlying ticket upon payment of \$36 of court costs, so long as she paid them today! So the City received \$36 it would not otherwise have gotten, and now the motorist can work with Operator Control to re-instate her license.

To further place this issue in context, please be advised that the Rhode Island District Court regularly waives court costs for litigants who receive food stamps or other public assistance.

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Chief Judge
Pawtucket Municipal Court

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Thank you,

Dylan M. Zelazo

Director of Administration

City of Pawtucket

137 Roosevelt Avenue

Pawtucket, RI 02860

Office: (401) 728-0500 ext. 281

Cell

From: Wildenhain, Mark J.

Sent: Thursday, February 3, 2022 11:22 PM

To: Mercer, Terrence <terrence@PAWTUCKETRI.com>; Donna M. Nesselbush <donna.nesselbush@gmail.com>

Cc: Grebien, Donald <DGrebien@PAWTUCKETRI.com>; Araujo, Michael <maraujo@PAWTUCKETRI.com>; DaRosa, Melissa <mdarosa@PAWTUCKETRI.com>; Vasquez, Elena <evasquez@PAWTUCKETRI.com>; Moran, David <dmoran@PAWTUCKETRI.com>; Schuette, Alexis <aschuette@PAWTUCKETRI.com>; Gregor, Clovis <cgregor@pawtucketri.com>; Martins Stachowiak, Marlena <mstachowiak@pawtucketri.com>; Jack Gannon <jgannon@gbdvlaw.com>; Higgins, Nadine <nhiggins@pawtucketpolice.com>; Goncalves, Tina <tgoncalves@pawtucketpolice.com>; Peter Spetelunas <PSpetelunas@pawtucketpolice.com>; Milos, Frank <FMilos@PAWTUCKETRI.com>; Zelazo, Dylan <dzelazo@PAWTUCKETRI.com>

Subject: Re: Driver's License Restoration Collaborative

Judges,

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Respectfully,

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To: "Donna M. Nesselbush" <donnaesselbush@gmail.com>
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Collaborative first requested that the Providence Municipal Court join, and they did. They have now requested that our Court join as well.

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Thank you for your kind attention...Donna

Donna M. Nesselbush, Esq.

Chief Judge

Pawtucket Municipal Court



Donna Nesselbush <donnaesselbush@gmail.com>

Fwd: Driver's License Restoration Collaborative

1 message

Donna Nesselbush <donnaesselbush@gmail.com>

Thu, Jun 20, 2024 at 11:01 AM

To: donnaesselbush@gmail.com

...Donna

Donna M. Nesselbush, Esq.

Begin forwarded message:

From: Donna Nesselbush <donnaesselbush@gmail.com>**Date:** March 1, 2022 at 12:06:42 PM EST**To:** "Schuette, Alexis" <aschuette@pawtucketri.com>**Subject:** Re: Driver's License Restoration Collaborative

Alexis,

No apology needed. Sorry life has been so crazy. I'm happy to chat about what I believe is a worthy endeavor as well as anything else. I could chat tomorrow or Thursday at 11AM, if either of those times works for you? Otherwise, let me know what works for you, and I do my best.

Be well...Donna

Donna M. Nesselbush, Esq.

On Mar 1, 2022, at 11:24 AM, Schuette, Alexis <aschuette@pawtucketri.com> wrote:

Good morning Chief,

Apologies for the delayed reply. My life has been ridiculous.

Are you free for a 5-10 min call in the next couple days? Would love to discuss this thread as well as a few other things. Thanks!

Alexis
336-782-4908

Get Outlook for iOS

From: Donna Nesselbush <donnaesselbush@gmail.com>**Sent:** Monday, February 7, 2022 6:26:00 PM**To:** Zelazo, Dylan <dzelazo@PAWTUCKETRI.com>

Cc: Wildenhain, Mark J. <MJWildenhain@PAWTUCKETRI.com>; Mercer, Terrence <tmercer@PAWTUCKETRI.com>; Grebien, Donald <DGrebien@PAWTUCKETRI.com>; Araujo, Michael <maraujo@PAWTUCKETRI.com>; DaRosa, Melissa <mdarosa@PAWTUCKETRI.com>; Vasquez, Elena <evasquez@PAWTUCKETRI.com>; Moran, David <dmoran@PAWTUCKETRI.com>; Schuette, Alexis <aschuette@PAWTUCKETRI.com>; Gregor, Clovis <cgregor@pawtucketri.com>; Martins Stachowiak, Marlena <mstachowiak@pawtucketri.com>; Jack Gannon <jack@gbdvlaw.com>; Higgins, Nadine <nhiggins@pawtucketpolice.com>; Goncalves, Tina <tgoncalves@pawtucketpolice.com>; Peter Spetelunas <PSpetelunas@pawtucketpolice.com>; Milos, Frank <FMilos@PAWTUCKETRI.com>; Arboleda, Wilder <warboleda@PAWTUCKETRI.com>; Rizzo, Emily

<erizzo@PAWTUCKETRI.com>; LHeureux, Joanna <JLHeureux@PAWTUCKETRI.com>

Subject: Re: Driver's License Restoration Collaborative

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Thank you so much for sharing your thoughts and concerns about the work of this collaborative and our city's potential participation therein. Actually, I viewed our participation in this collaborative not as something new, but simply as a more organized approach to what our court has long been doing. Our city currently does not identify and follow up on unpaid Municipal Court debt, whether from the Housing Court or the Traffic Court, but it is not uncommon for a motorist who wants to reinstate her/his license to come to Municipal Court seeking to resolve aged and outstanding tickets (the motorist may have been defaulted or may have failed to pay assessed fines or court costs). I adjudicated one of those cases today based on a defaulted ticket from 2009. Judge Gannon and I routinely work with the motorists to fairly resolve these cases.

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Dylan M. Zelazo
Director of Administration
City of Pawtucket
137 Roosevelt Avenue
Pawtucket, RI 02860
Office: (401) 728-0500 ext. 281
Cell: (860) 729-0712

From: Wildenhain, Mark J.
Sent: Thursday, February 3, 2022 11:22 PM

To: Mercer, Terrence <tmercer@PAWTUCKETRI.com>; Donna M. Nesselbush <donnaesselbush@gmail.com>
Cc: Grebien, Donald <DGrebien@PAWTUCKETRI.com>; Araujo, Michael <maraujo@PAWTUCKETRI.com>; DaRosa, Melissa <mdarosa@PAWTUCKETRI.com>; Vasquez, Elena <evasquez@PAWTUCKETRI.com>; Moran, David <dmoran@PAWTUCKETRI.com>; Schuette, Alexis <aschuette@PAWTUCKETRI.com>; Gregor, Clovis <cgregor@pawtucketri.com>; Martins Stachowiak, Marlena <mstachowiak@pawtucketri.com>; Jack Gannon <jack@gbdvlaw.com>; Higgins, Nadine <nhiggins@pawtucketpolice.com>; Goncalves, Tina <tgoncalves@pawtucketpolice.com>; Peter Spetelunas <PSpetelunas@pawtucketpolice.com>; Milos, Frank <FMilos@PAWTUCKETRI.com>; Zelazo, Dylan <dzelazo@PAWTUCKETRI.com>
Subject: Re: Driver's License Restoration Collaborative

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Chief Judge

Pawtucket Municipal Court



Donna Nesselbush <donnaesselbush@gmail.com>

Fwd: Driver's License Restoration Collaborative

1 message

Donna Nesselbush <donnaesselbush@gmail.com>

Thu, Jun 20, 2024 at 11:01 AM

To: donnaesselbush@gmail.com

...Donna

Donna M. Nesselbush, Esq.

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You aptly point out that we "don't want to return to the days of debtor's prisons." In fact, the current state of U.S. Constitutional law regarding "due process" precludes treating people differently just because of (in)ability to pay. In other words, we cannot suspend one person's license just because of an inability to pay, while not suspending another person's license just because they have the ability to pay their fines.

Additionally, RITT rule 20(f) specifically states that "the court may, upon motion or on its own initiative, relieve a party... from a judgment or order for any of the following reasons, including...that the relief is warranted in the interests of justice."

Because Judge Gannon and I have resolved these types of cases in the past and because our authority to do so is solidly based on the RITT Rules of Procedure, I did not view this issue as one that was charting any new course for our city or our judiciary. I am happy that this "Collaborative" has formed because truthfully far more motorists fail to appear (resulting in a default and suspension of license) than actually appear to have their cases adjudicated. Accordingly, too many motorists are in this situation and for whatever reasons, they (and we) don't address it. This means that the city and/or state are getting no money in fines or court costs, and the motorist is unable to reinstate, a standoff which serves no one. Additionally, the Collaborative estimates that they will be bringing only approximately 2-5 such motorists per month with unpaid debt from the Pawtucket Municipal Court. After an "ability to pay" proceeding, those with an ability to pay will be required to pay, and for those who are truly unable to pay, the judge will craft a resolution, using her/his judicial discretion. In today's case, the motorist whose license was suspended based on a 2009 Pawtucket defaulted ticket was on SSI, meaning her income is less than \$1,000 per month. In her case, I agreed to clear the underlying ticket upon payment of \$36 of court costs, so long as she paid them today! So the City received \$36 it would not otherwise have gotten, and now the motorist can work with Operator Control to re-instate her license.

To further place this issue in context, please be advised that the Rhode Island District Court regularly waives court costs for litigants who receive food stamps or other public assistance.

Because these matters seemed somewhat perfunctory to me, I did not anticipate that the legislative or executive branch would have any concerns. Having said that, I love collegiality and would be happy to invite members of the collaborative to address the executive and/or legislative branches regarding this endeavor. Not only is "driving on a suspended license" the number one reason for arrests in Providence, it is arguably not the best use of police resources, especially at a time when violent crime is at an all time high in our city, state and nation. Additionally, this issue disproportionately affects communities of color, so I view this initiative as an important equity and economic/social justice issue.

I look forward to working together to provide the other branches of government with additional information about this initiative. Please let me know the best way to do so. If the best way to do so is to place the issue on the agenda of the Pawtucket City Council, I would be happy to invite members of the collaborative to address the issue. I will of course be there as well to answer any questions.

Thanks again for reaching out; it is always an honor and pleasure to work together with my colleagues in government.

Donna M. Nesselbush
Chief Judge
Pawtucket Municipal Court

On Feb 7, 2022, at 10:22 AM, Zelazo, Dylan <dzelazo@pawtucketri.com> wrote:

Judge Nesselbush,

I hope you are well.

First, let me thank you for reaching out prior to the potential implementation of this concept. I feel compelled, however, to echo the call for the "pause button" to be pushed on this matter until the Council and Administration are able to discuss with you and get on the same page.

Generally, I agree with the Council President Pro Tem and Finance Chairman that the concept raises a lot of very important questions that need to be discussed prior to a final decision. I think the questions and concerns they've raised are legitimate and necessary to be discussed as a policy matter before programmatic implementation. Additionally, from my perspective, I have a number of questions from court caseload to administrative workload increases. I am also interested in understanding the projected budgetary impact of such a program before any decision is made to move forward. There are likely a number of statewide implications to these policy discussions as well, and we may need to discuss the implications with state administrative and legislative officials.

I appreciate the proactive approach that you continue to bring to the bench regarding new programs. I think the up-front dialogue moving forward will be important to both the City Councilors (as Councilor Wildenhain expressed) and the Administration. As always, Public Safety Director Goncalves and I stand ready with our teams to be good partners with you on behalf of Pawtucket's residents and taxpayers.

Thank you,

Dylan M. Zelazo

Director of Administration

City of Pawtucket

137 Roosevelt Avenue

Pawtucket, RI 02860

Office: (401) 728-0500 ext. 281

Cell: [REDACTED]

From: Wildenhain, Mark J.

Sent: Thursday, February 3, 2022 11:22 PM

To: Mercer, Terrence <tmercer@PAWTUCKETRI.com>; Donna M. Nesselbush <donnanesselbush@gmail.com>
Cc: Grebien, Donald <Dgrebien@PAWTUCKETRI.com>; Araujo, Michael <maraujo@PAWTUCKETRI.com>; DaRosa, Melissa <mdarosa@PAWTUCKETRI.com>; Vasquez, Elena <evasquez@PAWTUCKETRI.com>; Moran, David <dmoran@PAWTUCKETRI.com>; Schuette, Alexis <aschuette@PAWTUCKETRI.com>; Gregor, Clovis <cgregor@pawtucketri.com>; Martins Stachowiak, Marlena <mstachowiak@pawtucketri.com>; Jack Gannon <jack@gbdvlaw.com>; Higgins, Nadine <nhiggins@pawtucketpolice.com>; Goncalves, Tina <tgoncalves@pawtucketpolice.com>; Peter Spetelunas <PSpetelunas@pawtucketpolice.com>; Milos, Frank <FMilos@PAWTUCKETRI.com>; Zelazo, Dylan <dzelazo@PAWTUCKETRI.com>
Subject: Re: Driver's License Restoration Collaborative

Judges,

I agree with Councilor Mercer and have a level of concern with what the courts are looking to do, rather than enforce the statutes as they have been written. I'm uneasy with the statement "that their failure to understand the need to participate in the process". If they are given a pass they will not learn from the process, but will be destined to be repeat offenders in the process.

The lack of discussion of all three branches is also concerning and is a source of contention for some of us. The more information we are provided with, allows us to make the best decisions for the city. Like in your positions the more background that you are provided with, allow you to make the best judgments under the law. We feel the same way. My thoughts.

Respectfully,

Mark

From: "Mercer, Terrence" <tmercer@PAWTUCKETRI.com>

Date: Thursday, February 3, 2022 at 10:14 PM

To: "Donna M. Nesselbush" <donnaesselbush@gmail.com>
Cc: "Grebien, Donald" <DGrebien@PAWTUCKETRI.com>, "Araujo, Michael" <maraujo@PAWTUCKETRI.com>, "DaRosa, Melissa" <mdarosa@PAWTUCKETRI.com>, "Vasquez, Elena" <evasquez@PAWTUCKETRI.com>, "Moran, David" <dmoran@PAWTUCKETRI.com>, "Wildenhain, Mark J." <MJWildenhain@PAWTUCKETRI.com>, "Schuette, Alexis" <aschuette@PAWTUCKETRI.com>, "Gregor, Clovis" <cgregor@pawtucketri.com>, "Martins Stachowiak, Marlena" <mstachowiak@pawtucketri.com>, Jack Gannon <jack@gbdlaw.com>, "Higgins, Nadine" <nhiggins@pawtucketpolice.com>, "Goncalves, Tina" <tgoncalves@pawtucketpolice.com>, Peter Spetelunas <PSPetelunas@pawtucketpolice.com>, "Milos, Frank" <FMilos@PAWTUCKETRI.com>, "Zelazo, Dylan" <dzelazo@PAWTUCKETRI.com>
Subject: Re: Driver's License Restoration Collaborative

Judge:

Thanks for informing the other two branches of city government of your intentions regarding this rather sudden concept. Inasmuch as this is the very first the other two branches are hearing of this, however, I'm fairly sure there needs to be considerably more discussion among ALL three branches before Pawtucket's Municipal Court unilaterally rushes down this path.

I can't believe I'm the only person on this email who has myriad questions after reading your email. Chief among my many concerns is this: I cannot recall any city ordinance or state statute that includes a provision regarding "ability to pay" built into its fining structure of motorists, let alone providing authority to municipal judges to conduct "ability to pay hearings." The ordinances and statutes say what they say.

While we certainly don't want to return to the days of debtor's prisons, we most certainly need to have further discussion before you and Judge Gannon start exercising your legal discernment by treating those who appear before you in our city's court differently based solely on their economic standing.

It may turn out that this is, as you say, a "worthy endeavor." But, speaking for myself, I don't think those of us in the other two branches of city government can discern that with the scant information provided thus far.

I respectfully suggest the "pause button" be pushed on this matter until questions are answered and we're all on the same page.

Respectfully,

Terry

Sent from my iPad

On Feb 3, 2022, at 2:47 PM, Donna M. Nesselbush <donnaesselbush@gmail.com> wrote:

Dear Mayor Grebien and Members of the City Council,

As the Chief Judge and head of our City's judicial branch, I'm writing to my colleagues in the executive and legislative branches to share with you some information about a worthy endeavor. The Pawtucket Municipal Court has been invited to join the Driver's License Restoration Collaborative. This Collaborative was spearheaded by the *pro bono* collaborative at Roger Williams Law School, along with many community partners including Open Doors, Amos House, House of Hope and The Center For Justice. The

Collaborative first requested that the Providence Municipal Court join, and they did. They have now requested that our Court join as well.

I have discussed this with my Associate, Judge Gannon, and we both agree that this is indeed a worthy endeavor. Accordingly, I enthusiastically agreed, and I write in order to keep Pawtucket's other branches of government informed regarding our Court's involvement in this project.

The project was started as a means of criminal justice reform. Apparently, the number one reason for arrests in Providence is driving on a suspended license. Suspended licenses often come from a motorist's inability to pay traffic/court fines, or their failure to understand the need to participate in the process. One of the stated purposes of this project is to reduce and/or eliminate unnecessary arrests and involvement in the criminal justice system.

The collaborative has been able to identify and initially vet motorists who are not able to reinstate their licenses because of outstanding, often aged court debt/fines. I have agreed to have Pawtucket's Court participate in this project. I have offered space on our dockets so that these cases can be brought before Judge Gannon and me. We will hear from the prosecution and defense to further assess the situation and resolve the issues.

Judge Gannon and I will use our best judgment and legal discernment in conducting "ability to pay" hearings in an attempt to fairly resolve these cases. Once resolved, we hope these motorists can reinstate their licenses and return to law-abiding citizenship/residency/driving.

As President of the Municipal Court Judges' Association, I will be scheduling a Zoom meeting in the near future in an attempt to involve other Municipal Courts in the Collaborative.

Thank you for your kind attention...Donna

Donna M. Nesselbush, Esq.

Chief Judge

Pawtucket Municipal Court



Donna Nesselbush <donnaesselbush@gmail.com>

Fwd: Driver's License Restoration Collaborative

Donna M. Nesselbush <donnaesselbush@gmail.com>
Draft

Thu, May 30, 2024 at 12:48 PM

Donna M. Nesselbush, Esq.

Begin forwarded message:

From: "Zelazo, Dylan" <dzelazo@pawtucketri.com>
Date: February 7, 2022 at 10:22:09 AM EST
To: "Wildenhain, Mark J." <MJWildenhain@pawtucketri.com>, "Mercer, Terrence" <tmerc@pawtucketri.com>, "Donna M. Nesselbush" <donnaesselbush@gmail.com>
Cc: "Grebien, Donald" <DGrebien@pawtucketri.com>, "Araujo, Michael" <maraujo@pawtucketri.com>, "DaRosa, Melissa" <mdarosa@pawtucketri.com>, "Vasquez, Elena" <evasquez@pawtucketri.com>, "Moran, David" <dmoran@pawtucketri.com>, "Schuette, Alexis" <aschuette@pawtucketri.com>, "Gregor, Clovis" <cgregor@pawtucketri.com>, "Martins Stachowiak, Marlena" <mstachowiak@pawtucketri.com>, Jack Gannon <jack@gbdvlaw.com>, "Higgins, Nadine" <nhiggins@pawtucketpolice.com>, "Goncalves, Tina" <tgoncalves@pawtucketpolice.com>, Peter Spetelunas <PSpetelunas@pawtucketpolice.com>, "Milos, Frank" <FMilos@pawtucketri.com>, "Arboleda, Wilder" <warboleda@pawtucketri.com>, "Rizzo, Emily" <erizzo@pawtucketri.com>, "LHeureux, Joanna" <JLHeureux@pawtucketri.com>
Subject: RE: Driver's License Restoration Collaborative

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Thank you,

Dylan M. Zelazo
 Director of Administration
 City of Pawtucket
 137 Roosevelt Avenue
 Pawtucket, RI 02860
 Office: (401) 728-0500 ext. 281
 Cell: [REDACTED]

From: Wildenhain, Mark J.
Sent: Thursday, February 3, 2022 11:22 PM
To: Mercer, Terrence <tmercer@PAWTUCKETRI.com>; Donna M. Nesselbush <donnaesselbush@gmail.com>
Cc: Grebien, Donald <DGrebien@PAWTUCKETRI.com>; Araujo, Michael <maraujo@PAWTUCKETRI.com>; DaRosa, Melissa <mdarosa@PAWTUCKETRI.com>; Vasquez, Elena <evasquez@PAWTUCKETRI.com>; Moran, David <dmoran@PAWTUCKETRI.com>; Schuette, Alexis <aschuette@PAWTUCKETRI.com>; Gregor, Clovis <cgregor@pawtucketri.com>; Martins Stachowiak, Marlena <mstachowiak@pawtucketri.com>; Jack Gannon <jack@gbdvlaw.com>; Higgins, Nadine <nhiggins@pawtucketpolice.com>; Goncalves, Tina <tgoncalves@pawtucketpolice.com>; Peter Spetelunas <PSpetelunas@pawtucketpolice.com>; Milos, Frank <FMilos@PAWTUCKETRI.com>; Zelazo, Dylan <dzelaazo@PAWTUCKETRI.com>
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To: "Donna M. Nesselbush" <donnaesselbush@gmail.com>
Cc: "Grebien, Donald" <DGrebien@PAWTUCKETRI.com>, "Araujo, Michael" <maraujo@PAWTUCKETRI.com>, "DaRosa, Melissa" <mdarosa@PAWTUCKETRI.com>, "Vasquez, Elena" <evasquez@PAWTUCKETRI.com>, "Moran, David" <dmoran@PAWTUCKETRI.com>, "Wildenhain, Mark J." <MJWildenhain@PAWTUCKETRI.com>, "Schuette, Alexis" <aschuette@PAWTUCKETRI.com>, "Gregor, Clovis" <cgregor@pawtucketri.com>, "Martins Stachowiak, Marlena" <mstachowiak@pawtucketri.com>, Jack Gannon <jack@gbdvlaw.com>, "Higgins, Nadine" <nhiggins@pawtucketpolice.com>,

"Goncalves, Tina" <tgoncalves@pawtucketpolice.com>, Peter Spetelunas <PSPetelunas@pawtucketpolice.com>, "Milos, Frank" <FMilos@PAWTUCKETRI.com>, "Zelazo, Dylan" <dzelazo@PAWTUCKETRI.com>
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Thank you for your kind attention...Donna

Donna M. Nesselbush, Esq.

Chief Judge

Pawtucket Municipal Court

--

Donna M. Nesselbush, Esq.



Donna Nesselbush <donnanelbush@gmail.com>

Fwd: Drivers license restoration Collaborativ

Donna M. Nesselbush <donnanelbush@gmail.com>
Draft

Thu, May 30, 2024 at 12:49 PM

Donna M. Nesselbush, Esq.

Begin forwarded message:

From: Donna Nesselbush <donnanelbush@gmail.com>
Date: February 4, 2022 at 2:57:08 PM EST
To: Jack Gannon <jack@gbdvlaw.com>
Subject: Re: Drivers license restoration Collaborativ

Thanks, Jack. Hopefully I will get a moment later today to respond to them. I will, of course, copy you.

...Donna

Donna M. Nesselbush, Esq.

On Feb 4, 2022, at 2:55 PM, Jack Gannon <jack@gbdvlaw.com> wrote:

Hi Donna

I saw the emails from the council about this program

It seems that someone from the collaborative should provide information about this program to these 2 councilors and answer any questions they have. I think then they will have a better understanding of the need for this program and understand it does not apply to every case that comes before us .

Jack

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This e-mail transmission, including any attachments, is intended only for the named recipient(s) and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you have received this transmission in error, or are not the named recipient(s), please notify GANNON BAILEY & VOTOLATO, PC. immediately by return e-mail and permanently delete this transmission, including any attachments.

--

Donna M. Nesselbush, Esq.



Donna Nesselbush <donnanelbush@gmail.com>

Fwd: Municipal Court

Donna M. Nesselbush <donnanelbush@gmail.com>
Draft

Thu, May 30, 2024 at 12:47 PM

Donna M. Nesselbush, Esq.

Begin forwarded message:

From: Donna Nesselbush <donnanelbush@gmail.com>
Date: March 21, 2022 at 7:56:52 PM EDT
To: "Zelazo, Dylan" <dzelazo@pawtucketri.com>
Subject: Re: Municipal Court

Dylan,

A-Ok! Please suggest some times next week. Looking forward to it!

...Donna

Donna M. Nesselbush, Esq.

On Mar 21, 2022, at 2:21 PM, Zelazo, Dylan <dzelazo@pawtucketri.com> wrote:

Thanks for the updates and the input.

Judge, we can catch up when you return.

Thanks,

Dylan M. Zelazo

Director of Administration

City of Pawtucket

137 Roosevelt Avenue

Pawtucket, RI 02860

Office: (401) 728-0500 ext. 281

Cell: [REDACTED]

From: Donna Nesselbush <donnanelbush@gmail.com>
Sent: Thursday, March 17, 2022 11:11 AM
To: Mercer, Terrence <tmcercer@PAWTUCKETRI.com>; Wildenhain, Mark J. <MJWildenhain@PAWTUCKETRI.com>

Cc: Zelazo, Dylan <dzelazo@PAWTUCKETRI.com>
Subject: Re: Municipal Court

Dear Terry and Dylan,

Terry, clearly, you should have been a lawyer! Thanks for researching all of that, and so fast!

After my communication to the other branches of government regarding our participation in the Driver's License Restoration Project, I heard back from Dylan and Councilors Mercer and Wildenhain. I, of course, wanted to follow up personally with all three of you. I've had a nice, long conversation with Terry and Mark, but Dylan we have yet to catch up. Hopefully, we can do so in the near future.

First things first: I think I may have won my bet with Councilor Mercer! Lol.

Regarding the Drivers' License Restoration Project, as I mentioned in my communication, Judge Gannon and I have long been doing this on a case by case basis, and I have no problem just continuing in that vein. I will let Professor Horwitz know, but please be advised that there is an entire coalition (I participated in a zoom conference call with about four people who presented me with a PowerPoint presentation) working on this project, so it would not surprise me if they reach out directly to the mayor or the city council. I obviously have no control over that.

As to the flashing lights at each end of the school zones, my only concern is that we be consistent. Either we have them in all school zones, flashing when the cameras are in operation, or we have them in none. If you all decide to have them in none, then I would also request that the nonworking flashing lights be removed, as their presence and absence (given that they are there but not working/flashing) could certainly be mis-construed by and confusing to motorists.

It's always a pleasure to work together. Dylan, I am away next week but maybe you could suggest some times the following week that we could meet or at least catch up via phone or zoom. I could still use a working computer and telephone, and I would like to discuss updating the court's website pages, as our current website doesn't even mention the camera enforcement program, and it may give the impression that the camera tickets are amenable to dismissal under the Good Driver's statute (which of course they are not.) Let's also chat about the Chief's idea of potentially relocating our office. I'd certainly like to be involved in those discussions from the ground up!

Thanks guys...Donna

Donna M. Nesselbush, Esq.

On Mar 16, 2022, at 6:57 PM, Mercer, Terrence <tr Mercer@pawtucketri.com> wrote:

Dylan:

Mark and I spoke at length with Judge Nesselbush (copied here) yesterday, primarily about the "forgiveness" program for license reinstatements that we'd touched on briefly before by email. We

ultimately agreed that she (and Judge Gannon) should continue to exercise her always-thoughtful discretion in these matters and not further publicize it. She also mentioned the issue evolved out of discussions with Prof. Horowitz from Roger Williams School of Law, who happens be her neighbor here in Pawtucket. She thought he may intend to further pursue the issue here and elsewhere, but we assured her President Moran has said he has no intention of putting the issue on the council agenda and to inform the professor. I think we're all good on that front.

We also talked about a number of other topics as well and the judge brought up school zone speed cameras -- in a sort of general way. We told her that issue was an Administration prerogative and we had nothing to do with the operational times or anything else. She was mostly wondering about the uniformity of signage, etc. in school zones, especially the flashing-light signs that predate the camera installation (by decades). Essentially, she says many motorists who appear before her insist that some zones have operational flashing lights and others don't (or at least they're not always working). I promised her I'd look into speed limits in school zones and signage requirements in the same and get back to her. I did a little research last night and figured I'd loop your office in here...

I've confirmed that RIGL § 31-14-2(a) (4) sets school zone speed limits at Twenty miles per hour (20 mph) in the area within three hundred feet (300') of any school house grounds' entrances and exits during the daytime during the days when schools shall be open.

I had mistakenly told the judge I thought it was 20 mph 24/7/365 (but that it just wasn't enforced that way). Turns out, I was wrrroong (phew, I've never had to type that phrase before, lol). That's not the case -- RIGL § 31-14-2(a) (1) sets "default" speed limits at 25 mph in such zones when the 20 mph is not in effect. So that settles that.

Moreover, I confirmed that while the school zone speed camera statute requires 3-foot-by-4-foot signs alerting motorists to the camera enforcement, the statute does not require flashing lights.

I cannot find anything, however, about the requirement of yellow-flashing-light speed signs being mandated in school zones (regardless of cameras). I know they've been around for decades, but not sure they're actually mandated. Whether they're mandated or not, we should probably try to either get on top of things for operational uniformity (that is, make sure they're all always working) or consider removing them altogether in all school zones.

Personally, I'd argue for operational upkeep as a more prudent approach (safety first!). Kinda the opposite of "if it ain't broke, don't fix it" (lol). In this case if they are broke, let's just fix them instead of removing them.

Anyway I just figured I'd kill two birds with one stone by getting the answers (as best I could) for the judge as promised and bringing you in to the loop. Not sure if this is actually a DPW concern or the school department (or both).

Any questions, let me know.

Terry

Terrence E. Mercer

City Councilman, District 3



--

Donna M. Nesselbush, Esq.



Donna Nesselbush <donnaesselbush@gmail.com>

Fwd: Oops! Fwd: Drivers License Restoration Program - Pawtucket Municipal Court matters

Donna M. Nesselbush <donnaesselbush@gmail.com>
Draft

Thu, May 30, 2024 at 12:46 PM

Donna M. Nesselbush, Esq.

Begin forwarded message:

From: Donna Nesselbush <donnaesselbush@gmail.com>
Date: April 3, 2023 at 3:54:55 PM EDT
To: Jennifer Wood <jwood@centerforjustice.org>, Nadine Higgins <NHiggins@pawtucketpolice.com>
Cc: Natasha King <Nking@m-n-law.com>
Subject: Oops! Fwd: Drivers License Restoration Program - Pawtucket Municipal Court matters

Jenn,

Oops. I should read my emails before hitting send. My Clerk, (not my club)... and "an ability to pay hearing"!!!

Always rushing...Donna

Donna M. Nesselbush, Esq.

Begin forwarded message:

From: Donna Nesselbush <donnaesselbush@gmail.com>
Date: April 3, 2023 at 3:52:04 PM EDT
To: Jennifer Wood <jwood@centerforjustice.org>
Cc: Nadine Higgins <NHiggins@pawtucketpolice.com>
Subject: Fwd: Drivers License Restoration Program - Pawtucket Municipal Court matters

Hi Jennifer,

My club tells me that the following motorists have paid their tickets:

Emerson Horton;
Bianca Montanez.
Myron Herrera.

If they have been suspended, perhaps the program could help them with their reinstatement fees?

Please feel free to contact my clerk, Nadine Higgins, to schedule the others. As long as you let my Clerk know, we are usually able to accommodate and ability to pay hearing at the end of any of our dockets.

Thank you for your work on this important project ...Donna

Donna M. Nesselbush, Esq.
On Mar 30, 2023, at 7:38 AM, Nadine Higgins <nhiggins528@gmail.com> wrote:

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Donna M. Nesselbush, Esq.

On Jan 31, 2023, at 11:41 AM, Jennifer Wood <jwood@centerforjustice.org> wrote:



External (jwood@centerforjustice.org)

[Report This Email](#) [FAQ](#) [Protection by INKY](#)

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- 14408500859

Janel Thomas (6/19/1992)

- 16408507699U and 19408508065U

Jennifer L. Wood
Executive Director
R.I. Center for Justice
1 Empire Plaza, Suite 410
Providence, RI 02903
(401) 491-1101



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--

Donna M. Nesselbush, Esq.



Donna Nesselbush <donnaesselbush@gmail.com>

Fwd: Drivers License Restoration Program - Pawtucket Municipal Court matters

Donna M. Nesselbush <donnaesselbush@gmail.com>

Thu, May 30, 2024 at 12:46 PM

Draft

Begin forwarded message:

From: Jennifer Wood <jwood@centerforjustice.org>**Date:** February 6, 2023 at 3:33:11 PM EST**To:** Donna Nesselbush <donnaesselbush@gmail.com>**Cc:** Nadine Higgins <njhiggins528@gmail.com>, Nicole Patano <npatano@centerforjustice.org>**Subject:** Re: Drivers License Restoration Program - Pawtucket Municipal Court matters

Thank you so much,

I really appreciate your response and willingness to take up these cases in the upcoming weeks. I've copied my colleague Nicole Patano here as she will be helping me keep track of the scheduling of these cases. I'm confident that we will be able to attend hearings on Thursday afternoons and we look forward to hearing back from you as to when it will be best to schedule this first group.

Thank you, Jennifer

Jennifer L. Wood
Executive Director
R.I. Center for Justice
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--

Donna M. Nesselbush, Esq.

Re: Drivers License Restoration Program - Pawtucket Municipal Court matters

1 message

Donna Nesselbush <donnanelbush@gmail.com>

Tue, Feb 7, 2023 at 2:07 PM

To: Jennifer Wood <jwood@centerforjustice.org>

Cc: Nadine Higgins <nihiggins528@gmail.com>, Nicole Patano <npatano@centerforjustice.org>, "Jack Gannon, Esq." <jack@gbdvlaw.com>

Bcc: nking@m-n-law.com

Dear Jennifer:

The Pawtucket Municipal Court will be happy to hear these matters any Thursday evening at the end of our 4 PM and 5 PM dockets. On Thursdays at 4 PM, 5 PM and 6 PM, we have camera ticket dockets. However, the camera tickets do not usually take the entire hour, so, upon finishing the camera docket, we will hear these cases. Depending on how long they take, perhaps we can hear them all before the 5 PM docket, but if there is insufficient time, we will take them up again after our 5 PM docket.

I assume someone from the Drivers License Restoration Project will be accompanying the motorists? In terms of the ability to pay hearings, it will be helpful if a representative has already parsed the information regarding the person's income, expenses and ability to pay so that a just and proper resolution can be ordered.

Please feel free to pick any upcoming Thursday, and once you have decided on a date, please contact my Clerk, Nadine Higgins, who will let you know definitively if that day works. I'm sure it will be fine, unless by some happenstance we have exceptionally large camera dockets that day.

We look forward to hearing these cases, and I thank you for your work on this important project...Donna

Donna M. Nesselbush, Esq.

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Fwd: Municipal Court

Donna M. Nesselbush <donnaesselbush@gmail.com>
Draft

Wed, Jul 24, 2024 at 12:19 PM

Begin forwarded message:

From: "Mercer, Terrence" <tmerc@pawtucketri.com>
Date: March 16, 2022 at 6:57:27 PM EDT
To: "Zelazo, Dylan" <dz@pawtucketri.com>
Cc: "Donna M. Nesselbush" <donnaesselbush@gmail.com>
Subject: Municipal Court

Dylan:

Mark and I spoke at length with Judge Nesselbush (copied here) yesterday, primarily about the "forgiveness" program for license reinstatements that we'd touched on briefly before by email. We ultimately agreed that she (and Judge Gannon) should continue to exercise her always-thoughtful discretion in these matters and not further publicize it. She also mentioned the issue evolved out of discussions with Prof. Horowitz from Roger Williams School of Law, who happens be her neighbor here in Pawtucket. She thought he may intend to further pursue the issue here and elsewhere, but we assured her President Moran has said he has no intention of putting the issue on the council agenda and to inform the professor. I think we're all good on that front.

We also talked about a number of other topics as well and the judge brought up school zone speed cameras -- in a sort of general way. We told her that issue was an Administration prerogative and we had nothing to do with the operational times or anything else. She was mostly wondering about the uniformity of signage, etc. in school zones, especially the flashing-light signs that predate the camera installation (by decades). Essentially, she says many motorists who appear before her insist that some zones have operational flashing lights and others don't (or at least they're not always working). I promised her I'd look into speed limits in school zones and signage requirements in the same and get back to her. I did a little research last night and figured I'd loop your office in here...

I've confirmed that RIGL § 31-14-2(a) (4) sets school zone speed limits at Twenty miles per hour (20 mph) in the area within three hundred feet (300') of any school house grounds' entrances and exits during the daytime during the days when schools shall be open.

I had mistakenly told the judge I thought it was 20 mph 24/7/365 (but that it just wan't enforced that way). Turns out, I was wrrrrroong (phew, I've never had to type that phrase before, lol). That's not the case - RIGL § 31-14-2(a) (1) sets "default" speed limits at 25 mph in such zones when the 20 mph is not in effect. So that settles that.

Moreover, I confirmed that while the school zone speed camera statute requires 3-foot-by-4-foot signs alerting motorists to the camera enforcement, the statute does not require flashing lights.

I cannot find anything, however, about the requirement of yellow-flashing-light speed signs being mandated in school zones (regardless of cameras). I know they've been around for decades, but not sure they're actually mandated. Whether they're mandated or not, we should probably try to either get on top of things for operational uniformity (that is, make sure they're all always working) or consider removing them altogether in all school zones.

Personally, I'd argue for operational upkeep as a more prudent approach (safety first!). Kinda the opposite of "if it ain't broke, don't fix it" (lol). In this case if they are broke, lets just fix them instead of removing them.

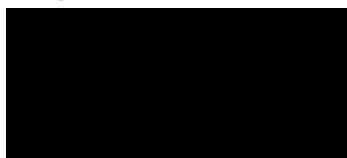
Anyway I just figured I'd kill two birds with one stone by getting the answers (as best I could) for the judge as promised and brining you in to the loop. Not sure if this is actually a DPW concern or the school department (or both).

Any questions, let me know.

Terry

Terrence E. Mercer

City Councilman, District 3



--

Donna M. Nesselbush, Esq.



Donna Nesselbush <donnaesselbush@gmail.com>

Oops! Fwd: Drivers License Restoration Program - Pawtucket Municipal Court matters

1 message

Donna Nesselbush <donnaesselbush@gmail.com>

Mon, Apr 3, 2023 at 3:54 PM

To: Jennifer Wood <jwood@centerforjustice.org>, Nadine Higgins <nhiggins@pawtucketpolice.com>

Cc: Natasha King <nking@m-n-law.com>

Jenn,

Oops. I should read my emails before hitting send. My Clerk, (not my club)... and "an ability to pay hearing"!!!

Always rushing...Donna

Donna M. Nesselbush, Esq.

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From: Horwitz, Andrew ahorwitz@rwu.edu
Subject: Driver's License Restoration
Date: Jul 4, 2022 at 3:30:34 PM
To: jgrasso@grassolaw.net
Cc: Donna Nesselbush donnanesselbush@gmail.com,
Horwitz, Andrew ahorwitz@rwu.edu

Dear Ms. Grasso:

I hope you are enjoying a restful holiday weekend. I thought I would write to follow up on our email exchange below. I remain very much interested in presenting about driver's license restoration at a CLE for your organization. Please let me know if this idea is still under consideration.

Best,
Andy

Professor Andrew Horwitz
Assistant Dean for Experiential Education
Roger Williams University School of Law
One Empire Plaza, Suite 435
Providence, RI 02903
P: 401-276-4880
F: 401-276-4899
ahorwitz@rwu.edu

-----Original Message-----

From: Horwitz, Andrew <ahorwitz@rwu.edu>
Sent: Thursday, May 19, 2022 11:34 AM
To: jgrasso@grassolaw.net; 'Donna Nesselbush'

<donnanesselbush@gmail.com>

Cc: Horwitz, Andrew <ahorwitz@rwu.edu>

Subject: RE: [EXT] RE: Thank you & Connecting you

I would be more than happy to present on this topic at a CLE. As I hope you could tell, it is a topic that I care deeply about, particularly through my work with a variety of organizations like the House of Hope, Amos House, Operation Stand Down and others. There are a lot of people who are struggling and who just need a way to get back on the right path. Please let me know when you have in mind and we can discuss whatever details are appropriate. I truly appreciate the invitation.

Best,
Andy

Professor Andrew Horwitz

Assistant Dean for Experiential Education Roger Williams University

School of Law One Empire Plaza, Suite 435 Providence, RI 02903

P: [401-276-4880](tel:401-276-4880)

F: [401-276-4899](tel:401-276-4899)

ahorwitz@rwu.edu

-----Original Message-----



Donna Nesselbush <donnaesselbush@gmail.com>

Fwd: Great Article and Follow-up re: MCJA

Donna M. Nesselbush <donnaesselbush@gmail.com>
Draft

Thu, Jun 20, 2024 at 1:59 PM

Begin forwarded message:

From: "Donna M. Nesselbush" <Dnesselbush@m-n-law.com>
Date: April 19, 2022 at 9:56:47 AM EDT
To: Terrence Mercer <tmercerc@pawtucketri.com>, "Mark J. Wildenhain" <MJWildenhain@pawtucketri.com>, Dylan Zelazo <dzelazo@pawtucketri.com>
Cc: Nadine Higgins <NHiggins@pawtucketpolice.com>
Subject: Fwd: Great Article and Follow-up re: MCJA

Dear Terry, Mark and Dylan,

I just want to let you three know, as you were the ones who had reached out previously, that there is continued interest in our state and municipal courts reviewing cases with old debt to see if the matter can be resolved in a manner that is favorable to both the litigant and the city/state.

These folks will be sharing their project and ideas at an upcoming meeting of the Municipal Court Judges' Association.

Here in Pawtucket, Judge Gannon and I are continuing to do what we have always done: hearing and adjudicating these matters as they come before us. For the most part, they have been "few and far between."

I will continue to keep you apprised. In the meantime, happy spring, and I trust you all had a very Happy Easter.

All the best...Donna

Donna M. Nesselbush
(She/her/hers)

(O): 401-709-4955
(F): 401-274-0104

685 Westminster Street
Providence, RI 02903

www.M-N-Law.com

Please be advised that we are a full service law firm, focusing on Social Security Disability, Personal Injury, Car Accidents, Medical Malpractice, Premises Liability, Product Liability, and Catastrophic Injury.

Begin forwarded message:

From: "Jacob, Bret" <Bjacob@providenceri.gov>
Date: April 18, 2022 at 12:46:01 PM EDT
To: "Donna M. Nesselbush" <Dnesselbush@m-n-law.com>
Cc: "Perdomo, Diana" <Dperdomo@providenceri.gov>, "Horwitz, Andrew" <ahorwitz@rwu.edu>, Megan Smith <megan@thehouseofhopecdc.org>
Subject: Re: Great Article and Follow-up re: MCJA

Good afternoon,

0ZRIHkVVLKKCj4hDPoDLI1hAqIANhta5FCzkwtXMENs&s=u7TfistD5p1sDn8wxNc6PxxMJYiSzoR_JygplU6dl10&e=

--

Donna M. Nesselbush, Esq.

EXHIBIT 29

From: Donna Nesselbush <donnaesselbush@gmail.com>
Sent: Monday, July 29, 2019 10:46 AM
To: Hardy, Michelle <MHardy@PAWTUCKETRI.com>
Subject: Fwd: Resolution Supporting the Televising of Municipal Court

Dear Michelle:

I understand that Rick is on vacation this week. He was kind enough to send me a draft of the resolution, but it is in a WinMail form that I cannot open. Might you be able to send this to me in a word document or in the body of an email?

Thank you so much for all you do...Donna

Senator Donna M. Nesselbush
District 15 - Pawtucket & North Providence

Rhode Island Senate Chamber
Room 212, Rhode Island State House
Providence, Rhode Island 02903

401.276.5568 - Phone
401.222.4263 - Fax
sen-nesselbush@rilegislature.gov

Sent from my iPhone

Begin forwarded message:

From: "Goldstein, Richard" <RGoldstein@PAWTUCKETRI.com>
Date: July 26, 2019 at 3:38:47 PM EDT
To: "Nesselbush, Donna" <donnaesselbush@gmail.com>, "jbarry@dioceseofprovidence.org" <jbarry@dioceseofprovidence.org>, "John Barry FWD" <j.barry48@yahoo.com>, "Goncalves, Tina" <tgoncalves@pawtucketpolice.com>, Dylan Zelazo <dzelazo@PAWTUCKETRI.com>
Cc: "Grebien, Donald" <DGrebien@PAWTUCKETRI.com>, "Hardy, Michelle" <MHardy@PAWTUCKETRI.com>
Subject: RE: Resolution Supporting the Televising of Municipal Court

Attached is a draft resolution in support of televising Municipal Court proceedings. Please review. Since I am on vacation next week, if any changes are needed, please let Michelle know by next Tuesday.

Please note. There is money in the budget for this project. \$2,400 was put into the FY 2018 budget in an "Outside Vendors" line item in the Municipal Court budget. The same was put in the FY 2019 budget. This year, there is \$1,500 in that line item.

The law prohibiting the use of legislators' pictures within 120 days of an election was amended this year to allow the pictures on the General Assembly website and social media (see attached).

Richard Goldstein, MMC
Pawtucket City Clerk
137 Roosevelt Ave.
Pawtucket, RI 02860
(401) 728-0500 ext. 348
(401) 728-8932 fax
rgoldstein@pawtucketri.com

[cid:image001.png@01D543C8.36869ED0]

<municipal court-televising-res.doc>



Donna Nesselbush <donnaesselbush@gmail.com>

Fwd: Resolution Supporting the Televising of Municipal Court

1 message

Donna Nesselbush <donnaesselbush@gmail.com>

Wed, Jul 24, 2024 at 3:40 PM

To: donnaesselbush@gmail.com

Begin forwarded message:

From: Donna Nesselbush <donnaesselbush@gmail.com>**Date:** July 30, 2019 at 8:56:14 AM EDT**To:** "Hardy, Michelle" <MHardy@pawtucketri.com>**Cc:** Nadine Higgins <NHiggins@pawtucketpolice.com>**Subject:** Re: Resolution Supporting the Televising of Municipal Court

Michelle,

Thank you; this looks great. Will it be on the agenda of the next Council meeting?

Have a wonderful day...Donna

Donna M. Nesselbush

Sent from my iPhone

On Jul 29, 2019, at 4:07 PM, Hardy, Michelle <MHardy@pawtucketri.com> wrote:

Donna,

Please see attached.

Thanks,

*Michelle R. Hardy, CMC**Deputy City Clerk**137 Roosevelt Avenue**Pawtucket, RI 02860**Phone: 401-728-0500 Ext. 225**Fax: 401-728-8932*



Donna Nesselbush <donnanelbush@gmail.com>

Fwd: City of Pawtucket Courtroom Invoice

1 message

Donna Nesselbush <donnanelbush@gmail.com>
To: donnanelbush@gmail.com

Wed, Jul 24, 2024 at 3:36 PM

Begin forwarded message:

From: Donna Nesselbush <donnanelbush@gmail.com>
Date: February 16, 2018 at 11:43:05 AM EST
To: sandrews@pawtucketpolice.com
Cc: Nadine Higgins <NHiggins@pawtucketpolice.com>
Subject: Fwd: City of Pawtucket Courtroom Invoice

Dear Suzanne,

Attached please find an invoice relative to the taping and production of the municipal court proceedings. Kindly process, and if all is in order, issue a check directly to the producer: Victor Ramos. Thank you very much for your kind assistance...
Donna

Senator Donna M. Nesselbush
District 15 - Pawtucket & North Providence

Rhode Island Senate Chamber
Room 212, Rhode Island State House
Providence, Rhode Island 02903

401.276.5568 - Phone
401.222.4263 - Fax
sen-nesselbush@rilegislature.gov

 **Judge Donna Courtroom Invoice 2.pdf**
304K



Donna Nesselbush <donnaesselbush@gmail.com>

Re: At Long Last...

1 message

Donna Nesselbush <donnaesselbush@gmail.com>

Tue, Jan 7, 2020 at 9:07 AM

To: Diane Norte <dnorte@pegri.tv>

Cc: Gato <djelgato@gmail.com>, Natasha King <Nking@m-n-law.com>

Diane,

Thank you; we will need 60 minute slots...Donna

Senator Donna M. Nesselbush
District 15 - Pawtucket & North ProvidenceRhode Island Senate Chamber
Room 212, Rhode Island State House
Providence, Rhode Island 02903401.276.5568 - Phone
401.222.4263 - Fax
sen-nesselbush@rilegislature.gov

Sent from my iPhone

On Jan 7, 2020, at 8:21 AM, Diane Norte <dnorte@pegri.tv> wrote:

That is great to hear !! Happy New Year to you as well...

Before I give you what time slots are available, can you please let me know what is the length that you will need. Should it be 30 or 60 minute slots... As soon as you let me know, I can email you what is open.

Thanks

Diane

From: Donna Nesselbush <donnaesselbush@gmail.com>**Sent:** Monday, January 6, 2020 6:28 PM**To:** Diane Norte <dnorte@pegri.tv>; Natasha King <NKing@m-n-law.com>**Subject:** At Long Last...

Dear Diane:

Happy New Year!! At long last, we have obtained all the approvals necessary for us to begin broadcasting the Pawtucket Municipal Court sessions! I am so sorry it has taken so long! I appreciate your professionalism, assistance and patience.

We are now ready to provide you two copies of a DVD, for each court session. I realize much time has passed and the timeslot availabilities may have changed.

Please let us know what time slots are currently available for our local public access as well as the state wide interconnect, so we can choose if there are any choices.

Thank you so much, and I look forward to working together to broadcast the Court sessions and to getting our process worked out so it all runs like a "Swiss watch!" I think the plan is for

Natasha to drop off the DVDs as soon as they are available.

Let us know your thoughts as, now that we have all the necessary approvals, we would love to get going. Thank you again for your patience... Donna

Donna M. Nesselbush



Donna Nesselbush <donnaesselbush@gmail.com>

Fwd: Show Times

Donna M. Nesselbush <donnaesselbush@gmail.com>
Draft

Thu, May 30, 2024 at 12:50 PM

Donna M. Nesselbush, Esq.

Begin forwarded message:

From: Diane Norte <dnorte@pegri.tv>
Date: July 25, 2019 at 11:43:03 AM EDT
To: Donna Nesselbush <donnaesselbush@gmail.com>
Subject: Re: Show Times

Hi Donna,
I totally understand. Not a problem.. Will wait to hear from you and looking forward to getting the show on the air. Spoke to John Flanagan today and he was asking for you. He said to say hi.
Diane

From: Donna Nesselbush <donnaesselbush@gmail.com>
Sent: Thursday, July 25, 2019 11:36:03 AM
To: Diane Norte <dnorte@pegri.tv>
Cc: Natasha King <Nking@m-n-law.com>
Subject: Re: Show Times

Hi Diane,

Thanks so much for all your help. It's Donna here, and we have a small delay. We have the shows, but I don't want to air them until I have a Resolution from the City Council. They met yesterday, but they had a question about something which was simple, and I answered it, but now the next meeting of the City Council is 8/7, so we are unfortunately on hold until then. I so appreciate everything you have done, and I never anticipated they would have a question that would delay the resolution, but alas...they did.

I realize I may lose my show times, but unfortunately, there is nothing I can do about it. I hope you understand. I'm disappointed too, especially since it appears we have overcome our technical issues!!

I will be back in touch on 8/8, hopefully telling you we will be dropping off some DVD's. Fingers crossed, and thanks again for everything...Donna

Senator Donna M. Nesselbush
District 15 - Pawtucket

Rhode Island Senate Chamber
Room 212, Rhode Island State House
Providence, Rhode Island 02903

401.276.5568 - Phone
401.222.4263 - Fax
sen-nesselbush@rilegislature.gov

On Jul 25, 2019, at 9:32 AM, Diane Norte <dnorte@pegri.tv> wrote:

Hi Natasha,

Just wanted to know when you can drop off the Dvds of the shows.

I just don't want you to lose the interconnect slot that you chose. I can't put you on the schedule until I get the Dvd and I am hoping no one else picks that time.

I am here until 5 today if you have a chance to drop them off.

Thanks

Diane

From: Diane Norte <dnorte@pegri.tv>

Sent: Wednesday, July 17, 2019 3:03:36 PM

To: Donna M. Nesselbush <donnaesselbush@gmail.com>

Subject: Re: Show Times

yes each dvd can only have one episode on them.

Diane

From: Donna M. Nesselbush <donnaesselbush@gmail.com>

Sent: Wednesday, July 17, 2019 12:53:49 PM

To: Diane Norte <dnorte@pegri.tv>

Subject: Re: Show Times

Diane,

One last question.... Should each DVD be one episode? Is it okay to put multiple shows on the DVD as long as we list the dates of each episode?

...Natasha

On Wed, Jul 17, 2019 at 12:44 PM Diane Norte <dnorte@pegri.tv> wrote:

We will actually need two copies of the show.. One we keep here to air and one to send to the interconnect along with the producer agreements to go with them.

Diane

From: Donna M. Nesselbush <donnaesselbush@gmail.com>

Sent: Wednesday, July 17, 2019 11:26:54 AM

To: Diane Norte <dnorte@pegri.tv>

Subject: Re: Show Times

Diane,

Is the only requirement a DVD-R? I actually know what that means. If there are any other requirements, please let us know, and I will pass it along to our producer.

Thanks again...

On Wed, Jul 17, 2019 at 11:17 AM Diane Norte <dnorte@pegri.tv> wrote:

Hi Natasha,

that is great.. I will put the show on our logs. You will start airing as soon as we can get a Dvd from you .. If you drop one off on Monday, we can start airing here in Pawtucket the next day on Tuesday the 23rd and if you can get it here at 2, we can probably get it on the interconnect on Thursday the 25th. We just need to make sure the Dvd is formatted correctly and will run on our system.

thanks

Diane

From: Donna M. Nesselbush <donnaesselbush@gmail.com>
Sent: Wednesday, July 17, 2019 11:01:29 AM
To: Diane Norte <dnorte@pegri.tv>
Subject: Re: Show Times

H Diane:

This is Natasha, Donna's personal assistant. I believe we met back in 2018 when we were originally setting this up.

Thank you so much for sending over the times that are available for our Picked Up In Pawtucket show. We have decided on Tuesday's 5 - 6 pm, Thursday's (state interconnect) 2 - 3 pm and the Sunday slot from 1 - 2 pm.

Would you let me know as soon as we could get on the air? We are still finalizing the last minute details, and a goal date is always helpful!

What are your hours at the office? I believe I may drop off the DVD's on Monday's afternoon's roughly around 2:00. Would that work for you?

Again, thank you so much for your help.

We will see you soon....Natasha

On Tue, Jul 16, 2019 at 8:49 AM Diane Norte <dnorte@pegri.tv> wrote:

Good Morning Judge Nesselbush,

It was great to speak to you yesterday about airing your show "Picked Up in Pawtucket" Here are the openings we have that are available. We will need the show on a DVD -R to run on our system, along with a producer agreement. (you can find the form on our website www.pegri.tv) We will need one agreement with each DVD that is dropped off. Once you have chosen your air dates, you will use those dates and enter that information on the producer agreement so we know which edition will be aired on what day.

PEG RI-TV

www.pegri.tv

Public Access Information Website for its Rhode Island service areas

For Pawtucket/East Providence Channel 18 on Cox Communications and Channel 25 on Verizon we have the following openings. You may choose **two** of these days and times.

Tuesdays: 1:00 - 2:00pm
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 Fridays: 10:00 - 11:00am
 Saturdays: 1:00 - 2:00pm
 3:00 - 4:00pm
 9:00 - 10:00pm
 Sundays: 1:00 - 2:00pm

On the Statewide Interconnect. On Cox Channel 13 and on Verizon Channel 32 we have the following openings available;

You may pick **one** of these days and times

Mondays: 11:00 - 12:00pm
6:00 - 7:00pm
Tuesdays: 11:00 - 12:00pm
2:00 - 3:00pm
Thursdays: 2:00 - 3:00pm
Fridays: 9:00 - 10:00am

If you have any questions, please feel free to email me back or you can call us at 305 - 5091
Looking forward to getting you back on the air.
Diane

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Senator Donna M. Nesselbush
Pawtucket - District 15

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Senator Donna M. Nesselbush
Pawtucket - District 15

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Senator Donna M. Nesselbush
Pawtucket - District 15

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Donna M. Nesselbush, Esq.



Donna Nesselbush <donnaesselbush@gmail.com>

Fwd: Resolution Supporting the Televising of Municipal Court

Donna M. Nesselbush <donnaesselbush@gmail.com>
Draft

Thu, May 30, 2024 at 12:54 PM

Begin forwarded message:

From: "Goldstein, Richard" <RGoldstein@PAWTUCKETRI.com>
Date: July 26, 2019 at 3:38:47 PM EDT
To: "Nesselbush, Donna" <donnaesselbush@gmail.com>, "jbarry@dioceseofprovidence.org" <jbarry@dioceseofprovidence.org>, "John Barry FWD" <j.barry48@yahoo.com>, "Goncalves, Tina" <tgoncalves@pawtucketpolice.com>, Dylan Zelazo <dzelazo@PAWTUCKETRI.com>
Cc: "Grebien, Donald" <DGrebien@PAWTUCKETRI.com>, "Hardy, Michelle" <MHardy@PAWTUCKETRI.com>
Subject: RE: Resolution Supporting the Televising of Municipal Court

Attached is a draft resolution in support of televising Municipal Court proceedings. Please review. Since I am on vacation next week, if any changes are needed, please let Michelle know by next Tuesday.

Please note. There is money in the budget for this project. \$2,400 was put into the FY 2018 budget in an "Outside Vendors" line item in the Municipal Court budget. The same was put in the FY 2019 budget. This year, there is \$1,500 in that line item.

The law prohibiting the use of legislators' pictures within 120 days of an election was amended this year to allow the pictures on the General Assembly website and social media (see attached).

Richard Goldstein, MMC
 Pawtucket City Clerk
 137 Roosevelt Ave.
 Pawtucket, RI 02860
 (401) 728-0500 ext. 348
 (401) 728-8932 fax
 rgoldstein@pawtucketri.com

[cid:image001.png@01D543C8.36869ED0]

Chapter 302
 2019 -- H 5986
 Enacted 07/19/2019

AN ACT
 RELATING TO ELECTIONS

Introduced By: Representative Stephen R. Ucci
Date Introduced: April 11, 2019

It is enacted by the General Assembly as follows:

SECTION 1. Section 17-23-18 of the General Laws in Chapter 17-23 entitled "Election Offenses" is hereby amended to read as follows:

17-23-18. Political advertising from official budgets prohibited.

(a) ~~Except in accordance with subsections (b) and (c) of this section, no~~ No elected official shall permit the expenditure of public funds from any official budget under his or her authority for any publication, advertisement, broadcast, or telecast of his or her photograph, voice, or other likeness to be broadcast or distributed to the public during the one hundred and

twenty (120) days preceding any primary or general election in which he or she is a candidate.

(b) This section shall not be construed to prohibit an official from appearing on regular capitol television programming operated by the general assembly or on television stations operated by the Rhode Island PBS Foundation during the period of time or programming of regular or special meetings of city or town councils or any local governmental board, agency or other entity.

(c) This section shall not be construed to prohibit the publication, broadcast, or telecast of any photograph, voice, or other likeness of an elected official which that is distributed to the public by or through an official government website or social media presence provided that such the website or social media presence is continuously maintained in the regular course of official government business exclusively for general informational or transparency purposes.

SECTION 2. This act shall take effect upon passage.

=====

LC000263

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Donna M. Nesselbush, Esq.

4 attachments



image001.png
30K

 election pictures law.htm
15K

 noname
0K

 municipal court-televising-res.doc
25K

City of Pawtucket

RESOLUTION OF THE CITY COUNCIL

Resolved,

WHEREAS, the purpose of the Pawtucket Municipal Court is not only to punish people who violate municipal ordinances; it is also to educate people about how to do things properly and to be good residents, business owners and neighbors; and

WHEREAS, televising the proceedings of the court will assist the court with its mission to educate, which will benefit the residents of the city; and

WHEREAS, as with the televising of the City Council meetings, televising the Pawtucket Municipal Court will improve transparency in city government, which is vitally important in a democracy.

NOW, THEREFORE, BE IT RESOLVED, THAT THE PAWTUCKET CITY COUNCIL, FOR THE REASONS LISTED ABOVE, DOES HEREBY ACKNOWLEDGE AND SUPPORT THE TELEVISIONING OF PROCEEDINGS OF THE PAWTUCKET MUNICIPAL COURT.



Donna Nesselbush <donnaesselbush@gmail.com>

Picked Up in Pawtucket

1 message

Donna Nesselbush <donnaesselbush@gmail.com>

Wed, Oct 7, 2020 at 1:14 PM

To: Diane Norte <dnorte@pegri.tv>

Cc: Natasha King <Nking@m-n-law.com>

Bcc: djelgato@gmail.com

Hi Diane,

I hope this email finds you and your family healthy and well in these challenging times. The Pawtucket Municipal Court is back in session with live recordings. What is the situation at Peg TV? Might you have time slots available on the local cable channel and the state wide interconnect? If so, how are things working these days? Would we still deliver a compact disc, or is there a way that we can digitally upload the show to you?

Please let me know your thoughts, and thank you for all your assistance.

All the best... Donna

Senator Donna M. Nesselbush
District 15 - Pawtucket & North Providence

Rhode Island Senate Chamber
Room 212, Rhode Island State House
Providence, Rhode Island 02903

401.276.5568 - Phone
401.222.4263 - Fax
sen-nesselbush@rilegislature.gov

Sent from my iPhone



Donna Nesselbush <donnaesselbush@gmail.com>

Re: Show Times

1 message

Donna Nesselbush <donnaesselbush@gmail.com>

Thu, Jul 25, 2019 at 11:36 AM

To: Diane Norte <dnorte@pegri.tv>

Cc: Natasha King <Nking@m-n-law.com>

Hi Diane,

Thanks so much for all your help. It's Donna here, and we have a small delay. We have the shows, but I don't want to air them until I have a Resolution from the City Council. They met yesterday, but they had a question about something which was simple, and I answered it, but now the next meeting of the City Council is 8/7, so we are unfortunately on hold until then. I so appreciate everything you have done, and I never anticipated they would have a question that would delay the resolution, but alas...they did.

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Senator Donna M. Nesselbush

District 15 - Pawtucket

Rhode Island Senate Chamber
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401.222.4263 - Fax

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I just don't want you to lose the interconnect slot that you chose. I can't put you on the schedule until I get the Dvd and I am hoping no one else picks that time.

I am here until 5 today if you have a chance to drop them off.

Thanks

Diane

From: Diane Norte <dnorte@pegri.tv>**Sent:** Wednesday, July 17, 2019 3:03:36 PM**To:** Donna M. Nesselbush <donnaesselbush@gmail.com>**Subject:** Re: Show Times

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Diane

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...Natasha

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thanks

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What are your hours at the office? I believe I may drop off the DVD's on Monday's afternoon's roughly around 2:00. Would that work for you?

Again, thank you so much for your help.

We will see you soon....Natasha

On Tue, Jul 16, 2019 at 8:49 AM Diane Norte <dnorte@pegri.tv> wrote:

Good Morning Judge Nesselbush,

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PEG RI-TV

www.pegri.tv

Public Access Information Website for its Rhode Island service areas

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Tuesdays: 11:00 - 12:00pm
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Thursdays: 2:00 - 3:00pm
Fridays: 9:00 - 10:00am

If you have any questions, please feel free to email me back or you can call us at 305 - 5091
Looking forward to getting you back on the air.
Diane

--

Senator Donna M. Nesselbush
Pawtucket - District 15

--

Senator Donna M. Nesselbush
Pawtucket - District 15

--

Senator Donna M. Nesselbush
Pawtucket - District 15



Donna Nesselbush <donnaesselbush@gmail.com>

Re: Picked Up in Pawtucket

1 message

Diane Norte <dnorte@pegri.tv>

Sat, Apr 10, 2021 at 2:27 PM

To: Donna Nesselbush <donnanesselbush@gmail.com>

Cc: Natasha King <Nking@m-n-law.com>

Hi Donna,

No problem, I completely understand. If things change, we can always find a spot for you. In the meantime, hope you stay well and if ever we can help you with anything, just let us know. Spring is here so I hope you enjoy the great days that are coming.

Diane

Get Outlook for iOS

From: Donna Nesselbush <donnanesselbush@gmail.com>

Sent: Saturday, April 10, 2021 10:23:16 AM

To: Diane Norte <dnorte@pegri.tv>

Cc: Natasha King <Nking@m-n-law.com>

Subject: Re: Picked Up in Pawtucket

Dear Diane,

Sorry for my delay in responding, and thank you so much for reaching out. My camera person went back to work, so unfortunately I'm back to square one!

I'm not sure why I have encountered so many obstacles and adversity in this project? Maybe the universe is telling me something...? If there again appears to be a path forward, I will be sure to contact you.

Stay healthy and well, and thanks again for reaching out...Donna

Donna M. Nesselbush, Esq.

On Mar 22, 2021, at 9:57 AM, Diane Norte <dnorte@pegri.tv> wrote:

Hi Donna,

Hope you are well. Just wanted to reach out to you to see if you will be dropping off DVDs of your show. I know we spoke some time ago about getting you back on the air so I wanted to let you know that I haven't forgotten. Hope to hear from you soon.

Diane

Get Outlook for iOS

From: Victor Ramos

victoriousramos9@gmail.com

Subject: Picked Up In Pawtucket

Date: Jan 17, 2018 at 3:39:08 AM

To: Natasha King Nking@m-n-law.com,

Natasha D. King

natashaking16@gmail.com, Donna

Nesselbush

donnanesselbush@gmail.com

Show 1.

First 8 minutes is from our cameras on first test rounds (audio for defendants is not great but still good enough to air since it's just the first few minutes. The rest of show is what John shot.

What I need you to check:

A) Opening graphic.

B) Closing graphic. There is a "special thanks to" section. Is there anything else that needs to be there besides City of Pawtucket?

https://youtu.be/-8wr_poaAbo

Vic

EXHIBIT 30



Donna Nesselbush <donnaesselbush@gmail.com>

RI Law Precludes Residency Requirement

1 message

Donna M. Nesselbush <donnaesselbush@gmail.com>

Wed, Feb 8, 2023 at 4:23 PM

To: Terrence Mercer <tmercer@pawtucketri.com>

Cc: Frank Milos <FMilos@pawtucketri.com>

Dear Terry,

I know you had to go abruptly yesterday, and I so hope everything is okay with your father-in-law. I'll say a prayer.

After our conversation yesterday, I decided to review the charter provisions and the law on point. I realize that what we thought was an issue appears to be a non-issue.

Rhode Island General Law (RIGL) §4-2-15.2 specifically prohibits residency requirements within municipalities "as a condition of appointment or continued employment."

R.I. Gen. Laws § 45-2-15.2**§ 45-2-15.2. Municipal employees — Residency within municipality not required.**

Notwithstanding any prior ratification and validation by the general assembly of any home rule charter provision requiring that municipal employees reside within the employing city or town, no home rule charter provision shall require that a municipal employee reside within the city or town as a condition of appointment or continued employment. Any prior ratification and validation by the general assembly of a home rule charter provision requiring residency within a city or town as a condition for employment of a municipal employee is hereby expressly repealed by the general assembly; provided, further, no city or town council shall make or ordain any ordinance requiring a municipal employee to reside within the employing city or town as a condition of appointment or continued employment. Any existing ordinance requiring a municipal employee to reside within the employing city or town as a condition of appointment or continued employment is hereby considered contrary to the laws of this state and is thus void as being in violation of state law. Nothing in this chapter shall preclude any city or town from offering employment incentives to its employees.

Notwithstanding the foregoing, no city or town with a municipal charter shall be precluded from entering into employment contracts which contain residency requirements with their appointed town or city manager(s) and/or town or city administrator(s).

History of Section.

P.L. 2005, ch. 294, § 3; P.L. 2005, ch. 311, § 3; P.L. 2006, ch. 629, § 1.

As a judge, lawyer and public servant, I would never want to run afoul of the law or put you or the other Council members in any awkward predicament.

I have copied Pawtucket City Solicitor Frank Milos, Esq. on this email, as I know we will both want to seek his opinion.

Thanks so much; I appreciate your collegiality and support all these years.

Sincerely,

Donna M. Nesselbush, Esq.

EXHIBIT 31



Donna Nesselbush <donnaesselbush@gmail.com>

Fwd: Municipal Court Judges: Plaque

1 message

Donna Nesselbush <donnaesselbush@gmail.com>

Wed, Jul 24, 2024 at 5:01 PM

To: donnaesselbush@gmail.com

Begin forwarded message:

From: "Grebien, Donald" <DGrebien@pawtucketri.com>**Date:** November 6, 2023 at 5:46:17 PM EST**To:** Donna Nesselbush <donnaesselbush@gmail.com>**Cc:** "Mercer, Terrence" <tmerc@pawtucketri.com>**Subject:** Re: Municipal Court Judges

Donna - I hope you and your better half are doing well. ☺ This is a good way to recognize all of the MCJ who have served our city with honor. Having said this, remember this is government and there are policy/procedures for everything. Installation of a plaque is no different.

The city has a policy for installing items in city buildings. The Arts Commission will also need to be involved. To start the process you will need to submit a request to the DPW Director to install the plaque. He will then work with you through the process. Chris Crawley is the Acting Director of PW. I'll let him know to be on the lookout for request.

December 6th doesn't work for me either. You may want to consider some alternative dates once you get through the process. Thank you.

Sincerely...Don Grebien

Mayor – City of Pawtucket

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<http://www.pawtucketri.com>

On Nov 6, 2023, at 2:06 PM, Donna Nesselbush <donnaesselbush@gmail.com> wrote:

Terry,

You will be missed!! Let's see if the Mayor can make it? If not, we may need to change the date, so I will keep you posted. At the appropriate time, I will invite all City Councilors; we're just not there yet. Just wanted to keep both of you in the loop.

Thanks...Donna

Donna M. Nesselbush, Esq.

On Nov 6, 2023, at 1:53 PM, Mercer, Terrence <tmerc@pawtucketri.com> wrote:

Unfortunately I will be in Texas for work that first week of December. I'm sure it'll go off without a hitch in my absence.

Sent from my iPhone

On Nov 6, 2023, at 9:59 AM, Donna Nesselbush <donnaesselbush@gmail.com> wrote:

Dear Terry and Don,

It has been my absolute honor and pleasure to serve Pawtucket as a Municipal Court Judge since my appointment back in 2004. From ushering in the receivership program in the Housing Court to camera enforcement in the Traffic Court, along with much in between (from hoarding to boarding houses to animal control issues), the court has always strived to rise to the City's challenges.

As you know from our conversations, Kelly and I bought a home in Wickford and moved out of the city last year. Accordingly, I have notified the Council that after 20 years on the bench, I will not be seeking another term.

As a parting gesture of goodwill, and as a way to memorialize those who have served our city as Municipal Court Judges, I would like to install a plaque somewhere in City Hall with the names of all judges since the inception of the Municipal Court. The plaque would be at my expense as a gift to the city I love and called home for over 35 years.

I hope you can both attend! I would like to invite any of the municipal court judges who are still living, as well as the family members (if they are around) of any of those who have passed on. Anyone in city government who would like to attend is more than welcome, and I will send out some type of digital invitation to both of you, the other City Councilors, city clerks and court personnel.

I propose a small installation ceremony at 3 PM on Wednesday, December 6, but as I said earlier, I want to run the date by both of you to ensure that you are able to attend, or to get your blessing if you are not.

Thanks so much for your professionalism and collegiality all these years. You both have been kind and competent, and it has been a pleasure to work with you all these years.

All the best, and please let me know your availability for December 6th...Donna

Donna M. Nesselbush, Esq.

Honorable Judges
Of The
Pawtucket Municipal Court

(add Pawtucket Seal to the left of the title and gavel to the right of the title)

Hon. John A. Mutter

Chief: 06/26/1973 - 02/10/1982

02/10/1988 - 08/13/1994

Hon. Joseph A. Keough

Chief: 02/10/1982 - 02/10/1988

10/05/1994 - 09/10/1997

Hon. Stephen R. White

Assoc: 02/10/1982 - 09/18/1984

Hon. Donald E. Allcock

Assoc: 10/24/1984 - 02/10/1988

Hon. Patricia Lynch Harwood

Chief: 11/19/1997 - 12/28/2000

Hon. William T. Noonan

Assoc: 05/09/1988 - 03/01/1993

Hon. Gerard R. Laliberte

Assoc: 03/25/1993 - 01/24/2001

Chief: 01/24/2001 - 05/03/2004

Hon. Rae Condon

Assoc: 02/07/2001 - 02/01/2004

Hon. Raymond P. Cooney

Chief: 05/05/2004 - 07/07/2004

Hon. John F. McBurney, III

Chief: 07/21/2004 - 04/13/2012

Hon. Donna M. Nesselbush

Assoc: 10/01/2004 – 04/25/2012

Chief: 04/25/2012 - 02/07/2024

Hon. John T. Gannon

Assoc: 02/06/2013 - 02/07/2024



Donna Nesselbush <donnaesselbush@gmail.com>

Re: Municipal Court Judges

1 message

Donna Nesselbush <donnaesselbush@gmail.com>

Fri, Dec 8, 2023 at 11:02 AM

To: "Crawley, Chris" <CCrawley@pawtucketri.com>

Hi Chris,

I'm so glad I ran into your brother Kevin yesterday. I actually thought it was he who was now the Director of DPW! Anyway, all is well that ends well, so let me know what the arts commission has to say. In the meantime, happy holidays....Donna

Donna M. Nesselbush, Esq.

On Dec 7, 2023, at 5:35 PM, Crawley, Chris <CCrawley@pawtucketri.com> wrote:

Donna,

Sorry, your email went to my junk folder. Congratulations on your retirement and on picking a great place to move to.

I don't see any issues with your request; I will work on getting the information needed to present it to the Arts Commission.

Chris

From: Donna M. Nesselbush <donnaesselbush@gmail.com>**Sent:** Tuesday, November 7, 2023 10:40 AM**To:** Crawley, Chris <CCrawley@PAWTUCKETRI.com>**Cc:** Grebien, Donald <DGrebien@PAWTUCKETRI.com>; Mercer, Terrence <tmercer@PAWTUCKETRI.com>**Subject:** Fwd: Municipal Court Judges

Dear Chris:

Greetings, and long time no see! I'm happy to know that you are still involved in public service!

Please see the email thread below. After 20 years, I have decided to retire from my post as Chief Judge. Kelly and I have moved down to Wickford. As you can see from the email thread below, as a parting gesture, I would like to donate a plaque with the names of all judges who have served our city as Municipal Court Judges. Not surprisingly, there are rules about that!

Anyway, the Mayor suggested that I start with you. Please provide information about the process, including what I need to do with the Pawtucket Arts Commission, so I can get the ball rolling. Please also include information about how long the process takes.

Attached is a design of a potential plaque. I'm not committed to this particular one. I am open to any ideas in terms of the actual plaque, and/or its location in City Hall.

I look forward to working with you on this exciting project.

All best regards...Donna

Donna M. Nesselbush, Esq.

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Cc: "Mercer, Terrence" <tmercer@pawtucketri.com>
Subject: Re: Municipal Court Judges

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Donna M. Nesselbush, Esq.

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All the best, and please let me know your availability for December 6th...Donna

Donna M. Nesselbush, Esq.

EXHIBIT 32

From: Vincent Ragosta <v.ragosta@vfr-law.com>

Sent: Tuesday, February 20, 2024 7:39 PM

To: Gayle Mambro-Martin <Gayle.Mambro-Martin@ersri.org>

Cc: Frank Karpinski <Frank.Karpinski@ersri.org>; Michael Robinson <mrobinson@savagelawpartners.com>; Grebien, Donald <dgrebien@pawtucketri.gov>; Milos, Frank <FMilos@pawtucketri.gov>; Goldstein, Richard <RGoldstein@pawtucketri.gov>; Araujo, Michael <maraujo@pawtucketri.gov>; Moreno, Roberto <rmoreno@pawtucketri.gov>; Rubio, Yesenia <yrubio@pawtucketri.gov>; Moran, David <dmoran@pawtucketri.gov>; Wildenhain, Mark J. <MJWildenhain@pawtucketri.gov>; Coderre, Neicy <ncoderre@pawtucketri.gov>; Gregor, Clovis <cgregor@pawtucketri.gov>; Martins Stachowiak, Marlena <mstachowiak@pawtucketri.gov>

Subject: [EXTERNAL]City of Pawtucket: Municipal Judges - Membership in MERS

This Message Is From an External Sender

This message came from outside your organization.

Report Suspicious

Good Evening Gayle-

I understand that you have been advised by City Solicitor Frank Milos that I serve as outside labor and employment counsel to the City. On October 11, 2023, I wrote to Executive Director Karpinski inquiring as to the status of the appeal of his October 24, 2022 ineligibility determination for membership of the City's municipal court judges in MERS. To date I have not received a response.

Nonetheless, since in June and July 2022 you communicated with the City's then-Human Resources Director, Sara Miranda, seeking information relevant to Director Karpinski's subsequent determination of ineligibility, I write to confirm indispensable facts bearing on any ongoing efforts to appeal, unwind or rescind his

legally correct conclusion, barring the municipal court judges' membership in MERS.

First, and of primary and indispensable statutory import, on July 18, 2022, Ms. Miranda responded to your direct inquiry whether the judges work 20 hours weekly. She pointedly and succinctly responded, "No, they do not". I am told there is no reliable or credible evidence to support the notion that the judges, all of whom are engaged in busy private law practices, work 20 hours or more weekly (nor are they present in City Hall for such hours). I note parenthetically that there is no evidence of compliance with R.I.G.L. § 28-12-12 by the City Council or other branch of City government, i.e. of the making or keeping of records of "...hours worked each day and each workweek by the (judges)...". As you know, that statute unequivocally mandates the generation and retention of such records. Apparently, none exist.

Second, to the extent that ERSRI has been provided any purported job description(s) for one or more of the municipal judges, they ought not be deemed authenticated or official records by ERSRI. I so state because the City's Law Department advises that there has been no legislative action adopting them. Moreover, any notations in such description(s) referencing the quantum of hours worked (or to be worked) by the judges are likewise ultra vires, and hence unreliable.

I trust this may be useful to any factual and legal determinations to be made by ERSRI if it were to consider reversal of Director Karpinski's assiduous ineligibility determination. Hopefully that will not be the case.

Should you see a need to discuss this further, I will be available after 2:30 tomorrow afternoon. Don't hesitate to call.

Best regards,

Vin Ragosta

VINCENT F. RAGOSTA, JR.
ATTORNEY AT LAW
CENTER PLACE

50 PARK ROW WEST
PROVIDENCE, RHODE ISLAND 02903
TEL: 401-274-2100
V.RAGOSTA@VFR-LAW.COM

STATEMENT OF CONFIDENTIALITY

The information contained in this electronic message and any attachments to this message are intended for the exclusive use of the addressee(s) and may contain confidential or privileged information. If you are not the intended recipient, please notify Vincent F. Ragosta, Jr., Attorney at Law immediately at (401) 274-2100, and destroy all copies of this message as well as any documents which may be attached.

EXHIBIT 33

https://www.valleybreeze.com/news/gannon-top-contender-for-magistrate-judge-selection-process-called-into-question/article_54d35be8-cddf-11ee-ae85-f3d7f5e49cee.html

FEATURED

Gannon top contender for magistrate judge, selection process called into question

By LUZJENNIFER MARTINEZ

and ETHAN SHOREY Valley Breeze Editors luzjennifer@valleybreeze.com

Feb 21, 2024



Jack Gannon

PAWTUCKET – An associate municipal court judge with a turbulent history in the city appears on his way to an easy appointment as top judge in Pawtucket Municipal Court.

The Ad Hoc Municipal Judge Application Committee decided on Feb. 14 that John "Jack" Gannon should be chief magistrate and Patrick McBurney associate magistrate in the position being vacated by Gannon, which they will recommend to the City Council tonight, Feb. 21.

Gannon was previously accused by Mayor Donald Grebien of carrying out a long-term personal vendetta against the mayor over the city's firing of Gannon's son, Sean, from the Fire Department.

Sean Gannon first received a probationary firefighter position when Jack Gannon was his director of administration. Sean was fired in 2013, after his father was appointed associate judge.

Grebien and his staff are urging the council to choose one of three other candidates for the position, despite the unanimous recommendation.

The recommendations to the full council come after Municipal Court Chief Magistrate Judge Donna Nesselbush announced that she would not seek reappointment.

"I do feel, with the experience and continuity aspect and how well the court has been run, that John Gannon would be the person I would look to do that," said committee member Michael Araujo.

Councilor Roberto Moreno said he also considers Gannon "the person who has the qualifications and clearance to fulfill the role," while Councilor Nancy Coderre said Gannon has been municipal judge for years and is "someone who knows the city."

Nesselbush also expressed her support for Gannon to fill the vacant seat.

"We were both there dispensing justice, operating the courts, dealing with litigants and resolving a variety of traffic issues; he has literally been my right arm for the last 10 years, and is eminently qualified to succeed me," she said.

Attorney Maribel Echeverry, who also submitted her name for consideration, says the role should go to someone who will uphold the spirit of diversity in the city as Nesselbush did as a bilingual, LGBTQ female.

In 2019, *The Breeze* reported that the Rhode Island Supreme Court had sided with the city in the firing of the younger Gannon. Attorney Joel Votolato, of Jack Gannon's law office, was representing Sean Gannon at the time, reiterating their stance that Sean Gannon was fired not because of his poor performance in the Fire Department, but because he stuck up for himself against bullying.

Jack Gannon filed a complaint with the Rhode Island Ethics Commission in 2016 alleging that Grebien was deeply involved in the city's hiring of the mayor's tenant John Dattel in 2011. The Ethics Commission dismissed the complaint, with members questioning the authenticity of the allegations based on inconsistencies from Gannon and lack of any corroborating evidence.

Ryan Holt, new chief of staff to Mayor Donald Grebien, said this week that the administration acknowledges and respects the council's role in appointing judges.

"It is our sincere hope that the council fully take into account Mr. Gannon's troubling track record, first in his ineptitude in his various roles with the city of Central Falls and then his performance and conduct in Pawtucket," he said.

"Most notably, over the years, Mr. Gannon has filed several frivolous and meritless legal cases against the city during his time as associate judge that have cost taxpayers of the city tens of thousands of dollars to defend."

He added of Gannon, "he has even filed a baseless state ethics complaint against the mayor that was dismissed with the Ethics Commission's suggestion that Mr. Gannon himself be charged with misconduct due to his inappropriate behavior."

Additionally, he added, Gannon has "been known to relentlessly attack members of the Pawtucket City Council on social media. Such conduct is unbecoming, even disqualifying, for an individual looking to serve the city as a municipal court judge."

Ultimately, he said, they are confident that the council will choose a qualified individual who will represent the city with integrity.

Committee members last week also said they found McBurney's skills and experience to stand out.

"I've known Patrick McBurney's family for a long time; his family has been friends with my family, and he has long-standing roots in Pawtucket," Coderre said.

Before the committee reviewed the four candidates and agreed on recommendations, resident John Mello spoke in support of non-traditional and diverse candidates such as Echeverry to represent and connect with the community.

Mello also asked if the committee was concerned that Gannon's candidacy poses a risk due to his controversial history.

"I'm disgusted by it," said Echeverry. "It's very telling having two Latinos on the committee, but they (didn't) even consider their own people. They didn't even have the audacity to address the resident's questions."

Mello said he wondered if the committee ever interviewed any of the candidates. "It seems like they came up with an agenda, and they just had somebody in mind," he said.

Echeverry confirmed that she was never contacted for an interview on the role, and said the situation "reeks of nepotism."

Council President Terry Mercer said this is one of five appointments the council makes, and it's not an application process, but a simple appointment. They solicited letters of interest and resumes, he said, but in the end there was no obligation by the committee to interview those interested in the job.

The city received four letters, one from the sitting associate judge, three from others, he said, and he put together a committee to go over submissions and make a recommendation to the full council.

The judge appointments are not necessarily about appointing people they know, Mercer said, but about choosing qualified people. Gannon has been on the bench for 10 years and "done an exceptional job," he said, with no complaints about his work.

Pawtucket's court has gotten rave reviews from outside the city, according to Mercer, as well as the recommendation by Nesselbush.

"What more do you need?" he said.

Echeverry mentioned how Gannon announced he would be Chief Judge as of Feb. 24 on the Rhode Island Bar Association website.

"It almost looks too orchestrated," she said. "As women, we've made so many strides to get here, but having two Caucasian men (for the roles) is like setting us back."

LuzJennifer Martinez

Deputy Editor

Ethan Shorey

Chief Editor

https://www.valleybreeze.com/news/council-decides-against-delay-approves-gannon-as-lead-judge/article_5daef892-d4df-11ee-be44-afc2b242f822.html

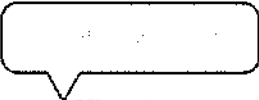
Council decides against delay, approves Gannon as lead judge

By ETHAN SHOREY Valley Breeze Editor ethan@valleybreeze.com
Feb 28, 2024

PAWTUCKET – In a split vote last week, the City Council approved the controversial appointment of John “Jack” Gannon as the city’s top Municipal Court judge.

The 6-2 vote came after a 5-3 vote not to delay the appointment amid concerns expressed by some council members about it.

Council President Terry Mercer said he was “astounded” that the conversation was even happening, saying a *Breeze* article published earlier that day was about an old feud between Gannon and Mayor Donald Grebien. He said it didn’t reflect at all on the job Gannon has done as associate judge for the past decade.



Forbes

It's in the Stars
Practice Fusion is the highest ranked
EHR by Forbes Advisor with 4.6 out
of 5 stars.

Find Out Why

Grebien and his staff had advocated against the appointment, citing Gannon's track record of legal cases against the city in defense of his son Sean, a probationary firefighter fired 10 years ago, and Gannon carrying out what Grebien described as a vendetta against the administration. Actions included a failed complaint by Gannon to the Rhode Island Ethics Commission, which was broadly dismissed and drew criticism of Gannon from commissioners.

Councilor Yesenia Rubio said that with all respect due to an ad hoc subcommittee charged with finding a new judge, Pawtucket needs judges who represent the entirety of the city and can relate to all residents. They should have skill sets such as speaking multiple languages, she said. Those are important elements that can't just be pushed aside, Rubio said, and she didn't feel comfortable "voting with everything that's transpired over the course of the week" in approving Gannon.

Rubio then made a motion to postpone appointments, which was seconded by Councilor Marlena Martins Stachowiak.

Councilor Clovis Gregor then said he shared the concerns. He noted that Gannon was recommended by outgoing Judge Donna Nesselbush, which is worth something, but a resident who spoke against the appointment that night, Feb. 21, made good points and the discussion should be postponed.

Those comments from West Carpenter Street resident John Jarimillo included questions about a lack of diversity on the court and the lack of interviews for a replacement, with priority given to personal stories and relationships. This position should have at least the level of scrutiny as someone applying to McDonald's, he said, and an apparent pre-determination undermines the process and reeks of "old-school politics."

When the motion to postpone failed, Gregor voted with the 6-2 majority in approving Gannon. The vote was unanimous to appoint Patrick McBurney as associate judge.

In a related matter, representatives from the Employees' Retirement System of Rhode Island are questioning whether judges in Pawtucket are eligible for the retirement system based on how many hours they work.

Councilor Mike Araujo noted that Nesselbush spoke on Gannon's behalf for the three-year appointment, also noting that the courts have been run very well under the two of them, and he's looking for continuity.

Martins Stachowiak said she was shocked that the subcommittee didn't even ask a question or two of applicants before deciding on Gannon. She said she did her own due diligence, and she wanted to pause the proceedings over some items that had come across her desk.

Martins Stachowiak said she leads by trying to uphold the same standard and morals with all votes. She said she does wish both candidates on the docket had some abilities with other languages, also urging more qualified people of different backgrounds to get involved for appointed and elected positions.

She further noted concern over Gannon's name being listed as chief judge for Pawtucket on the Rhode Island Bar Association website a month ago.

Councilor Mark Wildenhain then said he wouldn't support a pause, saying Gannon has done the job for 10 years without a judicial complaint and deserves the promotion.

Gregor said his push for a delay wasn't related to the feud between Gannon and Grebien, and said he welcomes any criticism of elected officials. Martins Stachowiak also said she doesn't "care about who doesn't like each other."

Mercer then asked her about what information came out that gave her pause, and she responded that it was the listing on the website a month earlier, the fact that Gannon's actions cost taxpayers money, and also mentioned an email chain that had been circulating that could become a bigger issue.

Mercer said no one from the Bar Association contacted them about changing the title of Gannon.

Councilor Roberto Moreno also cited continuity in supporting Gannon, saying he's the one to fill the shoes of Nesselbush.

Mercer said council members knew of “ancillary issues” with Gannon in 2013, and said *The Breeze* story was nothing but a “10-year-old lawsuit being revisited,” with information that was known when he was reappointed in 2015, 2018, and 2021.

At no time has Gannon “done anything but represent the city in an exquisite fashion,” Mercer said, reiterating that this was not an application process where “interviews and personalities could have swayed things.” Just as judges are to be objective, that is also what he asked the subcommittee to do. Gannon has tuned out secondary issues, said Mercer, and he has judged everything fairly and objectively for his entire tenure.

Mercer further criticized attorney Maribel Echeverry for her comments about not being selected, saying he was disgusted with her quotes last week that two Latino members of the council didn’t consider one of their own.

“Does that sound like something you want a judge to say?” he said. “It boggles my mind.”

If anything, *The Breeze* story did some good in spotlighting that Gannon was the right choice, he said, and Echeverry was actually the least qualified as someone who passed the bar seven months ago, with limited experience in municipal matters.

Echeverry was “so injudicious” with her comments, he added, and her words were a “lightbulb moment” for him. He questioned how a Caucasian man would feel standing in front of a judge who speaks that way.

Ethan Shorey

Chief Editor

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Council President Terry Mercer said he was “astounded” that the conversation was even happening, saying a *Breeze* article published earlier that day was about an old feud between Gannon and Mayor Donald Grebien. He said it didn’t reflect at all on the job Gannon has done as associate judge for the past decade.

Grebien and his staff had advocated against the appointment, citing Gannon’s track record of legal cases against the city in defense of his son Sean, a probationary firefighter fired 10 years ago, and Gannon carrying out what Grebien described as a vendetta against the administration. Actions included a failed complaint by Gannon to the Rhode Island Ethics Commission, which was broadly dismissed and drew criticism of Gannon from commissioners.

Councilor Yesenia Rubio said that with all respect due to an ad hoc subcommittee charged with finding a new judge, Pawtucket needs judges who represent the entirety of the city and can relate to all residents. They should have skill sets such as speaking multiple languages, she said. Those are important elements that can't just be pushed aside, Rubio said, and she didn't feel comfortable "voting with everything that's transpired over the course of the week" in approving Gannon.

Rubio then made a motion to postpone appointments, which was seconded by Councilor Marlena Martins Stachowiak.

Councilor Clovis Gregor then said he shared the concerns. He noted that Gannon was recommended by outgoing Judge Donna Nesselbush, which is worth something, but a resident who spoke against the appointment that night, Feb. 21, made good points and the discussion should be postponed.

Those comments from West Carpenter Street resident John Jarimillo included questions about a lack of diversity on the court and the lack of interviews for a replacement, with priority given to personal stories and relationships. This position should have at least the level of scrutiny as someone applying to McDonald's, he said, and an apparent pre-determination undermines the process and reeks of "old-school politics."

When the motion to postpone failed, Gregor voted with the 6-2 majority in approving Gannon. The vote was unanimous to appoint Patrick McBurney as associate judge.

In a related matter, representatives from the Employees' Retirement System of Rhode Island are questioning whether judges in Pawtucket are eligible for the retirement system based on how many hours they work.

Councilor Mike Araujo noted that Nesselbush spoke on Gannon's behalf for the three-year appointment, also noting that the courts have been run very well under the two of them, and he's looking for continuity.

Martins Stachowiak said she was shocked that the subcommittee didn't even ask a question or two of applicants before deciding on Gannon. She said she did her own due diligence, and she wanted to pause the proceedings over some items that had come across her desk.

Martins Stachowiak said she leads by trying to uphold the same standard and morals with all votes. She said she does wish both candidates on the docket had some abilities with other languages, also urging more qualified people of different backgrounds to get involved for appointed and elected positions.

She further noted concern over Gannon's name being listed as chief judge for Pawtucket on the Rhode Island Bar Association website a month ago.

Councilor Mark Wildenhain then said he wouldn't support a pause, saying Gannon has done the job for 10 years without a judicial complaint and deserves the promotion.

Gregor said his push for a delay wasn't related to the feud between Gannon and Grebien, and said he welcomes any criticism of elected officials. Martins Stachowiak also said she doesn't "care about who doesn't like each other."

Mercer then asked her about what information came out that gave her pause, and she responded that it was the listing on the website a month earlier, the fact that Gannon's actions cost taxpayers money, and also mentioned an email chain that had been circulating that could become a bigger issue.

Mercer said no one from the Bar Association contacted them about changing the title of Gannon.

Councilor Roberto Moreno also cited continuity in supporting Gannon, saying he's the one to fill the shoes of Nesselbush.

Mercer said council members knew of "ancillary issues" with Gannon in 2013, and said *The Breeze* story was nothing but a "10-year-old lawsuit being revisited," with information that was known when he was reappointed in 2015, 2018, and 2021.

At no time has Gannon “done anything but represent the city in an exquisite fashion,” Mercer said, reiterating that this was not an application process where “interviews and personalities could have swayed things.” Just as judges are to be objective, that is also what he asked the subcommittee to do. Gannon has tuned out secondary issues, said Mercer, and he has judged everything fairly and objectively for his entire tenure.

Mercer further criticized attorney Maribel Echeverry for her comments about not being selected, saying he was disgusted with her quotes last week that two Latino members of the council didn’t consider one of their own.

“Does that sound like something you want a judge to say?” he said. “It boggles my mind.”

If anything, *The Breeze* story did some good in spotlighting that Gannon was the right choice, he said, and Echeverry was actually the least qualified as someone who passed the bar seven months ago, with limited experience in municipal matters.

Echeverry was “so injudicious” with her comments, he added, and her words were a “lightbulb moment” for him. He questioned how a Caucasian man would feel standing in front of a judge who speaks that way.

Ethan Shorey

Chief Editor

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TARGET 12

Pawtucket judge fights for pension as RI says she's not eligible

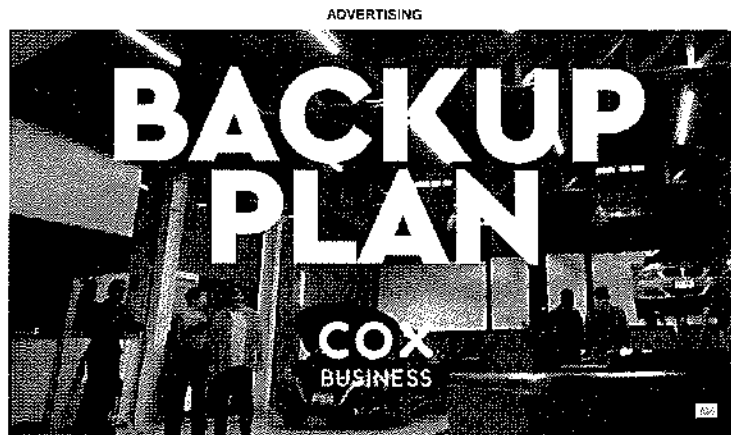
by: [Eli Sherman](#), [Tim White](#)
Posted: May 16, 2024 / 05:40 PM EDT
Updated: May 16, 2024 / 05:40 PM EDT

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PAWTUCKET, R.I. (WPRI) – Pawtucket and state officials have spent two years engaged in a behind-the-scenes fight with a pair of municipal judges who they argue didn’t work enough hours to receive pensions.

The two judges, former state Sen. Donna Nesselbush and her colleague Jack Gannon, have pushed back. They’ve arged that while Pawtucket

"Judge Gannon and I not only handle and adjudicate all aspects of government of Pawtucket's high-volume traffic and housing caseloads, we also constitute the judicial branch of government for the city of Pawtucket," Nesselbush wrote in a December 2022 email to state officials asking them to reverse an initial decision to yank her pension.



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"In order to adjudicate cases on the bench, we have to have already reviewed the cases, considered the cases and researched the legal issues as necessary," she added.

Fast forward to this spring, and Gannon tells Target 12 he's no longer disputing the issue. But documents obtained through a public-records request show Nesselbush — who declined to be interviewed for this story — is appealing a second state decision to rescind her city pension benefit that she paid into for nearly two decades.

She has hired former R.I. House Speaker John Harwood to represent her in the current appeal.

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As part of her argument to the state, the former senator — who left office in 2021 — went so far as to write herself a job description under city seal that she submitted as proof she should qualify for the pension. Initially, the attempt worked and the state told city officials they should resume contributing toward the judges' pensions.

But the city sought outside legal counsel and provided additional documentation to the state, arguing the judges don't work anywhere close to

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"They submitted this job description that included this inflated view of their hours worked," Holt said.

To qualify for a state pension, a municipal employee must work at least 20 hours per week, which city officials argue far exceeds what's required of municipal judges.

The dispute began in the summer of 2022, when city officials reached out to the state to express concern that they were contributing to pensions for judges who shouldn't qualify. The state responded with a series of questions, according to documents reviewed by Target 12.

"Do they work 20 hours in the 3 days or less?" ERSRI official Gayle Mambro-Martin wrote to city officials on July 18, 2022.

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WHAT DO YOU THINK?



Are you concerned about hurricanes in your county?

☐ Yes, I am

☐ No, I'm not

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"No, they do not," responded Sara Miranda, Pawtucket human resources coordinator.

In August 2022, state officials sent letters to the judges notifying them they didn't qualify. They directed the city to pay back Nesselbush \$14,345 for the money she'd contributed into her plan over the years. Gannon was slated to receive \$3,000.

The city would be credited about \$75,000 for its contributions toward the plan.

In December 2022, Nesselbush wrote an email to the state, saying she was "taken aback" when she received her letter and that she planned to appeal. She then provided the self-created job description as proof of her hours.

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"Imagine receiving such a letter after paying into the system collectively for almost 30 years (18 for me and 10 for Judge Gannon) and relying all those years on a future pension benefit," she wrote. "Ms. Miranda unfortunately provided incomplete information to you."

Nesselbush also included a letter of support she received from former City Council President Dave Moran, who wrote that judges "most certainly are considered city employees."

"I fully understand that your and Judge Gannon's work to run the judiciary and effectuate a number of special projects, means that your position as judges for the city involves more than just the hours you spend on the bench," Moran wrote.

In the job description, Nesselbush wrote that judges worked 20 hours per week and had "access to city health insurance and participation in the MERS pension system." (MERS is the acronym for the arm of the state pension system that covers municipal employees.)

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Her threat of appeal worked — temporarily.

Last September, ERSRI official Eric Motta wrote a letter to city officials saying they'd determined Nesselbush and Gannon "are to remain in the MERS plan," and he directed them to resume contributions toward their pensions.

But it didn't stick. The city's outside attorney, Vincent Ragosta Jr., reached out to the state, spurring officials to take a closer look at the job description provided by Nesselbush.

"We take this opportunity to request additional clarification of the city's position regarding the eligibility of these individuals for membership in the retirement system," ERSRI executive director Frank Karpinski wrote on Nov. 8 to Pawtucket City Council President Terence Mercer.

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He requested more information about who determines the duties of employment for municipal judges, and asked whether the City Council had ever certified the details provided in Nesselbush's self-created job description.

"Once we have received responses to these questions, MERS will be able to reach a final determination as to whether or not Chief Judge Nesselbush and/or Associate Judge Gannon (and/or other similarly situated Municipal Court Judges) are eligible for membership in the retirement system," he wrote.

After some more back-and-forth with the city, ERSRI officials decided to officially disqualify the judges from the pension system on March 11.

"We have undertaken a review of the information provided to our office by the city, and based on the information made available to us we have determined that the Pawtucket judges should not have been enrolled in the Municipal Employees' Retirement System," Karpinski wrote in a letter to Grebien.

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On May 7, Harwood filed a notice of appeal on behalf of Nesselbush, saying "the basis for the appeal is to correct fact and legal errors and to allow Donna M. Nesselbush to present her case as it relates to her position as chief judge of the city of Pawtucket."

The state pension system is overseen by General Treasurer James DiOSSa. His spokesperson, Michelle Moreno-Silva, told Target 12 a hearing will be scheduled for the appeal.

It's unclear whether the issue is happening in other cities and towns that participate in the state-run pension system for municipal employees.

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Moreno-Silva said there was only one other case on the state level, which began in 2019. It remains pending. Karpinski asked Pawtucket officials to provide a list of all past municipal judges to see if anyone else is improperly receiving pension benefits.

Holt acknowledged that the pension benefits Nesselbush and Gannon would have received were relatively small. But he argued that fixing this problem was in the best interest of taxpayers.

“Regardless if it’s a dollar or it’s a million dollars, we want to make sure the taxpayer’s dollars are spent correctly and efficiently,” he said. “It’s about doing the right thing.”

Ell Sherman (esherman@wpri.com) is a Target 12 investigative reporter for 12 News. Connect with him on Twitter and on Facebook.

Tim White (twhite@wpri.com) is Target 12 managing editor and chief investigative reporter and host of Newsmakers for 12 News. Connect with him on Twitter and Facebook.

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<https://www.wpri.com/target-12/pawtucket-judge-fights-for-pension-as-ri-says-shes-not-eligible/>

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MISCELLANEOUS EMAILS



Donna Nesselbush <donnaesselbush@gmail.com>

Fwd: Receivership Program Meeting

1 message

Donna Nesselbush <donnaesselbush@gmail.com>
To: donnaesselbush@gmail.com

Wed, Jul 24, 2024 at 4:36 PM

Begin forwarded message:

From: "Grebien, Donald" <DGrebien@pawtucketri.com>
Date: February 19, 2016 at 4:23:20 PM EST
To: "Gonzalez, Lizeth" <lgonzalez@pawtucketri.com>, "Martins, Anna" <amartins@pawtucketri.com>, "King, Paul" <pking@pawtucketpolice.com>, "Spoonier, Lee Ann" <LSpoonier@pawtucketpolice.com>, MORAND@nationwide.com, "Hodge, Thomas E." <thomasehodge@aol.com>, John Barry Personal <j.barry48@yahoo.com>, "Heath, Barney" <bheath@pawtucketri.com>, "Bourdeau, Mary" <MBourdeau@pawtucketri.com>, Dylan Zelazo <dzelazo@pawtucketri.com>, "Pires, Antonio" <APires@pawtucketri.com>, "Milos, Frank" <FMilos@pawtucketri.com>, "Nesselbush, Donna" <donnaesselbush@gmail.com>, Natasha King <Nking@m-n-law.com>, "Goldstein, Richard" <RGoldstein@pawtucketri.com>
Cc: "D'Ambra, Kevin" <kdambra@pawtucketri.com>, "Pinto, Donna" <DPinto@pawtucketri.com>
Subject: Receivership Program Meeting

Good morning,

This is a reminder of the meeting to discuss a Receivership Program as it pertains to abandoned housing in Pawtucket. This meeting will take place this Monday, February 22nd at 9am in Pawtucket City Hall, Conference Room 303.

Thank you,
Lizeth

 winmail.dat
12K



Donna Nesselbush <donnaesselbush@gmail.com>

Fwd: INCLEMENT WEATHER-WORKSHARE-FURLOGUGH

1 message

Donna Nesselbush <donnaesselbush@gmail.com>
To: donnaesselbush@gmail.com

Wed, Jul 24, 2024 at 3:54 PM

Begin forwarded message:

From: Donna Nesselbush <donnaesselbush@gmail.com>
Date: October 14, 2020 at 3:56:36 PM EDT
To: Nadine Higgins <NHiggins@pawtucketpolice.com>
Subject: INCLEMENT WEATHER-WORKSHARE-FURLOGUGH

Dear Nadine:

Here are my changes to the letter. When signing as the Court Clerk, please do not use the word police, as when you are serving as the court clerk, it is important that you are not seen as working for the police. When you are working for the court, you are neutral. I know it may seem picky, but especially given the crazy times we live in, it is important to me that litigants feel the neutrality of the court.

I assume this will go out on Court stationary?

Thank you for ALL that you do. I know how busy you are.

Thanks...Donna

**INCLEMENT WEATHER-WORKSHARE-FURLOGUGH.docx**

9K



Donna Nesselbush <donnanelbush@gmail.com>

Fwd: Court Stationary

1 message

Donna Nesselbush <donnanelbush@gmail.com>
To: donnanelbush@gmail.com

Wed, Jul 24, 2024 at 3:56 PM

Begin forwarded message:

From: Donna Nesselbush <donnanelbush@gmail.com>
Date: October 16, 2020 at 11:29:00 AM EDT
To: Nadine Higgins <NHiggins@pawtucketpolice.com>
Subject: Court Stationary

NA,

Do you have court stationary to send out the letters continuing all the Friday cases? Let me know and thanks... Donna

Senator Donna M. Nesselbush
District 15 - Pawtucket & North Providence

Rhode Island Senate Chamber
Room 212, Rhode Island State House
Providence, Rhode Island 02903

401.276.5568 - Phone
401.222.4263 - Fax
sen-nesselbush@rilegislature.gov

Sent from my iPhone



Donna Nesselbush <donnaesselbush@gmail.com>

Fwd: Municipal Court letterhead 2021.pptx

1 message

Donna Nesselbush <donnaesselbush@gmail.com>
To: donnaesselbush@gmail.com

Wed, Jul 24, 2024 at 4:00 PM

Begin forwarded message:

From: Donna Nesselbush <donnaesselbush@gmail.com>
Date: January 15, 2021 at 12:59:12 PM EST
To: Nadine Higgins <NHiggins@pawtucketpolice.com>
Cc: Natasha King <Nking@m-n-law.com>
Subject: Re: Municipal Court letterhead 2021.pptx

Hello,

Please explain that the court must be neutral. We cannot be on the side of the police come or on the side of the motorist, but on the side of facts and justice. Accordingly, it would not be appropriate to have the police logo on the stationary.

I would move the new Pawtucket logo down a little bit and then the other side perhaps put the scales of justice? Would love to see that version.

Thank you so much, and please be kind and respectful and explaining why I cannot have the police badge on our stationary. Thank you, and have a great weekend... Donna

PS: congratulations, and Natasha and I cannot wait to be on that boat!

All the best...Donna

Donna M. Nesselbush, Esq.

Sent from my iPhone

On Jan 15, 2021, at 9:40 AM, Nadine Higgins <NHiggins@pawtucketpolice.com> wrote:

Good morning ladies,

Please review the new stationary. Leeann added the Police seal (badge) (not sue why??) so I'm assuming you'll want that deleted.

Please advise!

From: Lee Ann Spooner
Sent: Friday, January 15, 2021 8:57 AM
To: Nadine Higgins
Subject: Municipal Court letterhead 2021.pptx



Municipal Court letterhead 2021.pptx

83K



Donna Nesselbush <donnaesselbush@gmail.com>

Fwd: Denial of Motion to Dismiss

1 message

Donna Nesselbush <donnaesselbush@gmail.com>
To: donnaesselbush@gmail.com

Wed, Jul 24, 2024 at 4:02 PM

Begin forwarded message:

From: Donna Nesselbush <donnaesselbush@gmail.com>
Date: March 25, 2021 at 6:52:25 PM EDT
To: Nadine Higgins <NHiggins@pawtucketpolice.com>
Cc: Frank Milos <FMilos@pawtucketri.com>, "Jack Gannon, Esq." <jack@gbdvlaw.com>
Subject: Denial of Motion to Dismiss

Nadine,

Please send the following letter to this motorist, and please provide a copy of the motorist's letter and my letter to Frank Milos. Thank you very much...Donna

Nathan D. Haley
815 N. Patrick Street, Unit 105
Alexandria, VA 22314

Motion to Dismiss-Denied Citation#: 045.0004960141

Dear Mr. Haley:

This court has reviewed your Motion to Dismiss the above referenced traffic citation. Unfortunately, I see no merit in your legal arguments. Accordingly, your Motion to Dismiss is denied, and you must either pay the fine, or plead not guilty and proceed to trial.

- (1). You have been notified of an alleged violation and given an arraignment date; evidence of the violation will be provided by the prosecutor at trial, at which time you will have all of your due process rights to analyze, question, comment on and/or object to the evidence.
- (2). In preparation for and at trial, you have all of your due process rights to examine evidence regarding the equipment used in connection with this traffic citation.
- (3). You have every right to "face your accuser" at trial; a representative of the company responsible for and operating the cameras will be present at trial.

You are correct that it is the prosecution's responsibility to prove your guilt by "clear and convincing evidence," as this is the standard of proof for a traffic violation in the state of Rhode Island.

For the above stated reasons, your Motion to Dismiss is denied. The court has put this matter down for trial on ———.

In the meantime, I will forward your letter to the Pawtucket City Solicitor with your request for copies of any evidence the prosecution may have of your involvement in the offense, as well as all maintenance records for the cameras involved.

Sincerely yours,

Donna M. Nesselbush
Chief Judge
Pawtucket Municipal Court



Donna Nesselbush <donnaesselbush@gmail.com>

Fwd: Bigamous marriage

1 message

Donna Nesselbush <donnaesselbush@gmail.com>
To: donnaesselbush@gmail.com

Thu, Jun 20, 2024 at 12:44 PM

Officiating civil marriages
...Donna

Donna M. Nesselbush, Esq.

Begin forwarded message:

From: Donna Nesselbush <donnaesselbush@gmail.com>
Date: April 24, 2021 at 11:17:58 AM EDT
To: Richard Goldstein <RGoldstein@pawtucketri.com>
Subject: Bigamous marriage

Rick,

I'm wondering what you think of the situation and what advice you might offer. I received a call today from a man whose marriage I officiated some years ago. He told me that when he applied for the marriage license in Pawtucket, he tried to get divorced in Guatemala, but he was told supposedly by Guatemalan officials that he appeared single. Accordingly, he checked single on the marriage license application. He is now in immigration proceedings, I assume trying to legalize his status based on the marriage, but officials are now telling him he appears married in Guatemala. He states that he has now gotten divorced in Guatemala, and he is wondering what to do to legalize his marriage here in Rhode Island??

As they say, you can't make this stuff up! I'm not sure what to tell him? Do you have any ideas of what he should do?

Thanks. Let me know your thoughts, and have a wonderful weekend...Donna

Donna M. Nesselbush, Esq.

EXHIBIT A

Gayle Mambro-Martin

From: Gayle Mambro-Martin
Sent: Friday, April 14, 2023 4:51 PM
To: Miranda, Sara
Subject: RE: [EXTERNAL]FW: [REDACTED] Retirement Questions
Attachments: Pawtucket Municipal Judges Follow Up 2.pdf; Pawtucket Municipal Judges Follow Up.pdf

Hi Sara,

Please see my responses to your questions:

1. Was all of [REDACTED] contributions refunded to the City to disburse to the employee?
Yes, [REDACTED] was completely backed out for everything post-2012 (I see some normal service/salary pre-2012, so that is still there under this same group). They have a credit of \$26,656.20 in the portal; 3,066.46 due to [REDACTED] and 23,589.74 to the employer. Employer will need to recoup this as a credit towards a future data collection. The employer must refund the money to [REDACTED].
2. Can you confirm that Donna Nesselbush was partially refunded her contributions (those made post 2012)?
No, it does not look like Nesselbush had anything refunded. We have a data collection prepared to back out EVERYTHING since 2004, but this was not loaded. I will confirm with the Director that we should follow through with this process.
3. Would it be possible to get a copy of the letters that were sent to both [REDACTED] Donna showing that they were refunded those dollars? Or any communication that they received in relation to this discovery? You were cc'd on the initial letters to the members, but I have attached a follow up letter.
4. I am being told by our Payroll department that someone from MERS reached out to them to let them know that they should "hold" Donna's funds while her case was under review? I just want to be sure we are doing the right thing; can you please confirm that and if it was a verbal conversation or an email to our payroll department? Yes it's on hold pending the final determination.

Thank you.

Gayle C. Mambro-Martin
Deputy General Counsel
Employees' Retirement System of Rhode Island
50 Service Ave.
2nd Floor
Warwick, RI 02886
401.462.7616
gayle.mambro-martin@ersri.org

From: Miranda, Sara <smiranda@PAWTUCKETRI.com>
Sent: Thursday, April 6, 2023 2:32 PM
To: Gayle Mambro-Martin <Gayle.Mambro-Martin@ersri.org>
Subject: RE: [EXTERNAL]FW: [REDACTED] Retirement Questions

This Message Is From an External Sender

Gayle, Thank you for your responses, those are most helpful. I am sorry about the delay, we have been having many internal conversations about these situations and employees.

For [REDACTED] her circumstances mirror [REDACTED] Hourly rate works out to be \$9.8901, which annualized is \$18,000. She's not an FTE, she works about 10 hours a month in court. Court is only in session maybe 2-3 hours per week.

I wondered a few additional things:

1. Was all of [REDACTED] contributions refunded to the City to disburse to the employee?
2. Can you confirm that Donna Nesselbush was partially refunded her contributions (those made post 2012)?
3. Would it be possible to get a copy of the letters that were sent to both [REDACTED] Donna showing that they were refunded those dollars? Or any communication that they received in relation to this discovery?
4. I am being told by our Payroll department that someone from MERS reached out to them to let them know that they should "hold" Donna's funds while her case was under review? I just want to be sure we are doing the right thing; can you please confirm that and if it was a verbal conversation or an email to our payroll department?

Thank you so much for all of your assistance with this situation!

Sara

From: Gayle Mambro-Martin <Gayle.Mambro-Martin@ersri.org>
Sent: Tuesday, March 21, 2023 11:11 AM
To: Miranda, Sara <smiranda@PAWTUCKETRI.com>
Subject: FW: [EXTERNAL]FW: [REDACTED] Retirement Questions

Good Morning Sara,

I am in the process of writing a letter to [REDACTED] and need some information about her position.

- Pay rate
- FTE?
- Days/Hours Probate Court is in session
- Payroll information confirming the position is less than 20 hours per week.
- Any other information you can provide about the position

Thank you



Gayle C. Mambro-Martin
Deputy General Counsel – Employees' Retirement System
of Rhode Island
Office of Rhode Island General Treasurer James A. Diossa
50 Service Avenue
Warwick, RI 02886
Phone: (401) 462.7616
Fax: (401) 462.7691
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From: Gayle Mambro-Martin
Sent: Monday, March 20, 2023 5:06 PM
To: 'Miranda, Sara' <smiranda@PAWTUCKETRI.com>
Subject: RE: [EXTERNAL]FW: [REDACTED] Retirement Questions

Good Afternoon Sara,
 Please see my responses to your questions. I have provided them below in red.
 Happy to discuss if needed.
 Thank you.



Gayle C. Mambro-Martin
 Deputy General Counsel – Employees' Retirement System
 of Rhode Island
 Office of Rhode Island General Treasurer James A. Diossa
 50 Service Avenue
 Warwick, RI 02886
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From: Miranda, Sara <smiranda@PAWTUCKETRI.com>
Sent: Friday, March 17, 2023 9:59 AM
To: Gayle Mambro-Martin <Gayle.Mambro-Martin@ersri.org>

Subject: FW: [EXTERNAL]FW: [REDACTED] Retirement Questions
Importance: High

Hi Gayle,

I just left you a message, but I figured I would follow up with an email also. I have a couple of outstanding questions regarding a couple of our employees who should/should not be participants in the pension system, and I just want to understand the difference between them all.

Donna Nesselbush- Judge- does not work 20+hrs week (she is contesting her eligibility), hired 10/1/2004. She was hired after the 6/30/2012 cutoff, so my understanding is that she should never have been a contributor and the entirety of her contributions have been refunded to the City to ultimately give back to her. She is an appointed judge. Therefore, the statute for council and other elected officials does not apply to her. All employees must work/be in a position that is at least a 20 hour per week position (every week).

[REDACTED] Hired 2/12/1992. I was under the impression time prior to 6/30/12 would remain but anything going forward she isn't eligible to contribute and she should be refunded those dollars as well. Same as above. We were not aware that she was also contributing to Pawtucket's MERS plan. We will need to write to her. similar to the letters that went to Judges Nesselbush and [REDACTED]

[REDACTED] elected 5/11/2010 and [REDACTED] elected 1/6/1992. I was told by [REDACTED] in your office that they should still be contributing because they were hired prior to 6/30/2012 and are essentially grandfathered into the system because they had no break and service. Since they are city councilors the law applies to them. They were in continuous council service prior to and after June 30, 2012, and they can continue to contribute and receive service credit.

My question is... What is the difference between [REDACTED] and the 2 judges? The Judges were not elected officials and the city councilmen are elected officials. Nesselbush I understand her date of hire is after 2012 so I can understand that one, but [REDACTED] shouldn't she be the same as [REDACTED] Is the deciding factor the 20hrs a week or their date of hire?? No.

Is an elected official different than a mayoral appointment, such as a judge or finance director, from your perspective? Yes, the law applies to city/town council and other elected officials, not appointed positions.

I appreciate your thoughts, just trying to make sure everyone is contributing correctly and I can answer their questions.

Thank you for your time,
Sara Miranda

Sara Miranda, PHR
Human Resources Director
City of Pawtucket
137 Roosevelt Avenue
Pawtucket RI 02860
(401) 728-0500 ext 332

EXHIBIT B



Employees' Retirement System of Rhode Island

ERSRI Board:

Seth Magaziner
*General Treasurer
Chair*

John P. Maguire
Vice Chair

Roger P. Boudreau

Mark A. Camuolo

Joseph Codega

Paul L. Dion

Matthew K. Howard

Claire M. Newell

Raymond J. Pouliot

Jean Rondeau

Laura Shawhughes

James E. Thorsen

Michael J. Twohey

Lisa A. Whiting

Frank J. Karpinski
Executive Director

SENT VIA U.S. FIRST CLASS MAIL & CERTIFIED MAIL RETURN RECEIPT REQUESTED

August 1, 2022

The Honorable Chief Judge Donna M. Nesselbush

Pawtucket, RI 02860

Dear Honorable Chief Judge Nesselbush:

We write to provide you with information regarding your service as Municipal Traffic Court Judge for the City of Pawtucket and your membership in the Municipal Employees' Retirement System (MERS). It is our understanding that you were appointed as Associate Judge in 2004 and Chief Judge on April 25, 2012.

We have confirmed with the Human Resources Director for the City of Pawtucket the following information:

- Pawtucket Municipal courts are in session 2-3 days per week with the 2 judges present (Chief Judge and Judge)
 - Mondays at 2:00 p.m. (from the website)
 - Thursdays at 6:00 p.m. (from the website)
 - Fridays at 9:00 a.m. (from the website)
- The position is not in the city's FTE count
- Judges are appointed, and then approved by the City Council
- Judges earn \$16,000 annually (salary is the same regardless of the hours)
- While the payroll information indicates the position is for 35 hours per week, the Judges are not present 35 hours per week and in fact are not present for the statutorily required 20 hours per week, every week.

Rhode Island General Laws (RIGL) 45-21-8 entitled, Membership in system, reads in part,

- (a) Any employee of a participating municipality as defined in this chapter, who becomes an employee on and after the effective date of participation, shall, under contract of his or her employment, become a member of the retirement system;

While membership in MERS is a condition of employment, the person must meet the definition of "employee" in order to be a member. "Employee" is a defined term in the statute. Specifically, RIGL § 45-21-2 (7) defines who shall be an employee for the purpose of membership in MERS and requires the person work at least 20 hours per week.

(7) "Employee" means any regular and permanent employee or officer of any municipality, whose business time at a minimum of twenty (20) hours a week is devoted to the service of the municipality, including elective officials and officials and employees of city and town housing authorities. Notwithstanding the previous sentence, the term "employee," for the purposes of this chapter, does not include any person whose duties are of a casual or seasonal nature. The retirement board shall decide who are employees within the meaning of this chapter, but in no case shall it deem as an employee any individual who annually devotes less than twenty (20) business hours per week to the service of the municipality and who receives less than the equivalent of minimum wage compensation on an hourly basis for his or her services, except as provided in § 45-21-14.1. Casual employees mean those persons hired for an occasional period or a period of emergency to perform special jobs or functions not necessarily related to the work of regular employees. Any commissioner of a municipal housing authority, or any member of a part-time state board commission, committee or other authority is not deemed to be an employee within the meaning of this chapter.

Since the information reveals that you did not meet the definition of employee, specifically the minimum requirement of 20 hours per week, you are therefore not eligible for membership in MERS and thus your contributions will be returned to you, and you will not receive the applicable service credit towards your retirement.

Your MERS and TIAA Defined Contribution Plan employee contributions will be refunded to you by your employer.

Sincerely,



Frank J. Karpinski
Executive Director

Cc: Sara Miranda, PHR
Human Resources Director



5.1.2. Transcript with Exhibits

In The Matter Of:
Donna Nesselbush v.
Employees' Retirement System of Rhode Island

Hearing
October 30, 2024

Rebecca J. Forte
Certified Professional Court Reporters
33 Rollingwood Drive
Johnston, RI 02919
(401)474-8441

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STATE OF RHODE ISLAND
EMPLOYEES' RETIREMENT SYSTEM OF RHODE ISLAND

PROCEEDING AT HEARING :
IN RE: DONNA NESSELBUSH :
Vs. :
EMPLOYEES' RETIREMENT :
SYSTEM OF RHODE ISLAND :

Wednesday, October 30, 2024
10:47 a.m.
Employees' Retirement System of Rhode Island
Board Conference Room
50 Service Avenue, 2nd floor
Warwick, Rhode Island 02886

BEFORE: CHARLES KOUTSOGIANE, HEARING OFFICER

REBECCA J. FORTE COURT REPORTING
CERTIFIED PROFESSIONAL STENOGRAPHERS
33 Rollingwood Drive
Johnston, Rhode Island 02919
(401)474-8441

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APPEARANCES:

FOR THE PETITIONER:

LAW OFFICES OF HARWOOD & GARLAND, LLC
BY: JOHN B. HARWOOD, ESQUIRE
9 THURBER BOULEVARD - Suite D
SMITHFIELD, RHODE ISLAND 02917

FOR THE RESPONDENT:

Savage Law Partners, LLP
BY: Michael P. Robinson Esq
564 South Water Street
Providence, RI 02903-
P: (401) 238-8500
E: mrobinson@savagelawpartners.com

ALSO PRESENT:

CAITLYN MONIZ, ROGER WILLIAMS UNIVERSITY EXTERN
FRANK J. KARPINSKI, EXECUTIVE DIRECTOR of ERSRI

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E X H I B I T S
(MARKED PETITIONER'S)

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EXHIBIT 1 Memorandum of Law and ERISA records (14 pages).....7
EXHIBIT 2 Mr. Harwood's brief and multiple exhibits.....10 (Retained by Attorney Harwood.)
EXHIBIT 3 Letter dated July 3, 2023 from Mr. Karpinski to Mr. Harwood(2 pages)..164
EXHIBIT 4 Letter dated March 11, 2024 from Mr. Karpinski to Ms. Nesselbush (3 pages).....175
EXHIBIT 5 Document dated December 8, 2022 (3 pages).....186

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EXHIBIT 1 Mr. Robinson's prehearing memo dated July 26, 2024.(13 pages).....10
EXHIBIT 2 Ms. Nesselbush's ERSRI membership application(3 pages).....107
EXHIBIT 3 Letter from Ms. Nesselbush to Mr. Karpinski dated December 12, 2022 (6 pages).....161
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EXHIBIT 16 Hearing Officer Assignment letter dated August 13, 2024(1 page).....	236

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1 Wednesday, October 30, 2024
2 (Commencing at 10:47 a.m.)
3 **HEARING OFFICER:** I will swear the
4 witness.
5 **DONNA NESSELBUSH (SWORN)**
6 **THE WITNESS:** I most certainly do.
7 **HEARING OFFICER:** State your name for the
8 record, please.
9 **THE WITNESS:** Donna Nesselbush.
10 **MR. HARWOOD:** Mr. Hearing Officer, I would
11 like to ask you to submit in and admit as part
12 of the record is our Memorandum of Law that I
13 submitted to you, as well as Mr. Robinson. I
14 also would like to have a certain ERISA records
15 showing that all past Pawtucket judges have
16 been enrolled in the MERS, as well as
17 information regarding those who have
18 transferred or received MERS. And I have a
19 document here that I received from my brother,
20 Attorney Robinson, and I'd like to have that,
21 if I may, submitted also if you do not have it
22 as part of record where I can argue it down the
23 road.
24 **MR. ROBINSON:** It's the same thing I have?

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1 **MR. HARWOOD:** The same thing, Mike, yes.
2 **HEARING OFFICER:** Okay. In terms of
3 housekeeping, this document I will mark as
4 Petitioner's 1.
5 (Whereupon, Petitioner's Exhibit 1 is received into
6 evidence.)
7 **MR. ROBINSON:** For purposes of clarity of
8 the record, I would note my objection,
9 Mr. Hearing Officer. I think the information
10 you have been provided, which at glance,
11 appears to refer to a number of employees that
12 are not at issue in this particular hearing,
13 including Cristine McBurney, Rae Condon,
14 Patricia Harwood, Gerard Laliberte, Joseph
15 Keough. These are individuals that are not
16 before you; the specific facts of their
17 individual cases, factually and legally, are
18 not before this Hearing Officer. So I would
19 submit that the information that you've been
20 provided is of limited if any relevance at all.
21 And moreover, any issues associated with
22 whether these individuals were permitted
23 incorrectly to participate in the MERS system,
24 if that is true, would not be binding on your

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1 recommendation to the Retirement Board
2 regarding Ms. Nesselbush's participation in the
3 MERS system. So for those reasons, I would
4 object to the relevance of these materials.
5 **HEARING OFFICER:** Duly noted.
6 **MR. ROBINSON:** I have no objection, by the
7 way, to Mr. Harwood's prehearing memorandum or
8 mine, which I believe is dated July 26th, being
9 marked.
10 **MR. HARWOOD:** And also, Mr. Hearing
11 Officer, any of the ERISA records obviously
12 ERISA has and indicates that Judge Nesselbush
13 in fact was enrolled, which I know all of us
14 know that, but I just want to make sure that's
15 on the records so it's clear.
16 **HEARING OFFICER:** So first things first,
17 this will be Petitioner's Number 1, and it's
18 dated January 2, 1998.
19 So you wanted to admit your brief?
20 **MR. HARWOOD:** Exactly right. And the
21 exhibits attached, so you can at least give it
22 some weight. And you probably will hear some
23 of the arguments made in the brief here today,
24 but I want at least you to take a look at it.

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1 There is no jury here and Michael is very
2 seasoned, and Frank is.
3 **HEARING OFFICER:** So you're referring to
4 both the brief and the multiple exhibits.
5 **MR. HARWOOD:** Yes.
6 **HEARING OFFICER:** Off the record for a
7 second.
8 (Off-the-record discussion.)
9 **HEARING OFFICER:** Part of the problem was
10 that it was 435 pages, so I certainly did not
11 print it. I kept it on my system, I read it, I
12 printed off yours, Mike, but I did not print
13 the other one.
14 So I just want to be clear, you're talking
15 about the entire documentation.
16 **MR. HARWOOD:** Correct.
17 **HEARING OFFICER:** And I have no problem.
18 We just won't have a tangible copy. That's all
19 I'm saying.
20 **MR. HARWOOD:** Off the record if I may, for
21 one second?
22 (Off-the-record discussion.)
23 **MR. ROBINSON:** So John's prehearing memo
24 is going to be what?

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1 **HEARING OFFICER:** The prehearing memo is
2 Petitioner's number 2, along with exhibits.
3 (Whereupon, Petitioner's Exhibit 2 is received into
4 evidence.)
5 **MR. ROBINSON:** And mine will be what,
6 Respondent's 1?
7 **HEARING OFFICER:** Yes.
8 (Whereupon, Respondent's Exhibit 1 is received into
9 evidence.)
10 **MR. HARWOOD:** And lastly, I just want to
11 make sure, we have to mark it, I wanted to
12 incorporate the MERS system, Retirement System
13 records showing that Judge Nesselbush has been
14 in the MERS for 20 years and for the past 20
15 years, the City of Pawtucket and Judge
16 Nesselbush had both made all of the required
17 pension contributions. So that's not something
18 -- I just want to make sure record's clear on
19 that. She has done it faithfully, along with
20 the City of Pawtucket, made those
21 contributions.
22 **HEARING OFFICER:** You don't have that in
23 any form of any documentation?
24 **MR. HARWOOD:** I don't, that I know, but I

Page 11

1 do know the testimony would be quite that. I
2 think I've seen it in Mr. Frank Karpinski's
3 letters indicating that that's been complied
4 with.
5 **MR. ROBINSON:** So I think, I mean, I can't
6 really object to any of that. I just -- what I
7 can't say is that I know exactly when she
8 started and when she stopped making
9 contributions. I don't have that information.
10 I'm not clear on that.
11 **HEARING OFFICER:** Right. And that's why I
12 was looking if there was any tangible --
13 **MR. ROBINSON:** I don't think it matters
14 for the issues that you have before you, but --
15 **MR. HARWOOD:** I don't disagree with
16 Michael, I just wanted to make sure, I know,
17 Frank, it is reflected in correspondence that
18 the 20 years has been done, but the issue is
19 20 hours.
20 **HEARING OFFICER:** Fair enough.
21 **MR. HARWOOD:** I'm ready.
22 EXAMINATION BY MR. HARWOOD
23 Q Judge Nesselbush, how old are you?
24 A **Sixty-two.**

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1 Q Okay. And what is your education?
2 A **I am a Juris Doctor from Suffolk**
3 **University; graduated in 1991.**
4 Q Where did you go to college?
5 A **Brown University. Graduated 1984.**
6 Q And what is your occupation?
7 A **I am a lawyer.**
8 Q And where are you a lawyer, at what
9 states?
10 A **Sure. I am licensed to practice in Rhode**
11 **Island, and I have a law partnership with Joe**
12 **Marasco called Marasco & Nesselbush, located**
13 **primarily in Providence, but with offices throughout**
14 **the state, some in Massachusetts and Connecticut as**
15 **well.**
16 Q And how long have you been a lawyer?
17 A **Since 1991.**
18 Q 1991. How many years is that?
19 A **Thirty-three.**
20 Q Thirty-three years. Okay. And are you in
21 good standing within the Supreme Court of the State
22 of Rhode Island?
23 A **Absolutely.**
24 Q And other jurisdictions also?

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1 **A Just in Rhode Island.**
2 Q Just in Rhode Island.
3 **A And in federal court.**
4 Q Federal Court.
5 **A Yes.**
6 Q And is that the federal court when you say
7 the United States Federal Court in Rhode Island?
8 **A Yes.**
9 Q How about the First Circuit, are you a
10 member of the First Circuit?
11 **A I am a member of the First Circuit as**
12 **well.**
13 Q Okay. Now, relative to the City of
14 Pawtucket, you were appointed a judge in 2004, is
15 that correct?
16 **A That is correct.**
17 Q And I believe you were appointed a chief
18 judge in 2012, is that correct?
19 **A I think it was 2010.**
20 Q 2010?
21 **A You know, I think it should be '12.**
22 Q 2012?
23 **A Right in around there.**
24 Q Okay. And since 2004, how many hours per

Page 14

1 week have you worked as a Pawtucket municipal judge?
2 **A You know, always in excess of 20 hours a**
3 **week. That job was initially presented to me**
4 **initially by Judge Gerry Laliberte, who was the**
5 **chief then. You know, basically spelled it out for**
6 **me. We went out to lunch with one of the City**
7 **counselors and he said it's a 20-hour-a-week job,**
8 **you get a small salary, you get access to the health**
9 **insurance and access to the MERS pension. And they**
10 **unfortunately, before I could actually be sworn in,**
11 **he was tragically found dead. And at that point,**
12 **everything sort of went on hold and former Senator**
13 **John McBurney became the chief judge taking over for**
14 **Judge Laliberte. And then he started his own**
15 **selection process and ultimately chose me as well.**
16 **And the same thing, Judge McBurney then went over**
17 **the parameters of the job that, you know, he was**
18 **essentially offering, and it was a 20-hour-a-week**
19 **job, with a small salary, access to city health, and**
20 **participation in the MERS pension plan.**
21 Q And we'll get into -- we'll get into the
22 issue of what actually you did. But, with regards
23 to the chief judge, let's assume you became chief
24 judge in 2012, how many hours a week did you work as

Page 15

1 the chief judge?
2 **A A little bit more. There was a little bit**
3 **more involved in that. So, you know, I'm sure we**
4 **would have posted 25 hours at that point. But, you**
5 **know, always in excess of the 20 hours.**
6 Q Okay. And now there's some documents that
7 have been floating around. Do you know a Sara
8 Miranda, who was the H.R. Director in Pawtucket?
9 **A I do not know her.**
10 Q Okay. And do you know when she was hired
11 in the City of Pawtucket?
12 **A I don't know the exact date. You know,**
13 **I've obviously worked for the City of Pawtucket for**
14 **20 years, so I've been around a long time. She was**
15 **relatively short-lived. I would, you know, I would**
16 **guess she was hired maybe in, like, '16, '17, and**
17 **was gone soon after, you know, she sort of made**
18 **statements in this case. I think that was probably**
19 **'22, if I'm not mistaken. So she was there for a**
20 **few years. Around those. But again, I've never met**
21 **to her to my knowledge. Don't know her.**
22 Q So you say you never met Sara Miranda, who
23 was the human resource person in Pawtucket, correct?
24 **A Correct. She was not the one who signed**

Page 16

1 **me up, you know, back in 2004, and again, to my**
2 **knowledge, I've never met her.**
3 Q Never met her. And assuming she got hired
4 in say even 2016, from 2004 to 2016, she was never
5 associated with the City of Pawtucket, correct?
6 **A Not to my knowledge. I mean she may have**
7 **had another job or something, but I really have no**
8 **knowledge of the woman.**
9 Q All right. Did Sara Miranda ever approach
10 you in court to inquire about your duties?
11 **A Absolutely not, no.**
12 Q Has she ever been in your chambers in the
13 Pawtucket Municipal Court, to your knowledge?
14 **A She has not.**
15 Q All right. And you've never talked to
16 her, is that correct?
17 **A That is correct.**
18 Q And you never recall meeting her? Seeing
19 her?
20 **A I don't recall meeting her. I don't think**
21 **she ever stepped foot in my courtroom. I have no**
22 **knowledge of her, except by name from reading the**
23 **correspondence with MERS.**
24 Q And with regards to local Attorney Vincent

Page 17

1 Ragosta, do you know Vin?

2 **A I do not know him personally. I would not**
3 **know him if I saw him. I only know the name through**
4 **this case.**

5 Q Have you ever talked to Vin Ragosta the
6 attorney, about your duties and the hours you
7 worked, ever, as a municipal court judge?

8 **A No, sir.**

9 Q Okay. Now, Pawtucket Municipal Court,
10 they have a web page, is that correct?

11 **A That's correct. I created it.**

12 Q You created it? Okay. When did you
13 create that, Judge?

14 **A Again, you know, it's so long ago, I don't**
15 **know, um, I think maybe in the hundreds of pages of**
16 **e-mails that I was trying to find, there might be**
17 **something in there that would tell us. But, you**
18 **know, obviously the worldwide web became a part of**
19 **all of our lives over the last 20 years, and, you**
20 **know, it was at some point that I realized, I think**
21 **actually it would be litigants that came into court**
22 **and said, oh, I wasn't sure what time to come, you**
23 **know, there's not even anything on Pawtucket's web**
24 **page about the court; and I realized that there was**

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1 **no court website, no one has ever created it before.**
2 **So I took it upon myself to create a web page. And**
3 **again, it was a long time ago.**

4 Q Okay. You don't recall specifically?

5 **A No. Probably before I was the chief -- I**
6 **don't even know actually. I'd have to look. It was**
7 **a long time ago.**

8 Q Okay. But you created it?

9 **A Yes, I created it.**

10 Q Okay. And there's a web page that you
11 created. Does that describe all of the job duties
12 as an associate judge or a chief judge?

13 **A No. Absolutely not. The web page was**
14 **created for the public so that they would know when**
15 **to come to court, when court was, you know, meeting,**
16 **what to do, telephone numbers to call. You know,**
17 **there's no information about the good driver's**
18 **statute, there was none before I created the**
19 **website. And you know, people would come to court**
20 **and I would see that they had a previous ticket, but**
21 **they never requested dismissal under the good**
22 **driver's statute and I would say, Do you not know**
23 **about it? And they would say, No, you know, I went**
24 **online and I could find no information, you know,**

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1 **Pawtucket had no -- no website. So, it had nothing**
2 **to do with my duties as a judge. I mean why would I**
3 **do that. The purpose of the website is for the**
4 **litigants, for the community, for the residents, so.**

5 Q And Judge, since 2004, what type of powers
6 have you had as an associate judge and as the chief
7 judge of the Pawtucket court? What kind of powers
8 do you have?

9 **A I mean the judges essentially have all**
10 **judicial authority to obviously adjudicate cases,**
11 **issue court orders. We also have all supervisory**
12 **and an administrative authority over the court to**
13 **both promulgate, you know, the rules of procedure**
14 **for the Pawtucket Municipal Court, we set the**
15 **dockets, we set the number of dockets. We set the**
16 **hours of the operation over the 20 years that I was**
17 **there. For a variety of reasons, I changed the days**
18 **that the court met sometimes, and it was usually**
19 **always in response to what the City needed. There**
20 **were times where they literally, you know, budget**
21 **cuts were such that they furloughed people and the**
22 **court could no longer meet when it was supposed to**
23 **meet because the workers were on furlough and the**
24 **city hall was literally not going to be open. There**

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1 **were -- there was a time when Pawtucket implemented**
2 **the camera enforcement program, which I'll talk**
3 **about. It was a huge undertaking, you know, where**
4 **we had to redistribute dockets and change dates. So**
5 **all of that would come under the administrative and**
6 **supervisory roles of the court. So, you know,**
7 **without -- and I know we will get into that level of**
8 **detail, but without getting into all of the detail,**
9 **it's basically all judicial authority, all**
10 **supervisory authority, and all administrative**
11 **authority over the Pawtucket Municipal Court. And I**
12 **will point out -- and it's obviously pointed out in**
13 **the brief -- but that, you know, the Pawtucket**
14 **Municipal Court actually consists of two separate**
15 **courts: The Pawtucket Municipal Traffic Court,**
16 **newly named, something else we'll get into as well;**
17 **as well as the Pawtucket Municipal Housing Court.**
18 **So there are actually two separate courts and the**
19 **judges serve simultaneously by the Charter and by**
20 **ordinance, you know, as the associate and chief of**
21 **both courts.**

22 Q And Judge, can you -- do you have the
23 power, at least since 2004, to execute warrants and
24 body attachments and things of that nature also?

Page 21

1 **A** Yes. The -- you know, by the Charter and
2 by ordinance, the Pawtucket Municipal Court, again
3 that would be part of the judicial authority to
4 execute court orders, execute body attachments,
5 execute warrants, execute writs. I mean
6 essentially, every power that a district or Superior
7 Court judge would have, we have in the Pawtucket
8 Municipal Court.

9 Q And who controls or governs the practice
10 of law in the Pawtucket municipal courts relative to
11 the practice of law?

12 **A** The judges.

13 Q All right. And how about the Rhode Island
14 Supreme Court, do you have any involvement with
15 them? Would there be supervisory authority over a
16 municipal court for the practice of law?

17 **A** For the overall practice of law. Of
18 course, I think we would all be subservient to the
19 Rhode Island Supreme Court, yes.

20 Q Yes. That's my question. All right. And
21 obviously, with regards to their judicial powers,
22 and you as a lawyer and as a judge, you certainly
23 would have to listen to their mandates, is that
24 correct?

Page 22

1 **A** Of course.

2 Q Now, just to make sure the record's clear,
3 how long have you been paying into the ARISA system?

4 **A** For the 20 years that I was there. I mean
5 it was offered to me as a, you know, it was the
6 first day that you go in, I mean you're a lawyer,
7 you're brand new as a judge in the city. You know,
8 I was sworn in by the mayor. I recall going
9 downstairs. You know, we talked about me not
10 knowing Sara Miranda, I didn't even know the name of
11 the person because I didn't know her, but I was told
12 by City Council and the mayor to go down to the
13 personnel office and you sign to have direct
14 deposit, and you sign to become part of health
15 insurance, which I did, which, you know, occurred
16 uninterrupted, without challenge for 20 years. And,
17 you know, at some point in there I signed the
18 pension paperwork. And you know, as you had said,
19 John, in my behalf in the brief, I never called the
20 MERS and asked to be involved in the MERS pension
21 plan. That was just something that those who hired
22 me were, which were basically the two chief judges
23 at the time, and then the City Council, and, you
24 know, the mayor and going down to the personnel,

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1 they said, you know, you are eligible for a MERS
2 pension, sign the relative documents. So for the,
3 you know, I'd have to look at those. I know that
4 those records are here before us. I've looked at my
5 signature on the paperwork, but, you know, right in
6 the beginning.

7 Q So would be 20 years?

8 **A** Twenty years-ish.

9 Q And ARISA accepted your payments?

10 **A** Yes, sir.

11 Q And the City of Pawtucket participated and
12 made sure those payments -- the City of Pawtucket
13 made sure that the ARISA -- that the payments for
14 the pension were sent to the State of Rhode Island
15 Retirement System?

16 **A** Yes, they did. That was all done without
17 incident. My contributions were, you know, withheld
18 from my check. I'm sure that was part of the --
19 what I had signed for that first day. My checks
20 were direct-deposited. And again, all kind of went
21 off without incident until 2022.

22 Q Now, in regards to obviously the main
23 question here amongst all of us is the minimum
24 20 hours per weekly, which you've indicated that you

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1 did since 2004, correct?

2 **A** That is correct.

3 Q And let's see whether or not we can
4 explain to the Hearing Officer exactly what that
5 consists of. And I'm going to ask you, you
6 mentioned earlier that there were two courts within
7 the Pawtucket Municipal Court system. What are
8 those two court systems?

9 **A** Sure. The Pawtucket Municipal Traffic
10 Court and the Pawtucket Municipal Housing Court.

11 Q And as associate justice, starting back in
12 2004, and of course as the chief justice starting in
13 2012, would you and the associate justice interact
14 with both of those courts and run those courts?

15 **A** Absolutely; every week.

16 Q And I know the courts are in session on
17 certain times, correct?

18 **A** Yes, although by charter, both courts, the
19 Pawtucket Municipal Traffic Court and the Pawtucket
20 Municipal Housing Court, are in session at all
21 times.

22 Q That's my question. And when you say at
23 all times, explain to the Hearing Officer, in
24 addition to the times that you have in municipal

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1 court and/or the Housing Court for violations and
2 issues, tell the Hearing Officer when the court is
3 in session at all times, what for?
4 A Well, interestingly, when I first met
5 Gerry Laliberte and I went to lunch with him that
6 very first day, I remember him saying something
7 like, you know, you and I are going to become very
8 close friends because we're going to have to
9 coordinate every single vacation that we take for as
10 long as we work together because there always has to
11 be a judge available in the City of Pawtucket.
12 There are times when we've had chemical spills,
13 we've had fires, you know, there are times that
14 buildings have to be vacated, and a judge has to
15 sign those type of vacate orders. There are times
16 when utilities have to be in an emergency situation
17 cut off to a -- either a dwelling place or a
18 commercial place. So for all those years, you know,
19 we'd be, like, can you cover, will you be in the
20 city for this week, because, you know, I just
21 actually just got back from France, you know, if you
22 wanted to go on vacation anywhere, you had to
23 coordinate it with the other judge because there
24 always had to be a judge on duty in the City of

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1 Pawtucket. And again, I know we will get in this,
2 but it was extremely common for the code officers,
3 the inspectors to actually come to my law office to
4 have me sign court orders because things would
5 happen, you know, in times when the court is not in
6 session, and it is a part-time job, I am a lawyer, I
7 do have a busy law practice, but they would, you
8 know, literally come to my law office. And of
9 course it would be preceded by telephone calls about
10 what's going on in the city and why they would need
11 such a court order. And then, you know, whatever
12 the research about that to make sure that I felt
13 like it was something that I could sign. And you
14 wait to get to see what they would say in the court
15 order. Those were usually either prepared by the
16 Director of Building and Code enforcement or Frank
17 Milos, who was the City Solicitor. But again, as
18 the judge, you know, I would always reread those
19 court orders to make sure that I felt they were
20 lawful.
21 Q And when you say you were in session at
22 all times, is in session, were there, on a weekly or
23 monthly basis, a regular routine of people coming to
24 you maybe on an emergency-type basis?

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1 A Yes, there were -- there were, you know,
2 regular emergency emergencies. I mean obviously,
3 "emergency" connotes something other than it being
4 regular, but we had of course our regularly
5 scheduled court sessions which were during the days.
6 I can resite for all of you, if you wish, when the
7 court met. As I said, it did change over the year.
8 We used to have Housing Court on a separate date,
9 which, you know, meant that the court would, you
10 know, we'd be there four days a week. And there was
11 again, some pressure from the City in terms of, you
12 know, of course to operate the court you need the
13 police. The police have to be there for security
14 purposes, to run the metal detector machine and keep
15 the judges safe. So there was a request by the City
16 to conflate and actually have the Housing Court meet
17 on the same day as the Traffic Court, you know,
18 which would meet later in the day. But yeah, there
19 were regularly set hours; if you'd like me to state
20 them for everybody, I'm happy to do that.
21 Q I would like to have you to tell us how
22 many hours exactly those two courts consisted of on
23 a weekly basis.
24 A Sure. So the Traffic Court -- excuse me

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1 the Housing Court met first on Mondays and, you
2 know, that would be easily two hours, sometimes it
3 would run late.
4 Q When you say run late, how late would it
5 run?
6 A It could go another half an hour, maybe it
7 would stretch into three hours if we had, you know,
8 a particularly crazy case.
9 Q Yes.
10 A But two hours I think is what the actual,
11 you know, I would be sitting on the bench talking to
12 litigants, people, I mean, you know, conducting
13 court, trying to figure out if this person really
14 did, you know, was operating a body shop out of
15 their garage as the City alleged, in a residential
16 zone, or if this person actually will really did
17 have a legal apartment, you know, or if they were
18 just making spaghetti sauce in the basement. And I
19 mean, you know, I could reveal to you all of the
20 stories, but I think it's fair to say that, you know
21 what, it was a two-hour proposition for the Housing
22 Court; and then later in the afternoon, the Traffic
23 Court would meet on Mondays at 2:00 p.m. and that
24 would go, again, you know, the better part of two

1 hours. But there's all these other things, you
2 know. At that point after the court session, I
3 would go down to the clerks' office to discuss
4 various things, figure out payments.
5 Q That would be part of your duties?
6 A Of course. You know, I always wanted to
7 make sure that there were proper accounting, you
8 know, measures. I'd be, like, you know, Guys, is
9 everybody doing what they're supposed to do here?
10 How is all of that happening?
11 So, you know, you didn't just -- you
12 don't just leave the bench and then, like, walk to
13 your car, you know. You're at City Hall, you know,
14 which is, you know, always stuff happening. That
15 was on Mondays.
16 Then on Thursdays, initially we used
17 to have Traffic Court on Thursday evenings at six
18 p.m. Same thing, that used to be about a two-hour
19 proposition. But in 2019, when the City of
20 Pawtucket finally decided to launch their camera
21 enforcement program, I was, you know, asked in order
22 to accommodate the thousands of numbers of
23 additional tickets, if I would place the duties that
24 we used to do on Thursday evenings, on the Traffic

1 Court's Monday docket or Friday morning docket. We
2 freed up the entire Thursday evening docket and
3 actually backed it up, again out of convenience both
4 for the City in terms of their people working and
5 overtime issues, and for the community because
6 people's work schedules are different. But instead
7 of it being at six p.m., which it was for many, many
8 years, we created a four, a five, and a six p.m.
9 docket on Thursday evenings. So we'd have Monday
10 for the Housing Court, followed by the Traffic Court
11 on Mondays at two p.m. Thursday initially was six
12 p.m., then went four, five and six p.m. And the
13 reason that we had three different dockets and we
14 didn't just start at four p.m. was because of the
15 sheer number of those tickets. There literally were
16 not spaces for people to sit in the courtroom and
17 that's why we had to tell people what time to come
18 to court because, you know, through AI and camera
19 enforcement, there were just, like, literally
20 thousands of tickets issued. And then of course, on
21 Friday mornings, we would meet for both arraignments
22 and that would be when we would do traffic trials.
23 Trials would typically throughout virtually all of
24 the years that I was there, were conducted on the

1 first and third Friday of the month, but
2 arraignments were virtually every Friday, except
3 during Covid, of course.
4 Q And were you supervising, and not only
5 yourself when you were associate judge, but also the
6 associate judge when you became chief judge, you
7 were supervising at all times?
8 A Yes, sir.
9 Q You say the courts were at all times in
10 session, and you indicated some the jobs and duties
11 that you performed, obviously the issue being
12 20 hours, tell the Hearing Officer, on a weekly
13 basis the additional hours, whether it be in
14 chambers or at your law office performing the duties
15 of the associate judge and chief judge during your
16 tenure.
17 A Sure. I mean, I think we're all lawyers
18 here and it's sort of stating the obvious that
19 judges do not just work the hours that they are on
20 the bench. If we look at District Court judges and
21 our Superior Court judges, you know, like them, I
22 always had lots of things to do outside of just
23 sitting on the bench and taking the bench. And so
24 you know, the first thing I want to say is, you

1 know, I had to do my job in all different places.
2 So I did my job in City Hall. I had, obviously, an
3 office in City Hall. We'll talk about, you know,
4 that's actually one of the things that Judge
5 McBurney asked me to do. I mean I walked into the
6 chambers when I first got my job and, you know, I
7 probably had a nice suit on and I didn't even want
8 to sit in the chair, I don't think it had been
9 upgraded. There was always folklore that a guy
10 named Harry Curvin, you might know him, he was the
11 former Speaker of the House, he was a big name in
12 Pawtucket, Harry Curvin, C-U-R-V-I-N. The joke was
13 that the office had not been changed since then.
14 And so there are -- and I do want to apologize to
15 all of you for the, you know, John asked me in terms
16 of documentation there to get any kind of e-mails
17 together that I could. And so, you know, I'd be
18 driving my car and I'd be, like, oh yeah, I remember
19 that conversation and that issue with so-and-so,
20 and, you know, sure enough, the I-phone, you would
21 look at your search bar and that's why I mean I just
22 literally, every time I would remember something, I
23 would pull out those e-mails. And how else to prove
24 it? You know, I mean I certainly never thought that

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1 I would be asked to justify, you know, the hours
2 that I worked. So it's not like I had a file for
3 every e-mail I ever sent on behalf of the City of
4 Pawtucket that I worked for diligently for 20 years.
5 So I apologize for the very -- the lengthy part of
6 the e-mails, but Attorney Harwood did ask me to put
7 them all together.

8 Q And obviously, you coordinated, like I
9 did, your judicial functions with your law practice,
10 is that correct?

11 A Oh, I mean, yes. As I was saying, like I
12 did my job in City Hall when I actually took the
13 bench, but, you know, a large part of the work that
14 I did for the City of Pawtucket and for the court
15 would occur at my law office because of course, I
16 mean it took me years, when I tell you years, and
17 those e-mails are in there, you can see my e-mails
18 to the mayor as Chief of Staff saying, can we please
19 get a computer? Like we didn't even have a laptop,
20 I used my own laptop. So I did my job in City Hall
21 obviously, when I was sitting on the bench. But
22 also, you know, I had a nice office that I
23 renovated. And I started to apologize for the
24 number because in that -- in all of those documents

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1 are pictures of, like, what the office looked like,
2 and parts that I didn't renovate still look like
3 today. I mean Pawtucket Hall -- I mean Pawtucket
4 City Hall is decrepit and falling down. So when I
5 renovated those chambers, I mean, we took out that
6 threadbare carpets, disgusting chairs that I assure
7 you no one with clean clothes would want to sit in,
8 and -- and I walked through the streets of the City
9 of Pawtucket where actually there are a lot of used
10 furniture, office furniture stores, and, you know,
11 kept trying to cajole people to, you know, basically
12 beg, borrow, steal because of course, again, the
13 City's always been budget-strapped even to renovate
14 that. But, you know --

15 Q How long was that project? How long did
16 that take you?

17 A You know, they got a -- obviously, they
18 got, like, a contractor to do the, you know, it was
19 Bob the builder, too, I remember his funny name.
20 Several months. Nothing is fast. But the important
21 part is that I did not only just do my job at City
22 Hall. I mean, at my law office, at least I had
23 Lexus Nexus and could actually do research on the
24 many crazy, you know, things. I actually, you know,

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1 took notes of some of the crazier things that I've
2 had to research over the years. So, you know, in
3 2010, well, for the first six years, I guess, so
4 probably from 2004 to 2010, Pawtucket had a property
5 maintenance code. All of the codes, minimum housing
6 codes were part of our ordinances. In 2010, the
7 State Building Code came into effect, and so the
8 Property Maintenance Code got basically conflated,
9 you know, with the Property Maintenance Code. But
10 now you've got a whole bunch of different things. I
11 don't know when they had the Station Nightclub fire,
12 I can't remember exactly what year that was, but the
13 whole fire code changed dramatically. And of
14 course, you know, we have all kinds of jurisdiction
15 over the requirement for smoke detectors, the
16 requirement that buildings that are three units or
17 more have hardwired; if you go beyond four units,
18 they have to have lights and stations and be
19 connected to the police. I mean those were routine
20 matters that had to be litigated, but, you know, all
21 of that was changing law at the time, including like
22 the State Building Code, which we didn't even have
23 until 2010. So there were always things to research
24 in there. I remember doing so much research in my

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1 law office. The City had a case, um, there was the
2 old Amtrak train station on Broad Street, which was
3 half in Central Falls, half in Pawtucket, which as
4 you can imagine, created all kinds of interesting
5 issues, and in walks Governor Garrahy's son,
6 Attorney Garrahy, I forget his first name, nice guy,
7 but comes into Pawtucket court and, you know, tells
8 me that this whole issue that we have with this
9 falling-down building in the City of Pawtucket, the
10 half that's on the City-of-Pawtucket side, that the
11 issue is preempted and it's Federal Law that applies
12 and I have no jurisdiction. So I've got the City
13 asking me to, you know, require Amtrak to make
14 necessary repairs for the health and safety of the
15 community around it, I've got Attorney Garrahy
16 telling me that I have no jurisdiction. And there I
17 am in my law office trying to figure out what is my,
18 you know, reviewing the Pawtucket Charter, the
19 Pawtucket ordinances, my --

20 Q Let me bring you back. Since 2004, on a
21 weekly basis, we know where you were on the court
22 system, supervising or participating. And think we
23 all got that. And the issue is there's a lot of
24 hours off the bench. You're mentioning some of

1 these type of issues, like that jurisdiction over
2 that -- I can see the place over the Central Falls
3 line.
4 **A Yeah.**
5 Q The issue I have is, on every -- each and
6 every week, were there issues, whether it be on the
7 Municipal Traffic Court or the Housing Court, that
8 would blow by your time of 20 hours?
9 **A Absolutely. I mean that one in itself.**
10 **We all know as lawyers you start researching**
11 **something like federal preemption of rail stations,**
12 **I mean, you know, you can go down a rabbit hole**
13 **forever. And you know, I always try to do the right**
14 **thing. I mean, appeals for my Housing Court orders**
15 **went to the Rhode Island Supreme Court. You know,**
16 **you don't want to be, you know, you don't -- you**
17 **want to make sure you get it right. So yes, there**
18 **were always -- and, you know, they're all in the**
19 **brief. I can regale you with true stories of every**
20 **-- all of those types of issues that took, you know,**
21 **an inordinate amount of time.**
22 Q Okay. We're going to get to some so the
23 Hearing Officer knows exactly the breadth of what
24 you did off the bench, as well as on.

1 With regards to the municipal court,
2 which I sometimes call the Traffic Court, do you
3 know how many citations or violations that court
4 handles since 2004, based on your career?
5 **A Well, I do know, in preparation for today,**
6 **I had ages ago asked my clerk and I know that in**
7 **2023 they issued 6,000 what we now call E-citations;**
8 **an additional 2,000 traffic tickets, you know,**
9 **parking in a prohibited area, you know, parking left**
10 **wheel to curb we call it, which is actually parking**
11 **on the wrong side of the street; and about a**
12 **thousand just basic municipal ordinance violations.**
13 **That's in the Traffic Court alone. However, in**
14 **2012, there were probably double that. I mean, when**
15 **Covid hit, we used to have a couple of officers in**
16 **Pawtucket, Ernie Pendergrass, you probably know him,**
17 **Officer Maciel. They had something in Pawtucket**
18 **called PTE, Pawtucket Traffic Enforcement. And, in**
19 **fact, that was a story in the newspaper at one time,**
20 **I want to say literally the hundreds of thousands of**
21 **dollars that they earned in overtime doing PTE.**
22 **There were 12,000 tickets. Nadine Higgins is a**
23 **fabulous municipal worker who served as the clerk of**
24 **the Housing Court once we lost our full-time clerk,**

1 **which I'll talk about again, which again created --**
2 **and I said yes to it to, you know, to try to be a**
3 **team player but created a lot more work for the**
4 **judge when, you know, judges are used to having**
5 **their own clerks. But, you know, Nadine told me**
6 **that we had twice that number back in 2012.**
7 Q And how about 2004, all the way up to the
8 time I retired?
9 **A Consistent. You know, if we had -- they**
10 **don't really have the greatest of specifics, but if**
11 **we had 12,000 in 2012 and -- the clerk of the court**
12 **told me -- and we had 6,000 in 2023. I mean it's**
13 **largely, you know, it's a lot of tickets. Pawtucket**
14 **has always been, you know, I've had people say to me**
15 **as the judge, you know, I'm not going to drive to**
16 **Pawtucket, every time I drive through, I tend to get**
17 **stopped. So, you know, Pawtucket has always had a**
18 **very active PTE, Pawtucket Traffic Enforcement, and**
19 **a great number of tickets. What I can state with**
20 **authority is 12,000 in 2012, and 6,000, I just put**
21 **the more recent numbers in here. And again, post**
22 **Covid things have shifted, there's not as many**
23 **officers who are willing to go out there, you know,**
24 **and now we have traffic tickets, so -- I mean camera**

1 **enforcement tickets.**
2 Q And have the camera enforcement. And
3 since 2004, up to the present time, is it fair to
4 say that these numerous violations which you've
5 explained to the Hearing Officer, did they
6 contribute towards the 20-plus hours each and every
7 week as a municipal court judge?
8 **A Yes, of course. I mean, you know, you**
9 **have the time literally sitting on the bench**
10 **adjudicating these PTE cases, and traffic ticket**
11 **cases, parking ticket cases, you know, people get a**
12 **bee in their bonnet, you get neighbors who are**
13 **calling the police to issue a traffic ticket even**
14 **though the person says, I always park there and the**
15 **parking is close to my driveway. You know, we've**
16 **had a number of neighborly fights over the years,**
17 **but, yes, there's always the time on the bench to**
18 **adjudicate the cases, and then there's always the**
19 **time off the bench to try to do the appropriate**
20 **research, keep the court running, scheduling, all of**
21 **the various things.**
22 Q And with regard to, you indicated these
23 numerous violations each and every year since 2004,
24 ballpark, and you've indicated they have contributed

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1 at least towards your position of 20-plus hours each
2 and every week, you were taking the brunt,
3 basically, of, all of the phone calls, correct?

4 A Yes, sure. I mean, you know, some, if I
5 wasn't literally there, they would be rerouted to my
6 clerk, but my clerk would have to call me and tell
7 what me what the person said and can they -- you
8 know, they can't make it tonight, their baby's sick,
9 can they come another time, you know, there's a
10 million things.

11 Q So you were pretty much, even while you
12 were at your office and not physically at the
13 courthouse doing judicial functions, which is part
14 of your job, correct?

15 A Absolutely. I mean I took my job
16 seriously and I loved my job and I served honorably
17 for 20 years. I was always available to the City of
18 Pawtucket. Whether I was -- I mean I signed court
19 orders in my home. You know, sometimes they'd want
20 something t 8:00 a.m. in the morning. I wasn't
21 even -- I hadn't even gone to my law office yet and
22 they would be coming by to my house. You know, I
23 remember having some minor surgery at one point and
24 they came by and I signed court orders. I mean I

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1 was on duty, you know, whether I was literally
2 sitting on the bench, whether I was at my law
3 office, or whether I was at home. That's just the
4 truth of it.

5 Q And with regards -- so we talked about a
6 lot of research. I do know the Traffic Court law
7 was changed at least in the State of Rhode Island
8 where the cases coming down from our Supreme Court
9 talk about reasonable suspicion and probable cause
10 and what that constitutes. Would those be issues
11 that you also had to address as a municipal court
12 judge, or even a Housing Court judge, as part of
13 your duties?

14 A More so, yes, is the answer. And more so
15 in the Traffic Court because you could always tell,
16 you know, you'd go out there and take the bench and
17 you'd see, like, you know, normally there'd be a few
18 police officers in the courtroom; fewer if it was
19 just there for arraignments, that would be your
20 typical court staff that you knew very well and you
21 saw all the time. On trial days, you know, the
22 whole row over there, any officer who had a trial
23 would line there. But there would be some days
24 you'd go into court and you would see faces that you

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1 didn't normally see and it was full of lawyers, and
2 immediately I knew that that was going to be one of
3 these issues where the traffic stop was the reason
4 for the search incident to the arrest that occurred
5 because of the traffic stop. And, you know, you
6 know that the City is going to be -- when there's
7 all those lawyers in the courtroom, you know the
8 City is going to be on the line for whether the
9 search was proper, whether the evidence that was
10 gotten, which again, these are going to -- typically
11 to the Superior Court, they're bigger criminal
12 matters; and perhaps from there to Supreme Court,
13 but I knew that that traffic stop was an important
14 case because you'd walk in and you would see all
15 these lawyers that you don't normally see and all of
16 these police officers. And so, you know, that means
17 a much longer hearing, a much longer trial. You
18 know, you might have to ask for briefs on certain
19 issues because now you're picking apart a routine
20 traffic stop literally word by word by word as to
21 what the elements would be required for, you know,
22 sometimes they would charge things like care for
23 starting from stop, which is the traffic stop that
24 got to the search incident to the arrest that

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1 discovered the drugs, la-la-la-la-la. So, you know
2 --

3 Q That's my point --

4 A Now you're parsing all of that.

5 Q I'm sorry.

6 A No, no, that's okay.

7 Q One of the issues I want you to bring to
8 the Hearing Officer on things of that nature with
9 the law changing. So you're saying there would be a
10 lot of cases in your courts where additional
11 research and a lot of thought would have to go into
12 what and how the stop was done, by way of example.
13 All of the parties are there, probably the
14 defendant, correct?

15 A Correct.

16 Q The police who stopped him; naturally, the
17 defense lawyers. And your ruling, if collateral
18 estoppel or res judicata applies, may be binding on
19 the courts legally in Superior Court or District
20 Court, were those some of the legal issues that you
21 had to dive into to make sure that the rights of the
22 citizens, as well as the police, are being
23 protected?

24 A I mean, of course. I mean those would be

1 the cases where the lawyers would be raising things
2 like, you know, that's res judicata, or, you know,
3 your collateral estops from taking that up, or you
4 don't have jurisdiction, Judge. You know, so it's
5 what we all know from being in those kind of
6 contested situations where, you know, the lawyers
7 for the defendant are trying to make the traffic
8 stop be unlawful because if the traffic stop is
9 unlawful, you have fruit of the poisonous tree, and
10 then everything from that point beyond, you know,
11 would dismantle their case in the Superior Court.
12 I'm trying to say, you know, Ladies and gentlemen,
13 let's stick to what's before me. In terms of the
14 traffic stop, we have care from start and from stop,
15 not that anybody really knows what that is, but as a
16 traffic judge for 20 years, I can tell you that
17 means that the person peeled out their tires and as
18 a traffic judge, always a suspicion charge I might
19 add when you're getting cited for peeling out your
20 tires. But, you know, it's just one of the many
21 stories I could tell about cases like that. So yes,
22 you then have to do research, you know, what --
23 where does your jurisdiction begin, where does it
24 stop, where does fruit of the poisonous tree become

1 somebody else's problem. But I've got a barrage of
2 lawyers, again that's why I always knew that these
3 cases had greater import in other courts than just
4 the care from start and stop traffic charge that I
5 was dealing with.
6 Q And did those type of issues since 2004 up
7 to the present time, contribute to the number of
8 hours which got you from your position, over a
9 minimum of 20 hours?
10 A Yes, absolutely. I mean the research part
11 of it and just staying abreast, as I said, let's
12 face it, you know, we're all lawyers, I'm sure we
13 all read Lawyers' Weekly. I mostly have done a lot
14 of Social Security work in my career as a private
15 lawyer. So, you know, when I see those articles or
16 a case that my firm was involved in, you know, you
17 read those as part of Lawyer's Weekly. But the same
18 was true for me, like when I was -- see I always
19 tried to see if there were traffic cases, any
20 housing cases, lead cases. I mean, you know, I'm
21 the judge of a very busy court, so I had to stay up
22 on all of those things. So back in my law office, I
23 would always read Lawyers Weekly for all of those
24 issues, and of course pay particular attention to

1 any articles that had to do with my private practice
2 of law, or my public function as a judge.
3 Q How about, Judge, with regards to working
4 with other branches of government, is that part of
5 the function as a judge?
6 A Yes, of course, especially as the chief
7 judge, you know, working the -- I was always a very
8 collegial judge. I mean we all know, again we're
9 all lawyers, there are three branches of government,
10 and things would happen. For instance, the name of
11 the court, you know, I would see stationery that
12 would call it the Pawtucket police court and I would
13 wince. Right? I mean it's not the Pawtucket police
14 court. But somehow it got that parlance early on
15 when it was created, I want to say back in the
16 1950s. And so, you know, the first thing I had said
17 is, look guys, like, I want to change the name of
18 this, like, and you know, you'd call the president
19 of Pawtucket City Council, and you might have to go
20 out for a cup coffee to talk about, you know, why I
21 thought that was particularly bad name for the
22 Pawtucket Municipal Court. And I would say, you
23 know, look, we can have a police court or we can
24 have a municipal court. And that discussion went on

1 for years and I remember basically the president at
2 the time, who I think was John Barry, said, you know
3 what, just change the stationery, call it anything
4 you want, but we're not going to a separate -- we're
5 not -- he always would laugh when I would
6 impersonate him. If you know John Barry, you would
7 know why. You know, so we changed the stationery.
8 But again that was part of my job. I was the one
9 that went to them. And you know, if you don't -- I
10 thought it was a terrible name. Obviously, I did
11 not want to be associated with the Pawtucket Police
12 Court. That wasn't the way I ran my court. It
13 wasn't the way it should be run. The police are
14 just one side. We have a neutral court. So I took
15 it upon myself, you know, if you don't like what you
16 hear from one city counselor, you go out for coffee
17 with another one and try to convince them that we
18 should change the name. So initially we agreed to
19 change the business card and the stationery to just
20 call it Pawtucket Municipal Court, Pawtucket
21 Municipal Traffic Court, Housing Court. But, after
22 the George Floyd incident, and they had known this,
23 you know, I had been having ongoing conversations
24 with them. And after that, I said guys, the time

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1 has come. And then we would, you know, involve the
2 clerk, Rick Goldstein, she was the one would set
3 things up with the docket. But, you know, there
4 were countless conversations with various city
5 counselors to let them know why this name change was
6 coming. So, you know, in I think 2019, we finally
7 got a formal name, you know, to change it. But
8 there were -- there were many things, you know, like
9 I was called to become part of a program, driver's
10 license restorations. There apparently are
11 thousands of people driving on suspended licenses
12 that really have no idea why their license is
13 suspended, nor any idea how to, like, complete. So
14 if they were lucky and they could get from the DMV
15 that they had some problem with in the City of
16 Pawtucket with a ticket that was ten years old. And
17 so again, the first thing when I was asked to
18 participate, and participate in press conferences
19 and things like that, because it was a formal
20 collaboration started in the City of Providence.
21 I'm told, I don't know if this is true, but I am
22 told that driving on a suspended license is the
23 number one charge that is charged in the City of
24 Providence. And, you know, it was basically like a

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1 criminal justice reform effort after George Floyd.
2 So, you know, I did what I would always do, you
3 know, pick up the phone and call the Pawtucket City
4 Council president. I served under three different
5 ones over my 20-year span, you know, but it was
6 always very friendly with all of them. When I
7 initially said that I thought we should join this
8 collaboration and that Pawtucket should formally
9 participate, you know, it was not -- it was not well
10 received and I was sort of --
11 Q The City Council, they're the authority
12 that appoints you, correct?
13 A They appoint me, right, so that you know,
14 if I do things that they don't like, maybe they
15 won't appoint me three years later. You know, again
16 I was always reappointed. But it was that issue,
17 you know, that we are three branches of government
18 and I wanted to be collegial with them and I would
19 as them, and ultimately they did the right thing and
20 we did participate. But, you know, there's always
21 those kinds of things and, you know, there's tens of
22 them, I won't say hundreds, you know, in the brief.
23 But those types of issues always come up and you
24 know, to be collegial, I'll be picking up the phone

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1 and calling the mayor. Or more frequently, since I
2 literally shared -- the back room of my courtroom
3 was the front room of the mayor's office. After
4 court, I would just, you know, I would go in or I'd
5 go a little early that day and see, you know, and I
6 would see him, I'd see him in the parking lot, you
7 know, we'd run into each other all over City Hall.
8 And I would talk about these various initiatives,
9 whether as I was saying earlier, whether it was the
10 driver's license restoration project or a lead
11 abatement project. You know, these are things that
12 I wanted to make sure that the City was aware that,
13 you know, our municipal court was going to be
14 involved in and that there was buy-in, you know, we
15 were three coequal branches of government and on
16 those things, I always thought it was important to
17 work with them.
18 Q Now Pawtucket's changed obviously, I grew
19 up there, but since 2004, it's fair to say that the
20 face of Pawtucket has changed, is that correct?
21 A That is correct.
22 Q And, in fact, the activity, at least from
23 a judicial point of view, has increased immensely
24 since at least 2004, up to the present time, is that

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1 correct?
2 A That is correct. I would say as the
3 diversity of the city increased all those years, so
4 did the sort of complexity of trying to run that
5 court system.
6 Q Right. And with all due respect to all
7 citizens, is it fair to say that the traffic
8 violations and housing violations, things of that
9 nature, increased at least when you were there as
10 the associate judge and chief judge of the Municipal
11 and Housing Courts?
12 A Yes. I mean I would say it was always
13 robust and as the diversity of the city increased,
14 so did the complexity and the time associated with
15 handling all of these things. I mean you have to
16 understand that, you know, in -- obviously in
17 America, in Rhode Island, we have building codes.
18 You know, you can't just go put up a wall or put up
19 a shed. And you know, I'm dealing with people, I
20 think Pawtucket has the largest Cape Verdean
21 population on the east coast and a extremely large
22 Portuguese population, and an extremely large Latino
23 population. You know, in the Cape Verde island,
24 it's your house, you can put up anything you want.

1 So after they would already build the shed, and then
2 get cited by the City for building a shed that was
3 too close to a property line, you know, they would
4 be there in court, not speaking English, you know,
5 good, hardworking people who just wanted to put up a
6 shed on their American dream-house. And you know,
7 I'm fortunate that I am fluent in Spanish and
8 Portuguese and English. Well, I hope English.

9 Q I just wanted to ask you that. So did the
10 other associate justice, is he -- does he speak
11 bi-lingual or just -- just English?

12 A Monolingual. Just English.

13 Q How many languages do you speak?

14 A Three fluently; my Italian's pretty good
15 as well.

16 Q Two and a half better than me. Having
17 said that, is a lot of the issues with the
18 population in Pawtucket, for lack of better words,
19 left with you to resolve because of your ability to
20 speak three languages?

21 A Yes. I mean, you know, we would have a
22 translator only for trials because of the record
23 issues going up if somebody wanted to appeal. But,
24 you know, I would be the translator for virtually

1 all of those cases, whether they were in the Traffic
2 Court, in the Housing Court. But again, you know,
3 I've said to all of you, you know, I took my job
4 seriously, and so I would try to explain to people
5 why, you know, we had these codes, and why you can't
6 put in your own electricity, we want to make sure
7 that when somebody goes and plugs something in at
8 your house, they don't get electrocuted. And you
9 know, you'd have so many issues where people did all
10 the plumbing work and then they'd close up the walls
11 and now they're being cited for working without a
12 plumbing permit. They don't even know they need to
13 get a plumbing permit.

14 Q And my question is, since 2004 up to the
15 present time, because of a changing population in
16 the demographics in the City of Pawtucket, did that
17 contribute to your 20-plus hours per week as the
18 Municipal Court Associate Judge and Chief Judge?

19 A Absolutely, because, you know, cell phones
20 are good and bad, but, you know, once -- I don't
21 even know at what point my cell phone was just kind
22 of out there, but, you know, people would call me
23 all the time. I think you might be from East
24 Providence, I don't know why I think that. No?

1 Anyway, they would call me and they'd be, like, I
2 got a traffic ticket in East Providence. And I
3 would be, like, you know, look, I mean, you know, I
4 don't handle them as a lawyer and I'm a judge in
5 Pawtucket. But of course they would be, like, what
6 do I do? You know. And, you know, as a kind,
7 Christian person, I would be, like, listen, you
8 should always participate in the court system, do
9 you have the piece of paper, look down in the
10 right-hand corner, there's a time and a date, that's
11 where you have to go to court. Okay. Look two
12 lines up and over to the left, that will give you
13 the address. You know, I mean obviously the
14 E-citations are now statewide. So I mean I would
15 help people at all hours of the day and night. Some
16 people would come, if it was a Pawtucket case, I
17 would be like, look, I'm a new judge, I cannot help
18 you, I cannot -- you know, I know you've got my
19 phone number, I can't help you, I can't give you
20 advice; but, go into City Hall, you walk in, go up
21 three stairs, take a left, you're going to see a
22 sign that says "cashier." That's where the clerk's
23 office is essentially. They can at least give you
24 advice as to when to come to court, whether to come

1 to court, what you have to do if you can't make
2 court. You know, I can't do that as the judge, but
3 that was -- it was constant.

4 Q Okay. And I'm going to go over a list of
5 things I think the Hearing Officer and the people
6 here pretty much know. You were very active, at
7 least from this testimony, but the scheduling, you
8 did all of the scheduling?

9 A I did. And before we go into all of
10 those, I also do want to let you all know that, you
11 know, my law office has had to hire additional staff
12 because of all of my time spent in service of the
13 City of Pawtucket. You know, my law office, gosh,
14 since 2004, I mean, Joe and I started together in
15 1999, you know, we probably had maybe ten people
16 total between lawyers and staff in 2004 when I got
17 my job; we now have I want to say, 14 lawyers and
18 almost 100 total employees. So, not only has my law
19 firm grown, but because I'm not there as much and
20 because I'm dedicating that time to the City of
21 Pawtucket, you know. But fortunately my law partner
22 and I are both very community- and civic-minded, and
23 you know, we have hired the staff necessary so that
24 I can run the law firm along with Joe Marasco and

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1 you know, do the work and the cases I wanted, but
2 that I also had the time to be able to dedicate to
3 the City of Pawtucket. And that's how I was able to
4 do those 20-plus, all those years.

5 Q You ran the judicial branch of Pawtucket,
6 as well as practiced law, right?

7 A Of course. Just like you were the Speaker
8 of the House and practiced law. I mean I don't know
9 what the rest of us all do, but yes.

10 Q I had no choice with four kids. But in
11 any event, you did what I did, is that correct? You
12 worked both. And you worked running, at least to
13 the best of your ability, the judicial branch of
14 Pawtucket and also participated in the management
15 and running of your office with Joe Marasco, is that
16 correct?

17 A Of course. That's correct.

18 Q With regards to a lot of things and I want
19 to just protect the record here. Was part of your
20 judicial function from the day you were elected in
21 2004, attending city ceremonies?

22 A Yes. I mean, you know, again, three
23 branches of government, we're all coequal, you'd run
24 into the city councilor and they'd say, Oh, are you

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1 going to the -- are you going to the Saint Patrick's
2 Day Parade? You know, like, yeah, you know, I'll
3 go. And then, you know, the mayor was Polish, I'm
4 Polish, he's, like, Hey, you going to go to the
5 Polish flag raising? And I'd be, like, you know
6 what? As soon as I get off the bench, I'll come
7 down. Sometimes they would wait to start, but you
8 know, of course I went to as many of those as I
9 possibly could because I think, you know, it was
10 like a thing, everybody would make sure that there
11 were some city councilors present, the mayor; of
12 course I'd be present at everything. And, you know,
13 if the judge could be there, it was another city
14 official participating in the community functions.
15 So, yes, I always did that.

16 Q And with regards to -- with regards to the
17 City of Pawtucket Police Department, were part of
18 your time and energy that constituted your 20 hours
19 per week, dealing with issues that the Pawtucket
20 police may have had relative to the municipal court?

21 A Yes, I mean, you know, the police,
22 obviously, it's the prosecution side of the court,
23 but because of just the way promotions are handled
24 by the police department. We would have a new

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1 sergeant in charge of the Municipal Court, meaning
2 the police staff of the Municipal Court, the
3 officers doing PTE, the officers who would run the
4 security, the officers who would do judicial
5 protection, the officers who would direct people
6 down the hall where to pay, the officers who would
7 deal with unruly people who started to, you know,
8 yell and swear and scream when they got fined for
9 something they didn't think that they should. So I
10 mean it wasn't quite every six months; some lasted
11 longer than others. Roy Clary, C-L-A-R-Y, a
12 wonderful man that lasted for a long time. But they
13 changed frequently. But the sergeant in charge of
14 the police staff did change frequently, and so each
15 time that that happened, of course, I would, you
16 know, have a meeting, call everybody together, and
17 then I would have to -- it was kind of weird because
18 people who were of less seniority than the sergeant
19 running the court, were people that had more
20 experience, they been with the court sometimes for
21 years, certainly for months, so they knew how things
22 were run. But, you know, you had to go through the
23 motion of explaining to the new sergeant in command,
24 especially for trials, you know, how I want trials

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1 conducted because there are certain requirements.
2 There is a very fine line, and, again, this is
3 throughout the municipal courts and something that I
4 did a great deal of research with along with
5 Professor Andy Horowitz from Roger Williams law
6 school, if you may have followed that again, one of
7 the things you may have read about in Lawyer's
8 Weekly, I challenged the authority of police to
9 prosecute cases in the municipal courts, alleging
10 that it was the unauthorized practice of law. So,
11 there was a great deal of thought that had to go
12 into exactly how, you know, like, I'm the judge,
13 right? I can't ask the questions of the police
14 officers. But, the City of Pawtucket didn't have
15 the money to send the city solicitor in, only on
16 contested trials did they do that. I always knew
17 when Frank Milos showed up, that there was something
18 different or whatever. But typically, you would
19 only have the police officers. And in order for
20 them to provide the information that I needed as a
21 judge to sustain the elements of a charge, there
22 were certain things that they needed to do, like,
23 number one, they needed to state their name, you
24 know. And I couldn't ask them. Like, I wasn't

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1 going to -- I can't take them through a court case,
2 I'm the judge. They had to know to say, my name is
3 Officer John Smith, I have been a Pawtucket police
4 officer since 1990, or 2000, or whatever, I was
5 trained at the, you know, I need to know where the
6 person was trained, I trained at the municipal
7 police academy, I was trained in the use of laser,
8 my laser gun worked that way, how I calibrated the
9 laser gun that day, what do I need to make a stop,
10 how did I lock onto the license plate, how did I
11 know this, have to make a positive identification of
12 the driver. If any of those elements are missing, I
13 can't sustain the charge, yet, as the judge, with no
14 city solicitor present, I can't rehabilitate their
15 testimony unless I get overruled by RITT. And
16 again, you know, we have Professor Horowitz with his
17 Rule 9 program where they have students the
18 courtroom catching you on all of these things. So,
19 you know, I'd have to do my job and be the judge.
20 The City of Pawtucket has to do its job and
21 prosecute these cases without stepping over the line
22 of police officers who don't have a law degree
23 engaging in the unauthorized practice of law. And
24 so that meant basically every single new sergeant, I

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1 had to train them in the questions that they had to
2 teach the officers. There was basically a sheet of
3 paper, again, I could have no involvement in this to
4 try to keep my neutrality, but they would have to go
5 through, you know, the questions that they would
6 kind of ask themselves, if you will, because --
7 Q So that contributed towards the 20 hours
8 to some degree?
9 A Always. Those types of meetings always
10 came into it; scheduling them, trying to get the
11 right people together.
12 Q In the scheduling, you mentioned a name
13 that I'm familiar with, Nadine Higgins. I would
14 assume -- I think that that's Jigger Higgins'
15 daughter. And if I'm not mistaken, she's been there
16 for at least 20 years, is that correct?
17 A Oh, all the time I was there. She is
18 Jigger Higgins' daughter and she is the backbone --
19 J-I-G-G-E-R, I'm sure it's a nickname. But he's a
20 well-known figure, was a well-known figure, God rest
21 his soul, in the City of Pawtucket, but his
22 daughter.
23 Q My question, on a daily basis, would
24 you -- first of all, what did Nadine Higgins do, so

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1 the Hearing Officer knows?
2 A Well, interestingly, you bring her up,
3 because when I first started in 2004, the Pawtucket
4 Municipal Court, we had a dedicated clerk. Her name
5 was Martha Riveck. And she helped with all of the
6 judicial administrative and supervisory aspects of
7 the court. You know, there would be times I would
8 say, you know, Martha, do me a favor, we've got this
9 trial on for next week, go down and talk to Milos,
10 figure out this, that, or the other thing; or, I
11 need a copy of that statute, you know, make sure
12 that the next week when I'm going to be doing a
13 trial on care from start and from stop, I have a
14 copy of that. Or, if I knew I would be doing a
15 trial in the Housing Court on something, I needed
16 those records so that I could see what happened with
17 that property over all of the years and how that all
18 happened in the City of Pawtucket and the
19 recordkeeping for all of these things is, you know,
20 is a complex issue let's just say.
21 Q But the question I have is, so the Hearing
22 Officer -- I remember Martha as clear as the hair on
23 my head. The records, you mentioned the records
24 that Martha would get together relative to housing

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1 claims, and relative probably to traffic claims, did
2 you review all of those records prior to having a
3 hearing with the litigants and people from the
4 housing enforcement and things of that nature?
5 A Yes. Of course. I mean, and mostly,
6 like, the initial review would be, like, okay, this
7 is a first-time case, there's nothing to review.
8 But if you're there on a habitual offender case, I
9 need to see the three previous occurrences that
10 would constitute a, you know, a habitual offender.
11 So, yes, all of that recordkeeping, you know, Martha
12 used to do. And again, whether it was the Traffic
13 Court, and keeping track of the files, and helping,
14 you know, research all of the things that a judge's
15 clerk would do to make sure that things were ready,
16 you know, at some point, Martha retired and the
17 mayor came to me and said, you know, as always, the
18 City of Pawtucket has no money, and would I -- would
19 I -- at that point I would be the chief, I believe,
20 and would we be okay if existing municipal employees
21 would serve as our clerk? So that's when Nadine
22 Higgins began to serve as the Traffic Court clerk,
23 but they had a different person, Donna Pinto. And
24 again, I can't say enough positive things about both

1 of those women. They helped, you know, me in both
2 of my roles tremendously over the years.

3 Q Would you talk to those people, Nadine
4 Higgins, of course, and Ms. Pinto, on a daily basis
5 in assisting you?

6 A Yeah. I mean there might be a day that we
7 didn't talk, but it was a regular, routine
8 occurrence. People would, you know, I mean she
9 doesn't have the authority to tell somebody not to
10 show up to court. So she would, you know, if
11 somebody came to court and said, look I work, I'm a
12 pizza driver, you know, whatever, and I can't be
13 there at 6:00 p.m. on Thursday. She has to call me
14 and say, you know, somebody's a pizza driver and
15 they can't come on Thursday, can I give them another
16 date. Partial payments, restitution issues, you
17 know, people couldn't comply. We'd have dog bites
18 and, you know, people would come in there to make
19 restitution payments that I had ordered; somebody
20 showed up one day and said, I don't have \$50, I only
21 have \$25, you know, so she'd put them on my docket
22 and you know, for being in contempt of court.

23 Q Those daily activities, when I say daily,
24 you know, a ballpark figure, I'm not saying every

1 day, but those weekly interactions with Nadine
2 about, you know, whether or not there can be a
3 continuance, or how to handle certain people
4 relative to showing up at such and such a time in
5 court, would they also contribute since you've been
6 associate judge up to today's date, contribute to
7 your 20-plus hours --

8 A Of course.

9 Q -- as a judge on the Municipal Court since
10 you started?

11 A Yes, of course. I mean, you know, so many
12 times, I mean I literally would call Nadine when I
13 was a lawyer traveling to one of my own court cases.
14 You know, if I had to, you know, say that I --
15 sometimes you're scheduling and a judge either in
16 one of my administrative courts or district courts
17 would keep you late, and I'm calling Nadine in the,
18 you know, in the car saying, listen, I'm going to be
19 late to court today, let the police know, let
20 everybody know. I mean, it's what happens. But you
21 know, your clerk, you know, when you're a judge,
22 your clerk is kind of your right arm. So initially,
23 it was Martha Riveck, and then when the City asked
24 if we would adopt, you know, other people, it was

1 then Nadine Higgins, Donna Pinto. Donna retired a
2 couple of years ago. There was a new person. I
3 think that that may have changed again since. But,
4 you know, those are people that help you keep your
5 docket straight and provide you the records and the
6 information you need to be able to run a court
7 system and run a court docket.

8 Q All right. And did any -- did things
9 like, you know, Covid or anything else create
10 additional challenges and more hours, or was it the
11 same? I'm just -- I don't know the answer to that
12 question.

13 A No, that -- I mean that changed -- yeah,
14 you know, thank you for bringing that up. I mean
15 the challenges of Covid for all of us, especially
16 you know, trying to run a court system, I mean, you
17 know, what do you do? Now suddenly you can't gather
18 together. How do we approach this? I was always
19 very friendly with Chief Magistrate Domenic
20 DiSandro. And I remember calling him up and saying,
21 like, Domenic, what are you doing? You know. I've
22 got probably at any one time hundreds, maybe
23 thousands of cases that are in the queue before the
24 court was officially closed for Covid. Now what do

1 we do with all these people with court dates? How
2 are we going to about this? And he actually -- I
3 wish I could say it was my idea, but it was his
4 idea, but he got the idea of implementing good
5 driver statute dismissals via the mail so that
6 people didn't have to come to court. So for all of
7 the years from 2004 to 2020 when Covid hit, you
8 know, if you wanted a good driver statute dismissal,
9 it required a in-person court appearance. So
10 Magistrate DiSandro got the idea that, I think his
11 staff was literally, like, calling people, saying,
12 look, you know, you're scheduled for April of 2020
13 when the courts are all closed, I see you have a
14 good driving record, would you like to plead guilty
15 and have a good driver statute dismissal, here's the
16 cost and then here's how it works. And I thought
17 that was a great idea. Of course, you know, I've
18 said several times the City of Pawtucket is always
19 strapped for money and the Traffic Court and Housing
20 Court always obviously contributed to the City's
21 finances. And so aware of that, I asked him to
22 provide me a copy of the letter that he used. We
23 had, again, countless meetings with Nadine, meetings
24 with the police chief, you know, conversations with

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1 the City Council, I'd like to start to change what
2 had at that point had been, what is that, 16 years
3 from 2004 to 2020, a 16-year requirement that you
4 I.D. the person and that, you know, I have to make
5 sure that you are who you say you are, at least that
6 you say under oath you are, and that you're willing
7 to plead guilty, can we start to do this in the
8 interests of the efficiency of justice via the mail.
9 And then of course, you know, there are our -- the
10 way, you know, we, in Pawtucket do things. And, you
11 know, so I had to authenticate that, you know, so I
12 had to figure out a way that they would either send
13 an e-mail to my clerk, so I could actually see Frank
14 Karpinski, an e-mail coming from him, that that
15 was -- because, of course, you know, you wouldn't
16 want your neighbor to say, no, I don't want a good
17 driver statute dismissal. I had to make sure that
18 there was an authentication of the person involved,
19 how they would come through the window and pay and,
20 you know, it was a tremendous amount of work. I was
21 also always in touch with Cris McBurney, my good
22 friend, and she's a probate judge and has been for
23 years. How are you doing it in Probate Court? How
24 are we going to do this? How are we going to keep

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1 the courts, um, and, of course, as lawyers, we were
2 subject to what was going on in the other courts, so
3 how could we do our part as judges to keep the
4 Pawtucket municipal courts open, at least to the
5 extent that they had to be. I mean, you know,
6 people, when especially if somebody died, you know,
7 people want these things to keep moving forward.
8 We're in a once-in-a-hundred-year pandemic and I am,
9 you know, proud to say that we all pulled together.
10 Again, it took a lot of telephone calls and some,
11 you know, meetings. I mean I would still go to City
12 Hall and meet with Nadine. She showed up almost
13 every day of Covid. I don't know -- but you know.
14 And lots of things with the police. The police were
15 concerned about that. They didn't like it very
16 much, but that started a whole another issue.
17 Q So, with regards to the powers of the
18 Municipal Court judges, at least when you were there
19 in 2004, did you have the power to officiate at
20 weddings?
21 A Yes. I mean not only the power but, you
22 know, as I had said, Pawtucket is an extremely
23 diverse city and it's obviously nice to get married
24 in a language that you understand. And so people

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1 show up to the clerk's office -- and it was also one
2 of those things where, again, my telephone number is
3 out. I mean, people would call me and they would be
4 like, oh, you married my friend, I want to get
5 married. And I would be, like, okay, do you have a
6 marriage license? A driver's license? Yeah, I have
7 a driver's license. No, no, no, no, no, you need a
8 marriage license. What do you mean? I'm from Cape
9 Verde Islands. What are you talking about? You
10 know. I'm from Columbia. I'm from Guatemala. I
11 was like, look, you've got to go to the city hall.
12 Sometimes I said, where do you live? Oh, I live in
13 Central Falls. Well, you've got to go to the
14 Central Falls City Hall. You know, I mean I would
15 just -- you know, I'm actually proud of this, I
16 became a figure. You know, people knew that they --
17 they knew my cell phone, they knew they could call
18 me. And obviously, to the extent that I could, in
19 keeping with my judicial ethics, I would provide
20 them with the next step of what to do. So I would
21 tell them that they had to go to the city hall and
22 get their marriage license. And then, you know,
23 typically for those that did not speak English, you
24 know, they would all call me back and say, you know,

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1 would you officiate the marriage ceremony. So I did
2 a great number of them.
3 Q Was that part of your duties?
4 A Yes. Of course. I mean judges marry
5 people, that's part of the job. Especially, again,
6 when there are no other Spanish-speaking or
7 Portuguese-speaking officiants that I know of. I
8 mean there's some other Spanish ones in the state.
9 I know of no other Portuguese officiant who will do,
10 you know, marriage ceremonies in Portuguese in the
11 whole state. But, you know, I routinely did them.
12 I would do them, you know, in my chambers, I would
13 do them in the courtroom, I would do them in City
14 Hall, I would do them at my home, I would do them at
15 their home. I mean it's a beautiful part, you know,
16 I mean it's a sacrament, it's a beautiful part of
17 people's lives and I think it's extremely important
18 that they do it in their own language, in a language
19 that, you know, both of them understand.
20 Oftentimes, I would do bilingual ceremonies. You
21 know, and the scheduling of those, those are again,
22 would be calls that come in all hours of the day and
23 night. Seven p.m., my phone rings, you know, Donna
24 Nesselbush speaking, oh yeah, you married my friend,

1 I want to get married, the whole thing would start.
2 At 7:00 p.m. You know, with the advent of cell
3 phones, you know, there's just no way to -- there's
4 no way to stop that. I mean I didn't know what to
5 do, other than to just try to be kind, answer their
6 questions. Many times, like this morning when I was
7 trying to get here, I got a call, same thing, I
8 said, listen, I absolutely cannot speak right now,
9 I've got, you know, I've got an appointment at
10 10:30, I've got to get out of here, call me back.
11 And I assume it's going to be the same thing as
12 always, I want to get married, what do I do. So I
13 would always explain that to people. And I did
14 hundreds of those ceremonies for -- for, I mean,
15 English-speakers as well, but primarily, since I was
16 the only game not only in town, but in the state I
17 would do a lot of marriage ceremonies as the judge.
18 Q And do you remember, would they happen on
19 a weekly basis since you were --
20 A Yes, absolutely. Sometimes on a daily
21 basis.
22 Q Okay. And time-wise, I -- I would think,
23 and correct me if I'm wrong so the Hearing Officer
24 can make his decision, when you mentioned that you'd

1 probably do this on a daily basis because of your
2 unique skill to speak three languages, I would
3 assume it would take more hours if you, by way of
4 example, came to my house and married me, than maybe
5 doing it in City Hall? Or would it constitute the
6 same time because you had to drive from your law
7 office to the City Hall, versus driving to my house,
8 by way of example, on an hourly basis, would it be
9 two or three hours on each ceremony, an hour back
10 and forth, or a half hour? I mean, tell the Hearing
11 Officer, in hours per week, that you would spend
12 maybe doing weddings.
13 A I mean, I would say --
14 Q Ballpark.
15 A Yes, all in all, because there's that
16 initial call where people call wanting to get
17 married but having no idea, you know, what steps to
18 take. So that it would often start with just that
19 initial phone call. And then they would go to City
20 Hall and then they would often have problems. Like
21 they'd need a, you know, valid birth certificate and
22 people would be, like, I grew up in small-town
23 Guatemala, I don't have that. And, you know, I
24 would be like, look, I can't help you, you've got to

1 go back to the City Hall. However, there is a place
2 called the International Institute and Kyle Krueger
3 works there. I would suggest -- I mean I have their
4 phone number on my cell phone. And I would have
5 them, you know, call over for there just for a
6 social service agency, or Progressive Latino, where
7 somebody could actually help them get the paperwork
8 that they would need, even to be able to procure a
9 marriage license. Once they got the marriage
10 license, they would be, like, you know, they did not
11 know that, you know, they'd call me back and be,
12 like, why do you need two witnesses? You know? I
13 mean there's so much explaining to them what we need
14 to conduct a marriage ceremony in a civil ceremony
15 in the State of Rhode Island. And then it would be,
16 like, okay, well, you know, I want to do a
17 candle-lighting ceremony. I'd be, like, all right,
18 well, listen, you know, I have a couple of
19 ceremonies, do you have an e-mail address? You
20 know, we'd go back and forth. I wouldn't make them
21 text me because it's impossible in different
22 languages to get the, you know, exact e-mail
23 address, and so they would text me their e-mail
24 address and then I would e-mail them. You know, I

1 would get some idea from them what kind of a
2 ceremony they want, but, you know, some people
3 wanted, you know, just a quick easy one; other
4 people want to do an exchange of sand and readings
5 and people to read. And you know, I want people to
6 have their marriage ceremony that they want, you
7 know? As I said, I mean it's part of my job and I
8 wanted to do a good job at it. But, you know, then
9 you have -- if I would go to their house. And
10 again, it's what people want. Some people -- some
11 people want to do it, like, they want to get married
12 on Monday because it's their anniversary. I'm,
13 like, well, look, I'm stuck in Pawtucket City Hall
14 that day, the only way I can do that is if you come
15 to City Hall, and they would come to City Hall.
16 Other people -- lots of people want to get married
17 on weekends, you know, so I would be, like, okay,
18 I'll go to your house. But of course, you know, if
19 I have to be there at 5:00 p.m. or 2:00 p.m. or
20 whatever p.m., you know, I know the City of
21 Pawtucket very well, but you know, you don't know
22 where you're going, you've got to leave time to get
23 there and figure that out.
24 Q Let me ask my question --

1 A And they all run late. I'll tell you,
2 brides all run late. And you've got to wait until
3 everybody's there. And then everybody's there
4 except the mother-in-law and they beg you to stay
5 and wait because their mother-in-law is running
6 late, but they really want to proceed. So I mean
7 it's -- it's, you know, I say that only to explain
8 to you, Mr. Hearing Officer, all that goes into that
9 work. It was always a labor of love, all of the
10 service that I did for the City of Pawtucket. You
11 know, I loved the city that I lived in. I was very
12 community-minding. I count speaking other languages
13 as among the greatest blessings that I have, and I
14 love doing it, but it's a lot of work.

15 Q Question: Conversations with these people
16 who want to get married, you explained it to the
17 Hearing Officer, I think, rather clearly, in
18 different languages, the steps to get married. And
19 you indicated that sometimes you would be at City
20 Hall. And you also indicated that it would be at
21 their homes, I believe --

22 A Yeah.

23 Q -- with certain types of marriages. And
24 you said you did this regularly on a weekly basis

1 during your career of 2004 to the present time. Do
2 you have a ballpark number of hours you would expend
3 performing those duties that would contribute
4 towards your minimum of 20 hours per week? Would it
5 be three, four weddings a week, roughly? And would
6 it constitute two hours roughly for each wedding? I
7 don't know. I'd like to have you explain to the
8 Hearing Officer so he can get the full picture of
9 your job and the duties you performed.

10 A Sure. You know, I would say it was
11 probably five to ten hours when you take in that
12 first conversation, you know, explain to them where
13 they have to go. I mean there's a lot of telephone
14 calls. And they call you back, you know, they'll be
15 like, oh, you know, I know we were going to do it at
16 this time, but now can we do it at that time? I
17 know, you know, you said you can do the candles, but
18 I don't want to do candles, I want to do sand. So
19 when you take all of that into consideration,
20 including at the end of the whole thing having to
21 take the marriage license back to City Hall. Now,
22 you know, after I would serve as the judge, or if I,
23 you know, wasn't on that day, I mean I believe those
24 things have to be back within 48 hours, so, you

1 know, I'd have to take a special run back over to
2 City Hall, you know, now I lived in Pawtucket, it's
3 only 10, 15 minutes away, but I'd have to make a
4 special trip to City Hall to drop off the marriage
5 license because those are required by law to be
6 returned to the city clerk within 48 hours of the
7 ceremony. You know, those are official documents,
8 they don't want them sitting out until the next time
9 I, you know --

10 Q I forgot about that.

11 A Yeah.

12 Q So you were legally required, after you
13 performed your ceremony, to return them?

14 A Yes. And of course, you know, any trip to
15 City Hall is always time-consuming, because, you
16 know, you walk in, they say hi to you, when I would
17 go there, there would always be people who want to
18 ask you a particular question, or my clerk, Nadine
19 Higgins, even if I was only there to drop off the
20 marriage license, would say, I was going to call you
21 later anyway, can you stop back down by my office?
22 You know, anybody who's gone either to the State
23 House or to a city hall, you know, knows that it
24 ends up taking more time than one might expect to

1 simply drop off one piece of paper at the clerk's
2 office.

3 Q Judge, to say the least, we've touched a
4 lot of bases and the duties that you've performed
5 outside of sitting on the bench and I think you've
6 explained them to the Hearing Officer. Is there
7 anything I missed before I stop asking you any more
8 questions?

9 A There are several things. And again, I
10 will try to go through them and if at any point you
11 want to stop me, but the thing that I would say has
12 been the most time-consuming and was nearly a
13 full-time job for a long time, almost a year, was
14 when after Covid -- during Covid I started to notice
15 that the police chief -- and I had put this in the
16 brief, you know, I had always had a very collegial
17 relationship with Chief Kelly and Chief King. And
18 then we had Chief Goncalves. And I would notice,
19 like, you know, Nadine would call me and say, the
20 Chief canceled court. I was, like, how come the
21 Chief canceled court? The chief of police. I'm the
22 judge. What's going on here? But of course people
23 are dieing of Covid and, you know, we're in this
24 crazy situation. So things like that went on for a

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1 little while, but I was undertaking that large --
2 fairly large project of working with Domenic
3 DiSandro to institute the driver's license, um, the
4 good driver statute dismissal via the mail. It was,
5 you know, tedious, and had a lot of organizational
6 steps with the e-mails and the letter and things
7 like that. So at some point, when Covid started to
8 get a little bit better, Nadine, my clerk, called me
9 and said, the police chief said, we're no longer
10 doing GDS's by mail. What are you talking about?
11 The police chief is the police. I'm the judge. I
12 took, you know, many, many hours to implement that.
13 She said, I don't know, Donna, I don't know what to
14 tell you. She said no more GDS's by mail. So I
15 sent her an e-mail, and I said, you know, Dear
16 Chief, you know, there must be a misunderstanding
17 here, Nadine must not have understood what -- you
18 know, there must be something. She tells me that
19 you don't want her to do those any longer. You
20 know, if you have an issue with GDS's by mail, will
21 you please contact me. I hear nothing back from the
22 police chief. So I call a meeting of the staff, the
23 court staff, Nadine and the police officers who
24 worked for the court, and I say, I don't really

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1 understand this, but I wrote to the police chief,
2 this is not her decision, I run this court, I set
3 the, you know, rules of operation of this court, you
4 know, we're in a pandemic, we're going to continue
5 to do driver's license GDS dismissals until I say
6 otherwise. Well, it became a thing where, you know,
7 literally, Nadine would come to me and say, well, I
8 don't know, Donna, I work -- I -- I -- I don't even
9 know who my boss is in this situation. Because she
10 did have these other duties, right? She would be
11 things other than the clerk, which I think she did
12 things for both the mayor and the police chief. It
13 became a ridiculous thing. Like I ended up having
14 to -- I've got to call Andy Horowitz. I'd be, like,
15 Andy, am I missing something here? How can a police
16 chief think that she can possibly run the operations
17 of the court? It got so bad that, you know, I could
18 tell because the person who was the sergeant at the
19 time, he would, like, come in and say, like,
20 Don't yell at me, Judge, I'm just reporting what the
21 police chief said. And it just became a thing. And
22 it was such a thing, literally, I remember speaking
23 with the ACLU, Andy Horowitz from the law school, of
24 course and saying, am I missing something here? I

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1 ended up having to go to a wonderful woman, Kathleen
2 Kelly from the Rhode Island Supreme Court. And so
3 as not to embarrass people, I did not include those
4 e-mails. But she basically said, Donna, this is the
5 most absurd thing I have ever heard, how can a
6 police chief be telling you whether or not you are
7 going to do GDS? I mean it just became hundreds and
8 I think most of these e-mails are in there and
9 again, I apologize for giving John four -- you know,
10 400 pages of e-mails. But the e-mail thread about
11 that whole thing of e-mails to Andy Horowitz or all
12 of the other people, but, you know, they're -- I
13 feel like, a major part of my job is to protect the
14 institution. I mean, John, you might relate to that
15 as Speaker of the House. I mean you're there
16 sitting as the chief judge of the Pawtucket
17 Municipal Court, I cannot let a police chief try to
18 tell the Court how they're going to operate. So it
19 became an issue of defending the institution of the
20 Pawtucket Municipal Court. And it was ridiculous.
21 I mean it took so much work. And I would write to
22 the mayor and I would say, you know, Don, we were
23 friends, Don, your police chief has gone, you know,
24 off the rails, you've got to reel her in. But of

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1 course, it's in the middle of Covid, this thing went
2 on for many months, it took an incredible amount of
3 time, research, I would actually, you know, write
4 e-mails pointing out all of the errors of her ways.
5 I mean it took a great deal of effort, when I say
6 near full-time effort to bring this issue to a head
7 because I mean I felt so strongly about it, as you
8 could imagine. And how could a police chief tell a
9 judge whether or not they were going to offer a
10 certain type of dismissal. I mean she had zero
11 statutory authority over adjudication of cases. And
12 a GDS dismissal is absolutely an adjudication. So,
13 all of us lawyers in the room could see how crazy
14 that was, but that was something that I had to deal
15 with as the chief judge. You know, it took a lot of
16 work, lots of meetings with the city solicitor. I
17 would go down to Frank Milos' office and he'd be
18 scratching his head. And he goes, all right, I'll
19 go talk to the mayor, we're going to try to talk to
20 her. It was -- it was terrible. It was an
21 embarrassment for the City of Pawtucket, and it was
22 an embarrassment that I would not abide. It was an
23 incursion into the authority of the Court. And it's
24 just yet another example. So when you say is there

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1 something that you didn't go in, it was an
2 incredible amount of time, way more than 20 hours a
3 week because, I mean I couldn't let that pass. You
4 cannot let a police chief tell a judge what to do in
5 their own courtroom.

6 There was another issue. At some
7 point after, you know, in the early 2000's, I, of
8 course, realized that the Pawtucket City Council
9 meetings were on TV. There I am presiding over, you
10 know, these courtrooms full of English speakers,
11 Portuguese speakers, Creole Spanish speakers, and it
12 occurred to me that it would be a very good idea if
13 we would put the Pawtucket Municipal Court on TV.
14 So there is a -- I looked into -- you know, again, I
15 picked up the phone, you call whoever is the
16 president at the time or whoever you're friendly
17 with and you find out that the Pawtucket City
18 Council meetings are being broadcast via something
19 called "PEG," which I think is Public Education in
20 Government, there's a channel on cable. So I, you
21 know, try to start to make some phone calls, figure
22 out who is the head of that. And again, I won't
23 bore you with details, I know we've been at this for
24 a while, but there was a tremendous amount of

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1 effort, starting with working with the City Council
2 to get a resolution from the City Council saying
3 that they agree that we should try to put the
4 Pawtucket Municipal Court sessions on TV. And I
5 thought it would be of tremendous value to the
6 community because things that I would say basically
7 about doing plumbing work without a permit, doing
8 electrical work without a permit, building a shed.
9 Every, single week there were so many examples of
10 things that you couldn't do. And again, I loved my
11 job, I took my job seriously, I would go -- I would
12 always explain to people why we would have those
13 type of codes, how they were designed to protect
14 people, and I thought that people could learn a
15 great deal. So once I had the buy-in from the City
16 Council, the PEG people, and again, that took
17 several meetings, right? I'm driving out to
18 someplace on Newport Avenue, meeting with the PEG
19 people. And they were very happy, you know, let's
20 just say they needed content on their TV channel.
21 They were happy to have it. But then I ended up
22 having to, like, find a -- I think he was kind of
23 like a sound engineer, because -- wanting to do it.
24 So we've got the City Council that said it's a good

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1 idea, I think it's a great idea because of what I
2 see in my courtroom every day. And PEG is very
3 interested in the programming, but now you've got to
4 get, like, somebody to actually do it. Well,
5 there's no staff for that. You know? I don't know
6 how the City Council -- I don't know who did theirs.
7 But, and there's no money for that. So now I tried
8 to work with, like, a sound and camera person to
9 make it, like, automatic, so that, you know, I was
10 reasonably technologically inclined that I could
11 just sort of like on a computer, like, you know, go
12 like that or something and say, okay, the Pawtucket
13 Municipal Court is now in session. But that turned
14 out to be incredibly time-consuming. I went through
15 two different people. I actually out of my own
16 money, paid to have cameras installed in the
17 Pawtucket Municipal Court. Again, I did my job as
18 public servant. I didn't need the five-hundred
19 bucks or whatever, and it would be so complicated.
20 It was so complicated, just to get the resolution it
21 took so many months. And anyone who has worked in
22 government knows the wheels of government turn
23 slowly. And so something like that, I said, you
24 know what, let me just -- I'm working with a guy,

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1 you know, he told me what kind of cameras we need, I
2 spent the money, he installed the cameras. However,
3 it turned out that, like, the Pawtucket Municipal
4 Court is actually inside, actually inside the police
5 department, and it's like Fort Knox, we could never
6 get it to work. I spent an incredible amount of
7 time having nothing to do with my judicial duties of
8 adjudicating cases on the days that I was in court.
9 That was all stuff that I did, again, from my law
10 firm I would be sending e-mails to the PEG people,
11 telephone calls to the PEG people, meeting up at
12 City Hall on off-hours, including weekends. At some
13 point, the police said that the guy that I was
14 working with needed to be fingerprinted, which I
15 get, you know, they want to make sure some criminal
16 is not working inside the police department, on and
17 off hours. So, you know, that was another example
18 of what was, like, incredibly time-consuming. When
19 Covid happened, I said, listen, all of the court
20 systems are now having remote sessions. I was,
21 like, why don't we have remote sessions? My whole
22 law office went via Zoom. We were now meeting
23 clients via Zoom. We upgraded our Zoom account and
24 did everything via Zoom. I'm, like, why don't we do

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1 that and then -- because it was actually a real
2 problem. There was only two judges; if one of us
3 got Covid, now you're down to one judge. Well, he's
4 got his wife, you know, his vacation schedule, his
5 family schedule, his court schedule. But if I'm
6 home with Covid and I can't be out but I was able to
7 actually preside over cases, so I thought that was a
8 great idea. It's the same thing, you know, you've
9 got to start with the City Council. What do you
10 think about us going via Zoom? You know, Mayor
11 Grebien, what do you think about us doing Zoom?
12 We're going to have to upgrade our system, we're
13 going to have to do this. All of those things were
14 part of the challenges of Covid, but things, I mean
15 they have nothing to do with sitting on the bench
16 and adjudicating speeding tickets or going the wrong
17 way down a one-way street, but these were all of,
18 you know, other examples of things, you know, that I
19 had to do that took an incredible amount of time.
20 There was also --
21 Q I want to get into that. You're talking
22 about not sitting on the bench judicial activity.
23 A These are all administrative and
24 supervisory duties.

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1 Q All right. Fine. I wanted to make sure
2 judicially related in your mind as to the duties you
3 performed, correct?
4 A Absolutely. Absolutely. There was also,
5 you know, I mean I hate to say it, but you would
6 have unruly litigants. Right? You know, you have
7 people in all different languages from all different
8 countries, and, you know, there would be times where
9 they would be swearing in court and, you know, I
10 needed to understand what my contempt powers were,
11 you know, my ability to say, Hey you, you're not
12 going to, you know, you're not going to use the
13 F-word in this court. Lock him up, put him
14 downstairs, and then what? Judge, how long do you
15 want me to leave him down there? You know, I needed
16 to do research with Frank Milos, we did a great deal
17 of research about the difference between criminal
18 contempt and civil contempt, to understand what we
19 can and should do with those kind of unruly people.
20 I mean I can't have people using the F-word in my
21 courtroom in front of a courtroom full of people.
22 You need to deal with them, you know, properly,
23 humanely, and above all, lawfully. So you know,
24 just -- just doing the research, you know, there's

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1 no school when you become a municipal court judge.
2 They don't send you to judge school. Nobody teaches
3 you these things. You know, you realize the first
4 time something like that happens in open court --
5 and I know John's been there many times -- you know,
6 what to do. And so that would take a phone call to
7 Frank Milos, can you sit down and meet, what are we
8 going to do about this? You know, I don't want to
9 be incarcerating somebody unlawfully. Obviously,
10 that would subject the City to liability. So, you
11 know, something like that turns out to be, you know,
12 quite a project to do research about, you know,
13 contempt. Then, of course, there would be the same
14 people that would come in. We had this thing going
15 on with people stealing recycling in the City of
16 Pawtucket. I mean you can't really believe that but
17 I guess there's a value to the tin and the stuff
18 that people put in their recycle bin. So the police
19 started citing people. And then you'd have people
20 coming in and saying, Judge, I'm homeless, I'm just
21 trying to, like, you know, eat today, I'm taking
22 stuff out of the recycle bin. And the City wants
23 me, you know, to fine them. And then there are
24 certain people it became a thing with. And I guess

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1 as the City explained to me, they wanted me to
2 prosecute, they would prosecute, but they wanted me
3 to if they were guilty, impose fines and try to stop
4 this behavior because the City of Pawtucket, the
5 more they recycled, the less was their amount they
6 had to pay per ton or something of recycling at the
7 landfill. So it was in their interest to have all
8 the recyclables go into those bins. Well, you know,
9 I had some frequent offenders, so I said to the
10 City, you want me to come down hard on these people,
11 I've imposed hundreds of dollars of fines, you don't
12 do anything to collect them. That starts a whole
13 another slew of meetings on how to collect municipal
14 fines. So I got the idea that if you had
15 outstanding municipal fines, we should issue what
16 they do in the District Court, a body attachment.
17 You know, go to these people's houses at seven
18 o'clock in the morning, the change of shift with the
19 police, and knock, knock, knock, you know, are you
20 Frank Karpinski, you didn't pay your hundred dollars
21 that the judge ordered you to, it's been a year,
22 you're going to go in to see the judge. Well, to do
23 that, is that lawful? Do I have authority to issue
24 body -- you know, you've got to go back to the

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1 Charter, you've got to go back to your ordinances,
2 I called Jeanne LaFazia from the District Court.
3 And it turns out -- and I meet with Frank Milos, I
4 meet with the mayor. He loves the idea of getting
5 money, but he's, like, meet with Milos because we
6 want to make sure it's lawful. And then, of course,
7 begins the process of actually creating the form
8 that would be a body attachment. So I got a copy of
9 the form from the District Court, then I got a
10 graphic designer that I asked, you know, make it
11 look like the District Court form, but it would be
12 from the City of Pawtucket with a little water seal.
13 And, you know, again, none of that happens while
14 you're sitting on the bench adjudicating a speeding
15 ticket. These are all things that go on from my law
16 office, my home, my car, in another office in City
17 Hall. You know, it's like stating the obvious to
18 lawyers that judges do a lot more work than just the
19 things that they do sitting on the bench for those
20 hours. And again, there are some other things that
21 I just want to make sure. I'm not going to, you
22 know, I don't want to keep everybody here forever,
23 but I want to make sure that they, you know, are
24 part of the record. Another major issue, there is

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1 something called the Center For Justice out at the
2 Roger Williams Law School, and they wanted to do a
3 lead abatement program. Rhode Island Housing has
4 specific funds, et cetera, for lead abatement. And
5 I think that because people knew that I took my job
6 seriously, and because people knew that I, you know,
7 would go out of my way for these community projects,
8 you know, I was often the one that was asked to go
9 to press conferences to talk about this new latest
10 project. And I did. And so, you know, and the
11 e-mails are all in there. Those are things, again,
12 you know, you're driving and you're thinking, oh
13 yeah, I did that. You know, Jennifer Wood I think
14 is her name. You know, you'd go in your Apple
15 search thing on your phone and sure enough, all of
16 the e-mails that Jenn Wood sent me about the lead
17 abatement program, you know, would come up. But
18 that was a whole 'nother project that required
19 telephone calls to the mayor, telephone calls to the
20 City Council. Do we want to be part of this lead
21 abatement. Lead is clearly bad for kids, Pawtucket
22 has a lot of old tenements. This is something that
23 we should participate in. That was, you know,
24 another program and something else that is there.

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1 The other thing that I want to let you guys know is
2 about site visits. You know, there would be times
3 where somebody said, I looked at the stop sign,
4 Judge, look at this picture, you can't even see it.
5 But of course, I'm looking at a picture that this
6 litigant gives me, was it taken today, was it taken
7 a month ago, was it taken two years ago. So I would
8 say to them, all right, you know, I live in the
9 city, I know where you're at, you come back next
10 Tuesday, I'm going to go, I'll look at that stop
11 sign myself. I would do exactly that. There was a
12 time -- huge time-consuming thing.
13 Again, once you've heard enough,
14 Mr. Hearing Officer, you let me know, because I
15 don't want to go on for too long. But I need this
16 -- I need all of you to understand all of the things
17 that goes into being a judge and running a court.
18 But at some point the City of Pawtucket realized
19 that they had a number of blighted properties that
20 you can't find the owner, you can't get him to fix
21 it, the City doesn't have money to fix it. The
22 neighbors, you know, you also have a lot of nice
23 people who bought property in the City of Pawtucket
24 and want to fix up their house, and they don't want

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1 to live next door to a blighted property. You know,
2 I'd find the properties, I mean, you know, hundreds,
3 thousands of dollars are fined up to my statutory
4 authority, but nobody ever responds. You don't know
5 where these people are. You know, are they dead?
6 Did they move to another state? Did they just
7 abandon the property? So the City Council and the
8 mayor asked me, again, a whole series of meetings to
9 create a receivership program, so that when we were
10 to have property that was blighted and we could not
11 get the person's attention even by, like, shutting
12 off the utilities of the place. And then you'd have
13 squatters living in there, lots and lots of issues
14 with that. But, there was a receivership program
15 where I could request that the property be placed
16 into a receivership. The City would refer that.
17 John Dorsey was often the attorney and his firm that
18 would come in and do that for the City. But it
19 required -- I think the City had to get enabling
20 legislation from the general assembly. And again,
21 obviously there were certain things that I had to do
22 as the judge. But this was a big project for the
23 City. They needed to deal with their blighted
24 projects. Receivership seemed like a good route. I

1 was in favor of it. I think it's turned out to be a
2 very successful program. But it took tons of
3 telephone calls and you know, many meetings to
4 figure out how this receivership program would work
5 and what we would do if the person actually you
6 know, shows up at some point. And so there were
7 site visits, you know. I had a guy who would come
8 to my court all the time, beloved guy, Mr. Dovos.
9 And the property was, so, you know, blighted, et
10 cetera, they wanted me to put it into receivership.
11 And he would say, oh, you know, it's been in my
12 family for years, they say that there's high weeds
13 on the grass and overgrown whatever, but they're
14 medicinal, Judge. I use all of those things as
15 medicine. And he would tell me all of the ailments
16 he had or whatever. I mean this goes on for years.
17 Right? So at some point I say, you know what,
18 Mr. Dovos, I'm going to go look at your house.
19 Again, it has nothing to do with sitting on the
20 bench, but I would actually go and look at these
21 properties before I would begin the process of
22 taking it. And we did end up taking his house away
23 from him. And when I went to look at that property,
24 the neighbors came, you know, I went with the

1 director of Zoning and Code Enforcement. Of course
2 that wouldn't be something that I would ever do
3 alone or without a police escort or something. But
4 the neighbors came out and they said, oh my God, are
5 you here from the City? Thank God. We've been
6 calling for years, look at this place, this guy, you
7 know, we feel so bad for him. You know, he's not
8 homeless, he's got that home but you know he's not
9 right. And then the person was, like, do me a
10 favor, Judge, come back here, let me show you the
11 back of the house. When he took me around the back,
12 where from his yard I could see entire holes in the
13 roof of that house. That was the evidence now that
14 I needed to say, okay, I'm going to put that house
15 into receivership. I mean the guy, we're not
16 talking about medicinal herbs for a guy who's
17 battling illnesses. You know, but those were things
18 that I would do because I took my job seriously.
19 And I'm not going to somebody's house in
20 receivership when I, you know, some -- a lot of
21 times, nobody else ever responded, right? So if
22 they asked for it, I could say yes to it. But if
23 you've got a person who actually show ups and he's
24 begging and say that, you know, this property has

1 been in my family for years and I'm growing
2 medicinal herbs, I feel like it's my obligation.
3 And the City again, they don't have any money,
4 nobody's out there taking pictures and showing me
5 that kind of thing, I want to go see it with my own
6 eyes. And so, you know, there were countless times
7 that I would go out and do, you know, site visits if
8 it required. Also, again, I took my job seriously,
9 I was the president of the Municipal Court Judges'
10 Association. There were -- there were ways that we,
11 you know, shared information that impacted the
12 smooth running of our court system, sharing
13 information among judges obviously is something that
14 is important.

15 The other thing I wanted to let you
16 all know, that just to be collegial, once a year,
17 you know, as the chief judge of an entire branch of
18 government, I would always host a -- I called it a
19 "Gratitude Gathering." And I would invite the city
20 councilors, police, the mayor, my staff. You know,
21 those were all things -- I mean I didn't do that
22 because I was a practicing attorney, I did that
23 because I was the chief judge of the City of
24 Pawtucket. And I, you know, for all of the items

1 that I mentioned that I had to work collegially with
2 these people to advance those issues of justice,
3 whether it be lead, or the driver's license
4 restoration project, or the police incursion into
5 the court -- running of the court system. You know,
6 I did that, if you read the statute, you know, it
7 talks about doing things in service of the City of
8 Pawtucket. That's why I did that gathering. You
9 know, again, I've got lists and lists, you've got
10 400 pages, you know, I will stop there. I hope I
11 have shared with you all the facts that, you know,
12 number one, you know, I never called Mr. Karpinski
13 and asked for a pension. You know, that was
14 something that was offered to me as part of the job,
15 it was, you know, one of the elements, I was told it
16 was a 20-hour-a-week job. No one, I mean, you know,
17 no one, I'm a workaholic, no one would ever accuse
18 me of not working my 20 hours. When I tell the
19 staff of the City of Pawtucket what I'm doing here
20 today, my clerk, et cetera, they shake their heads.
21 They're, like, Donna. You know. I mean I took that
22 job seriously. I'm the longest serving Pawtucket
23 Municipal Court judge in the City of Pawtucket.
24 Which is another thing that I did. At some point I

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1 realized, you know, all of the judges we're talking
2 about, actually, you know, I got a plaque, I
3 researched. It's very hard to do research to find
4 out who all of the judges were in the City of
5 Pawtucket. You had to go through these handwritten
6 booklets that the City Council used to keep. There
7 weren't computer records back in 1950's when the
8 court was initially, you know, when the court was
9 initially established. You know, I got a nice list
10 of that, paid for with my own money before any of
11 this craziness, all of the, you know, judges so that
12 that could hang in the courtroom. So there's just
13 so many examples of all of the things that I did in
14 service of the City of Pawtucket. You know? I
15 proudly served my city, I honorably executed my
16 20-plus hours, and again, this is not the way I
17 wanted to end my career. I am not here, I guarantee
18 you, to get a pension that I don't deserve. You
19 know, it's a very small amount of money, it's a
20 couple hundred dollars a month, but I've dedicated
21 my life as a lawyer and as a judge, to justice. And
22 there's no way, with all of the work that I did,
23 even for a couple hundred dollars, it's just not
24 fair, it's just not right, and obviously, that's why

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1 I'm here today.
2 **MR. HARWOOD:** I rest my case.
3 **HEARING OFFICER:** We'll take a ten-minute
4 break.
5 (BRIEF RECESS)
6 **MR. ROBINSON:** Judge, I'll try to be a lot
7 shorter than the morning session here.
8 **MS. NESSELBUSH:** A lot shorter than I was?
9 Is that what you're trying to say?
10 **MR. ROBINSON:** It is. Can you pass that
11 down, please?
12 EXAMINATION BY MR. ROBINSON
13 Q I've put in front of you a copy of your
14 membership application for the Municipal Employees
15 Retirement System. Is that your signature at the
16 bottom of the page?
17 A Yes, sir, that is.
18 Q And just above that, is that your
19 handwriting regarding the employing authority?
20 A Yes.
21 Q And you completed that form?
22 A Yes.
23 Q Okay. And you identified the employing
24 authority when you completed this back in 2006 when

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1 you were seeking membership in the Municipal
2 Employees' Retirement System, you identified the
3 employing authority at that time as the City of
4 Pawtucket, correct?
5 A Correct.
6 Q And you agree with me that the issues
7 we're dealing with here today relate to your service
8 as a Pawtucket employee?
9 A Yes.
10 Q You took a paycheck from the City of
11 Pawtucket?
12 A Yes.
13 Q You filled out City of Pawtucket H.R.
14 forms?
15 A Yes. Any that were requested of me.
16 Q And the direct deposit came from the City
17 of Pawtucket?
18 A Yes.
19 Q And I think you indicated earlier that you
20 were an appointee of the city council, is that fair?
21 A It was actually the chief judge. At that
22 time, the chief judge had the authority to name the
23 associate. And at some point thereafter, I think it
24 was actually a Charter change that was required to

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1 make it a city council appointment. So when I was
2 hired, I was hired by Chief Judge McBurney; and, it
3 was Chief Judge Laliberte who was about to hire me
4 before his untimely death.
5 Q When did the Charter change come into
6 effect --
7 A I don't know when --
8 Q Let me finish my question -- that the
9 judicial municipal court judgeship became a city
10 council appointment?
11 A I don't recall the exact date. I know it
12 did change after, um, and I know Judge McBurney was
13 the chief at the time and I was the associate at the
14 time. But, it did change.
15 Q All right. And at this point, the City
16 Council could decline to appoint you, fair?
17 A "At this point," meaning when?
18 Q Are you still serving?
19 A No. I'm so sorry. I retired.
20 Q Okay. When did you stop working?
21 A I retired in February of this year, 2024.
22 Q Okay. Can you give me a ballpark idea of
23 when City Council appointment procedure went into
24 effect? Was it the last ten years?

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1 **A** I think it was before that. More than
2 10 years ago.
3 **Q** Okay. So maybe 15 years ago?
4 **A** I'd be lying if I said I knew when. It
5 was somewhere --
6 **Q** Somewhere between '10 and '20.
7 **A** I know Judge McBurney was serving, he left
8 probably in 12-ish. So maybe around '10. You know,
9 Henry Kinch was the president of the City Council
10 and I know that's when that change came in, but I'd
11 have to look and, you know, figure out when.
12 **Q** And during that time period, how many
13 times were you reappointed by the City Council?
14 **A** Consecutively all those years; every three
15 years.
16 **Q** Every three years?
17 **A** Every three years, yes.
18 **Q** And during that window, however long it
19 was, ten-years-plus, they could have declined to
20 appoint you, fair?
21 **A** Sure.
22 **Q** So during that window, you served at the
23 pleasure of the city council?
24 **A** Yes. The chief always was appointed by

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1 the city council. So it was just the associate that
2 was chosen by the chief. So I believe that when I
3 was elevated to chief, it was, you know, that change
4 that I had discussed would have been, you know,
5 irrelevant, because I was becoming chief and that
6 had always been a city council appointment.
7 **Q** And from that point forward -- do you
8 remember when you became chief?
9 **A** I think in 2012.
10 **Q** From that point forward, you served at the
11 pleasure of the council?
12 **A** Yes.
13 **Q** And during the entirety of the time that
14 you served on the Pawtucket Municipal Court, and I
15 guess more specifically, during the time from
16 September of 2006, when you filled out your MERS
17 membership application and the present, you
18 continued to engage in a full-time law practice,
19 correct?
20 **A** Yes.
21 **Q** At all points?
22 **A** Well, you know, you say full-time. I mean
23 I guess, you know, to be careful here if we're
24 parsing words, you know, what is your definition of

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1 that? But yes, I was a partner in a very busy law
2 firm with my law partner Joe Marasco, Marasco &
3 Nesselbush. Yes, I was in practice.
4 **Q** You engaged in the private practice of law
5 during the entirety of that period?
6 **A** Absolutely, absolutely.
7 **MR. ROBINSON:** Can I have that marked as
8 Respondent's, I think 2?
9 **HEARING OFFICER:** It is two.
10 (Whereupon, Respondent's Exhibit 2 is received into
11 evidence.)
12 **Q** You alluded during your direct
13 examination, to judges sitting on the District Court
14 and the Superior Court. Those are full-time
15 positions, are they not?
16 **A** I assume so. I mean again, you'd have to
17 ask them, but I think that all of our judges are
18 full-time positions, yes.
19 **Q** Having practiced for years --
20 **A** Yes, of course, yes.
21 **Q** -- in the State of Rhode Island, you don't
22 have an independent knowledge as to whether the
23 judges of the Superior and District Courts are
24 full-time?

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1 **A** I think they are, yes.
2 **Q** Okay. They don't have private law
3 practices on the side?
4 **A** No. And all of the municipal judges,
5 including the Providence municipal judges, are all
6 part-time judges and they all -- to my knowledge,
7 they all have -- none of them are full-time.
8 **Q** I'm just asking about the Superior and
9 District Court judges. Those are full-time?
10 **A** The State judgeships are full-time
11 judgeships. The municipal court judgeships are
12 part-time judgeships.
13 **Q** The Pawtucket Municipal Court is a
14 Pawtucket entity, is that fair to say?
15 **A** Yes.
16 **Q** It is not a Rhode Island constitutional
17 creation, is that fair?
18 **A** Correct.
19 **Q** You were never an Article 3 judge? You
20 understand what that means?
21 **A** Of course I do.
22 **Q** Okay. And the Pawtucket Municipal Court
23 is not and has never been a creature of the general
24 assembly, is that fair?

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1 **A** Well, the enabling legislation comes from
2 the general assembly, but then creation of the court
3 comes from the City Council.
4 **Q** Okay. It's a Pawtucket entity, correct?
5 **A** Yes.
6 **Q** Are you familiar, Judge Nesselbush, with
7 the fact that Pawtucket or any municipal court
8 judges in the State of Rhode Island -- well, strike
9 that question.
10 Do you know that, as to whether or
11 not Superior Court judges or District Court judges
12 in the State of Rhode Island have their own pension
13 system?
14 **A** I think some, like magistrates,
15 participate in the MERS. I know that there is a
16 judicial pension system. I know there are two
17 different pension systems. You know, I'll be honest
18 with you, the pension was not a big part of my life
19 for all of those 20 years. It wasn't until I got
20 kicked out of it that I started to pay attention, so
21 I don't know particularly.
22 **Q** Fair. And it's not a trick question. So
23 you've not done any independent research as to
24 what's required to date in the, or even whether

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1 there is a judicial pension system?
2 **A** I don't know. I know very little about
3 the judicial pension system.
4 **Q** Okay. But at all relevant times that we
5 are talking about, you have been a City of Pawtucket
6 employee?
7 **A** Yes.
8 **Q** Judge, you have given both in your
9 prehearing memorandum and here in your testimony
10 this morning at some length, a laundry list of those
11 administrative and supervisory functions that you
12 engaged in during the 20 years that you served as a
13 Municipal Court judge. And I hope you understand
14 that I mean no disrespect by this line of
15 questioning. I'm certainly happy to concede that
16 you take your position very seriously and that
17 you've gone above and beyond during all of those
18 relevant years. That being said, I do want to go
19 through some of these functions with you because
20 you've testified about them at length. And I
21 probably won't go through all of them, but I'm going
22 to go through some of those that seem particularly
23 appropriate for me.
24 You testified with regard to the

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1 renovation of the chambers in the Pawtucket
2 Municipal Court, correct?
3 **A** Yes, sir.
4 **Q** You undertook to do that yourself, would
5 you agree?
6 **A** No, I was asked to do that by Judge
7 McBurney.
8 **Q** Okay. Were you required to do that?
9 **A** When your -- when the chief judge asks the
10 associate judge to do something, I guess I'd call it
11 a requirement.
12 **Q** Did anybody tell you that you better
13 renovate this courtroom or you're no longer going to
14 be employed as a Municipal Court judge?
15 **A** No, of course not. Judge McBurney is a
16 statesman, a gentleman, and a scholar. He and I
17 both simply saw the disrepair of it and, you know,
18 the City of Pawtucket readily agreed that it needed
19 to be done. I mean the money had to come from the
20 City, so they were fully in support.
21 **Q** No one forced you to do it.
22 **A** Of course not.
23 **Q** It was not a part of your official duties
24 as a Municipal Court judge, fair?

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1 **A** Well, you have judicial responsibilities,
2 administrative responsibilities, and supervisory. I
3 would call those types of things part of the
4 administrative responsibilities of the judges.
5 **Q** Judge, was it requirement as part of your
6 official duties as a Municipal Court judge to
7 renovate the chambers of the courtroom?
8 **A** I was asked to do it by my superior, who
9 was Chief Judge McBurney. I think that's the way I
10 can answer that.
11 **Q** Are there any documents that you are aware
12 of whereby any city official mandated that you do
13 this as a function of continuing to serve as a
14 Municipal Court judge?
15 **A** Of course not.
16 **Q** Okay. Do you have anything, are you
17 familiar with, have you seen any documents, any
18 official documents from the City of Pawtucket
19 indicating that renovating the chambers of the
20 Pawtucket Municipal Court was an official part of
21 your job duties as a Municipal Court judge?
22 **A** There was no job description ever until
23 this matter, and Mr. Karpinski and I agreed that I
24 would create one. There was no job description, we

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1 are a coequal branch of government, the judges run
2 all of the operations of the court, no one else in
3 the City of Pawtucket would tell the judges what to
4 do, whether it had to do with renovating the chamber
5 or any of those other activities. And that is in
6 the record where the City Council --
7 Q So the answer to the question is no?
8 A Correct. The judges are a coequal branch
9 of government and they run their own courts.
10 Q I just want to confirm that there is
11 nothing in writing that you've seen anywhere,
12 indicating that the City of Pawtucket was mandating
13 that you renovate the courthouse chambers -- the
14 courtroom chambers as part of the official duties of
15 being a municipal court judge?
16 A No. And I have never seen any renovation
17 project that occurred in the city be at the
18 requirement something like that that one branch
19 required it of another, so, no.
20 Q You took -- you testified about creating
21 the website for the City's judicial branch, correct?
22 A Correct.
23 Q Okay. I think you testified that you took
24 it upon yourself to do that, correct?

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1 A Correct.
2 Q Did anybody at the City mandate that you
3 do that as part of your continued employment as a
4 Municipal Court judge?
5 A You see, they couldn't mandate anything
6 because as a coequal branch of government, I did
7 what I thought was best for the municipal court.
8 The city council has stated in writing and in
9 practice that once they make the appointment, they
10 have nothing to do with the court. They don't tell
11 me to do anything, whether is has to do with
12 renovating my chambers or making a website. I ran
13 the court as I saw fit, as I saw that the court
14 system needed, the city needed, and the community
15 needed.
16 Q So the answer is no?
17 A Nobody else told me to, no.
18 Q Okay. There was no formal requirement of
19 the job that you create a website?
20 A No.
21 Q There's no formal job description that's
22 been adopted by the City that indicates that as a
23 Municipal Court judge, one of the requirements of
24 that position is that you create a new website, is

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1 that correct?
2 A No. I cannot really imagine that that
3 would be in a judge's job description anyway, but,
4 okay.
5 HEARING OFFICER: I have a question. When
6 you say, make reference to "the City," are you
7 referring to the city council or to the --
8 MR. ROBINSON: Any city official.
9 HEARING OFFICER: Executive branch and/or
10 legislative?
11 MR. ROBINSON: And/or, correct.
12 BY MR. ROBINSON:
13 Q Is that correct? The answer is, no one in
14 the City mandated that you create a website for the
15 judiciary?
16 A Correct.
17 Q Okay. And you're not -- would it be fair
18 to say that you're not aware that there is anything
19 formal from the City of Pawtucket indicating that
20 creating a website was an official part of your
21 formal job duties as a Municipal Court judge, is
22 that fair?
23 A There is nothing in writing in the City of
24 Pawtucket except for the Charter, about our job. So

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1 the judge makes that job what the judge sees fit to
2 operate the Municipal Court system. As a coequal
3 branch of government, neither, I mean I wouldn't
4 tell the mayor what to do and he wouldn't tell me
5 what to do. I wouldn't tell the City Council what
6 to do about their website and they wouldn't tell me.
7 HEARING OFFICER: Question. Educate me.
8 You talked about or made reference to the
9 Charter. Are you referring to the Charter?
10 Are you referring to the ordinances? What are
11 you referring to?
12 THE WITNESS: Well, both make reference to
13 the Pawtucket Municipal Court. So the Charter
14 has some references and there are some
15 references in the ordinances as well as. I
16 believe John has set forth both the Charter
17 provisions regarding the municipal court and
18 the ordinances regarding the municipal court in
19 his brief. But yes, there are references to
20 both.
21 HEARING OFFICER: Does that come vis-a-vis
22 the statutory enactment from the general
23 assembly?
24 THE WITNESS: That would be, in my

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1 opinion, yet another wrinkle or fold on this.
2 So the City Council would have to get -- would
3 have to request the general assembly to do
4 enabling legislation, the enabling legislation
5 statute exists, and then, you know, the council
6 appoints the judges based on that, and the
7 council set forth in ordinances, and again,
8 there are some references in the Charter. And
9 I believe all Charter changes and all language
10 in the Charter would have to go before the City
11 Council before it would go out to voters. So,
12 yes.
13 **BY MR. ROBINSON:**
14 Q So you agree with me, though, Judge, there
15 is nothing in the Charter or in any formal city
16 pronouncement, requiring a Municipal Court judge or
17 requiring you, more specifically, to create a
18 website for the City's judiciary, do you agree?
19 A I would agree. And I would say that no
20 charter would ever get that -- no charter provision
21 would be that specific to talk about a minor duty.
22 Q Not my question.
23 A My answer. I get it.
24 Q Judge, you talked about having -- by the

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1 way, if you -- I assume it's your position that if
2 you had wanted to spend 40 hours a week for six
3 months developing the City's website, under your
4 assessment, you could have done that?
5 A I would still be paid the same amount, I
6 would still have the same benefits, which was access
7 to the health insurance and access to the MERS.
8 Beyond that, the judges do what they think is right
9 to run that branch of government.
10 Q And the same would be true, by the way,
11 with regard to officiating at weddings, fair? If
12 you wanted to spend 50 hours a week officiating
13 weddings, no one told you must or must not do that,
14 is that fair?
15 A It really just depends on the volume in
16 the city. I mean I don't think that I could spend
17 50 hours a week because I don't think there are that
18 many people who want to get married, but, you know,
19 there is no requirement that, I mean that nobody
20 forces me to do weddings. I have frequently said to
21 people, I can't do it that date, I have a family
22 engagement, or I'm out of town.
23 Q That's right, Judge. And there's no
24 requirement anywhere whereby you had to or were

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1 mandated in any way, shape, or form, as a Municipal
2 Court judge, to officiate weddings?
3 A Again, there are no mandates from the City
4 Council or the mayor or the -- anything about that,
5 other than the statutory authority in the Charter
6 and the ordinance. Anything more detailed than
7 that, does not exist.
8 Q And I think you testified that it was a
9 labor of love to do that, is that right?
10 A Weddings, for sure.
11 Q Yes. Not an official --
12 A Trials, not so much, but weddings.
13 Q Not an official requirement of the job?
14 A I view it as official requirement, yes.
15 Q Okay. Is that reduced to writing
16 anywhere?
17 A There is nothing reduced to writing other
18 than the job description that I did when working
19 with Mr. Karpinski to deal with this issue. There
20 is nothing else.
21 Q City Council never took any votes to
22 require that you officiate a certain number of
23 weddings?
24 A City Council has nothing to do with

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1 weddings.
2 Q The mayor never directed you to officiate
3 a certain number of weddings?
4 A They had no authority over me, so, no,
5 they did not.
6 Q Not my question.
7 A No, they did not. They did not.
8 Q Thank you.
9 A They have no authority to do so, and
10 therefore, they did not.
11 Q You actually indicated in your papers that
12 defending the pension eligibility of the Municipal
13 Court judges was part of the work that you did for
14 the judiciary?
15 A Well, it was very time-consuming,
16 obviously, but, you know, the people who came before
17 me, and those people, I know that they would call me
18 frequently and ask me what's going on with the
19 pension. So I think that to me is part of defending
20 the institution and the benefits that were offered
21 by the City. So, yes, I think I and any chief judge
22 of any of the courts would do the same.
23 Q It's not an official requirement of the
24 job, though, is it, Judge?

1 **A** There are no official requirements,
2 Michael, other than which is in the Charter and the
3 ordinance.

4 **Q** So the answer is no?

5 **A** The answer is no.

6 **Q** Site visits. You're not required to make
7 site visits, is that fair?

8 **A** Oh, I would say yes, because how could I
9 adjudicate a case if there is not evidence that
10 someone is talking about.

11 **Q** Is there anything anywhere in the
12 documents, in any document anywhere, that requires a
13 Municipal Court judge to make a certain number of
14 site visits?

15 **A** No. It requires you to properly
16 adjudicate cases. And in my estimation, if there is
17 that kind of evidence, I want to see with my own
18 eyes before I adjudicate a case.

19 **Q** And is there anything anywhere that
20 mandates that you view a certain number of, or that
21 you perform a certain number of site visits?

22 **A** Again, I don't know how to keep answering
23 it. There is nothing in writing about the job. The
24 judges do their job as they deem fit, based on the

1 of Pawtucket, and I thought commemorating the judges
2 was a nice service for the City of Pawtucket.

3 **Q** Same with attending ceremonies? There was
4 no requirement anywhere that as a Municipal Court
5 judge you attend the St. Patrick's Day Parade or the
6 Polish festival, right? Those were things that you
7 did because you wanted to do them, fair?

8 **A** Correct. And there is no requirement that
9 the city councilors attend them or that the mayor
10 attend them, but they did as well because they
11 thought it was a good idea that each branch of
12 government is represented.

13 **Q** Not a formal requirement of the job --

14 **A** There are no formal requirements.

15 **Q** Let me just finish my question, please, so
16 we have a clean record. It's not a formal
17 requirement of the job of Municipal Court judge in
18 the City of Pawtucket, is that correct?

19 **A** My answer is there are no formal
20 requirements of the judgeship.

21 **Q** So the answer is no.

22 **A** Correct.

23 **Q** You testified with regard to your annual
24 gratitude gathering. The answer is same? It's not

1 **Charter and the ordinance.**

2 **Q** Okay. And so in that vein, I would assume
3 that there is nothing formal from the City of
4 Pawtucket indicating that doing site visits is an
5 official part of the job duties of a Municipal Court
6 judge, is it that fair?

7 **A** They say nothing about the official duties
8 of the judges.

9 **Q** Okay. The commemorations of prior
10 Municipal Court judges, you testified that you
11 undertook to do that with your own money?

12 **A** The plaque, yes. Well, yeah, all of it.

13 **Q** And the effort and the time that you put
14 into that is not a part of your formal requirements
15 as a Municipal Court judge, is that fair?

16 **A** Again, there are no official requirements.
17 The judges do what they see fit.

18 **Q** And so these are things that Donna
19 Nesselbush thought were appropriate for her to do as
20 a Municipal Court judge, not anything that you were
21 required to do by virtue of any formal requirements
22 from the City of Pawtucket?

23 **A** Correct. Again, there are no formal
24 requirements and I did things in service of the City

1 a formal requirement of being a Municipal Court
2 judge in the City of Pawtucket?

3 **A** Correct. It's just what I did in service
4 of the City.

5 **Q** Okay. And there is no mandate from the
6 City or requirement from the City that as a
7 continued condition of serving as a Municipal Court
8 judge, that you had to do such a thing?

9 **A** Correct.

10 **Q** You did it because you wanted to?

11 **A** I did it in service of the City of
12 Pawtucket because I felt like it was the right thing
13 to do in my position.

14 **Q** And you testified -- same answer, by the
15 way, with regard to the creation of court forms? I
16 think you had talked about using an outside vendor
17 to create templates for court forms?

18 **A** Oh, no. I think that creating forms is
19 either in the Charter or the ordinance. So that is
20 required, that judge shall have all authority over
21 the forms used by the municipal court judge. So
22 that is an ordinance.

23 **Q** Okay. And can you site me to where in the
24 ordinance that is?

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1 **A** Well, if you give me a minute, I will look
2 for it.
3 **Q** Sure.
4 **A** I will do that.
5 (Whereupon, the witness complies with the request.)
6 **A** That is part of the brief, not an
7 attachment. Okay. Here's the section. Let's see.
8 By City ordinance, the chief judge of
9 the Municipal Court is authorized to proscribe --
10 prescribe, that is, and vary the form of all
11 complaints, warrants, writs, or other process as to
12 make the same consistent with the organization style
13 and jurisdiction of said court.
14 **COURT REPORTER:** Could you start over?
15 **A** By City ordinance, the chief judge of the
16 Municipal Court is authorized to prescribe and vary
17 the form of all complaints, warrants, writs, or
18 other process as to make the same consistent with
19 the style, organization, and jurisdiction of said
20 court. And such complaints, warrants, writs and
21 other process shall have the same effect, validity,
22 and extent and be served, obeyed, enforced, and
23 returned in the same manner and by the same officers
24 as if issued from the District Court.

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1 **Q** Between 2004 and February of this year,
2 how much time would you estimate you spent
3 prescribing court forms?
4 **A** Well, many hours. How many I can't go
5 back 16 years and say. I just would not. You know,
6 there were very many things that would come up in
7 terms of things, like, you know, recording devices
8 in our actual docket sheets which I considered to be
9 the forms required by the court. You know, the
10 whole computer system for keeping track of court
11 cases, I think that would certainly come under the
12 process, rules of procedure would come under the
13 process.
14 **Q** You think that all of that falls under the
15 auspices of prescribing court forms?
16 **A** No, it would be under process.
17 **Q** Let me ask you just about the forms,
18 Judge, because that's what my question was
19 originally about. How much time do you think you
20 spent prescribing court forms between 2004 and
21 February of this year?
22 **A** Twenty.
23 **Q** Twenty what? Twenty hours?
24 **A** Twenty hours.

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1 **Q** Over the course of 20 years?
2 **A** Yeah. Well, probably more than that.
3 When you put it like that, it's more than one hour a
4 year. It would be a couple hours a quarter we would
5 probably look at those things. I mean the docket
6 system in the City of Pawtucket is still woefully
7 inadequate. It's definitely an issue keeping track
8 of what you did previously on a piece of property.
9 So I would say, I think if we break it down by the
10 month, it might be, I'll say five hours a quarter.
11 **Q** Five hours a quarter for 20 years?
12 **A** Yes. Talking about how we do
13 recordkeeping in the court, the forms, the docket
14 sheets. The docket sheets initially very, very
15 small, you know, there was no, you know, no room to
16 write things on, so I required that they be much
17 bigger. So, yes, there was definitely some work
18 with the forms and the docket sheets that the court
19 would use.
20 **Q** So 20 hours per year would fall under that
21 umbrella?
22 **A** Yes.
23 **Q** Participating in the municipal court
24 judges' association, that's not something that you

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1 were mandated to do, was it?
2 **A** No, because there are no mandates.
3 **Q** Efforts to upgrade the court's IT system
4 pertaining to a telephone and a laptop, and that's
5 not a formal requirement of the position of the
6 Pawtucket Municipal Court judge, is it?
7 **A** Of course it is. If I had administrative
8 responsibility over the court, how can you possibly
9 run a court system without a computer and a
10 telephone?
11 **Q** Is there a written document anywhere,
12 Judge, that makes --
13 **A** There are no --
14 **Q** Let me finish my question, Judge, before
15 you answer.
16 Is there a written requirement
17 anywhere, Judge, that identifies working on IT
18 upgrades, including telephones and laptops, as a
19 required, mandated duty of a Pawtucket Municipal
20 Court judge?
21 **A** Yes, sir. I consider the ordinance that
22 says that I have administrative authority and
23 responsibility for the court, to require me to get
24 computer -- a laptop computer and a telephone to

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1 carry out those administrative functions, yes.
2 Q Okay. And what is the minimum amount of
3 time that you would be required to spend on such a
4 thing?
5 A There is no minimum amount of time. You
6 keep on writing e-mails until you finally get a
7 computer. And I put those e-mails in here. There
8 were many e-mails because it took a long time to get
9 a computer and a telephone. It was ridiculous.
10 Q Okay. You indicated that when you were
11 first hired as an associate judge, that you were
12 hired under the auspices or under the understanding
13 that this was a 20-hour-per-week job, correct?
14 A Correct.
15 Q Okay. And it's your understanding based
16 on your read of that ordinance that you just cited
17 to me, that you have carte blanche essentially to
18 spend as much time on IT upgrades as you felt
19 necessary?
20 A Or that you could get done. Right? I
21 mean the IT department is really run by the mayor,
22 so the mayor would have to tacitly agree because it
23 was his IT person who would have to do those
24 upgrades. But getting the telephone and the

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1 computer system were something that I would
2 typically just deal with his chief of staff for.
3 Q Did you ever receive any mandate from the
4 executive or legislative branches of the Pawtucket
5 city government to spend any amount of time working
6 on IT upgrades for the Pawtucket Municipal Court?
7 A No, neither the executive nor the
8 legislative branch mandated the judicial branch to
9 do anything. They appointed via the legislative
10 branch and that was the end of it.
11 Q And no one required you spend any amount
12 of time as part of your official duties upgrading
13 the IT system, is that correct?
14 A Correct.
15 Q How about changing the name of the Police
16 Court, you testified at some length that you felt
17 that was an inappropriate name and you spent a lot
18 of time lobbying to have that name changed, correct?
19 A Correct.
20 Q Was that a formal requirement of a judge
21 of the Pawtucket Municipal Court?
22 A I would say yes in the sense that, you
23 know, I am sworn to uphold the laws and I think the
24 misnomer of calling it a Police Court, we are not

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1 Nazi Germany, we do not have a police court, we have
2 courts of law. And so I would certainly think of
3 that as a part of my responsibility as being the
4 chief judge of the City of Pawtucket, yes.
5 Q Did anyone in the City of Pawtucket
6 mandate that you work on changing the name of the
7 Pawtucket Municipal Court from the Police Court to
8 something else?
9 A No, sir, neither the legislative nor
10 mayoral executive branch mandated the Court to do
11 anything.
12 Q Okay. And in fact, I understood your
13 testimony to be that the end result of those
14 lobbying efforts was essentially acquiescence to a
15 change of stationery, is that fair?
16 A No. They officially changed the
17 ordinance.
18 Q When did they do that?
19 A Pardon?
20 Q When did they do that?
21 A George Floyd. 2020. Finally. The
22 stationery was in the very beginning. I mean I
23 changed that 2004-ish.
24 Q And you testified about your efforts to

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1 obtain clarification of the court's contempt powers?
2 A Yes, sir.
3 Q Now, did anybody at the City require that
4 you do that as a condition of continued service as a
5 Pawtucket Municipal Court judge?
6 A No, sir. There were no mandates.
7 Q In fact, I think you testified that you
8 engaged in a number of discussions with Frank Milos
9 about the issue, correct?
10 A That's correct.
11 Q And Frank Milos is the city solicitor in
12 Pawtucket?
13 A Yes, sir.
14 Q He is the legal counsel to the City?
15 A Yes, sir.
16 Q So you were engaging with the City's
17 lawyer for purposes of obtaining clarification of
18 what you thought your own jurisdiction was, is that
19 fair?
20 A Well, to protect the City from liability.
21 I didn't want to do something that was beyond my
22 powers and, you know, subject the City to liability.
23 Q No one at the City mandated that you have
24 those discussions with Frank Milos, did they?

1 A No.

2 Q Nobody mandated that you do anything at
3 all with respect to the so-called contempt powers of
4 a Municipal Court judge, did they?

5 A Well, again, I mean you can't do that
6 wrong. You are subjecting the City to liability and
7 I'm quite sure that neither the mayor nor the City
8 Council would be very happy about that.

9 Q My question is that nobody at the City
10 mandated that you do that as a part of your official
11 duties as a municipal court judge.

12 A My answer would be that both the City
13 Council and the mayor would expect that the judge
14 would know his or her contempt powers and carry them
15 out lawfully within the parameters of the law.

16 Q Did anything anybody tell you to research
17 that issue?

18 A No, but if I don't know it, how would I
19 get that information?

20 Q Did anybody direct you to do that?

21 A No, Mr. Robinson, nobody directed me to do
22 anything.

23 Q Did anybody say anything to you about
24 whether or not your reappointment was conditioned

1 salary, the low salary would be the same, the access
2 to benefits would be the same, you do what you need
3 to do to run the judicial branch of government.

4 Q And your decision to write yourself into
5 pension eligibility could be based on a unilateral
6 decision on your own part, as to how much time you
7 wanted to spend staying abreast of current
8 development in the law?

9 A No, sir. I never decided to unilaterally
10 write myself into pension eligibility. The access
11 to pension was something that was offered to me as a
12 benefit of the job. It was a piece of paper that
13 you have already put into evidence that I was
14 requested to fill out and sign in the presence of
15 city personnel. And the job description, I
16 requested that the mayor assist me in promulgating
17 that job description. And I think as you all saw,
18 both Attorney Vin Ragosta and the City's own city
19 solicitor told the mayor that he has no statutory
20 authority to write the job description. I then
21 discussed it with the City Council. The City
22 Council then reviewed the job description that I had
23 created and initially sent to the mayor's office.
24 City Council also took the position that they don't

1 upon obtaining answers to your research questions?

2 A Absolutely not. My reappointment was
3 because I did a great job on behalf of the City.

4 Q Staying abreast of legal developments, you
5 testified that was something you spent a great deal
6 of time doing as a municipal court judge?

7 A Yes, sir.

8 Q Did anybody direct you to spend a certain
9 amount of time staying abreast of legal
10 developments?

11 A I would consider that to be necessary to
12 adjudicate cases. You have to know what the law is.

13 Q Is there anything in writing anywhere that
14 requires a Pawtucket Municipal Court judge to spend
15 any particular amount of time researching issues and
16 staying abreast of current developments in the law?

17 A No, sir. There is nothing written about
18 the judicial branch at all.

19 Q All right. So if you spent 30 hours a
20 week staying abreast of current law, in your mind
21 that be perfectly appropriate for a Pawtucket
22 Municipal Court judge or it would be within your
23 exclusive decision-making power to do that?

24 A It would be entirely up to me. The

1 promulgate a job description, but they did indicate
2 in two separate letters that they reviewed my job
3 description and found that it was true and accurate
4 to the best of their knowledge in terms of the two
5 successor city council presidents.

6 Q So that's quite a bit afield from what I
7 actually asked though, which is, is it your position
8 that you could spend whatever time you needed to
9 spend staying abreast of legal developments, and
10 that that would be an official part of the Pawtucket
11 Municipal Court job?

12 A I would answer that in two ways. Your
13 question initially said that I write myself into
14 pension eligibility, which is why I gave the answer
15 that I did about the job description, because of
16 course, I assumed that was what you were referring
17 to. In terms of how much time to spend, nobody
18 required me to spend any particular amount of time
19 researching.

20 Q Thank you.

21 A You did the amount that you needed to do.

22 Q Thank you. Remote court sessions. You
23 testified about your efforts to implement remote
24 course sessions and televised court sessions,

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1 correct?

2 **A Yes, sir.**

3 Q I think you testified that both of those

4 items had, and I'm quoting: Nothing to do with your

5 judicial duties. Does that sound correct?

6 **A In terms of adjudicating cases. I mean it**

7 **had everything to do with my statutory, meaning the**

8 **ordinance, my statutory responsibility to conduct**

9 **court sessions where I saw fit. So, if it was a**

10 **Zoom session, if was a court session, then, yes, I**

11 **mean we'd have to have court sessions in order to**

12 **adjudicate cases.**

13 Q Did the City of Pawtucket in any way,

14 shape or form mandate remote court sessions?

15 **A They would never mandate anything to do**

16 **with the court because we are a separate, coequal**

17 **branch of government.**

18 Q Did they mandate televising court

19 sessions?

20 **A No, they did not.**

21 Q And had you opted not to implement remote

22 court sessions, would that have been grounds for

23 nonrenewal by the City Council?

24 **A You'd have to ask the City Council. Not**

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1 **to my knowledge.**

2 Q Did anybody ever indicate to you that your

3 continued service as a Pawtucket Municipal Court

4 judge was conditioned in any way on your

5 implementing remote court sessions or televising

6 court sessions?

7 **A No, sir.**

8 Q You also listed in your papers

9 clarification of judicial residency requirements?

10 **A That was one of the issues that I did**

11 **research, yes.**

12 Q Okay. Did anybody direct you to research

13 that issue?

14 **A Well, I did have conversations with the**

15 **City Council about that. We discussed it and**

16 **obviously neither of the two presidents that were**

17 **involved in that issue, neither one was a lawyer, so**

18 **I wouldn't really expect them to do that research.**

19 **So, I did that. And I think that having a good**

20 **handle on the statutory requirements of residency**

21 **and the fact that they were outlawed. You know,**

22 **it's just a very fundamental thing for the City of**

23 **Pawtucket. So I completely do that as a, you know,**

24 **a necessary part of my job.**

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1 Q Did the City Council take a vote to direct

2 you to research or obtain clarification of the

3 judicial residency requirements?

4 **A No, sir, they never did that or any of the**

5 **other issues you've mentioned.**

6 Q Did the mayor or anybody in the executive

7 branch direct you to do so?

8 **A Well, I did go out for coffee and had a**

9 **long conversation with the mayor and I think it was**

10 **agreed that I would do it. I mean he didn't write**

11 **an edict or anything. But we did discuss that and,**

12 **you know, again, I did say that I would do that**

13 **research. So he knew that I was doing it and the**

14 **City Council knew that I was doing it. We were**

15 **having a whole conversation about whether in fact**

16 **there is a residency requirement. The Charter says**

17 **one thing, the state statute says another. It think**

18 **that it's entirely incumbent upon the municipal**

19 **court judge to assist in the parsing of that issue.**

20 Q Okay. But nobody at the city level

21 directed or mandated that you do that research as

22 part of your official job duties as a municipal

23 court judge, is to research whether or not the

24 Pawtucket Municipal Court judge, in fact, has a

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1 residency requirement, did they?

2 **A No, sir.**

3 Q You talked a lot about the defense of the

4 court's authority against police incursions and I

5 know you testified that you had some issues with the

6 manner in which Chief Goncalves was -- and I'm

7 paraphrasing -- asserting control over the

8 operations of the court, correct?

9 **A Correct.**

10 Q Is there anything, did you ever receive

11 any directive from anyone at the city level that you

12 had to clarify the court's relationship vis-a-vis

13 the police department?

14 **A Again, I would consider that inherent in**

15 **the job of a judge. It's not that either side,**

16 **neither the prosecution, nor the police, or the**

17 **defense, meaning the motorist or the resident him or**

18 **herself or their attorneys representing them. So I**

19 **would consider that to be inherent in the job of the**

20 **judge.**

21 Q But this was something that you felt was

22 appropriate to do, based on your notions of what a

23 judge, quote-unquote, would be doing under these

24 circumstances, fair?

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1 **A** It was probably in the top ten of the most
2 important things that I did as a judge in my
3 20 years there, yes.
4 **Q** Did anybody oversee your decision to do
5 that?
6 **A** I worked with the mayor, I talked with the
7 City Council. They don't oversee that branch of
8 government, but they were well aware of the problems
9 and the issues and the fact that it needed to be
10 resolved.
11 **Q** And you engaged in discussions with the
12 City lawyer about that?
13 **A** Oh, yes. The City lawyer, the mayor, city
14 councilors.
15 **Q** Judge, I think I've covered probably the
16 lion's share of the various administrative and
17 supervisory issues that you talked about. It may
18 not be 100 percent, but I think the point is made.
19 When you testified at the outset of
20 your testimony that you always between 2004 and when
21 you separated from your employment in February of
22 this year, worked in excess of 20 hours per week,
23 you would agree with me that in performing that
24 calculus, reaching that conclusion that you reached

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1 and making that statement, you included all of those
2 miscellaneous administrative and supervisory
3 quote-unquote duties that we just ran through and
4 that you testified about at length on direct and
5 that are covered exhaustively in your papers,
6 correct?
7 **A** Yes, sir. Because the terms
8 "administrative" and "supervisory" are included
9 either in -- they're in our brief --
10 **Q** I'm not --
11 **MR. HARWOOD:** Let her finish.
12 **A** Because those two terms are included in
13 the statutory authority, I think all of those things
14 are part and parcel and necessary to the
15 adjudication, supervision, and administration of the
16 Pawtucket Municipal Court system.
17 **Q** Yes, and the rationale is less important
18 to me. What I'm really asking you is that you would
19 agree that your conclusion that you always worked in
20 excess of 20 hours per week is predicated on your
21 inclusion of that laundry list of things that we
22 talked about.
23 **A** Yes, sir.
24 **Q** The actual Pawtucket Municipal Court you

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1 testified is broken down into sessions between the
2 Traffic Court and the Housing Court. How many hours
3 a week would you spend sitting on the bench in the
4 Housing Court and the Traffic Court?
5 **A** Let's see. Mondays, I would say it was
6 four hours; Thursdays, four hours; and Fridays,
7 close to four hours as well. Depending on if we had
8 trials or not.
9 **Q** So 12 hours per week?
10 **A** Yes. It would be on the -- when that's
11 when court would actually be in session, the two
12 courts.
13 **MR. ROBINSON:** I don't have anything else.
14 **MR. HARWOOD:** No questions.
15 **MR. ROBINSON:** Charlie, can we go off the
16 record for a minute?
17 **MR. HARWOOD:** I'm sorry. I do want to ask
18 a couple of questions.
19 **MR. ROBINSON:** That was a quick
20 turn-around.
21 EXAMINATION BY MR. HARWOOD
22 **Q** Well, the 12 hours that you mentioned
23 sitting in the court, and is it your testimony is it
24 the inherent power of the court is to run the court

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1 as you feel is legal and lawful?
2 **A** Yes, sir.
3 **Q** And you testified that a lot of your
4 duties involve off the bench, correct?
5 **A** Correct.
6 **Q** Since you're a separate branch of
7 government, you've never, in fact, imposed on the
8 city council or the executive branch, the judicial
9 mandates that you've enacted for the court; unless
10 the Supreme Court has told us differently, you kept
11 it separate and apart, correct?
12 **A** My answer would be that it would be a
13 violation of the separation of powers to do
14 otherwise.
15 **Q** Right. And you've been around government
16 a long time and I assume the mayor runs the position
17 of mayor the way that he deems as fit and proper,
18 correct?
19 **A** That is correct.
20 **Q** And the president of the council or the
21 legislative branch, which I'm a little familiar
22 with, you've run that the way you seem to think or
23 certain people would deem fit, correct?
24 **A** That is correct.

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1 Q And is it your opinion that when the mayor
2 takes people out to dinner, or shows up at the
3 St. Patrick's Day Parade, it's his business?
4 A That is correct.
5 Q Right? And he deems it -- or you don't
6 know, but you deem what's part and parcel of running
7 your separate branch of government you thought was
8 inclusive on all of the inherent duties that you had
9 to do in order to make that court function properly?
10 A That is correct. Everything I did I
11 thought was in furtherance of my statutory duties to
12 adjudicate, administer, and supervise the Pawtucket
13 Municipal Court system.
14 Q In over the 20 years that you were there,
15 did the mayor or the City Council ever come to you
16 and question the number of hours you were
17 performing?
18 A Never.
19 Q Did they ever personally, anybody from the
20 City of Pawtucket, council president, or the mayor,
21 during your 20 years, ever come personally and
22 examine what you were doing --
23 A No.
24 Q -- as a judge?

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1 A No. Some city councilors would attend a
2 court session, especially if they had something like
3 a house that was in their district that they cared
4 about, but other than coming into my court to watch
5 me do my job, no.
6 Q And is there any doubt in your mind that
7 since you started in 2004, you have faithfully
8 executed your duties as a Municipal Court judge and
9 also worked at least 20 hours a week during your
10 career?
11 A I always worked at least 20 hours a week
12 in service of the City of Pawtucket, and I always
13 did my absolute best to honorably execute my job.
14 MR. HARWOOD: Thank you. I have no
15 further questions.
16 HEARING OFFICER: I have a question before
17 you jump in, Mike.
18 MR. ROBINSON: Sure.
19 HEARING OFFICER: The 12 hours, is that
20 pertaining to both courts?
21 THE WITNESS: Yes, housing and traffic,
22 yes, sir.
23 HEARING OFFICER: And when you served as
24 associate judge, did you have to report your

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1 time, your hours for lack of a better
2 description, to the chief judge?
3 THE WITNESS: No, sir. These are salaried
4 positions and as such, they required no
5 recordkeeping.
6 HEARING OFFICER: So that would be the
7 same answer I guess once you became chief
8 judge.
9 THE WITNESS: Correct. There was no
10 recordkeeping required. It's a salaried
11 position.
12 EXAMINATION BY MR. ROBINSON
13 Q Judge, I just handed you a copy of a
14 document that I can represent appears to be an
15 e-mail from you to Executive Director Karpinski. Do
16 you see that?
17 A Yes, sir, I do.
18 Q Dated December 12, 2022?
19 A Yes.
20 Q Attached to that document, in reference in
21 that e-mail is a document purporting to be a job
22 description for Municipal Court judges. Do you see
23 that?
24 A I do.

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1 Q Yes. Is that a document that you
2 prepared?
3 A Yes, sir.
4 Q The City of Pawtucket never formally
5 adopted or promulgated any such job description in
6 this form, did they?
7 A Well, I asked them to, but the mayor told
8 me that he did not have the statutory authority to
9 do so.
10 Q And, in fact, the City Council also has
11 not adopted or promulgated a job description, a
12 formal job description for a Municipal Court judge
13 in this form either, have they?
14 A They have not and I believe it is because
15 they would view it as a violation of the separation
16 of powers for the City Council to be creating job
17 descriptions for judges.
18 Q So this document that you prepared
19 includes a salary range, correct?
20 A Correct.
21 Q And a notation that it involves 20 hours
22 per week, correct?
23 A Correct.
24 Q This is your invention, correct? This

1 form?

2 **A The form is, but the 20-hours-per-week**
3 **requirement was something that was told to me by**
4 **Chief Judge Laliberte and Chief Judge McBurney. So**
5 **it's not something that I created; it's just**
6 **something that's part of my administrative duties in**
7 **making a job description, it seems like the number**
8 **of hours and the salary is a normal thing you would**
9 **put in a job description.**

10 Q Do you know what authority Judge Laliberte
11 or -- who was the other individual?

12 **A Chief Judge John McBurney.**

13 Q -- or Judge McBurney had to make any
14 representations regarding the actual hours
15 associated with the formal municipal judge position?

16 **A Yes, sir, they were the chief of the court**
17 **and at the time, they were hiring their associate**
18 **and they had exclusive authority, statutory**
19 **authority to do so.**

20 Q And what statute is that, by the way?

21 **A I'll get it for you. Could I have a**
22 **moment?**

23 **HEARING OFFICER: Sure.**

24 **A Actually, what I put in here is the more**

1 recent one where it says -- it would be the same
2 section, but City Charter, Section 2-501 states that
3 the council shall elect the chief judge of the
4 Municipal Court and the council shall also appoint
5 the associate judge who shall perform services,
6 et cetera. But as I said, when I got the job, the
7 Charter was different. There was a Charter change.
8 I don't know how you would go back and figure out
9 the exact, I'm sure some law student could do that.
10 But it used to be that the council shall elect the
11 chief judge, and that the chief judge shall appoint
12 the associate. I was appointed by the chief judge.

13 Q And then I think in 2012 you testified
14 that it became a council appointment for you?

15 **A Yes, in 2012 because the council always**
16 **appointed the chief.**

17 Q Did Judge Laliberte establish your salary?

18 **A He told me what it was. I don't know**
19 **whether he established it or someone else, but he**
20 **was the one who told me how much I would earn.**

21 Q Do you know whether he had authority to
22 change that salary?

23 **A I think I would say that all financial**
24 **things always go through the City Council, they had**

1 the budget. So it was everything, you know, might
2 be proposed, the mayor, you know, would propose
3 salary increases for his people, maybe a judge would
4 propose something, but everything, obviously the
5 budget is always a legislative function.

6 Q So the City Council you would agree, has
7 the authority to decide what hours a municipal judge
8 in Pawtucket works.

9 **A No, I don't think so. I mean I've been at**
10 **this with the City Council for years now and they**
11 **feel that their authority is to appoint, and that**
12 **the judges, based on the statutory authority to**
13 **adjudicate cases, administer, and supervise the**
14 **court, so they opted to take no formal role in**
15 **establishing a job description.**

16 Q You indicated in your papers to the
17 Hearing Officer that if the City Council wishes to
18 change the terms of the judge's employment in the
19 future, it is their absolute prerogative to do so at
20 any time. Do you remember writing that?

21 **A I sure do.**

22 Q Okay. You don't agree with that now?

23 **A I think City Council, if they want to**
24 **abolish the Municipal Court, not every community has**

1 a municipal court. If the council of that
2 particular municipality wants to abolish it or
3 change something, they have the -- because remember,
4 the enabling legislation comes from the legislative
5 branch of city government to the legislative branch
6 of state government. Once the state government
7 gives them that authority, they can change the
8 ordinance. Most of my authority comes from the
9 ordinance. So they could change the ordinance to
10 take away my administrative and supervisory
11 authority. If they did that, I would then say that
12 the judge would no longer have the authority to do a
13 job description.

14 Q So they could abolish the Pawtucket
15 Municipal Court in total, couldn't they?

16 **A Tomorrow. Today.**

17 Q Today. And they could change the salary
18 to a \$100,000 a year if they wanted.

19 **A I wish they would have.**

20 Q And they could indicate that a Pawtucket
21 Municipal Court judge works 20 hours per week
22 minimum as a part of the job, couldn't they?

23 **A If they wanted to, they could.**

24 Q In fact, you prepared this purported job

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1 description and tried to get the council to pass it,
2 correct?
3 **A** Oh no, I never tried to get them to pass
4 it. When the problem ensued about the pension, as I
5 always did, I acted collegially, I thought I assumed
6 it was something I would work with the mayor to do,
7 because, you know, personnel board and things like
8 that, I, you know, reached out to the mayor, my
9 e-mail to the mayor -- do you mind if I look for
10 that in answering your question? Would you be okay
11 with that?
12 **MR. ROBINSON:** Mr. Hearing Officer, I'll
13 defer to you. It's not responsive to my
14 question, but if you want to give some leeway
15 on it, I have no objection.
16 **HEARING OFFICER:** You can look for it.
17 **THE WITNESS:** Thank you so much. I'll see
18 if I can find it quickly. If not, I won't
19 belabor it.
20 **A** But I did reach out to the mayor thinking
21 that there was some sort of personnel board. Again,
22 no judge prior to me ever had a job description.
23 They never had any --
24 **Q** Let's try to cut it short.

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1 **A** I did find the e-mail. I'm so sorry. So
2 Dear Dylan, who was the mayor's chief of staff --
3 **HEARING OFFICER:** What date are we talking
4 about?
5 **A** Sure. This is an e-mail and it's
6 contained in Exhibit 4. And it's dated November 18,
7 2022. And it's directed to Dylan Zelazo, the
8 mayor's chief of staff, Z-E-L-A-Z-O, and Frank
9 Milos, M-I-L-O-S, and it states: I am writing to
10 you in your official capacity as Director of
11 Administration and City Solicitor respectively.
12 Thank you both for speaking to me about this issue.
13 As we are council appointees, I have also spoken to
14 Councilman Mercer and I believe he has discussed
15 this briefly with the mayor. As you requested, as
16 you requested, attached is a judicial protocol or a
17 job description that I drafted based on my
18 experience serving both as the associate and then
19 the chief judge of our city for the past 18 years,
20 at the time. The document outlines the
21 responsibilities and duties of our city's Municipal
22 Traffic and Housing judges. Please let me know if
23 you have any questions. After reviewing and
24 finalizing this document and conferring with the

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1 **City Council if that is necessary or warranted, I**
2 **respectfully request that the appropriate person in**
3 **city government draft a cover letter or other**
4 **appropriate document to Mr. Frank J. Karpinski,**
5 **Executive Director of the Employees' Retirement**
6 **System. And it goes on. But I did try to be**
7 **collegial and involve the mayor and the City**
8 **Council, and both of them said, this is your job,**
9 **Donna.**
10 **Q** And to date, Judge, nobody at the City has
11 ratified the quote-unquote job description that you
12 prepared and submitted to the executive director of
13 the Retirement System, is that fair?
14 **A** Because they cannot. They don't have the
15 authority to do so, yes.
16 **Q** Despite your request, they have not done
17 so.
18 **A** Because they don't have the statutory
19 authority as told to them by their attorney.
20 **Q** Okay.
21 **A** Not because they don't want to.
22 **Q** Although you have indicated that the
23 council, if it wishes, can change the terms of the
24 judge's employment at any time, they have the

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1 absolute prerogative to do so.
2 **A** I think in the broad perspective because
3 the enabling statute comes from the general
4 assembly, the legislative branch at the state level,
5 to the legislative branch at the city level, they
6 can abolish the court, or they can change their
7 ordinance. The City Council can change an ordinance
8 at their leisure, at their pleasure.
9 **MR. ROBINSON:** I have nothing else.
10 **HEARING OFFICER:** Question. In the
11 absence of any involvement by the City Council,
12 I'm assuming it's your position that the
13 participation or the devotion of your hours are
14 self-directed.
15 **THE WITNESS:** Absolutely, sir, yes. And
16 the City Council actually said that in one of
17 their communications to Mr. Karpinski, that I
18 believe that's almost the term that they used,
19 they believe it is self-executing to do the job
20 of the judge, whatever is required of the judge
21 to run the Municipal Court.
22 **MR. ROBINSON:** Can I follow up on that?
23 **HEARING OFFICER:** Yes.
24 **MR. ROBINSON:** Just briefly.

1 **BY MR. ROBINSON:**

2 Q The implication of that would be that any
3 Municipal Court judge could write themselves into
4 the pension system, irrespective of any actual
5 official functions they might have, is that fair?

6 **A I don't think that's true. I think that**
7 **there are certain rules and laws about that, that a**
8 **law requires you to do to 20 hours a week in service**
9 **of the City. There is nothing on point from the**
10 **mayor's office or the City Council. The judges do**
11 **what they have always done.**

12 Q And Judge, if you were permitted to hold
13 backyard barbecue and go to parades and do research,
14 and have all those things within your sole
15 discretion constitute quote-unquote service to the
16 state for purposes of qualifying for a pension, why
17 would anyone ever not do that?

18 **MR. HARWOOD:** Objection.

19 **HEARING OFFICER:** I will hear it.

20 **A Somebody would not do that because they're**
21 **not that dedicated and they maybe only want to work**
22 **the 20 hours. I mean, I don't know, you don't have**
23 **to do that. Every judge before me did it and did**
24 **his or her 20 hours per a week. There was never an**

1 **issue in the last --**

2 Q You don't have to do that though, right,
3 Judge? You don't have to do those things?

4 **A You don't have to do, you know, you have**
5 **to run the court system and I believe that**
6 **everything I did was necessary and inherent in**
7 **running the court system.**

8 **MR. ROBINSON:** I have nothing further.

9 **HEARING OFFICER:** Question. In sitting in
10 your capacity as judge, and the, again, the
11 contribution of your weekly hours, how much
12 does character get involved?

13 **THE WITNESS:** When you say "character,"
14 what do you mean by that?

15 **HEARING OFFICER:** The accuracy of your
16 hours devoted to the service of the City.

17 **THE WITNESS:** You know, I am a very
18 honest, honorable person. I devoted myself to
19 that job and I am certain that I worked the
20 required hours. And I tried to explain to both
21 you and Mr. Karpinski and Mr. Robinson, all
22 that I did in those 20 hours in service to the
23 City.

24 **MR. ROBINSON:** I don't have anything.

1 EXAMINATION BY MR. HARWOOD

2 Q Until you walk in those shoes,
3 respectfully to everybody, I had a different
4 position and I worked 30 hours per week in the law
5 practice, and trust me, all day, more than 30 hours
6 in that place up on the hill in the legislature.

7 And I guess there's really no requirements for me,
8 whether it be the chief judge of the court or
9 Speaker of the House, to mandate that I take out my
10 good fellow representatives. But I think it's smart
11 and I think it's something that's inherently part of
12 the job, just like for the Municipal Court judges.
13 And the hours, until you walk in those shoe, no one
14 knows the mountains you have to climb every day,
15 whether it be getting up going to the law practice,
16 or taking the kids to school, and then going to
17 court and trying to get up in front of the judge so
18 you can get up to maybe the legislature at three
19 o'clock so you can meet four or five people. There
20 is no mandate that says I have to do that. But you
21 better do it if you want to run a certain branch of
22 government. And I say this because we've all been
23 around a long, long time. There's no mandates that
24 I have to let Representative Joe Blow become the

1 chairman of the finance committee, or to get up and
2 speak more than two minutes. There's no mandates
3 but it's pretty smart, the inherent powers of
4 someone running a branch of government, in my
5 opinion, no more than I would get mandates from the
6 governor on how to run the legislature, or from the
7 chief justice at the time, I think it was Justice
8 Weisberger. Everybody does what they think is fit
9 and proper in order to implement things that make
10 that branch of government run to the best of their
11 ability based on what you have. So I think I want
12 the Hearing Officer to understand that in any job
13 running a separate branch of government, whether it
14 be Chief Justice Paul Suttell, I bet you 80 percent
15 of his job is in his office putting out fires, and
16 every court as well as probably the problems within
17 the internal members on the bench --

18 **MR. ROBINSON:** Mr. Hearing Officer, with
19 all due respect to my brother, I'm going to
20 object, because this is really argument and
21 it's appropriate for either closing or briefing
22 or whatever, but at this point, it's not really
23 germane to the --

24 **HEARING OFFICER:** Yes, I agree. If you

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1 want to continue, you can obviously finish that
2 up at summation.
3 **MR. HARWOOD:** Mr. Hearing Officer, make
4 what I just said part of my closing at the end,
5 and that way that will save everybody time.
6 **MR. ROBINSON:** I would just move admission
7 of the document.
8 **HEARING OFFICER:** Yes, I think that's
9 going to be three because you have Number 2
10 over there as well. So I believe that's
11 Respondent's Number 3.
12 And I think you owe me Respondent's
13 Number 2.
14 (Whereupon, Respondent's Exhibit Number 3 is
15 received into evidence.)
16 **HEARING OFFICER:** Do you have copies?
17 **MR. HARWOOD:** I do.
18 **HEARING OFFICER:** Have you rested, John?
19 **MR. HARWOOD:** I may want to ask a few
20 questions of Mr. Karpinski.
21 FRANK J. KARPINSKI (Sworn)
22 **HEARING OFFICER:** State your name and your
23 title for the record, sir.
24 **THE WITNESS:** Frank J. Karpinski,

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1 Executive Director.
2 EXAMINATION BY MR. HARWOOD
3 Q If I may, Mr. Karpinski, you're the
4 executive director, is that correct?
5 A **That's correct.**
6 Q And how long have you been the executive
7 director?
8 A **Since 2001.**
9 Q And what are your duties?
10 A **Excuse me?**
11 Q What are your duties?
12 A **Oh. I am responsible for the day-to-day**
13 **operations of the Retirement System, which includes**
14 **the customer service department, coordinating**
15 **actuarial evaluations, recording financial**
16 **statements, meeting with members, meeting with the**
17 **legislature and whomever drags me into a**
18 **conversation that may need detail to provide.**
19 Q And you are one of the people who
20 determine who is eligible for the pension in the
21 MERS system? That is the municipal employees'
22 retirement plan?
23 A **There are matters that may come to my desk**
24 **as a general practice. Making a determination of**

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1 being a 20-hour employee is generally something that
2 happens by the employer. There are on our website,
3 there's posit statute that are -- or discussions
4 that we have on more global of what's there. And
5 you have to be a 20-hour employee, meaning 20 hours
6 every week; not this week it's fifteen; that week
7 it's 30. It must be 20 hours per. And we've sent
8 out memorandums to employers. So when it rises to
9 my desk --
10 Q Yes.
11 A -- it's either, A, we're researching
12 something, or a member -- one of my team is
13 calculating a benefit and something may come to
14 their attention to say, I need to kind of verify
15 this.
16 Q But it's fair to say, so you, along with
17 other people here at the Retirement System, have put
18 people on notice that in order to be part of MERS,
19 you've got to have 20 hours minimum per week,
20 correct?
21 A **That's correct.**
22 Q And, in fact, you had sent out I believe a
23 letter if I'm not mistaken to me regarding a report
24 dated July 3rd of 2023. Do you remember that

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1 letter?
2 A **Yes, it rings a bell.**
3 Q All right. Do you have a copy of that
4 with you, Frank?
5 **HEARING OFFICER:** What's the date again,
6 please?
7 **MR. HARWOOD:** It's a July 3, 2023 letter
8 that I'd like to have marked.
9 **MR. ROBINSON:** I have it.
10 **HEARING OFFICER:** Is this part of your
11 original prehearing brief?
12 **MR. HARWOOD:** Yes, it is. I believe it
13 is.
14 **MS. NESSELBUSH:** It's Exhibit 9. It's in
15 Exhibit 9.
16 **MR. ROBINSON:** This is going to be
17 Petitioner's Exhibit 2?
18 **HEARING OFFICER:** Well, it's Exhibit 9 off
19 of his original.
20 **MR. ROBINSON:** I don't think we should be
21 using those numbers.
22 **HEARING OFFICER:** Right, I would agree.
23 So it would be Petitioner's Number 3.
24 (Whereupon, Petitioner's Exhibit Number 3 is

1 received into evidence.)
2 **BY MR. HARWOOD:**
3 Q Mr. Karpinski do you have in your hand a
4 copy of Petitioner's Number 3 dated July 3, 2023?
5 A I do.
6 Q And in fact, on page 2, I believe, is your
7 signature, correct?
8 A That is.
9 Q And you sent that out to the Pawtucket
10 City Council?
11 A Yes.
12 Q And you sent that out to Judge Donna
13 Nesselbush, Judge John Gannon, and Judge Cristine
14 McBurney, correct?
15 A Correct.
16 Q And I take note that you did not send it
17 to the mayor's office.
18 A Correct.
19 Q And that's because you knew that the mayor
20 had no statutory authority over the Municipal Court,
21 is that correct?
22 A We sent it based on the council
23 information that I think was provided to us and
24 other dockets of information. And based on that, we

1 responded back to that body who was referenced.
2 Q And with regards to that letter, you had
3 indicated that on paragraph one: We requested that
4 you re-issue a redetermination that Chief Judge
5 Nesselbush and Associate Judge Gannon are eligible
6 to participate in the MERS pension plan. Is that
7 correct? That's paragraph one, right?
8 A Yes.
9 Q Okay. And in paragraph 2 you had
10 indicated that you have to work the 20 hours and
11 that the employment retirement system of Rhode
12 Island certifies this information by obtaining job
13 descriptions, collective bargaining agreements, or
14 direct contact with employers when issues are
15 identified, is that correct?
16 A That's correct.
17 Q And with regards to -- you did receive a
18 job description, if I'm not mistaken --
19 A Correct.
20 Q -- from there the City Council, authored
21 in conjunction with Judge Nesselbush, correct?
22 MR. ROBINSON: Objection.
23 MR. HARWOOD: I'll withdraw it.
24 HEARING OFFICER: Okay.

1 **BY MR. HARWOOD:**
2 Q You got a job description.
3 A I got a job description.
4 Q Who sent it to you?
5 **HEARING OFFICER:** Yes, that's the better
6 question.
7 A I think it might have come from Judge
8 Nesselbush.
9 **MS. NESSELBUSH:** It might have come with a
10 letter from the City Council, that December 8th
11 letter which I have.
12 **HEARING OFFICER:** Let him -- please allow
13 John to examine the witness.
14 **BY MR. HARWOOD:**
15 Q And Frank, with regards to the job
16 description, you, in fact, did receive a job
17 description of the Municipal Court's duties and
18 mechanisms that they will use in order to run the
19 court, correct?
20 A I did.
21 Q Okay. And with regards to that job
22 description, it also said that you certified this
23 20-hours of work per week with looking at collective
24 bargaining agreements, which I don't believe there

1 was any, correct?
2 A Not in this matter.
3 Q Right. Or direct contact with employers
4 when issues are identified, correct?
5 A Right.
6 Q And the employer would be at least maybe
7 the City Council?
8 A Correct.
9 Q And did you at any time talk to anybody on
10 the City Council as to what they meant when they
11 gave, or with regards to 20 hours being performed as
12 a Municipal Court judge?
13 A I think I had a call with one of them.
14 I'm thinking it may have been Mr. Mercer.
15 Q Mr. Mercer. And was that call made prior
16 to you authoring this July 3, 2023 Petitioner's
17 Number 3?
18 A I'm not sure when. I know I had the
19 conversation, but I don't recall the exact date of
20 the conversation.
21 Q So you were dealing with the appointing
22 authority from the City of Pawtucket, that is the
23 City Council, when formulating your opinion, and
24 that Judge Nesselbush and Judge Gannon were eligible

1 for the MERS pension program?
2 **A I think what I had gotten from them was --**
3 **and there was a 20-hour piece there that they were**
4 **going in and they weren't that heavily involved in**
5 **terms of punching a card --**
6 Q Correct.
7 **A To be sure that you worked. And they -- I**
8 **think the conversation was, in their time or I**
9 **should say in his time and capacity, that was an**
10 **assumption --**
11 Q Correct.
12 **A -- that judges were always in that bucket.**
13 Q Right. And based on that, their
14 assumption, because in fairness to them, many of
15 them may not have been elected back in 2004,
16 correct?
17 **A Okay.**
18 Q So, and we all probably know here today or
19 at least I'll ask you, there's no one who has come
20 independently of Judge Nesselbush who has explained
21 how the 20-plus hours has evolved, correct?
22 **A True.**
23 Q Nobody has any firsthand knowledge that
24 you know of, whether it be Sara Miranda going

1 through each and every element that a judge does,
2 correct? And you're aware that no one has ever gone
3 to Judge Nesselbush to ask her specifically what
4 constitutes the 20 hours of her municipal judge
5 duties, isn't that correct?
6 **A Correct. That's the purpose we look for a**
7 **job spec.**
8 Q Of course. And the job spec is something
9 that you received and you -- did you discuss the job
10 spec with the president of the council?
11 **A We did have a conversation about it, or**
12 **applied to the job itself.**
13 Q And the person knowing that the mayor has
14 no statutory authorities, you were aware of that,
15 you put it in your letter.
16 **A Yeah. I mean we made this -- wrote this**
17 **based on what we thought we knew at the time.**
18 Q Exactly. Well, nothing's changed as to
19 who has the authority in the City of Pawtucket when
20 it comes to appointing Municipal Court judges,
21 correct?
22 **A I would tell you it's probably --**
23 **COURT REPORTER:** Could you repeat your
24 answer?

1 **HEARING OFFICER:** Could you repeat your
2 answer, sir?
3 **A At the time of this draft, there was**
4 **nothing definitive, there was no official -- nothing**
5 **that we knew of that that said this is who gets to**
6 **do what in Pawtucket.**
7 Q Okay.
8 **A So based on that and what we had received**
9 **from -- we -- generally, when we look at particular**
10 **positions, we look at the hiring authority. Now,**
11 **having said that, it's a little different when you**
12 **can say it's the school department, they hire**
13 **teachers; it's the Department of Administration who**
14 **hires X. So the delineation is a bit easier to kind**
15 **of navigate. But we're always going to go back to**
16 **what we understand to be the employing authority.**
17 **And the question is what job spec is available for**
18 **us to be able to kind of delineate this position.**
19 Q And is this the first time that you
20 received, let's say over the last 20 years, a job
21 description from the City of Pawtucket?
22 **A Yes. At least in this instance. But, you**
23 **know, I can't speak for, you know, my staff who may**
24 **have retired other municipal members, but for this**

1 **particular position.**
2 Q Fair enough. So for 20 years, and I know
3 the answer is you have accepted from the City of
4 Pawtucket all of her pension -- all of Judge
5 Nesselbush's pension payments with the acquiescence
6 I would assume, of the City of Pawtucket sending it
7 to this Employment Retirement Board?
8 **A That's correct. It's biweekly payrolls**
9 **that come through, and actually, in our system, you**
10 **need to segregate.**
11 Q Now you might give me a hard time, but for
12 20 years, this board here, this Retirement System
13 had no questions or issues as to the job she was
14 doing, correct?
15 **A We don't generally know the job. When a**
16 **contribution comes in, for example, you know, my**
17 **job, or let's say the governor, which I can't**
18 **remember if he's contributing or not because they**
19 **have an option, but if the governor were a member, I**
20 **don't know that. I know Daniel McKee and IC**
21 **Employer 2000.**
22 Q Right.
23 **A And when the employer puts in the**
24 **information, they say they are part-time or a**

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1 full-time, there's a bunch of categories. So when
2 we're receiving the contribution, I think as I
3 mentioned in one of your earlier questions, we're
4 assuming that the employer has made this distinction
5 that they must be a 20-hour employee at minimum and
6 what have you and off it goes. But we don't collect
7 that. But having said that, if it comes in, we're
8 not knowing the specifics of the job or who it is.
9 We know the person's name and all of that
10 information. But we wouldn't know that it's --
11 unless it's delineated, you know, like legislators,
12 for example, there was a job description, or in our
13 system you'd have the setting when they were able to
14 contribute. So absent to that, we would just go in
15 and say we have to assume that the employer has --
16 because they're giving us dollars, we have to assume
17 that they're saying that this is a 20-hour employee.
18 Q Well, that's my point. In other words,
19 for 20 years, I would think that the people from the
20 City of Pawtucket were doing an honorable job and
21 you don't have any reason to believe that anybody
22 was not credible and honorable that was sending the
23 money in for the pension payments of Judge
24 Nesselbush, correct?

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1 A Correct.
2 Q And is it fair to say that they would be
3 aware of that to get into the MERS system, based on
4 them making payments, that you had to perform 20
5 hours?
6 A That's what we assume based on those
7 dollars making their way into our system.
8 Q Of course. And at least you have no
9 knowledge that anybody from the City of Pawtucket
10 was ever questioning whether or not Judge
11 Nesselbush, or anybody for that matter, was not
12 doing 20 hours of judicial work, is that correct?
13 A I wouldn't say judicial work because I
14 wouldn't know that. I would know as a municipal
15 employee I received contributions, you're working 20
16 hours.
17 Q Okay. So as a municipal employee, which
18 she was one of them, at least part of the entire
19 scheme, no one from the City of Pawtucket, including
20 the mayor's office all those years, and the
21 president of the council, all of the councils, or
22 even anybody internally said, nope, Judge Nesselbush
23 is not performing her 20 hours of service, correct?
24 A We received nothing.

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1 Q Okay. So we have this letter of July 3,
2 Petitioner's Number 3, where you said I believe
3 Judge Nesselbush and Associate Judge Gannon in fact
4 are eligible. And you're going to -- you restored
5 their position in the Retirement System, correct?
6 A Correct.
7 Q And then if I may have it marked, you sent
8 out a March 11th, 2024 letter to Judge Nesselbush at
9 344 Wickford Point Road, in North Kingstown,
10 correct?
11 A I mean I don't recall the address, but --
12 MS. NESSELBUSH: We'll forgive you for
13 that.
14 HEARING OFFICER: That will be
15 Petitioner's Number 4.
16 (Whereupon, Petitioner's Exhibit Number 4 is
17 received into evidence.)
18 COURT REPORTER: What was your answer to
19 the question?
20 THE WITNESS: I haven't answered that yet.
21 I just didn't know what the address was.
22 HEARING OFFICER: I don't think there's
23 any answer at this point.
24 Q Do you have a copy of that?

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1 A I have it in front of me.
2 Q Okay. Fine. Looking at Petitioner's 4 --
3 and it consists of three pages?
4 A That's correct.
5 Q And that's your signature on the last
6 page, correct?
7 A That is my signature.
8 Q And I see that you sent it out to Mayor
9 Don Grebien of the executive branch, correct?
10 A Correct.
11 Q And Vincent Ragosta, who I believe is a
12 lawyer for the -- or works as an outside lawyer for
13 the mayor, correct?
14 A My understanding, yes.
15 Q And Lisa O'Connell, the H.R. Specialist,
16 correct?
17 A Correct.
18 Q And that's the executive branch also,
19 correct?
20 A I would say.
21 Q To your knowledge. And Frank Milos, we
22 know he's the lawyer for the City of Pawtucket
23 executive branch, and of course me.
24 A Correct.

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1 Q All right. Thank you for that CC, also.
2 Now, in this letter you denied Judge Nesselbush's
3 being eligible for the Retirement System, correct?
4 **A Correct.**
5 Q And you indicated, I believe, on page two,
6 paragraph one, the basis of your denial, correct?
7 **A That's correct.**
8 Q And as you look at page two and correct me
9 if I'm wrong, the first sentence it says: "This
10 office received a communication from Human Resources
11 Director Sara Miranda, PHR, in March of 2023
12 indicating that you were hired in 2004" -- that is
13 Judge Nesselbush -- "and do not" -- parentheses
14 "(and have not) worked in excess of twenty (20)
15 hours per week as a Municipal Court judge." Did I
16 read that correct?
17 **A That's correct.**
18 Q And then you also indicated, following --
19 third line: "Following the receipt of a
20 communication from your attorney on May 12, 2023" --
21 assume that's me -- "providing a purported job
22 description for Pawtucket Municipal Court judges
23 that seemed to indicate that you did in fact work in
24 excess of 20 hours per week." Did I read that

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1 correctly?
2 **A That's correct.**
3 Q And then you said: " -- we requested
4 clarification from the City with regards to your
5 official duties, and your terms and condition of
6 employment." Did I read that correctly?
7 **A Yes, sir.**
8 Q And then you said: "We subsequently
9 received a communication from Attorney Vincent
10 Ragosta, comma, as outside labor and employment
11 counsel to the City, confirming that there is no
12 reliable or credible evidence to support a claim
13 that Municipal Court judges work in excess of 20
14 hours per week." Did I read that correctly?
15 **A Yes.**
16 Q And last but not least, the attorney --
17 you indicated: "Attorney Ragosta also advised that
18 any purported Municipal Court judge" --
19 parentheses -- no quotation marks, rather -- "job
20 description" provided to ERSRI should not be deemed
21 authenticated or an official record by ERSRI and
22 should be considered by ERSRI to be ultra virus and
23 unreliable to the extent it is purported to
24 reference any quantum of hours worked." Did I read

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1 that correctly?
2 **A Yes, sir.**
3 Q In the second paragraph you indicated:
4 "Based upon this information" -- which we just read
5 -- "received from the City of Pawtucket, we have
6 determined that as a Pawtucket Municipal Court
7 judge, you do not work a minimum of 20 hours per
8 week, and therefore you do not meet the threshold
9 criteria for membership in MERS." Did I read that
10 correctly?
11 **A Yes, sir.**
12 Q Now, with regards to that, let's talk
13 about Sara Miranda. Do you know when she was hired?
14 **A I do not.**
15 Q So you don't know if Sara Miranda was
16 working for the City of Pawtucket in 2004 when Judge
17 Nesselbush started her job doing 20 hours per week,
18 do you?
19 **A No.**
20 Q And did you ever talk to Sara Miranda?
21 **A I did not, no.**
22 Q And so you never had a chance to ask her
23 if she, in fact, questioned Judge Nesselbush of the
24 amount of hours that she was doing, correct?

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1 **A Correct. I did not talk to Sara; my legal**
2 **counsel did. I asked her to follow up on some of**
3 **the matters. She checked the website and she got**
4 **to -- which is a very normal practice that we have.**
5 **We generally go to the H.R. department and ask**
6 **questions about, you know, what can you provide, or**
7 **a CPA or what have you. And what I got, you know,**
8 **like, what my counsel came back to me and said,**
9 **well, you know, based on what was on the website and**
10 **based on this conversation, she seemed to indicate**
11 **that it was not a 20-hour-a-week job.**
12 Q Well, did she give you any -- did you
13 discuss with her whether or not she ever went down
14 and observed the judges working on and off the
15 bench?
16 **A I don't believe so.**
17 Q And we don't know how long she worked for
18 the City?
19 **A Correct. Well, I could look her up, but**
20 **for purposes of this, no.**
21 Q Right. Okay. And we don't know whether
22 or not she had any personal information, other than
23 what she assumed, without talking to anybody in the
24 judicial branch of government, correct?

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1 **A Correct.**
2 Q And she's part of the executive branch,
3 correct?
4 **A Correct.**
5 Q And I'm not casting any aspersions, but
6 the executive branch, we don't know if there's a
7 problem between the executive branch and the
8 judicial branch, do we?
9 **A Fair enough.**
10 Q And we know sometimes things get carried
11 away and but, you don't know that. And then we have
12 with regards to you requested clarification from the
13 City with regards to her official job duties and the
14 conditions, terms and conditions of employment. Did
15 you go to the appointing authority, the City
16 Council, and get this information?
17 **A At this point in the game, we were unable**
18 **to verify -- and I think I may have mentioned it**
19 **earlier -- in the July 20, 2023 letter, we were**
20 **unable -- at that point in the game, we said, well,**
21 **we think that the hiring authority is, based on**
22 **information that we received at that time, that the**
23 **hiring authority was the City Council. But as we**
24 **began to get communications back from the City**

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1 itself, and information, as you know, as Mr. Ragosta
2 or Attorney Ragosta had mentioned, we kind of got to
3 the, okay, maybe we got this wrong, who's really the
4 hiring authority? So at that point in the game,
5 there was a little, um, I'm trying to think just,
6 I'm trying to remember if that was the time when
7 there was some information in the media where it was
8 starting to rise. So we were trying to identify,
9 let's clarify this, let's see if somebody can
10 provide us something official, an ordinance,
11 something that would say we're it, you know, we get
12 to make the call from the bullpen. And that was the
13 point of the letter is that we've got this
14 information, based on what we knew in '23 we felt
15 that it was the council. Other information followed
16 in and we thought at this point in the game, we
17 would -- it would be for the Retirement System
18 because we're the party who says from -- and I'm
19 pretty sure I mentioned this to a whole bunch of
20 people, we need a job spec. We needed to have a job
21 spec, we need something that identified your job.
22 And as I mentioned earlier, the ones that we get,
23 for example, from the State of Rhode Island, the job
24 spec is it's -- they're just changing the name.

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1 **They're going and saying this is what the title is,**
2 **X, Y, Z, and it was A, B, C. It's a standard form.**
3 **It's easier for us to get that to verify. So here,**
4 **not being consistent what we've probably seen, it**
5 **was another reason let's ask this question again**
6 **just to be sure that we have this right, that there**
7 **wasn't some other piece that we missed that didn't**
8 **come across to us. And that was the driver in here**
9 **to say we've got the information. So I'm, like, no.**
10 Q So let me back up a little. On
11 Petitioner's 3, the July 3, 2023 letter where you
12 reinstate Judge Nesselbush and Judge Gannon, I
13 believe in the fourth paragraph, you put in your
14 letter -- and I'm going to read it and tell me if
15 I'm reading it correctly.
16 However, since the Pawtucket City
17 Solicitor Frank J. Milos indicated in his letter of
18 November 29, 2022 that the Municipal Court judge
19 positions are controlled by Section 2-501 of the
20 City Charter whereby the judges are elected solely
21 by the City Council, and since the information you
22 obtained from City Council President David Moran and
23 current City Council president, Terrence Mercer,
24 includes a job description with the requisite 20

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1 minimum hours, we will consider Judges Nesselbush
2 and Gannon's job requirements to be in line with the
3 requirements set forth in our RIGL 45-21-2(7), and
4 have them remain members of the Municipal Employees'
5 Retirement System, MERS, M-E-R-S.
6 So my question, Mr. Karpinski, is
7 this. When you wrote this letter, you had received
8 from the top lawyer from the City of Pawtucket that
9 the City was the controlling authority, not the
10 mayor's office, correct?
11 **A Yeah, it -- yes, correct.**
12 Q Right. So knowing that the, for lack of
13 better words, the boss, that is the appointing
14 authority is not with the executive branch, but with
15 the legislative branch, why would you talk to
16 somebody from the executive branch to find out
17 what's going on from someone other than the boss, by
18 way of example?
19 **A I think, you know, again, here it's the**
20 **information that we had. We subsequently had this**
21 **information from Attorney Ragosta in saying, this is**
22 **what we thought, but now we're getting this other**
23 **letter saying no, this can't be verified, this has**
24 **not made its way through. So, you know, for our**

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1 position, what we're looking for is, or what we were
2 looking for or going for here is, we need some
3 verification.
4 Q That's fair.
5 A We need something else because we're a
6 little conflicted in a lot of different pieces of
7 information making their way through the food chain.
8 So the mission was to identify. And if we would
9 have gotten something that said, no, absolutely it's
10 them, or, here is this charter or this ordinance, we
11 would have probably had a different conversation.
12 But this was a clarification for the Retirement
13 System to not insert itself into the employer's
14 point.
15 Q That's fair. I understand what you're
16 saying. And I say this respectfully. Did
17 Mr. Ragosta ever tell you that he also wrote an
18 opinion where, in his professional opinion, the
19 authority over the City's Municipal Court is with
20 the City Council by virtue of a legislative grant
21 from the Rhode Island General Assembly?
22 A We had a document that had that
23 information.
24 Q Well, let me show you a document.

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1 MR. HARWOOD: I'd like to make this
2 Petitioner's Number 4, if it's okay with you.
3 HEARING OFFICER: It would be Petitioner's
4 Number 5.
5 MR. HARWOOD: Petitioner's Number 5.
6 (Whereupon, Petitioner's Exhibit Number 5 is
7 received into evidence.)
8 MR. HARWOOD: And I don't know if you have
9 a copy of this, but it's dated December 8, 2022
10 and it's to Mayor Donald Grebien and Dylan
11 Zelazo, Director of Administration; from
12 Vincent F. Ragosta, Jr., Esquire, and then
13 Peter DeSimone, Esquire, his name also. And
14 it's regarding the Pawtucket Municipal Court.
15 I don't know if Mike has a copy?
16 MR. ROBINSON: I do.
17 BY MR. HARWOOD:
18 Q When you get a chance to read the opinion,
19 please read that to yourself and I just want to ask
20 you a few questions.
21 HEARING OFFICER: Off the record, John.
22 (OFF THE RECORD DISCUSSION)
23 Q Have you had a chance to read that?
24 A Yes, sir, I have.

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1 Q And would you agree that Attorney Vincent
2 Ragosta way of this memo, in fact indicates it's the
3 City Council who has the authority over the
4 Pawtucket Municipal Court judges. Do you agree with
5 that?
6 A I would agree with that.
7 Q So the letter that was written denying or
8 rejecting Judge Nesselbush and Judge Gannon getting
9 or staying in the MERS program, you relied on a
10 comment or a letter, I believe, that information
11 supplied by Attorney Vincent Ragosta, who in your
12 letter, was outside labor and employment counsel to
13 the City, correct?
14 A Correct.
15 Q Right? And were you aware at that point
16 in time that he had no connection or authority
17 granted to him by the boss, the City Council, to
18 make any comments?
19 A I'm not sure I get the question.
20 Q He's working for the mayor, the executive
21 branch.
22 A You mean Vincent Ragosta?
23 Q Vincent Ragosta. Right. And did you know
24 he was speaking on behalf of the mayor?

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1 A Based on what he had put in the letter
2 that he's labor counsel, I would have -- we did, we
3 took it that he is speaking on behalf of.
4 Q The mayor?
5 A Right.
6 Q You that knew that the mayor had nothing
7 to do with the municipal courts.
8 A Based on this, yes.
9 Q And also based on what you had received I
10 believe from Frank Milos back in November 29th of
11 2022. But he's telling you that the council had the
12 authority. Now you've got this memo that you
13 reviewed before, or at lease today, dated
14 December 8, 2022 from Vincent Ragosta saying the
15 City Council controls the municipal courts, correct?
16 A That's correct.
17 Q So now hearing your opinion on page two,
18 the information you relied on --
19 A You're referring to the March 11th?
20 Q March 11. Yes.
21 HEARING OFFICER: That's Petitioner's
22 Number 4?
23 MR. HARWOOD: Number 4.
24

1 **BY MR. HARWOOD:**

2 Q Did you at any time after Attorney Ragosta
3 sent you his communication, did you ask him whether
4 or not he in fact talked to Judge Nesselbush as to
5 how many hours she worked per week?

6 A I don't know if he did. We did not have
7 that conversation. Everything that came from --
8 that I can recall from Attorney Ragosta was through
9 either a e-mail or letter.

10 Q Right. And do you know what type of
11 investigation other than his comments, that Vincent
12 Ragosta did to substantiate that Judge Nesselbush
13 didn't work 20 hours per week?

14 A I think that was our -- our -- probably
15 our frustration because again, we've had both this
16 and in the 23rd letter saying it's the City Council.
17 Then we're getting another communication, you know,
18 saying that we should not, it's ultra virus, which
19 got us to the point of, okay, who's really in charge
20 of this?

21 Q That's my point. We now know today that
22 the people who may have been ultra virus, that is,
23 Attorney Ragosta, outside his powers speaking on
24 behalf of her boss, the City Council, correct? And

1 in fairness to you and I know, you know I have a lot
2 of respect for you personally and professionally, I
3 mean that. Here we are relying on a guy who has no
4 authority from the City Council to make comments
5 that he's done no investigation about that you're
6 aware of, correct?

7 A Correct.

8 Q And the only thing you had was this job
9 clarification for 20 hours from the boss. And of
10 the two, you got one from the appointing authority
11 telling you, yes, this is what we believed it to be.
12 And of course, and you can correct me, you and I
13 have been around a long time, how would they know
14 back in 2004 if they weren't elected, what she's
15 doing, unless they asked, they asked her what were
16 you doing back in 2004 on a weekly basis, correct?

17 A Fair.

18 Q Okay. And you never requested or inquired
19 about her, yourself, personally. I know you've got
20 a lot on your plate, so I'm not throwing a shot at
21 you. I'm just saying.

22 A The Judge and I have had conversations
23 trying to -- and, you know, put all this together.

24 Q Correct.

1 A -- which was where the driver was to the
2 job spec. And I think, you know, coming to a head,
3 we said, well, if -- probably if the council is the
4 party who kind of runs the show, we looked at it
5 based on the letter from Attorney Ragosta, saying,
6 somebody give us this clarification and can the
7 council or somebody say, We're approving this.

8 Q And I agree, I understand the significance
9 from your point of view of the approval of the City
10 Council. I get it. But you also had at least two
11 City Council presidents, I believe President Moran,
12 who had been there a long time, and also President
13 Mercer, who recently became council president,
14 affirming that the job was a city job and they
15 assumed it was 20 hours per week, correct?

16 A That was what was communicated to us.

17 Q And in fairness to them and in fairness to
18 you, and in fairness to me, I don't know what she
19 was doing in 2004 because I didn't -- I wasn't there
20 to investigate, no more than those people that may
21 have been elected at that time trying monitor what
22 goes on in the city government. So as you sit here
23 today, are you convinced that the power or the
24 appointing authority is in fact the City Council?

1 A I guess at this point in the game is what
2 we're trying to confirm. And I think the driver of
3 that is, for lack of an easier way to describe it,
4 we're a very mechanical operation. You know, we
5 receive a termination, we receive a form, so we
6 always interpret it, if it's an official form,
7 someone would say this is it, this is good. There
8 have been times where we may have questioned what's
9 on the form and someone will go, oops, my bad. But
10 we were at this point of a lot of communication, a
11 lot of conversation, there was a little bit of the
12 media attention which shouldn't drive the process,
13 but we said, in order for us to at least not insert
14 ourselves into the local employer issue, we should
15 get this verified, because then, because what we
16 generally tell people is, once you're given the job
17 spec and if someone comes back and says that's not
18 what they do, then I'm going to say, here's my
19 get-out-of-jail-free card, the employer has
20 certified this. As you mentioned earlier, they made
21 contributions on it. If they're going to go back
22 and subsequently say, whatever their reason is, they
23 should or shouldn't have been, and they will
24 communicate something back to us and say, you know,

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1 my bad, this person should not be in the system,
2 then we would take process. And if there's a
3 wrestling match in between, which happens, between
4 the employer and the employee, that happens at the
5 local level. So we're working on what we receive
6 from the employer.
7 Q And I understand that. And you would
8 acknowledge that at least as you sit here today,
9 based on the opinion of Vincent Ragosta, based on
10 his memo and on the memo that I believe that Frank
11 Milos sent you on November 29, 2022, that the
12 council in fact controls the Municipal Court
13 appointments and things of that nature. And you
14 also -- and correct me if I'm wrong, you're aware
15 that the Municipal Court is a separate branch of
16 government, correct?
17 A Based on what we received from these
18 people, yes. But we would not go down to that
19 level. It's somebody telling us.
20 Q I get it. You don't want to be told what
21 to do because you run your own show, correct?
22 A To the extent that I think as -- I think
23 the Judge mentioned it, not every community has a
24 court.

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1 Q Correct.
2 A So it's not something that we generally
3 had coming across to us.
4 Q And with regards to your interpretation
5 even within this department, the employment
6 retirement, you certainly don't have people from the
7 Secretary of State telling you what to do, correct?
8 A That's correct.
9 Q So you listen to your boss, Treasurer
10 Diossa and the board.
11 A Correct.
12 Q And you follow what they tell you,
13 correct?
14 A They call the play, I follow it.
15 Q And you don't even listen to the
16 legislative branch relative to the internal
17 mechanisms on what you think is in the best
18 interests of this retirement board, correct?
19 A When it comes from the legislature, when
20 it says the board gets to develop a regulation or a
21 policy; or, if not, you know, I think we try to
22 stand within -- that's why we do regulations to help
23 clarify stuff.
24 Q And in fairness to you, you people have

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1 the Administrative Procedures Act, which gives you
2 also authority to do what you think's best to make
3 sure the Retirement System runs properly, your
4 competent counsel and so on and so forth.
5 A And I get that. That's correct.
6 Q So there's a lot of things that you do as
7 the executive director that's not mandated per se,
8 but you do it because in your heart and based on
9 your experience and your education in putting up
10 with all of this, you do what's best for the
11 Retirement System, correct?
12 A Correct. And as well, I sit in a
13 fiduciary capacity, so I'm overly conscious.
14 Q Correct. And some people are overly
15 conscious about running a court system as to what
16 they believe constitutes a better court system, and
17 you've heard that today from Judge Nesselbush,
18 correct?
19 A Yes.
20 MR. HARWOOD: If I may have one second
21 here.
22 (BRIEF PAUSE)
23 Q Just one last question. When Attorney
24 Ragosta sent you his communication, did he give you

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1 any factual basis as to why he didn't think things
2 -- confirming that there was no reliable or credible
3 evidence to support a claim that Municipal Court
4 judges work in excess of 20 hours per week? Did he
5 come in with any findings to substantiate that
6 statement, or did he just make it?
7 A It was just based on, I think, on an
8 e-mail. It wasn't a clinical detail, if you will.
9 Q That's my point.
10 HEARING OFFICER: For clarification again,
11 we're referring to Petitioner's Number 5?
12 MR. HARWOOD: Petitioner's Number 5.
13 And if you could find it for me, what's
14 the March 11th?
15 HEARING OFFICER: That's Petitioner's
16 number 4.
17 MR. HARWOOD: I'm talking about four, I'm
18 referring to number 4, paragraph one on
19 page two.
20 I have no further questions.
21 HEARING OFFICER: Can we take a two-minute
22 break?
23 MR. ROBINSON: Sure.
24 (BRIEF RECESS)

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1 EXAMINATION BY MR. ROBINSON
2 Q Mr. Director, I'm going to try to provide
3 some context beyond the relatively few documents
4 that Mr. Harwood went over with you. So I apologize
5 for any portion of this that seems tedious. But I'm
6 going to show you a copy of a letter dated August 1,
7 2022.
8 MR. ROBINSON: You have it, John?
9 MR. HARWOOD: Yes.
10 A August 1?
11 Q Yes. Do you have copies?
12 A I don't think I do.
13 MR. ROBINSON: All right. I'm going to
14 give you one, because I only have one. So you
15 guys can share.
16 BY MR. ROBINSON:
17 Q Have you seen that letter before?
18 A I have.
19 Q Did you author it?
20 A I did.
21 Q Okay. And suffice it to say that this
22 letter notified Judge Nesselbush that she did not
23 meet the elements necessary to be a member of MERS?
24 A Correct.

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1 Q Okay. Can you provide a little context to
2 the Hearing Officer as to what gave rise to this
3 communication? In the background of the Retirement
4 System?
5 A Sure. So, one of the other judges, Judge
6 Gannon, was putting in papers to retire. And one of
7 the things that popped up was the low salary. And
8 we -- it's something that we monitor.
9 Q Can you clarify what that means? What do
10 you mean, "low salary?"
11 A You know, given what the -- because, as I
12 mentioned earlier, we don't know what the person's
13 doing because it's not listed in the data file. But
14 when the member comes in to retire or asks for any
15 information, we have at that point a membership
16 application. So we can say, oh, okay, now we know
17 what you are. And when we see, you know, the
18 salaries that are out there now, I think 16,000
19 didn't -- I don't think it made minimum wage. So,
20 you know, so when my team looks at it, they're like,
21 okay, this is a low salary and, for example, they're
22 no longer in the system, but they were school -- I'm
23 sorry -- town council, they made very low salaries,
24 they only had to be around for six months to get in.

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1 But they were generally 2,000, 3,000, 4,000, very
2 small dollar amounts. But in 2012, that law changed
3 that no longer allowed them in the system. So to
4 find those people, it's easy from a data perspective
5 to go back and look and say, give me all of the
6 people that make something less than this. And more
7 often than not you can find them, you can look at
8 the name, you can look at a local town website and
9 see if they're contributing for a person who they
10 shouldn't be. So my team kind of does the same
11 visually. They go back and say 16,000 seems really
12 low, are we sure that this is a position that is
13 working 20 hours in the system? And then it kind of
14 rises up to myself and my internal legal counsel.
15 Q Is it possible that a municipality or any
16 MERS member, participating MERS unit, would make
17 contributions on behalf of an employee that would
18 not be questioned by the Retirement System until
19 such time as either that account is validated or
20 that member goes to retire?
21 A Yes.
22 Q Is that normal practice?
23 A Yes.
24 Q Okay. So is there anything unusual about

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1 a member or somebody who perhaps ought not be a
2 member, contributions having been submitted to the
3 Retirement System for some extended period of time
4 and that not being caught by the Retirement System
5 until the time of retirement?
6 A Correct, yes.
7 Q Is there anything unusual about that?
8 A No. It's not frequent, but it can
9 certainly -- certainly happens.
10 Q This was a -- approximately, what is the
11 size of the Retirement System trust?
12 A Right now it's \$11 billion.
13 Q And how many active retired members?
14 A About 65,000.
15 Q Does the Retirement System have the
16 resources to verify the accuracy of the underlying
17 job duties of each and every member for whom the
18 system is receiving contributions?
19 A Absolutely not. It would be -- there's --
20 I can't imagine the size of the staff when trying to
21 validate a person and their exact job, and what
22 they're doing, and whether they actually got the
23 number of hours. That would be almost impossible.
24 Q Okay. Do you know who within the

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1 Retirement System flagged Judge Nesselbush's
2 particular issue for you?
3 **A I think we got -- I know it was Judge**
4 **Gannon that started it. And I think when myself and**
5 **internal counsel, we began to dive into it a bit**
6 **more. We looked on the website to see who were the**
7 **acting, if you will, judges. That's how Judge**
8 **Nesselbush's information came to us, by saying let's**
9 **check all these people and see.**
10 Q Who was that internal counsel?
11 **A Gayle Mambro-Martin.**
12 Q And the items that are set forth in your
13 letter, August 1, 2022, is that a fair
14 representation of what was communicated to you by
15 Attorney Mambro-Martin regarding the diligence that
16 she did?
17 **A Met on it and actually put the letter**
18 **together, yes.**
19 Q Okay. Is that essentially what kicked off
20 the process that brings us here today?
21 **A Yes.**
22 **MR. ROBINSON:** I'd ask that that letter be
23 marked as Respondent's 4.
24 **HEARING OFFICER:** Off the record.

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1 (Off the record discussion.)
2 **HEARING OFFICER:** That's Number 4.
3 (Whereupon, Respondent's Exhibit 4 is received into
4 evidence.)
5 Q Mr. Karpinski, I'm showing you a letter or
6 an e-mail communication dated September 19, 2022,
7 from Judge Nesselbush. Have you seen that before?
8 **A Yes.**
9 Q Did you receive that in response to your
10 August 1, 2022 letter?
11 **A Yes.**
12 Q And looking specifically at the second
13 full paragraph, the judge notes that one of the
14 first red flags for you, meaning you, Mr. Karpinski,
15 was a relatively low salary. Do you see that?
16 **A I do.**
17 Q And is that a fair indication of what
18 prompted the issue to be flagged on your end?
19 **A Yes.**
20 Q Was it one of the reasons?
21 **A I'd say one of the reasons, yes.**
22 Q And the third paragraph notes that the
23 actual job description and/or, quote, job specs have
24 not been reviewed, addressed, or updated in well

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1 over 18 years. Do you see that?
2 **A Yes.**
3 **MR. ROBINSON:** I'd ask that this be marked
4 as Respondent's 5.
5 (Whereupon, Respondent's Exhibit 5 is received into
6 evidence.)
7 **HEARING OFFICER:** All set.
8 **BY MR. ROBINSON:**
9 Q I'm showing you a document, Mr. Karpinski,
10 a letter dated October 24th of 2022. Do you see
11 that letter?
12 **A I do.**
13 Q Does it have your signature on it?
14 **A Yes.**
15 Q Did you send this letter to Judge
16 Nesselbush in response to her communication of
17 September 19, 2022?
18 **A Yes.**
19 Q And what was the purpose of sending this
20 communication?
21 **A I think they were trying to ask for a job**
22 **spec.**
23 Q Okay. And in the second paragraph of this
24 communication, second sentence, you note: "Absent

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1 the receipt of additional information regarding the
2 requirements for the positions of Chief Judge and
3 Associate Judge of the Pawtucket Municipal Traffic
4 Court, our position remains unchanged at this time."
5 Correct?
6 **A Correct.**
7 Q Is that a fair description of your
8 position?
9 **A Correct.**
10 Q And in the opening sentence of the third
11 paragraph: "As a reminder, any revised job
12 descriptions for these positions which you note that
13 you intend to submit to the ERSRI for review, must
14 be approved by the Pawtucket City Council and the
15 Mayor of Pawtucket."
16 **A Correct.**
17 Q What was your purpose of imposing that
18 requirement?
19 **A At this point it was trying to determine**
20 **who was the body who had control over the -- maybe**
21 **that the jobs, like, in terms of your filling out a**
22 **job application, usually H.R. and our -- what we**
23 **generally -- again, what we generally see is it's**
24 **coming from either an H.R. department, or somebody**

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1 **within the mayor, town administrator's office, or**
2 **what have you.**
3 Q Were you looking for something formal with
4 respect to codification of this particular job?
5 A **Everything that we generally get is**
6 **formal. There's generally -- I think I may have**
7 **mentioned earlier, you can pretty much carve them**
8 **out. States all look the same, the cities and**
9 **towns, and my team, because they deal with them a**
10 **lot, will know, this is a job specification, this is**
11 **the form, the thing that we always see.**
12 Q Do you encounter during the course of the
13 performance of your professional duties, casual and
14 seasonal positions in various components of
15 municipal government that don't qualify for
16 participation in MERS?
17 A **Yes.**
18 Q Can you give an example of something?
19 A **One that comes to mind was a community by**
20 **the water and they had a harbormaster who basically**
21 **only works during the summer.**
22 Q How about lifeguards?
23 A **Yeah, lifeguards are -- there are both,**
24 **there are state ones and local ones. And you know,**

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1 **the general conversation there is they work eight**
2 **hours a day, five days a week. But the phraseology**
3 **that we always refer to is: Are you regularly**
4 **employed.**
5 Q And when you're evaluating whether or not
6 those positions just generally throughout municipal
7 government for all of the various municipal MERS
8 units, is it customary for you and your staff to
9 rely upon official descriptions of job positions
10 provided by the employer?
11 A **Yes.**
12 Q Do you ever do it in any other way?
13 A **Well, we might ask for a CBA, a collective**
14 **bargaining agreement that might have, depending on**
15 **how old a job is, an actual job specification might**
16 **not be there, but there may be a collective**
17 **bargaining agreement that says this is the job, and**
18 **it has some language and salary breakdown.**
19 Q Do you ever accept the unilateral and
20 subjective representations of a municipal employee
21 at face value? For example, a lifeguard saying that
22 he or she, you know, works 25 hours a week,
23 preparing and cleaning their equipment for
24 performance of the job? Do you ever look at that

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1 type of thing and provide it any greater weight than
2 you would a formal description from the municipal
3 employer?
4 A **While we look at it, we will always go**
5 **back to the employer. They are the hiring**
6 **authority. And our position has always been, we are**
7 **not the hiring authority.**
8 Q Is that because there is inevitably a
9 subjective incentive on the part of individual
10 employees, regardless of what their official job
11 descriptions might be, to want to be in the
12 Retirement System?
13 A **That's fair.**
14 **MR. ROBINSON:** I'd ask that that be marked
15 as Respondent's 6.
16 **HEARING OFFICER:** Admitted.
17 (Whereupon, Respondent's Exhibit 6 is received into
18 evidence.)
19 **BY MR. ROBINSON:**
20 Q Going back for a second to Respondent's 3.
21 After you sent Judge Nesselbush that October 24,
22 2022 letter, did you receive this communication back
23 from her on December 12, 2022?
24 A **I did.**

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1 Q And did she append to that communication,
2 documents?
3 A **Yes.**
4 Q What were appended to that?
5 A **It was a job specification.**
6 Q Is that the first time you had seen a
7 document purporting to be an official job
8 specification?
9 A **In this particular matter, or? I'm not**
10 **sure of the question.**
11 Q Was that the first time you had seen a
12 purported job description relative to the Municipal
13 Court position in Pawtucket?
14 A **For this position, yes.**
15 Q Did you have an understanding when you
16 received it, as to whether or not this was an
17 official promulgated job description by the City, as
18 opposed to something that had been drafted by Judge
19 Nesselbush?
20 A **I think when we looked at it, we saw the**
21 **logo at the bottom and whatnot and thought that it**
22 **was an official one, but we had nothing that was**
23 **clarifying that.**
24 Q Okay. And attached to that was also a

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1 December 8th, 2022 letter from David Moran?
2 **A Yes.**
3 Q Did you review that letter?
4 **A Yes, I did.**
5 Q Mr. Karpinski, I'm showing you an e-mail
6 to your attention dated December 22, 2022, from Sara
7 Miranda at the City of Pawtucket identified as the
8 Human Resources Coordinator. Do you see that?
9 **A Yes.**
10 Q Do you as a matter of practice, question
11 the authority of human resources directors within
12 MERS units to make representations to the Retirement
13 System?
14 **A Generally, we go with them because it**
15 **is -- it's generally the admin part of an operation**
16 **who provides this information. We're generally not**
17 **going further up the chain.**
18 Q Would it be fair to say that it is, in a
19 typical scenario, an employee who has direct deposit
20 or H.R. forms that are completed, is receiving a
21 paycheck from a municipal MERS unit, the most
22 knowledgeable person typically would be someone in
23 the human resource department?
24 **A That's generally what we're seeing.**

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1 **Somebody in the business office, or, not everyone**
2 **may always have an H.R. person, but they may have a**
3 **person in the business office whose -- their**
4 **responsibility is hiring and firing, what have you.**
5 Q And looking at the second page of this
6 communication that was attached to the e-mail you
7 received from Ms. Miranda, there appears to be
8 e-mail communication from Dylan Zelazo to Michelle
9 Hardy and Richard Goldstein. Do you see that?
10 **A Yes, I do.**
11 Q "Dear Honorable Counsilors." And the
12 first paragraph reads: "As some of you are aware,
13 there is currently a question regarding the
14 pensionable nature of Pawtucket Municipal Court
15 judges' time on the bench. Ultimately, as I
16 understand the matter, the question comes down to
17 whether our judges worked at least 20 hours per
18 week."
19 Skip down to the third paragraph.
20 "This matter must, therefore, be considered by the
21 City Council as to whether it, by ordinance or other
22 action, wishes to take affirmative steps to ensure
23 that Pawtucket Municipal Court judges earn pensions
24 from their service." Do you see that?

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1 **A Yes.**
2 Q Did you do anything based on receipt of
3 this communication?
4 **A I think I reviewed it, but I don't recall**
5 **exactly what we did.**
6 **MR. ROBINSON:** I'd ask that that be
7 admitted as Respondent's 7?
8 **HEARING OFFICER:** Admitted.
9 (Whereupon, Respondent's Exhibit 7 is received into
10 evidence.)
11 **MR. HARWOOD:** What is Respondent's 7?
12 That's the Miranda?
13 **MR. ROBINSON:** Correct.
14 **BY MR. ROBINSON:**
15 Q I'm showing you another grouping of
16 e-mails. Showing you another grouping of e-mails
17 between the Retirement System and the City of
18 Pawtucket. Do you see that?
19 **A I do.**
20 Q Just take a minute and look at them for
21 me, please.
22 (Whereupon, the witness complies with request.)
23 **A Okay.**
24 Q Would you agree with me, Mr. Karpinski,

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1 that these communications go back to approximately
2 June of 2022?
3 **A Yes.**
4 Q And there are a series of communications
5 between the Retirement System and the Human
6 Resources Department and the City of Pawtucket?
7 **A Yes. I mean some of them are going to my**
8 **internal counsel, Gayle.**
9 Q And if you look at the second page at the
10 top, it begins, "Hi Gayle."
11 **A Yes.**
12 Q And the second full paragraph references:
13 "Donna Nesselbush-Judge-does not work 20-plus hours
14 per week." Do you see that?
15 **A Yes.**
16 Q That is from Sara Miranda, the Human
17 Resources Director?
18 **A Yes.**
19 Q Were these communications, at least in
20 part, what gave rise to the August 2022,
21 communication that you sent to Judge Nesselbush
22 indicating that your initial determination on that
23 was that she not be permitted to be a member?
24 **A Yes.**

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1 **MR. ROBINSON:** I'd ask that this be marked
2 as Respondent's 8.
3 **HEARING OFFICER:** Any objection?
4 **MR. HARWOOD:** Other than hearsay, no.
5 **HEARING OFFICER:** No? That -- it's
6 admitted.
7 (Whereupon, Respondent's Exhibit 8 is received into
8 evidence.)
9 Q Mr. Karpinski, I'm now showing you a
10 letter dated May 12, 2023 from Attorney Harwood. Do
11 you see that?
12 **A I do.**
13 Q Do you recall receiving that letter?
14 **A I do.**
15 Q Between the October 24, 2022 letter that
16 you sent to Judge Nesselbush, and this May 12, 2023
17 letter, do you remember having a meeting with
18 Attorney Harwood?
19 **A I do.**
20 Q Did he come and meet with you here at the
21 Retirement System?
22 **A He did.**
23 Q And appended to his letter, do you see the
24 same purported job description that was attached to

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1 Judge Nesselbush's earlier communication to you?
2 **A Yes.**
3 Q Do you also see communications from David
4 Moran and Terrence Mercer, former and current
5 members of the city council?
6 **A Yes.**
7 Q And what can you relay to the Hearing
8 Officer as to the substance of that meeting with
9 Mr. Harwood?
10 **A I think, from what I recall, it was trying**
11 **to verify or review the job description that was**
12 **presented to us, and that both Mr. Mercer and**
13 **Mr. Moran had provided these letters trying to talk**
14 **a bit about what they were doing in their positions**
15 **inside there. And then some of the process for**
16 **which I discussed with you in terms of -- with**
17 **Attorney Harwood before, here are the mechanics, we**
18 **need job a specification, we need, you know, they're**
19 **very standard pieces, you know, we don't stick our**
20 **hand into what the employer does or doesn't. So**
21 **again, it was more about this is mechanically how we**
22 **get to where we are.**
23 Q Did you ever understand this letter and
24 the attachments, including the purported job

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1 description and letters from the council members, to
2 be an effort on the part of Mr. Harwood to satisfy
3 your concerns regarding whether or not Judge
4 Nesselbush, in fact, worked 20 or more hours per
5 week as part of her official job duties?
6 **A Yes. And I think we discussed what the**
7 **job was and not at the level of detail that Judge**
8 **Nesselbush provided, but going through the**
9 **positions. And then I think I went back to, I just**
10 **need a job spec.**
11 Q So was it your understanding that this
12 information was part of ongoing efforts to satisfy
13 your concerns?
14 **A Yes.**
15 **MR. ROBINSON:** I would ask that that be
16 marked as Exhibit 9.
17 **HEARING OFFICER:** Admitted.
18 (Whereupon, Respondent's Exhibit 9 is received into
19 evidence.)
20 Q I want to jump back to Petitioner's
21 Exhibit 3. After your meeting with Mr. Harwood and
22 your review of the job description that was provided
23 by both Judge Nesselbush and Mr. Harwood, and the
24 two communications from the city council members,

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1 would it be fair to say, Mr. Karpinski, that that is
2 what led to the generation of this July 3, 2023
3 letter?
4 **A Yes, that's fair, yes.**
5 Q Okay. So at that point, had your concerns
6 been mostly allayed?
7 **A Yes, to the extent that we had the council**
8 **presidents providing us some information as to their**
9 **understanding of the position and getting a little**
10 **more inside of what the position was.**
11 Q And at that point, you were prepared to
12 let Judge Nesselbush and Judge Gannon remain members
13 of MERS?
14 **A Yes.**
15 Q At least as of that date?
16 **A Yes.**
17 **MR. ROBINSON:** Mr. Hearing Officer, do you
18 have a copy of that date?
19 **HEARING OFFICER:** I do.
20 **BY MR. ROBINSON:**
21 Q I'm showing you a letter dated October 11,
22 2023. Have you seen that before?
23 **A I have.**
24 Q Did you receive that letter from Attorney

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1 Ragosta?
2 **A I did.**
3 Q And Mr. Ragosta notes in the opening line
4 of that letter that his firm serves as outside labor
5 and employment counsel for the City of Pawtucket.
6 Did I read that correctly?
7 **A Yes.**
8 Q There is no indication there as to only
9 representing a particular aspect or branch of
10 government, is there?
11 **A No, it just says the City of Pawtucket.**
12 Q He doesn't differentiate in there between
13 the mayor's office or the city council, does he?
14 **A Not in this letter, no.**
15 Q Okay. And after you had issued the
16 July 3, 2023 letter indicating that Judge Nesselbush
17 would be allowed to participant in MERS, was this
18 the next communication that you received?
19 **A Yes.**
20 Q And did this prompt any concerns on your
21 part?
22 **A In this particular piece, this was just --**
23 **all he was asking for was an update. And we had not**
24 **responded to this letter other than to say -- well,**

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1 **I shouldn't say we said anything, but we hadn't**
2 **responded to it.**
3 Q And in light of the letters that you had
4 received via Attorney Harwood from council members
5 Mercer and Moran, was there any surprise in having
6 now received a letter, some months later, from an
7 attorney serving as outside labor and employment
8 counsel to the City of Pawtucket?
9 **A To the extent we hadn't expected anything,**
10 **there was some communications that we were beginning**
11 **to hear from the City of Pawtucket. So this coming,**
12 **you know, right afterwards, gave us an indication**
13 **that there was some other level of inquiry that was**
14 **being requested of us.**
15 **MR. ROBINSON:** I'd ask that that be marked
16 as Respondent's 10.
17 **MR. HARWOOD:** Number 10 is October 11,
18 2023?
19 **HEARING OFFICER:** Correct.
20 (Whereupon, Respondent's Exhibit 10 is received into
21 evidence.)
22 Q In response to that October 11, 2023
23 letter from Mr. Ragosta, did you have occasion to
24 send the attached letter to Terrence Mercer

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1 directly?
2 **A Yes.**
3 Q What was the purpose in sending this
4 communication?
5 **A So given the original information that we**
6 **had received, the two letters from the council**
7 **president, the former council president, we had**
8 **again, began to receive some inquiry as to the**
9 **status of judges in Pawtucket, and we began to, at**
10 **this stage of the game, call into question who was**
11 **really the hiring body as we had the City of**
12 **Pawtucket asking for inquiries, and there were other**
13 **inquiries coming to us because, again, it's not a**
14 **job specification or a style of a job specification**
15 **that we probably have been accustomed to. And given**
16 **the position, you know, the fact that the council**
17 **president and that one of the council presidents was**
18 **a former one, again, I can't stress enough that**
19 **we're a mechanical operation. So we were trying to**
20 **say, let's get this verified that this is something**
21 **that the council has confirmed or whatnot. And it**
22 **was, if you will, a belt and suspenders kind of a**
23 **letter.**
24 Q All right. So at this point, you have

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1 issued a letter in July of 2023, indicating that,
2 okay, we're going to allow you to be a member of
3 MERS.
4 **A Correct.**
5 Q And that was after you received a
6 purported job description and two letters from
7 members of the City Council.
8 **A Correct.**
9 Q This letter, in the second paragraph notes
10 that you had been provided with a copy of a
11 protocol/job description for chief judge and
12 associate judge, see attached Exhibit A. Do you see
13 that?
14 **A Correct, yes.**
15 Q It also notes in that same second
16 paragraph on the first page, that accompanying that
17 job description was Terrence Mercer's letter dated
18 December 8, 2022. Do you see that?
19 **A Yes.**
20 Q At the top of the next page it notes that
21 you then received a communication from Attorney
22 Ragosta inquiring as outside labor and employment
23 counsel to the City, inquiring as to the status of
24 Chief Judge Nesselbush and Associate Judge Gannon's

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1 challenges to the initial ineligibility
2 determinations made by the system. Do you see that?
3 **A Yes.**
4 **Q** The letter requests clarification from
5 Mr. Mercer as to the conditions and duties of
6 employment of the Pawtucket Municipal Court judges.
7 Do you see that?
8 **A Yes.**
9 **Q** Including with respect to the number of
10 hours worked, correct?
11 **A Correct.**
12 **Q** And inquiring in that first paragraph, the
13 first numbered paragraph on the second page, that if
14 there is someone different at the City that the
15 Retirement System should be communicating with,
16 politely ask that that person be identified. Do you
17 see that?
18 **A Correct. Yes.**
19 **Q** Is that a fair statement of the Retirement
20 System's inquiry at that point?
21 **A Yes.**
22 **Q** The second paragraph inquired that if the
23 council does have the authority to determine the
24 conditions of employment for Judge Nesselbush, does

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1 the job description that she provided accurately set
2 forth the number of weekly hours worked during the
3 course of her employment. Do you see that?
4 **A Yes.**
5 **MR. ROBINSON:** I'd ask that this be marked
6 as Respondent's 12?
7 **MS. NESSELBUSH:** What's the date of that?
8 **MR. ROBINSON:** November 8, 2023.
9 **HEARING OFFICER:** Is that 11?
10 **MR. ROBINSON:** Twelve. Oh no, I'm sorry.
11 It's eleven.
12 **HEARING OFFICER:** Yes.
13 (Whereupon, Respondent's Exhibit 11 is received into
14 evidence.)
15 **BY MR. ROBINSON:**
16 **Q** Mr. Karpinski, I'm showing you a letter
17 dated November 17, 2023.
18 **A Yes.**
19 **Q** Apparently from council President Mercer.
20 Do you see that?
21 **A I do.**
22 **Q** Did you receive this letter in response to
23 the letter that you sent on November 8th?
24 **A Yes.**

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1 **Q** Just take a minute and review it to
2 yourself, please.
3 (Whereupon, witness complies with request.)
4 **A Okay.**
5 **Q** And after you received this letter from
6 Terrence Mercer, were you satisfied as to whether or
7 not the job description that Judge Nesselbush had
8 prepared and given to you, accurately reflected her
9 official job duties on behalf of the City of
10 Pawtucket?
11 **A Based on this letter and the responses**
12 **that Mr. Mercer provided, we were in a little bit of**
13 **a quandary as to there was a job spec, but they're**
14 **going back and saying it's the council, we're not**
15 **doing this, we're not the body who -- where he says,**
16 **you know, in the underlying, the legislative body**
17 **does not determine conditions, weekly workload. In**
18 **the second question, they do not determine working**
19 **conditions and accordingly, does not establish**
20 **protocols. So it, to us, called the question, well,**
21 **who gets to say this? And you know, I'm going to**
22 **bring it up again, we look mechanically. We look**
23 **mechanically at a job spec. And I think we were now**
24 **getting into a situation of, if we've got some**

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1 **correspondence that says that if the council is the**
2 **hiring body, but then we've got this one that says,**
3 **well, we don't really do this. And from our**
4 **day-to-day practice, there is usually some**
5 **administrative body, which I don't think they were**
6 **able to identify, as to who sets the job and what it**
7 **is, what it does.**
8 **Q** Based on this job description, were you
9 satisfied that the job description prepared by Judge
10 Nesselbush was ratified properly by the City and, in
11 fact, represented her official job duties?
12 **A It did not represent it based on what we**
13 **saw here because there was no clarification.**
14 **MR. ROBINSON:** I'd ask that this be marked
15 as Respondent's 12.
16 **HEARING OFFICER:** Admitted.
17 (Whereupon, Respondent's Exhibit 12 is received into
18 evidence.)
19 **BY MR. ROBINSON:**
20 **Q** By the way, if there are disputes, how
21 many MERS units are there?
22 **A 172.**
23 **Q** Representing how many cities and towns?
24 **A Thirty-nine cities and towns.**

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1 Q So every city and town is a member of
2 MERS?

3 A No, no. There are a gang of them who
4 are -- like, the City of Providence is not here. So
5 it's not every city and town, but within a city or
6 town there can be four or five different employers.
7 So, for example, Barrington has one for the city
8 employees, one for police, one for the fire, and
9 noncertified people working in the schools. So
10 they're different employers.

11 Q Of Rhode Island's total 39 cities and
12 towns?

13 A Right.

14 MR. ROBINSON: I think that's right.
15 John, is that right?

16 BY MR. ROBINSON:

17 Q How many are not participants in MERS?

18 A There are -- there's a report that the
19 treasurer prepares. It's called the LAP Report,
20 Locally Administrated Pension Plans. And these are
21 plans, there are 30 of them. But again, it's an
22 individual breakdown.

23 Q That isn't my question. How many cities
24 and towns are not participants in MERS of the 39 in

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1 Rhode Island?

2 A It depends what group, Mike.

3 Q Are there any that don't participate at
4 all? Any cities or towns in Rhode Island?

5 A No. In some way, they have to
6 participate. A teacher, by statute, must be a
7 member of maybe not MERS, but other teachers'
8 systems.

9 Q Have you had occasions in your experience
10 when there are disputes or issues between branches
11 or departments within cities and towns?

12 A Yes.

13 Q And does the Retirement System ever get
14 involved in trying to resolve those disputes?

15 A No, no. If there is -- if the member is
16 telling us a particular, I should have had a full
17 week of service credit, and the employer says, no,
18 they were only in for 2 1/2 days; or should this
19 person trying to buy service credit and the records
20 are going back and forth, we won't be the arbiter.
21 If the employer says, her job, his job, was supposed
22 to earn this salary, not that one, then we will push
23 it back and say, this is an issue between labor and
24 management, if you will.

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1 Q Do you and your team have the resources to
2 get involved in decisions between whether or not a
3 city council, or an executive branch, or some other
4 department has authority to provide so-called
5 official communications on behalf of a city, or do
6 you look to the municipality at large?

7 A Can you repeat that?

8 Q Do you have the resources or the skill set
9 to be able to resolve disputes within a city as to
10 who in fact has authority over a particular
11 employee's terms and conditions of employment?

12 A No, no. We have never gotten down to, if
13 you will, fighting that battle. You know, it was,
14 like, somebody gave us this, somebody gave us this,
15 we kind of carve out what might be an issue for us
16 in terms of, I mean it could be lots of reasons.
17 But if it gets down to a dispute between the
18 employer and labor, and employer and member --

19 Q My question is this, you've heard
20 discussion during your examination by Mr. Harwood,
21 that the City Council has control over hiring a
22 particular employee, in this case a Municipal Court
23 judge. Do you get involved in that degree of
24 decision-making, or does the City of Pawtucket speak

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1 with one voice?

2 A Generally, what we're -- it's one voice,
3 because we're generally -- for what we see, it's
4 going to be the City that we're going to go to. And
5 that might a dispute between teachers and the City,
6 could be labor and the City, but from the
7 day-to-day, that's where it's going.

8 Q I'm showing you an e-mail dated
9 February 19, 2024. Do you see that?

10 A Yes.

11 Q Did you receive a copy of this?

12 A I got a copy from -- my name is not listed
13 -- I'm not included in it.

14 Q Do you remember seeing it?

15 A I do. I definitely remember seeing it,
16 but it went to my internal counsel, Gayle.

17 Q Okay. And there is a communication in
18 there from Attorney Frank Milos in Pawtucket. Do
19 you see that?

20 A Yes.

21 Q Indicating that the City is represented by
22 Attorney Vincent Ragosta on this matter. Do you see
23 that?

24 A Yes.

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1 Q And that's regarding the Pawtucket judges?
2 A Yes.
3 Q Okay. Did you have any understanding or
4 did you care whether or not Attorney Ragosta was
5 representing the mayor, versus the City Council, or
6 versus any other department of city government?
7 A We had not gone -- no.
8 MR. ROBINSON: I'd ask that this be marked
9 as Respondent's 13.
10 HEARING OFFICER: Thirteen.
11 (Whereupon, Respondent's Exhibit 13 is received into
12 evidence.)
13 BY MR. ROBINSON:
14 Q Okay. Mr. Karpinski, I'm showing you an
15 e-mail communication from Attorney Vincent Ragosta.
16 Do you see that?
17 A Yes.
18 Q Did you see this?
19 A Yes.
20 Q Dated February 20th of 2024?
21 A Yes.
22 Q I direct your attention to the first
23 sentence. "I understand that you have been advised
24 by City Solicitor Frank Milos that I serve as

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1 outside labor and employment counsel to the City."
2 Do you see that?
3 A Yes.
4 Q Do you have any reason to challenge or
5 doubt or second-guess this communication by an
6 attorney purporting to represent the City as a
7 whole?
8 A No.
9 Q And just take a minute and review the
10 letter.
11 (Whereupon, the witness complies with the request.)
12 BY MR. ROBINSON:
13 Q At this point, Mr. Karpinski, would it be
14 fair to say that your office, meaning your staff had
15 received a number of communications from the Human
16 Resource Department that did not support Judge
17 Nesselbush's claim that her official position
18 required her to work 20 or more hours per week, do
19 you agree with that?
20 A Yes.
21 Q And you had also received a document
22 purporting to be a job description that was prepared
23 by Judge Nesselbush, correct?
24 A Correct.

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1 Q You had taken that job description and the
2 letters from the council members and written to the
3 president of the City Council, and they could not
4 vouch for the accuracy or authority of the job
5 description that Judge Nesselbush had prepared, is
6 that correct?
7 A That's correct.
8 Q And now you had also received this e-mail
9 communication from an attorney purporting to
10 represent the City of Pawtucket, is that correct?
11 A That's correct.
12 Q Did this e-mail communication from
13 Attorney Ragosta reinforce your concerns about
14 whether or not the representations that were being
15 made to you by Judge Nesselbush, in fact were
16 supported by the City of Pawtucket itself?
17 A Yes.
18 Q Did you still continue to have concerns in
19 light of this communication from Attorney Ragosta,
20 as well as from the communications from Council
21 President Mercer that, in fact, there was no City
22 verification of the representations that were being
23 made to you by Judge Nesselbush and her attorney?
24 A Yes. And I think from looking when we had

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1 this memo, I think what we finally -- or this
2 e-mail, I think where we were -- I think I mentioned
3 before we were beginning to struggle that there
4 seemed to be a dispute or a difference of opinion
5 between what the original e-mail that -- the
6 original information coming back to us saying that
7 the council was the hiring party; and then the
8 City's coming in and saying something different,
9 saying no, this is untrue, this doesn't happen. And
10 I think -- where I think you asked earlier, those
11 are disputes that we don't put ourselves into
12 because we're not litigating, you know, what is the
13 right way to -- who is the employer and who isn't.
14 You know, we always push those back onto, like I
15 mentioned earlier, if there is a dispute between
16 employer and the employee. But in this case here,
17 it's getting a little beyond that. It's not just,
18 hey, there's purchase of service credit on my
19 benefits, it should have been higher or lower, or
20 the salary should have been higher or lower. We're
21 getting into a much deeper conversation, and I think
22 we had it literally going both ways where we're
23 getting some information saying, yeah, this is the
24 council, and we said, okay, we think that's good;

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1 and then we're getting the City saying, no, that's
2 not okay, there is another council involved. And
3 that's where we kind of hold back and said, this is
4 deep for us, we're not going to try to make a
5 decision on who in Pawtucket has the authority to go
6 ahead and make this decision, which is why we wrote
7 the other -- the last letter.

8 Q So let's talk about what you did do,
9 though. Other than the sort of self-serving job
10 description that was prepared by the applicant
11 herself and submitted to you, and the e-mail
12 communication -- and the letters that were provided
13 to you from Councilpersons Moran and Mercer, would
14 you agree with me that the Retirement System
15 specifically wrote to Mr. Mercer? We looked at that
16 exhibit.

17 A Yes.

18 Q And you had communications with the City's
19 H.R. department?

20 A Yes.

21 Q And you actually had a formal
22 communication now in the form of this e-mail
23 communication from Mr. Ragosta, purporting to be a
24 letter as counsel to the City of Pawtucket?

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1 A Yes.

2 Q Was there anything else for you to do at
3 that point in terms of the seeking of official
4 verification of what Judge Nesselbush was
5 representing to you?

6 A It caused us to, again, to write the last
7 one. And we had a doubt now, because again, we're
8 unable to get clarification on the Charter, the
9 local laws of a city or town. And again, we're
10 not -- that's not what the Retirement System does.
11 We don't litigate or, you know, we do this kind of
12 a, you know, legal process when it's a person
13 questioning their benefit; but we're not going into
14 trying to figure out whether it's between a union
15 and an employer or something beyond what we can do.

16 Q I'm showing you Exhibit 4, Petitioner's
17 Exhibit 4. Do you see that?

18 A I do.

19 Q It's dated March 11, 2024. Is that
20 Communication from Attorney Ragosta sort of the last
21 step before your final administrative denial?

22 A Yes.

23 Q Which gave rise to this hearing?

24 A Yes.

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1 (Whereupon, Respondent's Exhibit 14 is received into
2 evidence.)

3 MR. ROBINSON: Two last housekeeping
4 matters.

5 Q In response to your final administrative
6 denial, Mr. Karpinski, did you receive this Notice
7 of Appeal from Attorney Harwood?

8 A I did.

9 MR. ROBINSON: I'd like to have that
10 marked as Respondent's 15?

11 HEARING OFFICER: Fifteen.

12 (Whereupon, Respondent's Exhibit 15 is received into
13 evidence.)

14 Q And last but not least, I'm handing you a
15 letter dated August 13, 2024. Do you recognize that
16 as the hearing officer assignment letter?

17 A Yes.

18 Q Appointing Mr. Koutsogiane and starting
19 the process that leads us here today?

20 A Yes.

21 MR. ROBINSON: Mr. Hearing Officer, I do
22 not have anything further. I'd ask that that
23 be marked as Respondent's 16.

24 HEARING OFFICER: Done.

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1 (Whereupon, Respondent's Exhibit 16 is received into
2 evidence.)

3 MR. ROBINSON: Could I have just one
4 minute, please? I apologize.

5 HEARING OFFICER: Yes.

6 BY MR. ROBINSON:

7 Q Have you done any independent review, or
8 your staff done any independent research to try to
9 figure out where the authority of one department of
10 city government in Pawtucket begins and another
11 ends? Or would it be a better characterization that
12 you have written to the City, received information
13 from the City, and that it doesn't support the claim
14 from membership that's being advanced here today?

15 A Yes, we received from the state, yes.

16 Q And is that consistent with how you
17 approach municipal MERS units in general?

18 A Yes. We, again, we don't get into --
19 into -- within the employer with some kind of a
20 dispute. What we're dealing with is more of the
21 member and as long as we can go back and see a
22 discrepancy and it's got to do with the local level,
23 we go back and push that out. That's kind of a
24 simple answer.

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1 **MR. ROBINSON:** I don't have anything else.
2 I think I moved admission of the hearing
3 officer assignment letter?
4 **HEARING OFFICER:** That's done, it's 16.
5 **MR. ROBINSON:** That's fine. I don't have
6 anything else.
7 EXAMINATION BY MR. HARWOOD
8 Q Mr. Karpinski, Exhibit 4, Employees'
9 Retirement System I believe is a letter dated
10 August 21, 2022 to Judge Nesselbush. And while
11 you're looking at it, look at Exhibits four, five,
12 probably six, seven, eight.
13 **HEARING OFFICER:** John, are you referring
14 to the Respondent's documents?
15 **MR. HARWOOD:** The Respondent's exhibits.
16 **A What exhibits?**
17 Q Respondent's 4 through 8.
18 **A I don't have them here.**
19 Q You don't have them there?
20 **A I have them. I haven't marked them**
21 **myself. I just have the dates of them.**
22 Q Okay. Looking at all of those dates.
23 There's number 8 on my record, it says May 12th of
24 2023.

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1 **A Okay. Is this coming from you?**
2 Q Correct.
3 **A Okay.**
4 Q Now, all of those letters all dated --
5 that's Exhibits four, five, six, seven, eight, all
6 of the four, your acceptance letters into the MERS
7 program dated July 3rd of 2023, which is
8 Petitioner's No. 3.
9 **A This is our letter going to you?**
10 Q Right. So the last letter, all of the
11 Exhibits 4 through 8, deal prior to you analyzing
12 all of that information and then issuing a letter to
13 me dated July 3rd, 2023, indicating that Judge
14 Nesselbush and Associate Judge Gannon are now
15 eligible, correct?
16 **A These exhibits here, all -- there are**
17 **dates of 2022.**
18 Q Right. So the ones before your acceptance
19 letter of July -- on July 3rd of 2023, represents
20 Exhibits four, five, six, seven, eight. What I'm
21 saying, Frank, is they're all dated prior to your
22 analysis saying that Judge Nesselbush is in fact
23 eligible with Judge Gannon, correct?
24 **A So, our July 3rd letter is the letter**

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1 **saying she is accepted.**
2 Q Is accepted. Right. And all of the
3 letters before, that Mr. Robinson had marked as
4 exhibits, they're all prior to you accepting Judge
5 Nesselbush?
6 **A Correct.**
7 Q Okay. Fine.
8 **A The first letter was August 1 saying**
9 **you're not in.**
10 Q Correct.
11 **A Then we had another memo in October. And**
12 **then a couple of e-mails came in December of 2022.**
13 Q Right. And all of that information you
14 had and you finally digested and then finalized in
15 your July 3, 2023 acceptance letter. So we know as
16 of that date you were under the impression that
17 Judge Gannon and Judge Nesselbush in fact met the
18 requirements of MERS, working 20 hours per week,
19 correct?
20 **A Again, yes, but that was based on this**
21 **information that was provided to us.**
22 Q And that information that was provided to
23 you, if I recall, was provided by a job description
24 by, I believe, the City Council, that is the

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1 president of the council, correct?
2 **A I'm not sure where the job spec came,**
3 **which e-mail.**
4 Q If you look at your July 3rd, 2023 letter,
5 you'll see on page two where you say, we are
6 interpreting your letter to indicate that the City
7 Council members are confirming that the Pawtucket
8 Municipal and Probate judge have always worked and
9 continue to work a minimum, correct?
10 **A Yeah, 20 hours per week, yes.**
11 Q And the council, you don't know whether or
12 not the council, if it's their standard practice or
13 the council president to represent the wishes of the
14 majority on that council, do you?
15 **A We, when we hear from a person, the**
16 **council president, depending on the circumstance, we**
17 **might stop there, or sometimes we might look and**
18 **say, is there some -- if there are some -- are there**
19 **minutes, are there minutes, are there something for**
20 **which we can go back and say, okay. Or, we might**
21 **just come -- blatantly -- I think more often than**
22 **not, if we're sending something to a council, we**
23 **might also CC the other council members just to**
24 **ensure that that's the way it's written.**

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1 Q Okay. So at least on July 3rd of 2023,
2 you had from the City Council president, probably
3 both of them, probably Moran and Mercer, correct?
4 **A Correct.**
5 Q You also had, I believe in your letter and
6 you indicate on the fourth paragraph that the
7 Municipal Court, at least from the lawyer, the
8 City's top lawyer I believe, Frank Milos, he says
9 that the courts are controlled by the City Council,
10 not the executive branch, correct?
11 **A Correct.**
12 Q And you've also reviewed today Attorney
13 Ragosta's opinion letter, which I believe is
14 probably Exhibit Number 5, Petitioner's Number 5,
15 and that was dated December 8, 2022. So now we've
16 got at least two lawyers working for the City of
17 Pawtucket, but not the City Council, telling you the
18 City Council is the one that approves and regulates
19 and appoints these people. So you, when you were
20 answering those questions, you saw letters, I
21 believe, from Attorney Ragosta in exhibit -- let me
22 go over a couple here where it says, Good Evening,
23 Gayle -- Respondent's Number 14. I understand that
24 you have been advised by City Solicitor Frank Milos

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1 that I serve as outside labor and employment counsel
2 to the City.
3 Would you agree he's not saying to
4 the City Council, which he's already told you, the
5 authority of the Municipal Court judges rests with
6 the council. So you weren't fooled by that, were
7 you?
8 **A Right. I mean this is saying solicitor**
9 **served as outside counsel for the City. And I think**
10 **what we read that to mean is --**
11 Q I understand. So as you sit here today,
12 knowing that Mr. Ragosta's opinion indicated, yeah,
13 he does represent the City, the mayor, the executive
14 branch, he can represent the State of Rhode Island
15 and you can represent the governor. Do we agree to
16 that?
17 **A Yes.**
18 Q And he also can represent the State of
19 Rhode Island and represent the legislative branch,
20 correct?
21 **A Correct.**
22 Q But you knew when you read that letter, in
23 making the determination based on Ragosta's
24 December 8th opinion letter, as well as Petitioner's

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1 Number 3, dated July 3rd in the fourth paragraph,
2 that Frank Milos was also saying exactly what
3 Ragosta was saying. So you only had knowledge and I
4 know I understand sometimes people say things that
5 may not be legally solid, but you knew from Frank --
6 excuse me, from Milos' letter to you dated
7 November 29, 2022, and from Vinny Ragosta, that the
8 mayor's office had nothing to do with this. Yet,
9 after that, and I understand there were letters
10 being sent to you, and I can see where it's a little
11 confusing, but you already had been put on notice to
12 eliminate the confusion that when you set it up
13 employed as counsel to the City. I haven't heard
14 anybody other than their statements, and here's the
15 question, that he was representing the council, or
16 in Exhibit Number 13, where Gayle, I guess it's from
17 Frank Milos to Gayle Mambro-Martin, Gayle, I hope
18 all is well; second line, it says, the City is
19 represented by Vincent Ragosta on this matter. We
20 all agree that he was representing the mayor's
21 office, correct?
22 **A Yes.**
23 Q So there was no doubt in your mind that
24 the appointing authority and controlling authority

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1 is the, at least as we sit here today, is the City
2 Council, correct?
3 **A Based on the information that we collected**
4 **in the very beginning, that's when we started down**
5 **the path of we believe what we heard was, the city,**
6 **the City Council has authority to hire.**
7 Q Right.
8 **A Subsequently, now we start getting**
9 **information from the City which seems to be contrary**
10 **saying no, no, no, they don't work 20 hours. And I**
11 **-- that was the point in the game where we began to**
12 **step back and say, this isn't a matter that we can**
13 **resolve. You know, we ought not to be trying to**
14 **determine local laws and, you know, administration**
15 **and what have you. And I think what was of concern**
16 **to us was we weren't able to say who is the real --**
17 **who's the real person here, because why is the City**
18 **Council -- why is Ragosta sending me this letter?**
19 **There is some dispute inside there. Not knowing**
20 **what that is, we felt -- which is the last letters**
21 **that we sent, somebody answer these questions and**
22 **tell us.**
23 Q And that's -- that's logical. But when
24 you got this letter from Vin Ragosta, did you get on

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1 the phone and say, Hey, Vin, by the way, I saw the
2 your memo saying the opinion from you dated
3 December 8th of 2022 indicates that the council has
4 the authority, and by the way, Frank Milos, the top
5 City Solicitor for Pawtucket says the same thing,
6 what do you mean by: I represent the City? Do you
7 represent the judicial branch of the City? Or do
8 you represent the legislative branch of the City?
9 Or do you represent the executive branch? And I can
10 understand the confusion, but you were on notice
11 having said that, as you sit here today, knowing
12 what Vin Ragosta told you in writing and that you
13 reviewed, and knowing what Frank Milos told you in
14 the approval letter, is there any doubt in your mind
15 that the City Council appoints and controls the
16 Pawtucket Municipal Court?
17 **A It appeared from what we had, that the**
18 **council is the hiring party, but the fact that we**
19 **had the City coming in and almost refuting this,**
20 **saying they don't work 20 hours. And we didn't**
21 **believe that it was our job to make that**
22 **distinction, which is why again, we wrote the letter**
23 **saying somebody tell us. If we would have not have**
24 **heard from the town or the city, we probably would**

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1 **have stopped at the June 20th -- July 23rd letter.**
2 Q And I understand your initial pick. But
3 you never inquired of the H.R. lady: What's the
4 basis of your opinion? Correct?
5 **A So --**
6 Q And I don't mean to interrupt. And also,
7 the same thing with Vin Ragosta. I know him, he's a
8 good guy, I like Vinny. But you never asked him, to
9 say, Hey, Vinny, you made a statement, do you have
10 any actual basis for that? You never asked that of
11 that man, did you?
12 **A I did not.**
13 Q And you never asked Judge Nesselbush or
14 Judge Gannon, did you?
15 **A Judge Nesselbush and I had chatted.**
16 Q Okay.
17 **A And she had provided, you know, and what**
18 **she had said at the very beginning was, the**
19 **substance of our conversation of this has been for**
20 **years and years and years, this is what the job was,**
21 **it's never been documented.**
22 Q Okay.
23 **A And my comment to her was, exactly what we**
24 **do here is job specs. And if you give us a job**

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1 **spec, then that is what -- again, it's our**
2 **get-out-of-jail-free card to say, this is what the**
3 **job is. And all of the information that followed**
4 **that was, yes, it was a position for which the**
5 **council hires, yes, they seem to have the authority**
6 **to hire, fire, do whatever. So we, having just that**
7 **information at that time, we said, okay, that's the**
8 **employer and off we go. Following that, it begins**
9 **to get more bubbly, we're getting more inquisition**
10 **from the City as to what's the status of this, we**
11 **get Ragosta's letter. Understand we did not make**
12 **the call or write the letter to say, who are you**
13 **representing, why is it coming. But the fact that**
14 **it wasn't coming back and saying, you know, when**
15 **she's going to retire, we want to send her flowers.**
16 **You know, we presumed this was something that was**
17 **coming back to say, I'm in disagreement. And when**
18 **you read the content of it, that's where it's going.**
19 **So it kind of drew us further away from saying, I**
20 **know what we heard from Milos and Ragosta and their**
21 **opinions, but now we've got the City going a**
22 **different way, and being a little more on the other**
23 **side, which was --**
24 Q You mean you have the executive branch

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1 going the other way.
2 **A Fair enough.**
3 Q Fair enough?
4 **A Yes.**
5 Q I understand that. And would you agree,
6 you never had any job descriptions which you
7 indicated you rely on when you make the
8 determination if someone's eligible, because on
9 Petitioner's 3 you indicated the employment
10 retirement system serves by information by obtaining
11 job description, and you rightly so said you
12 obtained one from the City Council, as well as from
13 Judge Nesselbush, correct?
14 **A Correct.**
15 Q So now you had something, correct?
16 **A Correct.**
17 Q No collective bargaining agreements,
18 correct?
19 **A Correct.**
20 Q And you did talk to I think you said one
21 of the employers, which would be President Mercer?
22 **A Correct.**
23 Q So you did your job as far as the
24 authority.

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1 **A** Yes.
2 Q Did you ever get a job description from
3 Vinny Ragosta?
4 **A** I did not.
5 Q Did you ever get a job description from
6 Frank Milos?
7 **A** I did not.
8 Q Why do you base your decision on what
9 those guys said? I know what you said but I'm just
10 being sarcastic. But this is someone's job that
11 they put in their 20 years and I understand you're
12 getting hit from different directions in this place,
13 I get it. But you didn't have a job description
14 from Vinny Ragosta or Frank Milos or anybody, the
15 H.R. lady.
16 **A** It was -- in those letters that we
17 received, it seemed to be leaning on, she's not 20
18 hours.
19 Q I agree.
20 **A** And while I understand the -- your concern
21 over the job application, we do have that and it
22 does say 20, but the whole matter in question is 20.
23 Q Right.
24 **A** So when we're getting something that's

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1 **contrary to the employer, well, let's not say the**
2 **employer, let's say the executive branch or the**
3 **mayor, you know, somebody other than the council,**
4 **this is where we kind of drew the line and said,**
5 **this is a little thick for us and we ought not to be**
6 **in this --**
7 Q And I understand.
8 **A** I'm not sure if we even have authority to
9 **answer that question if it was a dispute between**
10 **local city ordinances and all that. That's not what**
11 **we would do.**
12 Q And I understand that. I guess finally,
13 well, you have answered my question. You relied on
14 people who never gave you a job description, from
15 the executive branch, and came up with the
16 conclusion contrary to your July 3rd, 2023 opinion,
17 to this day has not been rebutted relative to a job
18 description or any testimony from them as to what
19 the job entails, other than the testimony you
20 probably heard today from Judge Nesselbush, right?
21 **A** Right. But again, the matter in question
22 is the 20 hours, and we're hearing someone else
23 telling us it's not 20. So, you know, that being
24 said, the specifics of what the job is became a

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1 **matter of, well, if you're not 20, does it really**
2 **matter what's in here based on the information that**
3 **we're receiving. Hence, and I'll repeat it again,**
4 **but we're pushing it back up and say, the council**
5 **and the executive branch, someone needs to get back**
6 **to us and say, it's him or her.**
7 Q From your point of view, and I don't
8 question your good faith and your judgment, but if
9 you've got somebody who doesn't know what the job
10 description is, Vinny or the H.R. lady, or anybody,
11 whoever it may be, how would you be able to
12 determine whether it takes 20 hours or ten hours or
13 30 hours to do that if you don't know what the job
14 description is? And obviously, they didn't tell you
15 what it was, because that would be an important
16 question to ask.
17 **A** That's why we pushed it back up to say,
18 somebody tell us. You know, somebody needs to have
19 a conversation at the City, meaning the council, the
20 executive branch, whomever, somebody needs to have
21 that conversation and get back to us to say, here is
22 what it is or isn't.
23 Q From your point of view, I understand that
24 would be nice. But you would admit, the response

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1 that you did get back was from at least from the
2 appointing authority, that is the council and the
3 president, along with the person who runs that
4 separate branch of government, which nobody I heard
5 today come in and say, you haven't been doing those
6 duties, does it make you reflect upon her decision
7 to terminate or not make her eligible and after
8 hearing the testimony and finding out that they had
9 no job description, and finding out that Vincent
10 Ragosta and Frank Milos unequivocally said we don't
11 have authority, do you think a little different
12 today? In fairness to you, and I'm not --
13 **A** I think it's a stage -- this is why,
14 again, we pushed it up the food chain to say, you've
15 got to solve it at that level, because I'm not sure
16 that the board even has that ability or authority
17 and whatnot. So up until the 23rd, we were like,
18 yeah, we had enough information that we felt this
19 constituted the position. But then, I think when we
20 had the letters and the answer to the question from
21 the council president saying, no, you know, we don't
22 do this, no, we don't have this. And then we saw,
23 you know, what we got from the executive branch
24 saying they don't work 20, that was -- put the brake

1 on, push it up, and let the local area employer,
2 which it sounds like the employer is the council,
3 but if the town or the city is not agreeing to it,
4 it's not our call anymore.

5 Q Let me ask you a couple more questions
6 Frank and end this. Are you familiar with the state
7 system, how it works relative to judges, their
8 employment and what happens once the judge is
9 nominated by the governor and it's confirmed,
10 depending on the judge, by the senate, well,
11 sometimes they create a committee, we send those
12 people over to the judicial branch and we don't tell
13 them and they don't tell us what to do and we don't
14 tell them what to do as to how to run their court
15 system. So are you familiar with the state system
16 where once the judges are sent to serve, the chief
17 judge calls the shots. When the City Council --
18 would you inquire with anybody if the City Council,
19 which I think in that letter they said, no, we don't
20 do that, we appoint and they sort of run their own
21 show. Does that make sense to you now as we sit
22 here?

23 A I think at the state level, I would agree
24 with you; but at the same token, there's not

1 somebody going in and saying judge-such-and-such at
2 the Supreme Court isn't doing anything. At that
3 point, we would kind of throttle back and say wait a
4 minute, why is there a dispute here and that's never
5 been presented to us.

6 Q How do you know if someone doesn't have a
7 factual basis of someone not doing something?

8 A I think that's why we push it back up
9 because we don't have -- when you asked me earlier
10 about receiving contributions, I have no idea --

11 Q I get it.

12 A -- of what's coming in. Someone's telling
13 me you're 20, but I don't know that.

14 Q I don't question your integrity one iota.

15 A So that's kind of, I think a lot of it of
16 what we're seeing is that when no one is questioning
17 state judges, no one's saying they're not doing
18 these many hours or these many pieces, we're not
19 going to get into that level of detail. If there
20 were, we push it up and say someone else needs to
21 fight this, the Retirement System can't be the
22 arbiter --

23 Q I get it.

24 A -- for those kind of matters.

1 MR. HARWOOD: I think it's one quick
2 review and I think --

3 BY MR. HARWOOD:

4 Q Do you in any way have any knowledge of
5 whether or not there's a political fight between the
6 mayor's office and the City Council when you were
7 making your decisions on declaring Judge
8 Nesselbush's and Judge Gannon's eligibility?

9 A Nothing was officially communicated, but
10 there were -- the fact that there was that many
11 inquiries coming in, it led us to believe something
12 had to be going on. Something had to be, because in
13 June of '23, we made our decision and then it
14 followed through. And again, I know I'm getting
15 repetitive, but that was enough to say this isn't a
16 battle for us, this isn't something that we can try
17 to answer.

18 Q So you were somewhat -- you had a
19 suspicion anyway that there may be some power
20 struggles or whatever, personality issues with the
21 mayor?

22 A Something was going on, but that's all we
23 could really get to.

24 MR. HARWOOD: Okay. Thank you.

1 A At least, that was a guess.

2 EXAMINATION BY MR. ROBINSON

3 Q I just want to go back quickly,
4 Mr. Karpinski, to the November 17, 2023 letter,
5 R-12.

6 MR. HARWOOD: What number do you have,
7 twelve?

8 MR. ROBINSON: Respondent's 12.

9 BY MR. ROBINSON:

10 Q Are you familiar with the letter?

11 A Yes.

12 Q You specifically wrote to Terrence Mercer,
13 did you not?

14 A I did.

15 Q You asked two questions?

16 A Yes.

17 Q Does the Pawtucket City Council determine
18 the conditions and duties of employment for
19 Pawtucket Municipal Court judges, including Chief
20 Judge Nesselbush and Associate Judge Gannon and/or
21 other Municipal Court judges who may be similarly
22 situated, including with respect to the number of
23 hours worked on a weekly basis, or is there a
24 different individual or entity that would have the

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1 authority to do so on behalf of the City, with whom
2 the Retirement System should be communicating
3 indicating regarding this issue? Is that fair?
4 **A Yes.**
5 Q The short answer to this question is no,
6 correct?
7 **A Correct.**
8 Q All right. Does that answer the question
9 of who within the City should be making decisions
10 regarding whether or not what has been represented
11 by Judge Nesselbush as to her official duties, is
12 accurate?
13 **A On the answer that he provided, it wasn't**
14 **official.**
15 Q You have communications from the City
16 Council saying, we don't decide the terms and
17 conditions of her employment?
18 **A Correct, correct.**
19 Q The last sentence: As for the second part
20 of this question, perhaps the City's personnel
21 director may provide some additional insight. Do
22 you see that?
23 **A Yes.**
24 Q You had communicated with the City's Human

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1 Resources Department, had you not?
2 **A We did.**
3 Q Second question. If the Pawtucket City
4 Council does have the authority to determine the
5 conditions of employment for Judge Nesselbush and
6 Judge Gannon, does the council as a whole certify
7 the accuracy of the information contained in the job
8 description for chief judge and associate judge of
9 the Pawtucket Municipal Court that was provided to
10 MERS and that is attached hereto as Exhibit A,
11 including with respect to the number of weekly hours
12 these individuals worked and have worked during the
13 course of their municipal employment. Did I read
14 that correctly?
15 **A You did.**
16 Q The job description that Judge Nesselbush
17 gave you, indicated that she worked 20 hours per
18 week as an official part of her job description,
19 correct?
20 **A Correct.**
21 Q The response, again, the short answer to
22 this question is, no, the City Council does not have
23 the authority and does not certify the accuracy of
24 that job description.

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1 Did that leave the Retirement System
2 in a position where it was unable to reconcile what
3 was being represented by Judge Nesselbush and her
4 attorney, with what was being provided to you by the
5 City of Pawtucket?
6 **A Yes. And that -- what that did -- what**
7 **that put us into the position of, if it's not black**
8 **and white and it's not clear, even though we had**
9 **letters from, you know, prior to 2023, this called**
10 **to question, how do I reconcile this, how do I get**
11 **to this if I have the conflicting pieces of**
12 **information. So that was, again, the driver to**
13 **again, sorry to be repetitive, but we need to push**
14 **this back to the City to reconcile this.**
15 **MR. ROBINSON:** I have nothing further.
16 **MR. HARWOOD:** In light of some of the
17 questions on cross-examination and direct
18 examination, Mr. Hearing Officer, would you
19 want, in order to keep this whole thing for a
20 couple of days, just to get you a letter just
21 to clarify if there's any doubt that Vinny
22 Ragosta was working for the executive branch,
23 versus the legislative branch. We can get a
24 letter from the council president if you think

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1 that is an issue; or if's it's not a big issue,
2 either way is fine with me. I just wanted to
3 leave the hearing open if that's a problem that
4 the Hearing Officer may have. If you don't
5 have that problem --
6 **HEARING OFFICER:** I don't have that
7 problem. I mean, if you want to leave it open
8 for a couple days for --
9 **MR. ROBINSON:** From our perspective,
10 Mr. Hearing Officer, it doesn't make any
11 difference because the ambiguity on which
12 department of the City speaks on any of these
13 issues is the point I'm trying to underscore.
14 And, you know, that's really why the Retirement
15 System is in the position that it's in. If the
16 City Council had said -- were to say today that
17 this job description is a true and accurate
18 representation of what Judge Nesselbush does
19 and has done and has done for the past 20
20 years, I don't believe we'd be here.
21 **HEARING OFFICER:** Yes, I don't have any
22 issue with relative to where Vinny Ragosta
23 stands. I do have a couple of questions for --
24 I'm not quite sure which party would answer it.

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1 How are the municipal judges paid? Where
2 do the funds come from?
3 **MS. NESSELBUSH:** The City. It's a generic
4 paycheck.
5 **HEARING OFFICER:** There's no separate
6 budget for them?
7 **MS. NESSELBUSH:** There is. There is a
8 budget that the City Council makes both for the
9 executive branch, for themselves, and for the
10 judicial branch.
11 **HEARING OFFICER:** Yes, I'm hearing
12 information relative to the State judges,
13 District Court, Superior Court, Supreme Court,
14 they're all under the umbrella of having their
15 own money.
16 **MS. NESSELBUSH:** We have -- the judiciary
17 has their own budget.
18 **HEARING OFFICER:** So you have your own
19 budget. Who makes contributions on behalf of
20 the judges towards retirement? Where do those
21 funds come from?
22 **MS. NESSELBUSH:** Through that same budget
23 I am sure there must be a personnel item in
24 there for the judge and all of the benefits,

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1 like health insurance that go with it, which
2 would be also the MERS contributions.
3 **MR. HARWOOD:** I think I may have the
4 answer to that, I'm pretty sure, not that I am
5 positive. Every legislative branch in the free
6 world dictates where the money comes in or
7 where it goes. There are some jurisdictions
8 that say we're a separate branch of government,
9 we're going to order you to give us the money,
10 like Florida. But generally speaking, at least
11 in this state, the general assembly controls
12 all of the money. It starts off in the house,
13 and it goes over to the senate. The governor
14 always makes a recommendation.
15 **HEARING OFFICER:** Well, I worked for eight
16 years in the State budget office.
17 **MR. HARWOOD:** So you know.
18 **HEARING OFFICER:** Where do we stand? Are
19 we done?
20 **MR. ROBINSON:** I don't have anything else
21 to present. I would like an opportunity to
22 submit a post hearing memo.
23 **HEARING OFFICER:** Yes, I would welcome
24 that. I can tell you relative to the briefing,

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1 some of the issues I would like to see would be
2 copies or direct information on the -- any
3 federal, state statutes that apply. I mean I
4 read the one for the 20 hours. That's pretty
5 clear. Anything relative to the Charter,
6 anything on the ordinances, actually, copies of
7 it. That will be important for me.
8 What do you want to do on briefing
9 schedule? Who wants to go first? Who doesn't
10 want to go?
11 **MR. ROBINSON:** I don't really stand on
12 formality in that regard. I'm happy to do
13 simultaneous exchanges in 30 days, and then two
14 weeks for replies?
15 **HEARING OFFICER:** Sure that works.
16 **MR. ROBINSON:** Does that work, John? I
17 think we know what the issues are.
18 **MR. HARWOOD:** I want to make sure the law
19 we pretty much rest on, what our brief does
20 say, and we won't get further ordinances,
21 statutes and anything else that --
22 **HEARING OFFICER:** Yes.
23 **MR. HARWOOD:** The issue is, obviously, was
24 she working 20 hours.

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1 **HEARING OFFICER:** Yes, it is, from the
2 beginning. And I see some factual and legal
3 issues relative to both sides. Absolutely. So
4 you can embellish on that in your brief. A lot
5 of it has already been pitched to me,
6 obviously, by the prehearing briefs and all of
7 the exhibits.
8 **MR. ROBINSON:** I don't expect it will be a
9 long memo.
10 **HEARING OFFICER:** Yes, well, yours wasn't
11 that long to begin with. It was succinct.
12 **MR. HARWOOD:** So, you're not -- you don't
13 -- my client just asked me a question.
14 You're not -- you're convinced that Vinny
15 works for the mayor's office?
16 **MS. NESSELBUSH:** Not the City Council.
17 **HEARING OFFICER:** Oh, I don't have any
18 issue that he worked for anything other than
19 the -- that the -- for the mayor, for the
20 executive branch of government.
21 **MR. ROBINSON:** Okay. But just to be
22 clear, I'm not conceding that point.
23 **HEARING OFFICER:** Yes, I understand.
24 **MR. ROBINSON:** There's no way for us to

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1 know the answer to that question from the
2 information that's here.
3 **HEARING OFFICER:** Yes, I understand your
4 position, but what I'm saying at this point,
5 and you both might giving me a brief with some
6 exhibits that makes me change my mind. But
7 based on what I'm seeing and hearing, I'm
8 seeing Vinny coming from the mayor's office,
9 the reaffirmation of the position taken by
10 Frank Milos.
11 **MR. HARWOOD:** Correct.
12 **HEARING OFFICER:** So if you see something
13 different, have at it in the briefs.
14 **MR. ROBINSON:** I don't think it matters.
15 **HEARING OFFICER:** Well, I would tend to
16 agree in some ways. I mean you may be pitching
17 it from a different perspective and I would
18 tend to agree. So I'm definitely openminded.
19 **MR. HARWOOD:** All right. That's fine. I
20 mean we may submit an exhibit reconfirming what
21 you believe if you would.
22 **HEARING OFFICER:** Sure.
23 **MR. HARWOOD:** But if we think it's
24 necessary.

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1 **HEARING OFFICER:** Well, you both have
2 submitted substantial memoranda, so I mean I
3 don't think you have to go through a factual
4 review. It's almost pure law. I mean if you
5 think there's some facts that have been
6 presented that really weren't described enough
7 previously, then fine, you know, incorporate
8 that. But a lot of it is, what do you see in
9 the law? I mean I see the powers coming from
10 the legislature, meaning the City Council, how
11 is that defined? I mean I do definitely see
12 some ambiguities there.
13 **MR. HARWOOD:** Would you, for obviously
14 both Mike and I, if we want to after this
15 hearing, we want to submit what we believe are
16 additional facts to clarify our position and
17 submit it, would you have any problem to keep
18 an open, you know, you receiving that
19 information based on what's said here today?
20 **HEARING OFFICER:** Well, not I decide
21 agreeing or disagreeing. I mean, you might be
22 presenting facts that you might think, he might
23 have an objection. Overall, I really don't
24 just in principal, but subject to him seeing

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1 what's going to be presented.
2 **MR. HARWOOD:** Right. And it would only
3 come out of this hearing. I would not pull
4 something out of a bullpen.
5 **MR. ROBINSON:** I can't say without seeing
6 it, so I'd have to see. I mean, if I don't
7 have an objection, then it should be no
8 problem; if I do, we can call Charlie.
9 **HEARING OFFICER:** Yes, I mean if you feel
10 like another conference call is necessary, I'm
11 available.
12 **MR. HARWOOD:** Fair enough.
13 **HEARING OFFICER:** Just to repeat, briefing
14 schedule, approximately 30 days from today, or
15 30 days -- what's today, Wednesday? Or 30 days
16 from Friday coming up. Approximately.
17 **MR. ROBINSON:** Yes, that works for me.
18 **MR. HARWOOD:** Thirty days from Friday?
19 **HEARING OFFICER:** He'll ask for an
20 extension anyway. And then two weeks after
21 that just roughly speaking in terms of a
22 response if necessary.
23 **MR. ROBINSON:** So today is the 30th. If
24 we round it out. So how about December 1st for

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1 memos? Does that work?
2 **HEARING OFFICER:** Sure.
3 **MR. ROBINSON:** And then 12/14 for replies?
4 **HEARING OFFICER:** Sure.
5 **COURT REPORTER:** Transcript orders?
6 **MR. ROBINSON:** It should go to this
7 gentleman.
8 **COURT REPORTER:** So, Mr. Karpinski.
9 **MR. ROBINSON:** The way the regulation
10 reads, it gets ordered by the System. Anybody
11 else can order it if they want at their own
12 cost. The Retirement System gets it, but the
13 way the regulation reads is that the Retirement
14 System gets it, they'll provide it to the
15 Hearing Officer. The other party can get it at
16 their own cost.
17 (Concluded 4:15 p.m.)
18
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24

C E R T I F I C A T E

I, Angela San Souci, a Notary Public in
and for the State of Rhode Island, hereby certify
that the foregoing pages are a true and accurate
record of my stenographic notes that were reduced to
print through computer-aided transcription.

In witness whereof, I hereunto set my hand
this 18th day of November, 2024.

Angela San Souci

ANGELA SAN SOUCI, NOTARY PUBLIC
My Commission(RI) expires on 10-16-26

IN RE: Donna Nesselbush vs. Employees' Retirement
System of Rhode Island

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P-2 # 1

Superior Court of Rhode Island

Joseph F. Rodgers, Jr.

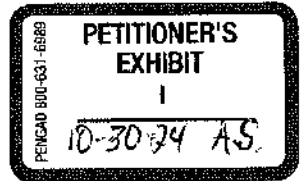
Presiding Justice

Associate Justices:

Thomas H. Needham
Dominic F. Cresto
Albee Bridget Gibney
Richard J. Irsal
Robert D. Kraus
Melanie Wilk Thornberg
Vincent A. Ragosta

John F. Sheehan
Ronald E. Gagnon
Henry Gennis, Jr.
Mark A. Pfeiffer
Patricia A. Hest
Francis J. Darigaa, Jr.
Judith Colanbeck Savage

January 2, 1998



Michael A. Silverstein
Stephen A. Fortunato, Jr.
Edward C. Chilton
Neill C. Vogel
Frank J. Williams
William A. D'Amico, Jr.
O. Rogerius Thompson

Mr. James Reilly
State Employees Retirement System
40 Fountain St.
Providence, RI 02903

Re: Retirement Credits

Dear Mr. Reilly:

As per our recent phone conversation, I am formally requesting that my retirement credits with the City of Pawtucket be transferred and credited to my current state retirement account...

Would you please acknowledge receipt of this letter and confirm the fact that the service time has been credited. I would also appreciate being advised of the number of years I am credited with after the approximately three years of municipal time is credited to my account.

Thank you for your assistance in this matter.

Sincerely

Joseph A. Kaough
Special Master

cpr

*2nd request
6-8-98*

RETIREMENT SYSTEM OF RHODE ISLAND
Street
P.O. Box 02903 - 1854
Office (401) 222-2203 Fax (401) 222-2430
E-Mail: ersri@ersri.org Web Site: www.ersri.org

APPLICATION FOR RETIREMENT (Employees Retirement System) SCHD A

Instructions: Please print clearly or type in black ink.

Name: JOSEPH A KEOUGH			SSN: [REDACTED]
Address: [REDACTED]			Date of Retirement: 12/16/2008
City: PAWTUCKET	State: RI	ZIP: 02861	Date of Termination: 12/15/2008
Home Phone: [REDACTED]	Business Phone: 232-3252	Estimate No.: 84436	Date of Birth: [REDACTED] 1941

Plan: **Employees Retirement System** Benefit Structure: **STEE**

Name:				
[REDACTED]				

State Agency, City, Town or School District	From	To	Full-Time	Part-Time

Type of Purchase	From (Date)	To (Date)	Amount Paid	Date of Purchase

REMARKS: [REDACTED]

First Name Joseph	MI 	Last Name KEOUGH	Date of Birth (mm/dd/yyyy) [REDACTED] 40
Address [REDACTED]			SSN [REDACTED]
City PAWTUCKET	State RI	Zip 02861	Relationship WIFE
First Name 	MI 	Last Name 	Date of Birth (mm/dd/yyyy)
Address 			SSN
City 	State 	Zip 	Relationship

EMPLOYEES' RETIREMENT SYSTEM OF RHODE ISLAND
40 Fountain Street
Providence, RI 02903 - 1854
Office (401) 222-2203 Fax (401) 222-2430
E-Mail: ersri@ersri.org Web Site: www.ersri.org

OPTION SELECTION FORM (Employees Retirement System)

(Instructions: Please type or print clearly using black ink.)

MEMBER INFORMATION

Name:

JOSEPH A KEOUGH

SSN:

PLAN INFORMATION

Plan: Employees Retirement System

Benefit Structure: STEE

RETIREMENT OPTION CHOICE

Please circle below the **OPTION** ONLY, prepared in **black ink**. Selecting a retirement option does not mean that you will be credited with a calculation of salary and service credit. Please enter initials in the column adjoining the payment option you wish to select. Initial **ONE** choice only.

INITIALS	Type of Option	Retiree's Benefit Amount	Survivor Benefit Amount
	SRA - Service Retirement Allowance Regular monthly pension, no survivor benefit.	\$ 115,208.24	Zero
	OPTION 1 - Joint & Survivor 100% Reduced member benefit, but survivor receives same amount. See "NOTE" below.	\$ 83,317.04	\$ 83,317.04
<i>JK</i>	OPTION 2 - Joint & Survivor 50% Reduced member benefit, but survivor receives 50% of pension amount. See "NOTE" below.	\$ 102,533.84	\$ 51,266.76
	SRA PLUS - Social Security Option (Not available for Police/Fire, disability, or Schedule B retirees) Provides increased monthly benefit until age 62, and a predetermined reduction the month following your 62 nd birthday. No survivor benefit. SRA Plus amount at retirement: \$0.00 SRA Plus amount with COLA at Age 62: \$0.00 Less REDUCTION amount at Age 62: - 12,800.00 Reduced benefit amount, with COLA, month after 62 nd birthday: \$0.00		Zero

MEMBER CERTIFICATION AND SIGNATURE

I, the undersigned, certify that I understand my rights and benefits as a member of the Employees Retirement System of Rhode Island. I understand that should I elect to receive my retirement allowance under the SRA Maximum Plan or the SRA Plus Option, that upon my death, the pension will cease and my beneficiary will be entitled to only a one-time death benefit.

"NOTE" Further, I understand that should I choose to receive my retirement allowance under Option One or Option Two, I have the right to change my retirement option only one time, provided that I have not divorced my beneficiary at the time of the election, or am not involved in divorce proceedings.

OPTIONAL BENEFICIARY INFORMATION

OPTIONAL BENEFICIARY INFORMATION

Beneficiary's First Name <i>Jane Keough</i>	MI <i>K</i>	Beneficiary's Last Name <i>Keough</i>
Beneficiary's Social Security Number [REDACTED]		Beneficiary's Date of Birth (mm/dd/yyyy) <i>10 / 1 /</i>

MEMBER SIGNATURE AND DATE

Signature of Member <i>Joseph A. Keough</i>	Date (mm/dd/yyyy) <i>12/19/08</i>
Counselor's Signature <i>John C. Stevenson</i>	Date (mm/dd/yyyy) <i>12/19/08</i>



Employees Retirement System of Rhode Island
40 Fountain Street
Providence, RI 02903-1854
Telephone: (401) 277-2203 FAX: (401) 277-2430

1997 SEP 29 13 9: 23

MERS TERMINATION & SALARY VERIFICATION

City or Town Reporting

PAWTUCKET

A. Employee Data

Employee Name Joseph A. Keough	Social Security No. [REDACTED]
Address [REDACTED] Pawtucket, RI 02861	Department Municipal Court

B. Termination Information: Please check one and complete C if employee is retiring.

☐ Retirement	☐ Deceased (date of death) _____
☒ Resignation	☐ Illness
☐ Dismissal	☐ Other: _____
Date of Termination: 9/14/97	Date of Last Payroll: 10/3/97

C. Salary Certification (if employee named is retiring)

Please report 3 highest consecutive years salary or last 3 years salary, whichever is greater.
(By law, these figures cannot include overtime payments, unused sick leave, vacation leave or compensatory time, or payments made in anticipation of the member's retirement.)

Year	Number of Pay Periods	Salary
Totals		

D. Signature of Municipal Official

I hereby certify the above information to be true and correct and based upon the official records of the municipality.

Signature: [Signature]

Date: 9/25/97

Note: This form must be signed and sent to the Employees Retirement System of Rhode Island within 5 days of termination date. If not, employee benefits may be delayed.

EMPLOYEES' RETIREMENT SYSTEM OF RHODE ISLAND
40 Fountain Street, 1st Floor
Providence, RI 02903 - 1854
Office (401) 222-2203, Fax (401) 222-2430

APPLICATION FOR REFUND OF ACCUMULATED CONTRIBUTIONS TO BENEFICIARY OF DECEASED MEMBER

Instructions: Please print or type in black ink. See reverse side for additional information.

RETIREMENT PLAN (CHECK ONE) ☐ State/Teachers ☐ Municipality ☐ State Police ☐ Judges

DECEASED MEMBER INFORMATION

SOCIAL SECURITY NUMBER	[REDACTED]	MEMBER'S BIRTH DATE (mm/dd/yyyy)	[REDACTED] 1952
NAME OF DECEASED MEMBER	GERARD R LALIBERTE		

NAME AND ADDRESS OF BENEFICIARY OF DECEASED MEMBER

SOCIAL SECURITY NUMBER	[REDACTED]	DATE OF BIRTH (mm/dd/yyyy)	[REDACTED] 51	RELATION TO MEMBER	Spouse
NAME	FIRST	MI	LAST		
	Annette		Laliberte		
ADDRESS	[REDACTED]			HOME TELEPHONE NO	[REDACTED]
ADDRESS	North Doot			BUSINESS TELEPHONE NO	7
CITY		STATE	FL	ZIP	34286

LUMP SUM DISTRIBUTION ELECTION FOR SURVIVING SPOUSE OF DECEASED MEMBER

A ☒	100% Refund. The Employees' Retirement System is directed to make full payment to me, less applicable mandatory Federal tax withholding.
B ☐	100% Direct Rollover/Transfer. The Employees' Retirement System is directed to mail the taxable portion of the distribution to my Trustee/Custodian(s) who has/have signed the Agreement of Trustee/Custodian. _____% will be sent to Trustee/Custodian _____ _____% will be sent to Trustee/Custodian _____ The non-taxable distribution, if any, will be mailed to the above address.

If Option B was chosen, your Trustee/Custodian must complete the "Agreement of Trustee/Custodian" form.

FEDERAL TAX WITHHOLDING OPTIONS FOR BENEFICIARY OF DECEASED MEMBER OTHER THAN A SURVIVING SPOUSE

A ☐	I do not wish to have Federal tax deducted from my distribution. I realize that I may be liable for payment of Federal tax on the taxable portion of the distribution and that I may be subject to tax penalties under the estimated tax payment rules if my payment of estimated tax and withholding are not adequate.
B ☒	The Employees' Retirement System is directed to make full payment to me, the beneficiary, less applicable Federal tax withholding as described in IRS Form 4972.

OPTIONAL ADDITIONAL FEDERAL TAX WITHHOLDING

In addition to the mandatory Federal tax withholding, I desire to have additional Federal tax withheld from the taxable distribution in the amount of \$ _____.

If the mandatory Federal tax is chosen to not be withheld, then additional Federal tax cannot be withheld.

SIGNATURE OF BENEFICIARY (THIS FIELD MUST BE COMPLETED)

SIGNATURE OF BENEFICIARY	Annette Laliberte	DATE OF SIGNATURE (mm/dd/yyyy)	12/10/2005



40 Rountain Street
Providence, RI 02903-1854
Telephone: (401) 277-2203 FAX: (401) 277-2430

MERS TERMINATION & SALARY VERIFICATION

City or Town Reporting

City of Pawtucket

A. Employee Data

Employee Name	Social Security No.
Gerard Laliberte	
Address	Department
Pawtucket, RI 02860	Municipal Court

B. Termination Information: Please check one and complete C if employee is retiring.

☐ Retirement	☐ Deceased (date of death) 5/3/04
☐ Resignation	☐ Illness
☐ Dismissal	☐ Other:
Date of Termination: 5/3/04	Date of Last Payroll: 5/7/04

C. Salary Certification (if employee named is retiring)

Please report 3 highest consecutive years salary or last 3 years salary, whichever is greater.
(By law, these figures cannot include overtime payments, unused sick leave, vacation leave or compensatory time, or payments made in anticipation of the member's retirement.)

Year	Number of Pay Periods	Salary
Totals		

D. Signature of Municipal Official

I hereby certify the above information to be true and correct and based upon the official records of the municipality.

Signature:

Maria Carrales

Date:

5/11/04

Note: This form must be signed and sent to the Employees Retirement System of Rhode Island within 5 days of termination date. If not, employee benefits may be delayed.

EMPLOYEES' RETIREMENT SYSTEM OF RHODE ISLAND
40 Fountain Street, 1st Floor
Providence, RI 02903 - 1854
Office (401) 222-2203, Fax (401) 222-2430

APPLICATION FOR REFUND OF ACCUMULATED CONTRIBUTIONS TO BENEFICIARY OF DECEASED MEMBER

Instructions: Please print or type in black ink. See reverse side for additional information.

RETIREMENT PLAN (CHECK ONE) ☐ State/Teachers ☐ Municipality ☐ State Police ☐ Judges

DECEASED MEMBER INFORMATION

SOCIAL SECURITY NUMBER			MEMBER'S BIRTH DATE (mm/dd/yyyy)	1952	
NAME OF DECEASED MEMBER	GERARD R LALIBERTE				
NAME AND ADDRESS OF BENEFICIARY OF DECEASED MEMBER					
SOCIAL SECURITY NUMBER			DATE OF BIRTH (mm/dd/yyyy)	5/	RELATION TO MEMBER Spouse
NAME	FIRST	ANnette	MI	LAST	LaLiberte
ADDRESS			HOME TELEPHONE NO		
ADDRESS			BUSINESS TELEPHONE NO		
CITY	North Post	STATE	RI	ZIP	34286

LUMP SUM DISTRIBUTION ELECTION FOR SURVIVING SPOUSE OF DECEASED MEMBER

A ☒	100% Refund. The Employees' Retirement System is directed to make full payment to me, less applicable mandatory Federal tax withholding.
B ☐	100% Direct Rollover/Transfer. The Employees' Retirement System is directed to mail the taxable portion of the distribution to my Trustee/Custodian(s) who has/have signed the Agreement of Trustee/Custodian. _____% will be sent to Trustee/Custodian _____ _____% will be sent to Trustee/Custodian _____ The non-taxable distribution, if any, will be mailed to the above address.

If Option B was chosen, your Trustee/Custodian must complete the "Agreement of Trustee/Custodian" form.

FEDERAL TAX WITHHOLDING OPTIONS FOR BENEFICIARY OF DECEASED MEMBER OTHER THAN SURVIVING SPOUSE

A ☐	I do not wish to have Federal tax deducted from my distribution. I realize that I may be liable for payment of Federal tax on the taxable portion of the distribution and that I may be subject to tax penalties under the estimated tax payment rules if my payment of estimated tax and withholding are not adequate.
B ☒	The Employees' Retirement System is directed to make full payment to me, the beneficiary, less applicable Federal tax withholding as described in IRS Form 4972.

OPTIONAL ADDITIONAL FEDERAL TAX WITHHOLDING

In addition to the mandatory Federal tax withholding, I desire to have additional Federal tax withheld from the taxable distribution in the amount of \$ _____.

If the mandatory Federal tax is chosen to not be withheld, then additional Federal tax cannot be withheld.

SIGNATURE OF BENEFICIARY	DATE OF SIGNATURE (mm/dd/yyyy)
Annette LaLiberte	12 / 10 / 2005



Employee Card Form

Enter Details

SSN [REDACTED] Plan Municipal

First Name JOHN Middle Name A Last Name MUTTER

Address

City/Town State Zip

Active Registration No. Withdrawal No. 7442 Retirement No.

Payment in Full \$10,058.87 Date 12/27/1995

Notes IRA ROLLOVER TO FLEET BANK - EAST PROV. RI

Employees Retirement System of Rhode Island**40 Fountain Street, First Floor****Providence, Rhode Island 02903-1854**

Telephone: (401) 277-2203 Fax: (401) 277-2430

Web Site: www.state.ri.us/treas/ersri.htm

Joann E. Flaminio, Executive Director

System Code

3026

MEMBERSHIP APPLICATION**Section A: You must complete and sign.**

Name <i>Patricia L. Harwood</i>		Social Security Number [REDACTED]	
Street Address [REDACTED]		Date of Birth [REDACTED]	☐ Male ☒ Female
City, State, Zip Code <i>Providence RI 02903</i>		Telephone Number [REDACTED]	
Marital Status ☐ Single ☒ Married ☐ Divorced		Employer <i>City of Pawtucket</i>	

Employee Status: Please check all that apply.

☐ STATE EMPLOYEE	☐ CORRECTIONAL OFFICER
☐ PUBLIC SCHOOL TEACHER	☐ POLICE AND FIRE
☒ MUNICIPAL EMPLOYEE	☐ OTHER _____
☐ CITY COUNCIL	

Past Membership History

Employing Authority	From / To	Refund Taken
<i>State of Rhode Island</i>	<i>1985 - 1986</i>	yes ☒ no ☐
<i>State of Rhode Island</i>	<i>1987 - 1988</i>	yes ☒ no ☐
<i>State of Rhode Island</i>	<i>1990 - 1991</i>	yes ☒ no ☐
		yes ☐ no ☐

Beneficiary Designation. Please read page two before designation.

Name of Beneficiary \ Estate [REDACTED]	Date of Birth [REDACTED]	Sex <i>Male</i>
Beneficiary's Social Security Number [REDACTED]	Relationship to Member [REDACTED]	
Street Address [REDACTED]	City, State, Zip Code <i>Providence RI 02903</i>	

Member Statement and Signature

I certify the above information to be true and correct and hereby accept ERSRI membership. I am not collecting a pension from either the Employees Retirement System of Rhode Island or the Municipal Employees Retirement System.	
Signature <i>Patricia L. Harwood</i>	Date <i>12-15-97</i>

MERS - SCHEDULE 3

ERSRI

Termination Statement

2020 MAY -6 A 10:05

Please carefully read the options that are available to you before choosing whether to elect a **Refund of Contributions** or to **Leave Contributions in the Plan**. If you choose to leave your contributions in the Plan, you can later withdraw or combine your current service with future service if you rejoin the Plan. If you would like a Refund of Contributions, please complete the following Non-Vested - Refund of Contributions section.

Note that ERSRI strives to ensure the amounts shown are accurate. However, your benefit is always limited to what is allowed by the Plan rules, so any inaccuracy or misunderstanding of pension information arising from this benefit choice cannot increase the benefits available under the Plan rules.

NON-VESTED REFUND OF CONTRIBUTIONS

You are entitled to a refund of contributions without interest. As of your termination date, the value of your contributions is as follows:

Taxable contributions.....	\$4,132.49
Non-taxable contributions.....	\$185.50

Lump sum distribution election (Check one)

- ☒ **100% Full Refund:** The Employees' Retirement System of Rhode Island is directed to make full payment to me, less applicable mandatory Federal tax withholding. ERSRI will withhold 20% Federal taxes on the taxable portion of the refund paid directly to the member.
- ☐ **100% Direct Rollover/Transfer** to a qualified retirement account. The Employees' Retirement System of Rhode Island is directed to mail the taxable portion of my distribution to my financial institution who has signed the Agreement of Trustee/Custodian Form. The non-taxable distribution, if any, will be mailed to the address on the first page of the statement.

In consideration of the return of my accumulated contributions, I do hereby waive and relinquish for myself, my heirs and my assigns, all accrued vested rights in the system. I also understand that all creditable service is forfeited by acceptance of said refund.

Patricia L Harwood
Signature of Member

5-2-20
Date

PATRICIA HARWOOD

35898
Page 4



SYSTEM CODE

3026

MEMBERSHIP APPLICATION

SECTION A - MEMBER INFORMATION

NAME <i>Rae B. Condon</i>	SOCIAL SECURITY NUMBER [REDACTED]
STREET ADDRESS [REDACTED]	DATE OF BIRTH [REDACTED] ☐ MALE ☒ FEMALE
CITY, STATE, ZIP CODE <i>Pawtucket RI 02860</i>	TELEPHONE NUMBER [REDACTED]
EMPLOYER <i>City of Pawtucket</i>	MARITAL STATUS ☒ SINGLE ☐ MARRIED ☐ DIVORCED

EMPLOYEE STATUS - CHECK ALL THAT APPLY

☐ STATE EMPLOYEE	☒ MUNICIPAL EMPLOYEE	☐ PUBLIC SCHOOL TEACHER
☐ CITY COUNCIL	☐ CORRECTIONAL OFFICER	☐ POLICE/FIRE
☐ OTHER _____		

PAST MEMBERSHIP HISTORY

LIST CHRONOLOGICALLY BEGINNING WITH ORIGINAL EMPLOYMENT AS A PUBLIC EMPLOYEE

EMPLOYING AUTHORITY	FROM	TO	REFUND TAKEN?
<i>State of Rhode Island Commission</i>	<i>March 1977</i>	<i>August 1986</i>	☒ YES ☐ NO
			☐ YES ☐ NO
			☐ YES ☐ NO
			☐ YES ☐ NO

BENEFICIARY DESIGNATION

NAME OF BENEFICIARY/ESTATE [REDACTED]	BENEFICIARY'S SOCIAL SECURITY NUMBER [REDACTED]
STREET ADDRESS [REDACTED]	DATE OF BIRTH [REDACTED] ☐ MALE ☐ FEMALE
CITY, STATE, ZIP CODE [REDACTED]	RELATIONSHIP TO MEMBER [REDACTED]

MEMBER'S STATEMENT AND SIGNATURE

I certify the above information to be true and correct and hereby accept ERSRI membership. I am not collecting a pension from either the Employees Retirement System of Rhode Island or the Municipal Employees Retirement System.

Signature *Rae B. Condon*Date *2/9/01*

Please return completed form to ERSRI, 40 Fountaine Street, Providence, RI 02903-1854 Tel: (401) 222-2203 Fax: (401) 222-2430

Employees Retirement System of Rhode Island
40 Fountain Street
Providence, RI 02903-1854
Telephone: (401) 277-2203 FAX: (401) 277-2430

MERS TERMINATION & SALARY VERIFICATION

City or Town Reporting
City of Pawtucket

A. Employee Data

Employee Name Rae Condon	Social Security No. [REDACTED]
Address [REDACTED] Pawtucket, RI 02861	Department Municipal Court

B. Termination Information: Please check one and complete C if employee is retiring.

☐ Retirement	☐ Deceased (date of death)
☐ Resignation	☐ Illness
☐ Dismissal	☐ Other: Position Eliminated
Date of Termination: 2/1/04	Date of Last Payroll:

C. Salary Certification (if employee named is retiring)

Please report 3 highest consecutive years salary or last 3 years salary, whichever is greater.
(By law, these figures cannot include overtime payments, unused sick leave, vacation leave or compensatory time, or payments made in anticipation of the member's retirement.)

Year	Number of Pay Periods	Salary
Totals		

D. Signature of Municipal Official

I hereby certify the above information to be true and correct and based upon the official records of the municipality.

Signature: *Barbara Gladen* Date: *1/27/04*

Note: This form must be signed and sent to the Employees Retirement System of Rhode Island within 5 days of termination date. If not, employee benefits may be delayed.

3026

Municipal Employees' Retirement System of the State of Rhode Island

MEMBERSHIP APPLICATION

(This form is to be filled out in ink or typewritten.)

To constitute permanent record of the Municipal Retirement System of the State of Rhode Island and to be used in establishing the rights, privileges and benefits of employees participating in the system. Please observe carefully the following instructions in completing this record.

INSTRUCTIONS: 1. All questions must be answered on this form. 2. State your full name. Do not use initials. 3. The information to be given in this form is strictly confidential and is for the use of the Retirement Board only.

1. Name Ceistine Lyn McBurney Social Security No. [REDACTED]
2. Home Address Pawtucket RI 02860
3. I hereby certify that I was born on 1955 Age 37
4. Check by (b) Sex Male () Female (☒)
5. Check by (b) Marital Status: Single () Married (☒) Widowed () Divorced ()
6. Name of City or Town in which employed Pawtucket
7. Name of Department now employing you Probate
8. Title of Position Held Judge
9. (a) Amount of Annual Salary 12,000- (b) Hourly Rate _____
(c) Hours worked in regular pay period _____
10. Date you began your present continuous employment service with the City or Town February 17, 1992

DESIGNATION OF BENEFICIARY

Read the following instructions before designating your beneficiary:

*INSTRUCTIONS: In nominating your beneficiary you must designate a person having an "insurable interest" in your life, such as wife, husband, child or parent, dependency or relationship by blood or marriage to you; or you may designate your estate, or a friend. If multiple heirs, please designate your estate.

If you wish to designate contingent beneficiaries, please request contingent form.

I the undersigned, do hereby designate _____

Whose date of birth is _____

Whose address is _____

And whose relation to me is my _____ as the beneficiary to whom I request the Retirement Board of the Municipal Employees' Retirement System of the State of Rhode Island to pay in the event of my death before retirement, on pension, the total amount of the accumulated contributions standing to my credit in the retirement system, and my ordinary death benefit insurance provided by the Retirement Law.

(Signature of member) Ceistine Lyn McBurney

State of Rhode Island

County of _____

On the 19th day of February, 1992, appeared before me the above-named applicant, to me personally known and known to be the individual described in and who executed the foregoing instrument, and he (or she) duly acknowledged to me that he (or she) executed the same and that the statements contained herein were true to the best of his (or her) knowledge and belief.

(Signature of Notary Public) Walter J. Hull

(Notary Public)

(If you have an official seal affix it)

My Commission expires on June 1993

NOTE: If you are over age 50, you must supply a copy of your Birth Certificate or other proof of age with this form.

Municipal Employees' Retirement System of the State of Rhode Island

MEMBERSHIP APPLICATION

(This form is to be filled out in ink or typewritten)

To constitute a permanent record of the Municipal Retirement System of the State of Rhode Island and to be used in establishing the rights, privileges and benefits of employees participating in the system. Please observe carefully the following instructions in completing this record.

INSTRUCTIONS: 1. All questions must be answered on this form. 2. State your full name. Do not use initials. 3. The information to be given in this form is strictly confidential and is for the use of the Retirement Board only.

1. Name William T. Noonan Social Security No. [REDACTED]
2. Home Address [REDACTED] Pawtucket RI 02860
(Type or Print Name in Full) City or Town State
3. I hereby certify that I was born on [REDACTED] 60 Age 28
Date of Birth
4. Check by (x) Sex Male (☒) Female ()
5. Check by (x) Marital Status: Single () Married (☒) Widowed () Divorced ()
6. Name of City or Town in which employed Pawtucket
7. Name of Department now employing you Municipal Ct.
8. Title of Position Held Associate Judge
9. (a) Amount of Annual Salary \$8,532.00
(b) Hourly Rate [REDACTED]
(c) Hours worked in regular pay period 25
10. Date you began your present continuous employment service with the City or Town May 8, 1978

DESIGNATION OF BENEFICIARY

Read the following instructions before designating your beneficiary:

INSTRUCTIONS: In nominating your beneficiary you must designate a person having an "insurable interest" in your life, such as wife, husband, child or parent, dependency or relationship by blood or marriage to you; or you may designate your estate, or a friend. If multiple heirs, please designate your estate.

If you wish to designate contingent beneficiaries, please request contingent form.

I the undersigned, do hereby designate [REDACTED] (Print Full Name of Beneficiary having an "insurable interest" in your life)

Whose date of birth is [REDACTED] (Print Date of Birth: Month, Day and Year)

Whose address is [REDACTED] (Print Address of Beneficiary: Street, City or Town and State)

And whose relation to me is my [REDACTED] as the beneficiary to whom I request the Retirement Board of the Municipal Employees' Retirement System of the State of Rhode Island to pay in the event of my death before retirement on pension, the total amount of the accumulated contributions standing to my credit in the retirement system, and my ordinary death benefit insurance, as provided by the Retirement Law.

(Signature of member)

State of Rhode Island

County of Providence

On the 31st day of January, 1989, appeared before me the above-named applicant, to me personally known and known to be the individual described in and who executed the foregoing instrument, and he (or she) duly acknowledged to me that he (or she) executed the same and that the statements contained herein were true to the best of his (or her) knowledge and belief.

(Signature of Notary Public)

(If you have an official seal affix it)

My Commission expires on 6/30/91
NOTE: If you are over age 50, you must supply a copy of your Birth Certificate or other proof of age with this form.



Section 3 - Employer certification of service credit and salary (continued)

State and municipal employees report salary on calendar year (Jan. - Dec.) Indicate year below	Contractual salary (not actual salary earned)	Part-time Indicate "PT"	10 month employee	12 month employee
			☐	☐
			☐	☐
			☐	☐
			☐	☐

I hereby certify the above information to be true and correct based upon our official records.

4016161328

Area phone number (area code and number)

Director of Social Security

Payroll PBT

Title

Employer official phone number
(area code and number)

Please forward this completed form, dated and signed, to the following address:

Employers' Retirement System of Rhode Island
50 Service Avenue 2nd Floor
Warwick, RI 02886-1021

Office: (401) 462-7600 | Fax: (401) 462-7691

Email: enquiries@ersri.org | Web site: www.ersri.org

ERSRI
2019 MAR 18 A 9:24

ERSRI BOARD:

July 3, 2023

James A. Diossa
General Treasurer Chair

John B. Harwood, Esq.
Law Offices of Harwood & Garland, LLC
9 Thurber Boulevard - Suite D
Smithfield, RI 02917

John P. Maguire
Vice Chair

Ernest Almonte

RE: Municipal Court Judges - Membership in MERS

Roger P. Boudreau

Dear Attorney Harwood:

Mark A. Carruolo

Joseph Codega

We write in response to your letter of May 12, 2023 whereby you request that we issue a re-determination that Chief Judge Nesselbush and Associate Judge Gannon are eligible to participate in the MERS pension program.

Paul L. Dion

Matthew K. Howard

Claire M. Newell

As we have previously noted, in order to be or remain a member of MERS, employees are required to work a minimum of 20 hours or more per week - every week, consistent with RIGL §45-21-2(7). ERSRI certifies this information by obtaining job descriptions, Collective Bargaining Agreements (CBA) or direct contact with employers when issues are identified.

Raymond J. Pouliot

Jean Rondeau

Laura Shawhughes

James E. Thorsen

At the time of our original inquiry, we were unable to secure a job description and any documented hours required for the position other than noting when the applicable municipal courts were in session. Consequently, that prompted our decision to notify Judges Nesselbush and Gannon of their ineligibility for membership in MERS consistent with RIGL §45-21-2(7).

Michael J. Twohey

Lisa A. Whiting

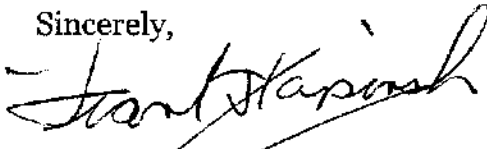
Frank J. Karpinski
Executive Director

However, since the Pawtucket City Solicitor, Frank J. Milos, Jr., indicated in his letter of November 29, 2022 that the Municipal Court Judge positions are controlled by Section 2-501 of the City Charter whereby the Judges are elected solely by the City Council, and since the information you obtained from City Council President David P. Moran and current City Council President Terrence E. Mercer includes a job description with the requisite 20 minimum hours, we will consider Judges Nesselbush and Gannon's job requirements to be in line with the requirements set forth in RIGL §45-21-2(7) and have them remain members of the Municipal Employees' Retirement System (MERS).

We are interpreting your letter to indicate that the City Council members are confirming that the Pawtucket Municipal and Probate Court Judges have always worked and continue to work a minimum of 20 hours per week 52 weeks per year. Should the employment status of any of the judges change, the retirement system must immediately be notified, and retirement contributions must cease.

We will begin the process of restoring the retirement contributions and service credit for Judge Nesselbush and Judge Gannon and make any necessary adjustments to Judge Gannon's pension benefit. In addition, Pawtucket Probate Judge Cristine McBurney will remain a contributing member of MERS.

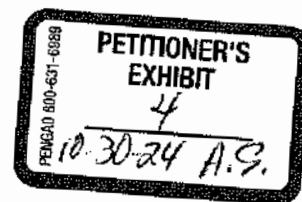
Sincerely,



Frank J. Karpinski
Executive Director

Cc: Pawtucket City Council
Judge Donna Nesselbush
Judge John Gannon
Judge Cristine McBurney

Yaffner (#4)



ERSRI BOARD:

James A. Diosa
General Treasurer Chair

John P. Maguire
Vice Chair

Roger P. Boudreau

Mark A. Carruolo

Joseph Codega

Paul L. Dion

Matthew K. Howard

Brenna McCabe

Claire M. Newell

Andrew E. Nota

Raymond J. Pouliot

Jean Rondeau

Laura Shawhughes

Michael J. Twohey

Lisa A. Whiting

Frank J. Karpinski
Executive Director

SENT VIA U.S. FIRST CLASS MAIL & CERTIFIED MAIL RETURN RECEIPT REQUESTED

March 11, 2024

91 7199 9991 7035 4498 1193

Donna Nesselbush

RE: Pawtucket Municipal Court Judges – Participation in MERS

Dear Ms. Nesselbush:

We are writing to you regarding your participation in the Municipal Employees' Retirement System (MERS) as a Pawtucket municipal court judge. Based upon the information available to us from the City of Pawtucket, we have determined that you should not be enrolled as a member in MERS, and accordingly our position remains as set forth in our letter dated August 1, 2022.

Rhode Island General Laws (R.I. Gen. Laws) §45-21-2(7) provides that to be considered an "employee" for purposes of MERS membership, an individual must be in a 20-hour per week position:

§ 45-21-2. Definitions.

The following words and phrases as used in this chapter have the following meanings unless a different meaning is plainly required by the context:

(7) "Employee" means any regular and permanent employee or officer of any municipality, whose business time at a minimum of twenty (20) hours a week is devoted to the service of the municipality, including elective officials and officials and employees of city and town housing authorities. Notwithstanding the previous sentence, the term "employee," for the purposes of this chapter, does not include any person whose duties are of a casual or seasonal nature. The retirement board shall decide who are employees within the meaning of this chapter, but in no case shall it deem as an employee any individual who annually devotes less than twenty (20) business hours per week to the service of the municipality and who receives less than the equivalent of minimum wage compensation on an hourly basis for his or her services, except as provided in § 45-21-14.1. Casual employees mean those persons hired for an occasional period or a period of emergency to perform special jobs or functions not necessarily related to the work of regular employees. Any commissioner of a municipal housing authority, or any member of a part-time state board commission, committee or other authority is not deemed to be an employee within the meaning of this chapter.

This office received a communication from Human Resources Director Sara Miranda, PHR, in March of 2023 indicating that you were hired in 2004, and do not (and have not) worked in excess of twenty (20) hours per week as a municipal court judge. Following receipt of a communication from your attorney on May 12, 2023, providing a purported "job description" for Pawtucket municipal court judges that seemed to indicate that you did in fact work in excess of twenty (20) hours per week, we requested clarification from the city with regard to your official job duties, and your terms and conditions of employment. We subsequently received a communication from Attorney Vincent Ragosta, as outside labor and employment counsel to the city, confirming that there is no reliable or credible evidence to support a claim that municipal court judges work in excess of twenty (20) hours per week. Attorney Ragosta also advised that any purported municipal court judge "job description" provided to ERSRI should not be deemed authenticated or an official record by ERSRI and should be considered by ERSRI to be *ultra vires* and unreliable to the extent it purported to reference any quantum of hours worked.

- ✓ Based upon this information received from the City of Pawtucket, we have determined that as a Pawtucket municipal court judge, you do not work a minimum of twenty (20) hours per week, and therefore you do not meet the threshold criteria for membership in MERS. Our position therefore remains the same as originally set forth in our letter to your attention dated August 1, 2022. We are accordingly directing the city to cease making contributions on your behalf, including those contributions being transmitted to the DC Plan (TIAA), and to take steps to refund those employee contributions already paid by you.

This letter constitutes official notification of an administrative denial. Pursuant to the Regulations of the Employees' Retirement System of Rhode Island, 120-RICR-10-1.4, entitled Rules of Practice and Procedure for Hearings in Contested Cases, Section C., any member aggrieved by an administrative action may request a hearing before a Hearing Officer whose decision shall be subject to approval by the full Retirement Board. Upon such request, the matter will be deemed a contested case. Such request shall be in writing and shall be sent to the Retirement Board, 50 Service Avenue, 2nd Floor, Warwick, RI 02886, Attention: Frank J. Karpinski, Executive Director, within 60 days of date of the letter from the Executive Director or Assistant Executive Director constituting a formal administrative denial. A request for hearing shall be signed by the member and shall contain the name of the member; date and nature of decision to be contested; a clear statement of the objection

to the decision which must include the reasons the member feels he or she is entitled to relief; and a concise statement of the relief sought. Failure to strictly comply with the procedures outlined above shall be grounds to deny a request for a hearing.

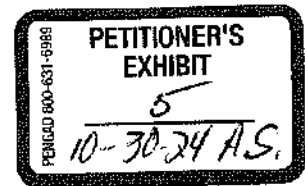
Sincerely,


Frank J. Karpinski
Executive Director

Enclosure

Cc:

Mayor Donald Grebian
Vincent Ragosta, Esq.
Lisa O'Connell, HR Specialist
Frank Milos, City Solicitor
John Harwood, Esq. ✓



MEMORANDUM

DATE: DECEMBER 8, 2022

TO: MAYOR DONALD R. GREBIEN
DYLAN ZELAZO, DIRECTOR OF ADMINISTRATION

FROM: VINCENT F. RAGOSTA, JR., ESQ.
D. PETER DESIMONE, ESQ.

RE: PAWTUCKET MUNICIPAL COURT

CONFIDENTIAL ATTORNEY WORK PRODUCT

OPINION

→ For the reasons that follow, and given the facts as known and presented to us, it is our professional opinion that the mayor of the City of Pawtucket ("city") does not have operational authority over the city's municipal court. Rather, that authority, which includes governance over the personnel, operation, and procedure to be followed in municipal court, lies with the city council by virtue of a legislative grant from the Rhode Island general assembly.

FACTS

✓ We have been asked for an opinion as to whether the mayor can, among other things, create or sanction a protocol/job description for municipal court judges that would mandate a 20-hour work week.¹

ANALYSIS

Pawtucket municipal court is a creature of the Rhode Island general assembly and the city council. As for the general assembly's enabling legislation, it provides in relevant part as follows:

"§ 45-2-13. City of Pawtucket — Municipal police court — Municipal housing court.

¹ The question of whether the sitting municipal court judges have actually devoted twenty business hours per week *in the past* is a factual question beyond the scope of this analysis. Based on the information we have been provided, it appears that the city's Human Resources Office has already informed ERSRI that there is no evidence that the municipal court judges work twenty hours per week.

(a) The city council of the city of Pawtucket may establish a municipal police court and confer upon the court original jurisdiction, notwithstanding any other provisions of the general laws, to hear and determine causes involving the violation of any ordinance; . . .

(b) The city council of the city of Pawtucket may establish a municipal housing court and confer upon the court original jurisdiction, notwithstanding any other provisions of the general laws, to hear and determine [various] causes . . .

...

(d) The city council of the city of Pawtucket is authorized and empowered to appoint a judge to serve as both the municipal police court judge and the municipal housing court judge. The city council of the city is authorized and empowered to enact ordinances governing the personnel, operation, and procedure to be followed in the court and to establish a schedule of fees and costs and to otherwise provide for the operation and management of the court. . . ."²

The city charter in turn provides that "[t]he municipal court, and the judge thereof, shall have all of the powers and duties now or hereafter vested in the municipal court and the judge thereof by the laws of the state and ordinances enacted by the council in conformity therewith," Pawtucket City Charter, §2-600.

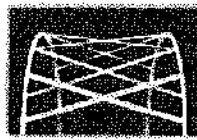
Thus, because the general assembly has "authorized and empowered [the city council] to enact ordinances governing the personnel, operation, and procedure to be followed in the court and to establish a schedule of fees and costs and to otherwise provide for the operation and management of the court," and because no similar authority has been vested in the mayor, the city council, not the mayor, has the authority to control the municipal court's "personnel, operation, and procedure" unless and until the general assembly sees fit to amend that grant of authority. *See generally Moreau v. Flanders*, 15 A.3d 565, 580 (R.I. 2011) ("when a legislature has authorized a grant of power at the municipal level, it alone may interfere with that grant"). However, pursuant to §4-102 of the city charter, "[t]he mayor shall recommend to the council all such measures connected with the affairs of the city, the protection and improvement of its government and finances, and the promotion of the welfare of its people as he shall deem desirable." Thus, to the extent the mayor deemed a certain number of hours of operation for the municipal court—or any other matter connected to the municipal court—to be desirable, then he could certainly recommend as much to the city council. Presumably, and conversely, if the mayor determined that any ordinance pertaining to the operation of the municipal court was ill advised, he could veto such ordinance, subject of course to being overridden by the council.³

² Although the enabling legislation authorizes the appointment of "a judge," because "[e]very word importing the singular number only may be construed to extend to and to include the plural number," R.I.G.L. §43-3-4, the city council's appointment of two municipal court judges under city charter §2-501 appears to be authorized.

³ We say presumably because the enabling legislation empowers the city council "to enact ordinances," which of course requires mayoral involvement to be effective. Nevertheless, it could be argued that the designation is to the city council alone and not subject to veto by the mayor. Since this issue needn't be resolved for present purposes, we don't do so.

Although the city council has afforded the municipal court with authority over when it holds its sessions, *see* City Ordinance §26-9 (“[t]he Municipal Court shall be considered to be in session at all times and in such place or places in the City as the Court or the justice holding the same shall direct”) & §26-20 (“[t]he Housing Court shall conduct business in the Pawtucket Municipal Courthouse at such times and under such conditions as the Housing Court Judge may from time to time direct”), the city council has the authority to amend that grant in accordance with its own directives, such as setting the hours of operation of municipal court or setting the minimum number of hours that its judges are required to work weekly.

Finally, we note that although the separation-of-powers construct provides a familiar analytical framework, caution must be used in its application at the municipal level because the Rhode Island Supreme Court has held “that the separation of powers doctrine is a concept foreign to municipal governance,” *Moreau v. Flanders*, 15 A.3d 565, 579 (R.I. 2011). Moreover, since the Rhode Island Supreme court has “defined the exercise of judicial power as the control of a decision in a case or the interference with its progress, or the alteration of the decision once made,” *Quattrucci v. Lombardi*, 232 A.3d 1062, 1066 (R.I. 2020), even if separation-of-powers concerns were taken into account, we do not think that the setting of the municipal court’s hours of operation (and thus derivatively setting the minimum number of hours that municipal court judges work) would result in an encroachment by the city council into the municipal court’s “judicial power.” *See generally McCabe v. Kane*, 221 A.2d 103, 107, 101 R.I. 119 (R.I. 1966) (“[w]ere the legislature to attempt to regulate or control those of his obligations *which are judicial in nature* it would exceed its powers under the constitution and trespass upon those of a coordinate branch of the government”) (emphasis added).



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Law and Business Advisors

Respond #1



July 26, 2024

Raymond A. Marcaccio, Esq.
ERSRI Hearing Officer
ram@om-rilaw.com
(401) 861-2900

Dear Hearing Officer Marcaccio—

This law firm represents the Employees' Retirement System of the State of Rhode Island ("ERSRI") regarding the appeal submitted by Donna Nesselbush with respect to her claimed membership in the retirement system. It is my understanding that this matter is scheduled for a hearing on July 31, 2024. Please allow this correspondence to outline the position of ERSRI in advance of the hearing and with respect to Chief Judge Donna M. Nesselbush's assertions that she is eligible for membership in the Municipal Employees' Retirement System (MERS).

It is the ERSRI's understanding Judge Nesselbush was appointed as Associate Judge in 2004 and Chief Judge on April 25, 2012. The ERSRI has confirmed with the Human Resources Director for the City of Pawtucket that: (a) Pawtucket Municipal courts are in session two to three days per week with the Chief Judge and a Judge present, including Mondays at 2:00 p.m., Thursdays at 6:00 p.m., and Fridays at 9:00 a.m.; (b) the position of Chief Judge is not in the City's full-time equivalent (FTE) count; (c) Judges are appointed and then approved by the City Council; (d) Judges earn \$16,000.00 annually regardless of hours worked; and (e) While the payroll information indicates that the position is for thirty-five hours per week, the Judges are not present thirty-five hours per week and in fact are not present for the statutorily required twenty hours per week, every week. *See Exhibit A.*

Based on this information, by way of a letter dated August 1, 2022, the ERSRI's Executive Director, Frank J. Karpinski informed Judge Nesselbush that "[s]ince the information reveals that you did not meet the definition of employee, specifically the minimum requirement of 20 hours per week, you are therefore not eligible for membership in MERS and thus your contributions will be returned to you, and you will not receive the applicable service credit towards your retirement." *Exhibit B.* As a result, the ERSRI informed Judge Nesselbush: "Your MERS and TIAA Defined Contribution Plan employee contributions will be refunded to you by your employer." *Id.*

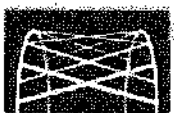
Thereafter, on September 19, 2022, Judge Nesselbush informed Mr. Karpinski in an email that she would be appealing the ERSRI's conclusion that she was ineligible for a MERS pension. In response, the ERSRI sent a letter to Judge Nesselbush, dated October 24, 2022 noting that it had determined that she was not eligible to participate in MERS based upon information provided by the Pawtucket Municipal Traffic Court website and the Human Resources Director of the City of Pawtucket and informing Judge Nesselbush that, absent additional information regarding the requirements of her position as Chief Judge, the ERSRI's position remained unchanged. The

ERSRI also noted that any revised job description for the position must be officially approved by the City of Pawtucket, and that it would make a final determination once it had reviewed any updated job description or other information provided. *Id.* Further, the ERSRI stated that it had instructed Judge Nesselbush's employer to cease contributions until the conclusion of the matter.

Judge Nesselbush then sent an email to Mr. Karpinski on December 12, 2022 to appeal the denial of her pension eligibility. In the email, Judge Nesselbush asserted that the Human Resources Director of the City of Pawtucket provided the ERSRI with "incomplete information." Judge Nesselbush asserted that her hours working as a judge for the City included hours in addition to her sitting on the bench. Judge Nesselbush also noted that she had "promulgated an up to date, accurate 'protocol/job description' for Pawtucket's judges (see attached)." The job description attached to the email provided that "Judges are part-time 20 hour per week employees[.]" Also attached to the email was a letter from David P. Moran, President of the Pawtucket City Council which stated that "[t]he duties and responsibilities of our judges—who most certainly are considered city employees—as you have outlined them in the protocol/job description, appear reasonable and accurate to the best of my knowledge." The letter noted that Judge Nesselbush's position as a judge for the city "involves more than just the hours you spend on the bench" and that President Moran has "long understood that our judges are treated like all other part-time employees in city government; that is, they receive set financial compensation, have access to city health insurance, and participate in the MERS pension program that includes both employee contributions and city (employer) contributions." Notably, Judge Nesselbush did not provide any evidence that the City Council has adopted the job description that she produced.

Subsequently, on May 12, 2023, counsel for Judge Nesselbush wrote to Mr. Karpinski noting that City Council President David Moran "is in support of the judges' participation in the MERS pension program[.]" Counsel also referenced an attached letter from current City Council President Terry Mercer which affirmed Mr. Moran's letter and the fact that he "understood that the city's Municipal Court and Probate Court judges were considered, for all intents and purposes, to be part-time employees of the city" and noting that he "believe[d] everyone involved over the last couple decades *earnestly* understood that the Municipal Court and Probate Court judges were indistinguishable from all other part-time employees in city government and, accordingly, on a proper MERS pension tract. Had that not been the earnest understanding, employee pension contributions would not have been withheld and remitted to the pension system (along with the city's employer contributions)." Based on the job description and the letters from Mr. Moran and Mr. Mercer, counsel for Judge Nesselbush requested that the ERSRI issue a re-determination that Judge Nesselbush is eligible to participate in the MERS pension program.

By way of a letter date July 3, 2023, the ERSRI wrote to counsel for Judge Nesselbush stating that it was "interpreting your [May 12, 2023] letter to indicate that the City Council members are confirming that the Pawtucket Municipal and Probate Court Judges have always worked and continue to work a minimum of 20 hours per week 52 weeks per year." Thereafter, the ERSRI received a communication from Attorney Vincent Ragosta, Jr., outside labor and employment counsel to the city, inquiring as to the status of this matter. On November 8, 2023, the ERSRI wrote to Council President Mercer to request clarification of the City of Pawtucket's position on the matter. Council President Mercer responded by letter dated November 17, 2023 clarifying that the purpose of his, and former Council President Moran's, letter was "solely to point



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out that we (collectively) always *believed* that the Municipal and Probate judges were ‘pension-eligible’ simply because your office was receiving contributions from both the judges’ wages and the city as their employer. Nothing more—we *believed* it to be so.” Council President Mercer also stated that the City Council does not determine the working conditions or establish protocols or job descriptions for judges appointed by it.

The ERSRI then received a communication from Attorney Ragosta, as outside labor and employment counsel to the City, confirming that there was no reliable or credible evidence that supported Judge Nesselbush’s claim that she worked at least twenty hours per week and because there had been no legislative action adopting the purported job description provided by Judge Nesselbush.

On March 11, 2024, the ERSRI wrote to Judge Nesselbush and concluded that she should not be eligible to be enrolled as a member of MERS based upon the information made available to the ERSRI from the City of Pawtucket, including: (a) a communication from the Human Resources Director for the City of Pawtucket stating that Judge Nesselbush does not and has not worked at least twenty hours per week as a municipal court judge; (b) a communication from Attorney Ragosta confirming that there is no reliable or credible evidence to support a claim that the municipal court judges work at least twenty hours per week; and (c) the fact that the purported job description provided had not been adopted by any legislative action. The letter stated that it constituted “official notification of an administrative denial.” On May 7, 2024, Judge Nesselbush submitted a Notice of Appeal of Administrative Denial and Request for Hearing.¹

It is the position of the ERSRI that Judge Nesselbush is not eligible for membership in MERS because only “employees” are eligible for membership in MERS and Judge Nesselbush does not fall within the statutory definition of an “employee” because she has failed to establish that she devotes a minimum of twenty hours per week to the service of the municipality.

R.I. Gen. Laws § 45-21-8(a) which governs membership in MERS states:

“Any employee of a participating municipality as defined in this chapter, who becomes an employee on and after the effective date of participation, shall, under contract of his or her employment, become a member of the retirement system[.]”

By its plain and express language, § 45-21-8(a) provides that any “employee” shall become a member of MERS. It necessarily follows that to be eligible for membership in MERS, an individual must be an “employee.” *See Ret. Bd. of Employees’ Ret. Sys. of State v. DiPrete*, 845 A.2d 270, 287 (R.I. 2004) (“*expressio unis est exclusio alterius* * * * provides ‘the expression of one thing is the exclusion of another’”).

The term “employee” is defined by R.I. Gen. Law § 45-21-2(7) which provides:

¹ In an email dated April 23, 2024, counsel for Judge Nesselbush indicated that Judge Gannon was not appealing the ERSRI’s decision and requested to bifurcate the two cases. *See Exhibit A* at 83. As the cases have never been consolidated, we address only Judge Nesselbush’s appeal.



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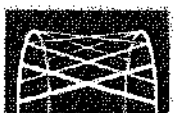
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“‘Employee’ means any regular and permanent employee or officer of any municipality, whose business time at a minimum of twenty (20) hours a week is devoted to the service of the municipality, including elective officials and officials and employees of city and town housing authorities. Notwithstanding the previous sentence, the term ‘employee’, for the purposes of this chapter, does not include any person whose duties are of a casual or seasonal nature. The retirement board shall decide who are employees within the meaning of this chapter, but in no case shall it deem as an employee any individual who annually devotes less than twenty (20) business hours per week to the service of the municipality and who receives less than the equivalent of minimum wage compensation on an hourly basis for his or her services, except as provided in § 45-21-14.1. Casual employees mean those persons hired for an occasional period or a period of emergency to perform special jobs or functions not necessarily related to the work of regular employees. Any commissioner of a municipal housing authority, or any member of a part-time state board commission, committee or other authority is not deemed to be an employee within the meaning of this chapter.”

Simply because individuals may have *believed* or *earnestly understood* that Municipal Court Judges were eligible to participate in MERS is of no consequence. When the language of a statute or enactment is “clear and unambiguous” then it must be interpreted literally and the words of the statute or enactment must be given “their plain and ordinary meanings.” See *Planned Environments Mgmt. Corp. v. Robert*, 996 A.2d 117, 121 (R.I. 2009). Further, when a statute or enactment is unambiguous “there is no room for statutory construction and we must apply the statute as written.” *State v. Oliveira*, 882 A.2d 1092, 110 (R.I. 2005).

The clear and unambiguous language of R.I. Gen. Law § 45-21-2(7) provides that to qualify as an “employee” an individual must devote at a minimum, twenty (20) business hours per week to the service of the municipality. As previously noted, there is no credible or reliable evidence in the record that Judge Nesselbush works or has worked at a minimum, twenty hours per week in the service of the municipality each and every week. The Human Resources Director for the City of Pawtucket stated that Judge Nesselbush “does not work 20+hrs week[.]” See *Exhibit A*. Judge Nesselbush has failed to provide any evidence with regard to the hours she has worked each day or each week as a Municipal Court Judge. She has also failed to provide any evidence of any legislative action adopting the purported job description she drafted for the Municipal Court Judges which purports to assert that Municipal Court Judges work twenty hours per week. Absent any credible evidence that Judge Nesselbush works and has worked a minimum of twenty hours per week in the service of the municipality, a review of the clear and unambiguous language of § 45-21-8(a) and § 45-21-2(7) evinces that Judge Nesselbush is not eligible for participation in MERS.

Importantly, the Legislature has vested the “general administration and the responsibility for the proper operation for the retirement system” of Rhode Island in ERSRI. See R.I. Gen. Laws § 36-8-3. As you are aware, it is long recognized that an administrative agency, such as ERSRI, “will be accorded great deference in interpreting a statute whose administration and enforcement have been entrusted to the agency.” *Town of Richmond v. R.I. Dept. of Environmental Mgmt.*, 941 A.2d 151, 157 (R.I. 2008). Deference shall also be given to ERSRI’s interpretation even if it “is not the only permissible interpretation that could be applied.” *Pawtucket Power Assocs. Ltd.*



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P'ship v. City of Pawtucket, 622 A.2d 452, 456-57 (R.I. 1993). Moreover, “the construction given [a statute] by the agency charged with its enforcement is entitled to weight and deference as long as that construction is not clearly erroneous or unauthorized.” *Grasso v. Raimondo*, 177 A.3d 482, 486-87 (R.I. 2018) (citing *State v. Swindell*, 895 A.2d 100, 105 (R.I. 2006)). Additionally, § 45-21-2(7) explicitly provides that “[t]he retirement board *shall decide who are employees within the meaning of this chapter*, but in no case shall it deem as an employee any individual who annually devotes less than twenty (20) business hours per week to the service of the municipality and who receives less than the equivalent of minimum wage compensation on an hourly basis for his or her services, except as provided in § 45-21-14.1.” As such, ERSRI routinely interprets the statutes it has been entrusted with administering, including § 45-12-1 *et seq.* Its interpretation of the relevant legislation addressed herein, and its resulting determination that Judge Nesselbush is not an “employee” under § 45-21-2(7) because she does not work a minimum of twenty hours per week for the municipality and therefore is not eligible to participate in MERS pursuant to § 45-21-8(a), is entirely reasonable and in accordance with the plain and clear language of the relevant provisions.

Accordingly, per the clear language of § 45-21-8(a) and § 45-21-2(7), the ERSRI was fully entitled to determine that Judge Nesselbush is not eligible for membership in MERS and consequently, direct the City to cease making contributions on her behalf, including those contributions being transmitted to TIAA, return her contributions, and inform her that she would not receive the applicable service credit towards her retirement.

I look forward to presenting this position to you in person on July 31, 2024. Please do not hesitate to contact me should you have any questions or concerns prior to that time.

Very truly yours,

Michael P. Robinson

Michael P. Robinson, Esq.

cc: John Harwood, Esq.
Frank Karpinski
Gayle Mambro-Martin, Esq.



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EXHIBIT A

Gayle Mambro-Martin

From: Gayle Mambro-Martin
Sent: Friday, April 14, 2023 4:51 PM
To: Miranda, Sara
Subject: RE: [EXTERNAL]FW: [REDACTED] Retirement Questions
Attachments: Pawtucket Municipal Judges Follow Up 2.pdf; Pawtucket Municipal Judges Follow Up.pdf

Hi Sara,

Please see my responses to your questions:

1. Was all of [REDACTED] contributions refunded to the City to disburse to the employee?
Yes, [REDACTED] was completely backed out for everything post-2012 (I see some normal service/salary pre-2012, so that is still there under this same group). They have a credit of \$26,656.20 in the portal; 3,066.46 due to [REDACTED] and 23,589.74 to the employer. Employer will need to recoup this as a credit towards a future data collection. The employer must refund the money to [REDACTED].
2. Can you confirm that Donna Nesselbush was partially refunded her contributions (those made post 2012)?
No, it does not look like Nesselbush had anything refunded. We have a data collection prepared to back out EVERYTHING since 2004, but this was not loaded. I will confirm with the Director that we should follow through with this process.
3. Would it be possible to get a copy of the letters that were sent to both [REDACTED] Donna showing that they were refunded those dollars? Or any communication that they received in relation to this discovery? You were cc'd on the initial letters to the members, but I have attached a follow up letter.
4. I am being told by our Payroll department that someone from MERS reached out to them to let them know that they should "hold" Donna's funds while her case was under review? I just want to be sure we are doing the right thing; can you please confirm that and if it was a verbal conversation or an email to our payroll department? Yes it's on hold pending the final determination.

Thank you.

Gayle C. Mambro-Martin
Deputy General Counsel
Employees' Retirement System of Rhode Island
50 Service Ave.
2nd Floor
Warwick, RI 02886
401.462.7616
gayle.mambro-martin@ersri.org

From: Miranda, Sara <smiranda@PAWTUCKETRI.com>
Sent: Thursday, April 6, 2023 2:32 PM
To: Gayle Mambro-Martin <Gayle.Mambro-Martin@ersri.org>
Subject: RE: [EXTERNAL]FW: [REDACTED] Retirement Questions

This Message Is From an External Sender

Gayle, Thank you for your responses, those are most helpful. I am sorry about the delay, we have been having many internal conversations about these situations and employees.

For [REDACTED] her circumstances mirror [REDACTED] Hourly rate works out to be \$9.8901, which annualized is \$18,000. She's not an FTE, she works about 10 hours a month in court. Court is only in session maybe 2-3 hours per week.

I wondered a few additional things:

1. Was all of [REDACTED] contributions refunded to the City to disburse to the employee?
2. Can you confirm that Donna Nesselbush was partially refunded her contributions (those made post 2012)?
3. Would it be possible to get a copy of the letters that were sent to both [REDACTED] Donna showing that they were refunded those dollars? Or any communication that they received in relation to this discovery?
4. I am being told by our Payroll department that someone from MERS reached out to them to let them know that they should "hold" Donna's funds while her case was under review? I just want to be sure we are doing the right thing; can you please confirm that and if it was a verbal conversation or an email to our payroll department?

Thank you so much for all of your assistance with this situation!

Sara

From: Gayle Mambro-Martin <Gayle.Mambro-Martin@ersri.org>
Sent: Tuesday, March 21, 2023 11:11 AM
To: Miranda, Sara <smiranda@PAWTUCKETRI.com>
Subject: FW: [EXTERNAL]FW: [REDACTED] Retirement Questions

Good Morning Sara,

I am in the process of writing a letter to [REDACTED] and need some information about her position.

- Pay rate
- FTE?
- Days/Hours Probate Court is in session
- Payroll information confirming the position is less than 20 hours per week.
- Any other information you can provide about the position

Thank you



Gayle C. Mambro-Martin
Deputy General Counsel – Employees' Retirement System
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From: Gayle Mambro-Martin
Sent: Monday, March 20, 2023 5:06 PM
To: 'Miranda, Sara' <smiranda@PAWTUCKETRI.com>
Subject: RE: [EXTERNAL]FW: [REDACTED] Retirement Questions

Good Afternoon Sara,
 Please see my responses to your questions. I have provided them below in red.
 Happy to discuss if needed.
 Thank you.



Gayle C. Mambro-Martin
 Deputy General Counsel – Employees' Retirement System
 of Rhode Island
 Office of Rhode Island General Treasurer James A. Diossa
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 Phone: (401) 462.7616
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From: Miranda, Sara <smiranda@PAWTUCKETRI.com>
Sent: Friday, March 17, 2023 9:59 AM
To: Gayle Mambro-Martin <Gayle.Mambro-Martin@ersri.org>

Subject: FW: [EXTERNAL]FW: [REDACTED] Retirement Questions
Importance: High

Hi Gayle,

I just left you a message, but I figured I would follow up with an email also. I have a couple of outstanding questions regarding a couple of our employees who should/should not be participants in the pension system, and I just want to understand the difference between them all.

Donna Nesselbush- Judge- does not work 20+hrs week (she is contesting her eligibility), hired 10/1/2004. She was hired after the 6/30/2012 cutoff, so my understanding is that she should never have been a contributor and the entirety of her contributions have been refunded to the City to ultimately give back to her. She is an appointed judge. Therefore, the statute for council and other elected officials does not apply to her. All employees must work/be in a position that is at least a 20 hour per week position (every week).

[REDACTED] Hired 2/12/1992. I was under the impression time prior to 6/30/12 would remain but anything going forward she isn't eligible to contribute and she should be refunded those dollars as well. Same as above. We were not aware that she was also contributing to Pawtucket's MERS plan. We will need to write to her. similar to the letters that went to Judges Nesselbush and [REDACTED]

[REDACTED] elected 5/11/2010 and [REDACTED] elected 1/6/1992. I was told by [REDACTED] in your office that they should still be contributing because they were hired prior to 6/30/2012 and are essentially grandfathered into the system because they had no break and service. Since they are city councilors the law applies to them. They were in continuous council service prior to and after June 30, 2012, and they can continue to contribute and receive service credit.

My question is... What is the difference between [REDACTED] and the 2 judges? The Judges were not elected officials and the city councilmen are elected officials. Nesselbush I understand her date of hire is after 2012 so I can understand that one, but [REDACTED] shouldn't she be the same as [REDACTED] Is the deciding factor the 20hrs a week or their date of hire?? No.

Is an elected official different than a mayoral appointment, such as a judge or finance director, from you perspective? Yes, the law applies to city/town council and other elected officials, not appointed positions.

I appreciate your thoughts, just trying to make sure everyone is contributing correctly and I can answer their questions.

Thank you for your time,
Sara Miranda

Sara Miranda, PHR
Human Resources Director
City of Pawtucket
137 Roosevelt Avenue
Pawtucket RI 02860
(401) 728-0500 ext 332

EXHIBIT B



Employees' Retirement System of Rhode Island

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Chair

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Lisa A. Whiting

Frank J. Karpinski
Executive Director

SENT VIA U.S. FIRST CLASS MAIL & CERTIFIED MAIL RETURN RECEIPT REQUESTED

August 1, 2022

The Honorable Chief Judge Donna M. Nesselbush

Pawtucket, RI 02860

Dear Honorable Chief Judge Nesselbush:

We write to provide you with information regarding your service as Municipal Traffic Court Judge for the City of Pawtucket and your membership in the Municipal Employees' Retirement System (MERS). It is our understanding that you were appointed as Associate Judge in 2004 and Chief Judge on April 25, 2012.

We have confirmed with the Human Resources Director for the City of Pawtucket the following information:

- Pawtucket Municipal courts are in session 2-3 days per week with the 2 judges present (Chief Judge and Judge)
 - Mondays at 2:00 p.m. (from the website)
 - Thursdays at 6:00 p.m. (from the website)
 - Fridays at 9:00 a.m. (from the website)
- The position is not in the city's FTE count
- Judges are appointed, and then approved by the City Council
- Judges earn \$16,000 annually (salary is the same regardless of the hours)
- While the payroll information indicates the position is for 35 hours per week, the Judges are not present 35 hours per week and in fact are not present for the statutorily required 20 hours per week, every week.

Rhode Island General Laws (RIGL) 45-21-8 entitled, Membership in system, reads in part,

- (a) Any employee of a participating municipality as defined in this chapter, who becomes an employee on and after the effective date of participation, shall, under contract of his or her employment, become a member of the retirement system;

While membership in MERS is a condition of employment, the person must meet the definition of "employee" in order to be a member. "Employee" is a defined term in the statute. Specifically, RIGL § 45-21-2 (7) defines who shall be an employee for the purpose of membership in MERS and requires the person work at least 20 hours per week.

60 Service Avenue 2nd Floor, Warwick, RI 02886-1021 (401) 462-7800 Fax: (401) 462-7891

E-Mail: ersri@ersri.org Web Site: www.ersri.org

(7) "Employee" means any regular and permanent employee or officer of any municipality, whose business time at a minimum of twenty (20) hours a week is devoted to the service of the municipality, including elective officials and officials and employees of city and town housing authorities. Notwithstanding the previous sentence, the term "employee," for the purposes of this chapter, does not include any person whose duties are of a casual or seasonal nature. The retirement board shall decide who are employees within the meaning of this chapter, but in no case shall it deem as an employee any individual who annually devotes less than twenty (20) business hours per week to the service of the municipality and who receives less than the equivalent of minimum wage compensation on an hourly basis for his or her services, except as provided in § 45-21-14.1. Casual employees mean those persons hired for an occasional period or a period of emergency to perform special jobs or functions not necessarily related to the work of regular employees. Any commissioner of a municipal housing authority, or any member of a part-time state board commission, committee or other authority is not deemed to be an employee within the meaning of this chapter.

Since the information reveals that you did not meet the definition of employee, specifically the minimum requirement of 20 hours per week, you are therefore not eligible for membership in MERS and thus your contributions will be returned to you, and you will not receive the applicable service credit towards your retirement.

Your MERS and TIAA Defined Contribution Plan employee contributions will be refunded to you by your employer.

Sincerely,



Frank J. Karpinski
Executive Director

Cc: Sara Miranda, PHR
Human Resources Director

Respond #2

EMPLOYEES' RETIREMENT SYSTEM OF RHODE ISLAND
40 Fountain Street, 1st Floor
Providence, RI 02903 - 1854
Office (401) 222-2203, Fax (401) 222-2430

MEMBERSHIP APPLICATION

Instructions: PRINT CLEARLY or TYPE in black ink. Have your employer sign page 2, Section B, to certify that you meet eligibility requirements. Mail the completed form to the Employees' Retirement System within 5 days of receipt. Complete all items on this form and put N/A where not applicable.

SOCIAL SECURITY NUMBER		PLEASE ATTACH A COPY OF YOUR SOCIAL SECURITY CARD/TAX ID NUMBER	
FIRST NAME DONNA	MI	LAST NAME NESSSELBUSH	
ADDRESS		HOME PHONE	
ADDRESS		BUSINESS PHONE	
ADDRESS		EMAIL ADDRESS	
CITY PAWTUCKET	STATE RI	ZIP 02860	SEX ☐ MALE ☒ FEMALE
DATE OF BIRTH		PLACE OF BIRTH (CITY & STATE, OR COUNTRY IF OUTSIDE U.S.)	
ARE YOU CURRENTLY RECEIVING BENEFITS FROM ERS or MERS? ☐ YES ☒ NO			
Please make a copy of this page if additional space for family information is needed. NOTE: Designation of a beneficiary must be made on the BENEFICIARY NOMINATION FORM. Indicate family members below does NOT designate beneficiary status.			
CURRENT MARITAL STATUS (Check One) ☒ SINGLE ☐ MARRIED ☐ DIVORCED ☐ WIDOWED			
SPOUSE'S NAME		SSN (REQUIRED)	DATE OF BIRTH (mm/dd/yyyy)
DEPENDENT CHILDREN'S NAME			
PARENT'S NAME MARIE T. NESSELBUSH			
EMPLOYING AUTHORITY City of Pawtucket		FROM (mm/dd/yyyy) 10/04	TO (mm/dd/yyyy) Current
REFUND TAKEN ☐ YES ☒ NO			
HAVE YOU EVER SERVED ON ACTIVE DUTY IN THE ARMED FORCES OF THE UNITED STATES? ☐ YES ☒ NO			
FOR TEACHERS ONLY: ARE YOU PARTICIPATING IN THE TEACHER'S SURVIVOR BENEFITS PLAN? ☐ YES ☒ NO			
SIGNATURE OF MEMBER Donna M. Nesselbush		DATE 9/27/06	

ERSRI



Rev. 08/23/03

CURRENT EMPLOYMENT INFORMATION		
DATE EMPLOYED (mm/dd/yyyy) 10/03/2004 <i>10/1/04</i>	NAME OF EMPLOYER City of Pawtucket	
CURRENT POSITION NC12	APPROPRIATION NUMBER (For State Employees Only)	AGENCY CODE 1412
EMPLOYER CERTIFICATION		
I CERTIFY THAT THE ABOVE-NAMED INDIVIDUAL MEETS THE STATED REQUIREMENTS FOR MEMBERSHIP IN THE EMPLOYEES' RETIREMENT SYSTEM OF RHODE ISLAND.		
AUTHORIZED SIGNATURE <i>Barbara Gladen</i>	DATE OF SIGNATURE (mm/dd/yyyy) <i>10/4/06</i>	
TITLE <i>Personal Assistant</i>	BUSINESS TELEPHONE NO. <i>(401) 728-0500 x 275</i>	



EMPLOYEES' RETIREMENT SYSTEM OF RHODE ISLAND
40 Fountain Street, 1st Floor
Providence, RI 02903 - 1854
Office (401) 222-2203, Fax (401) 222-2430

BENEFICIARY NOMINATION FORM

Instructions: Please PRINT CLEARLY or TYPE in black ink. Please forward the completed form to the Employees' Retirement System of Rhode Island. Complete all applicable items on this form. See instructions sheet for additional information.

SOCIAL SECURITY NUMBER

FIRST NAME, MI, LAST NAME

DONNA NESSELBUSH

DATE OF BIRTH
(mm/dd/yyyy)

1/62

MEMBERSHIP STATUS (check only one):

☒ MEMBER

☐ RETIREE

BENEFICIARY INFORMATION

Form as a Beneficiary

To name an OAP beneficiary, you must be vested (have at least ten years of contributing service) and be an active member.

NAME	RELATIONSHIP	BENEFICIARY TYPE (choose one)	OAP ELECTION (if vested)	BENEFIT	SSN	DATE OF BIRTH
CARL Nesselbush	Brother	☒ Primary ☐ Contingent	☐ OAP	☐ Refund ☒ Death Benefit		1/55
Tom Nesselbush	Brother	☒ Primary ☐ Contingent	☐ OAP	☐ Refund ☒ Death Benefit		1/61
Gerald Nesselbush	Brother	☒ Primary ☐ Contingent	☐ OAP	☐ Refund ☒ Death Benefit		1/57
		☐ Primary ☐ Contingent	☐ OAP	☐ Refund ☐ Death Benefit		
		☐ Primary ☐ Contingent	☐ OAP	☐ Refund ☐ Death Benefit		
		☐ Primary ☐ Contingent	☐ OAP	☐ Refund ☐ Death Benefit		

Organization as a Beneficiary

ORGANIZATION NAME	BENEFIT CATEGORY	BENEFIT TYPE	ORGANIZATION TAX ID #
	☐ Primary ☐ Contingent	☐ Refund ☐ Death Benefit	

SIGNATURE OF MEMBER/RETIREE

Donna M Nesselbush

DATE OF SIGNATURE
(mm/dd/yyyy)

9/28/06

NOTARIZATION OF MEMBER'S/RETIREE'S SIGNATURE

State of RI County of Providence
Subscribed and sworn to (or affirmed) before me on this the 25th day of October, 2006
(SEAL) Notary Public Signature Clair D. Laid
Date of Commission Expiration 7/12/08 Telephone No: 401-728-0500 x008

ERSR1

Rev. 03/28/03

Respond # 3



From: Nesselbush, Donna <dnesselbush@PAWTUCKETRI.com>
Sent: Monday, December 12, 2022 3:12 PM
To: Frank Karpinski <Frank.Karpinski@ersri.org>
Cc: Moran, David <dmoran@PAWTUCKETRI.com>; Milos, Frank <FMilos@PAWTUCKETRI.com>; Jack Gannon, Esq. <jack@gbdvlaw.com>
Subject: [EXTERNAL]Pawtucket Municipal Court Judges' Participation in MERS

Dear Mr. Karpinski:

Please accept this letter as the official appeal of the denial of pension eligibility for Judge Gannon and me. Judge Gannon and I were taken aback earlier this year when each of us received a letter from you, dated August 1, 2022, stating that we did not qualify to participate in the MERS. Imagine receiving such a letter after paying into the system collectively for almost 30 years (18 for me and 10 for Judge Gannon) and relying all those years on a future pension benefit. I understand that you looked at our website and contacted Pawtucket's Human Resources Director, Sara Miranda, for information regarding the number of hours Judge Gannon and I work. Although well-intentioned, Ms. Miranda unfortunately provided incomplete information to you.

To my knowledge, our job descriptions and job specifications have never before been memorialized in writing. Additionally, as I think any judge or lawyer will tell you, a judge's job involves much more than just the hours spent on the bench. Judge Gannon and I not only handle and adjudicate all aspects of Pawtucket's high-volume traffic and housing case loads, we also constitute the judicial branch of government for the City of Pawtucket. In order to adjudicate cases on the bench, we have to have already reviewed the cases, considered the cases and researched the legal issues as necessary. Additionally, there are and always have been special projects, problems, and additional duties; this non-case related work takes place "off the bench." Please see the attached "protocol/job description" which is up to date and accurately depicts the work Judge Gannon and I do.

I understand that Judge Gannon and I receive relatively low salaries, but we have always looked at our work as "service," and we have never once (in all our years) ever requested or received a cost of living increase or salary increase. It has actually been our reliance on the pension benefit that makes working for such a low salary worthwhile.

Upon receipt of your letter, I (as Chief Judge of the City of Pawtucket) began talking with other city officials. I was looking for information about their understanding of our position as judges, in particular, whether we are considered at least 20 hour per week employees eligible to participate in the MERS. The response has been a unanimous yes.

As previously stated, Judge Gannon and I constitute the judicial branch of Pawtucket's government. Each co-equal branch of government has the inherent authority to draft job descriptions for its employees. Accordingly, I promulgated an up to date, accurate "protocol/job description" for Pawtucket's judges (see attached). I provided this "protocol/job

description" for their review to the other branches of government: the executive (mayor) branch and the legislative branch (City Council).

The Mayor's office readily considered adopting the "protocol/job duties," but when the Mayor's office ran this by long time City Solicitor Frank Milos, he appropriately noted that we are 3 co-equal branches of government and that by design, no one branch has authority or control over the other. However, he noted that city judges are Council appointees, and he therefore opined that the City Council would be in a better position to ratify the job description and benefit parameters (see attached) they had in mind when creating a Municipal Court and appointing judges.

Based thereon, I then requested that the President of the City Council confirm that said "protocol/job description" comports with the Council's understanding of the duties of the Municipal Court (which was created by the City Council) and the role of its judges (who are appointed by the City Council).

Please see the attached letter from City Council President, Dave Moran, who has been on the Pawtucket City Council for 30 years and who has been City Council President for the last 12 years. Council President Moran confirms the role of the judiciary and the role/position of its judges, including that we judges have many more duties than just what we do "on the bench" and confirming that we are considered 20 hour per week employees with a set salary, access to city health insurance and eligibility to participate in the MERS pension system.

In conclusion, I have paid into the MERS system for almost 20 years and Judge Gannon has paid in for over 10 years. We sincerely hope that the information provided herein, including the "protocol/job description" and letter from City Council President Dave Moran, will prove that we are and always have been eligible to participate in the MERS system.

Thank you very much for your patience and kind consideration of this matter. Kindly contact me at 401-378-2155 to confirm receipt of this email and to discuss the appeal process from here. Additionally, please feel free to contact me should you have any additional questions. Happy Holidays.

Sincerely yours,

Donna M. Nesselbush, Esq.
Chief Judge
Pawtucket Municipal Court

Jack Gannon, Esq.
Associate Judge
Pawtucket Municipal Court

City Of Pawtucket
Pawtucket Municipal Court
121 Roosevelt Avenue
Pawtucket, RI 02860

Chief Judge Donna M. Nesselbush
Associate Judge John T. Gannon

Municipal Court Judges

BRANCH OF GOV'T	JOB TITLE	HOURS	SALARY
Judiciary	Municipal Judge	20 Hours Per Week	\$17,000 - \$25,000

Pawtucket Municipal Traffic and Housing Courts:

Protocol / Job Description for Chief Judge and Associate Judge

The Pawtucket Municipal Court shall be composed of one Chief Judge and one Associate Judge. The City of Pawtucket has also established a Housing Court which conducts its day-to-day business as an adjunct to and extension of the already existing Pawtucket Municipal Traffic Court. Judges are part-time, 20 hour per week employees, and the annual salary of the Chief Judge shall be \$25,000 and the annual salary for the Associate Judge shall be \$17,000.

QUALIFICATIONS:

Pursuant to Section 2-501 of the city charter, a Municipal Court judge, to be appointed, must be an elector of the city and be a lawyer in good standing who is admitted to practice before the Rhode Island Supreme Court and who shall have at least two (2) years' experience in the active practice of law. Appointment as a judge of the Municipal Court shall be by a majority vote of the City Council. Judges also must possess:

- The ability to relate to the general public, including the racial, ethnic and socioeconomic diversity that is reflected in the City of Pawtucket;
- The ability to handle a high volume of cases;
- The ability to maintain judicial impartiality and judicial temperament in all matters.



Municipal Traffic Court Clerk: Nadine Higgins (401) 727-9100 Ext. 824
Municipal Housing Court Clerk: Donna Pinto (401) 728-0500 Ext. 280

COURT SESSIONS:

Pursuant to city ordinance, the Municipal Traffic and Housing Courts shall be considered to be in session at all times and in such place or places as the judges shall direct

JUDICIAL DUTIES:

Court Procedures. The Judges Shall:

- Establish the place, days and times of all Traffic and Housing Court sessions;
- Establish Rules of Procedure for both the Traffic and Housing Courts;
- Enforce the Courts' Rules of Procedure, including but not limited to maintaining courtroom decorum and addressing disruptions from litigants or members of the public;
- Prescribe the form of all Pawtucket Municipal Traffic and Housing Court complaints, warrants, writs or other matters of legal process, consistent with the jurisdiction of the court;
- Ensure that procedures are in place for the security and protection of the Judges and Court personnel;
- Oversee and supervise the Traffic Court and Housing Court clerks;
- Ensure that all proceedings, matters of substance and/or hearings before the court are made "on the record" and preserved for use in potential appeals;

Day to Day Operations:

- Establish docketing procedures and docket sizes;
- Adjudicate all complaints filed within the court's jurisdiction, including but not limited to traffic violations, motor vehicle equipment violations, ordinance violations for liquor, parking, minimum code violations, zoning violations, vandalism and animal control issues;
- Preside over Arraignments;
- Preside over Pre-trial Conferences;
- Preside over Trials, including performing any legal research necessary to understand the legal issues involved and to be able to determine guilt/responsibility or non-guilt, and impose fines and/or other dispositions, as required;
- Prepare written and/or verbal decisions;
- Review letters regarding community service;
- Review and Authorize Requests for subpoenas to compel the presence and/or testimony of witnesses;
- Review Motions to Compel Requests for Interrogatories or Production of Documents;

- Dispose of cases in the Traffic Court by reviewing driving records and issuing Default Judgments for motorists who fail to appear;
- Dispose of cases in the Housing Court by reviewing pleadings and issuing Default Judgments for Respondents who fail to appear;
- Review and Dispose of Motions to Vacate judgments, including default judgments and/or order new proceedings/trials, as determined necessary by the judge;
- Review and Oversee Requests for Receivership proceedings;
- Personally view and/or tour properties, as necessary, that are the subject of Requests for Receivership or other action, e.g., Motions to vacate the Premises;
- Review and Sign off on all Municipal Court Orders;
- Review Appellate decisions that are issued by the RI Traffic Tribunal;
- Officiate weddings on days, evenings, or weekends, by appointment and as needed by city residents and others wishing to marry;

Special Projects:

- Oversee and participate in special projects such as camera enforcement of school speed zones and city red lights, televising Municipal Court proceedings, establishing Covid procedures, offering "Good Driver Statute Dismissals via the mail, participating in the Driver's License Restoration Project or the Lead Abatement project; attend meetings and press conferences, as required.
- Oversee all digital projects, including the possibility of judicial proceedings via zoom, drafting and maintaining appropriate content for the Traffic and Housing Court web-pages;

Interact with other Branches of Government:

The Judiciary works together with the Legislative and Executive branches to keep them informed regarding the Special Projects of the Court or the need for legislative changes, e.g., changing the courts name, jurisdiction or otherwise requesting the passage of or amendments to ordinances;

SALARY AND BENEFITS:

The position is a salaried position, with access to City health insurance and participation in the MERS pension system. There are no vacation or sick days as the two judges cover for each other because, by City ordinance, the Court is in session at all times.



DAVID P. MORAN
Council President – First District
127 Revere Street
Pawtucket, RI 02861

December 8, 2022

Donna M. Nesselbush, Esq., Chief Judge
Pawtucket Municipal Court
137 Roosevelt Avenue
Pawtucket, RI 02860

Dear Chief Judge Nesselbush:

Thank you for your email. As you know, I have been on the Pawtucket City Council for over 30 years and have served as Council President for the last 12 years. Given that, I can confirm that all of the information you provided appears true and accurate to the best of my knowledge, in terms of the role of the judiciary/judges in our city government. The duties and responsibilities of our judges — who most certainly are considered city employees — as you have outlined them in the protocol/job description, appear reasonable and accurate to the best of my knowledge.

I am well aware of all the work you and Judge Gannon perform on a weekly basis to smoothly run our Municipal Traffic and Housing Courts. In addition, I have seen firsthand your and Judge Gannon's work with the Council to address issues affecting the judiciary, such as changing the name of the court and adjusting court hours to better accommodate residents. Moreover, I fully understand that your and Judge Gannon's work to run the judiciary and effectuate a number of special projects, means that your position as judges for the city involves more than just the hours you spend on the bench.

Through my participation in numerous judicial appointments over more than three decades and through my annual participation and deliberations regarding the city's municipal budget, I have long understood that our judges are treated like all other part-time employees in city government; that is, they receive set financial compensation, have access to city health insurance, and participate in the MERS pension program that includes both employee contributions and city (employer) contributions.

Having said that, nothing herein shall be construed to affect the Council's inherent authority to set or amend the salary and benefit parameters for future judicial or other Council appointments.

Sincerely yours,

Councilor David P. Moran, President
Pawtucket City Council

pawtward1@verizon.net
(401) 723-2597



Employees' Retirement System of Rhode Island



Respond #1 4

ERSRI Board:

Seth Magaziner
General Treasurer
Chair

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Vice Chair

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Mark A. Carnolo

Joseph Codega

Paul L. Dion

Matthew K. Howard

Claire M. Newell

Raymond J. Pouliot

Jean Randon

Laura Shawinghes

James B. Thorsen

Michael J. Twohey

Lisa A. Whiting

Frank J. Karpinski
Executive Director

SENT VIA U.S. FIRST CLASS MAIL & CERTIFIED MAIL RETURN RECEIPT REQUESTED

August 1, 2022

The Honorable Chief Judge Donna M. Nesselbush

Pawtucket, RI 02860

Dear Honorable Chief Judge Nesselbush:

We write to provide you with information regarding your service as Municipal Traffic Court Judge for the City of Pawtucket and your membership in the Municipal Employees' Retirement System (MERS). It is our understanding that you were appointed as Associate Judge in 2004 and Chief Judge on April 25, 2012.

We have confirmed with the Human Resources Director for the City of Pawtucket the following information:

- Pawtucket Municipal courts are in session 2-3 days per week with the 2 judges present (Chief Judge and Judge)
 - Mondays at 2:00 p.m. (from the website)
 - Thursdays at 6:00 p.m. (from the website)
 - Fridays at 9:00 a.m. (from the website)
- The position is not in the city's FTE count
- Judges are appointed, and then approved by the City Council
- Judges earn \$16,000 annually (salary is the same regardless of the hours)
- While the payroll information indicates the position is for 35 hours per week, the Judges are not present 35 hours per week and in fact are not present for the statutorily required 20 hours per week, every week.

Rhode Island General Laws (RIGL) 45-21-8 entitled, Membership in system, reads in part,

- (a) Any employee of a participating municipality as defined in this chapter, who becomes an employee on and after the effective date of participation, shall, under contract of his or her employment, become a member of the retirement system;

While membership in MERS is a condition of employment, the person must meet the definition of "employee" in order to be a member. "Employee" is a defined term in the statute. Specifically, RIGL § 45-21-2 (7) defines who shall be an employee for the purpose of membership in MERS and requires the person work at least 20 hours per week.

50 Service Avenue 2nd Floor, Warwick, RI 02886-1021 (401) 462-7600 Fax: (401) 462-7601

E-Mail: ersri@ersri.org Web Site: www.ersri.org

(7) "Employee" means any regular and permanent employee or officer of any municipality, whose business time at a minimum of twenty (20) hours a week is devoted to the service of the municipality, including elective officials and officials and employees of city and town housing authorities. Notwithstanding the previous sentence, the term "employee," for the purposes of this chapter, does not include any person whose duties are of a casual or seasonal nature. The retirement board shall decide who are employees within the meaning of this chapter, but in no case shall it deem as an employee any individual who annually devotes less than twenty (20) business hours per week to the service of the municipality and who receives less than the equivalent of minimum wage compensation on an hourly basis for his or her services, except as provided in § 45-21-14.1. Casual employees mean those persons hired for an occasional period or a period of emergency to perform special jobs or functions not necessarily related to the work of regular employees. Any commissioner of a municipal housing authority, or any member of a part-time state board commission, committee or other authority is not deemed to be an employee within the meaning of this chapter.

Since the information reveals that you did not meet the definition of employee, specifically the minimum requirement of 20 hours per week, you are therefore not eligible for membership in MERS and thus your contributions will be returned to you, and you will not receive the applicable service credit towards your retirement.

Your MERS and TIAA Defined Contribution Plan employee contributions will be refunded to you by your employer.

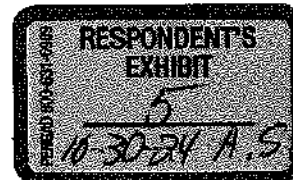
Sincerely,



Frank J. Karpinski
Executive Director

Cc: Sara Miranda, PHR
Human Resources Director

Respond #5



-----Original Message-----

From: Nesselbush, Donna <dnesselbush@PAWTUCKETRI.com>
Sent: Monday, September 19, 2022 3:29 PM
To: Frank Karpinski <Frank.Karpinski@ersri.org>
Cc: Jack Gannon, Esq. <jack@gbdvlaw.com>
Subject: [EXTERNAL] Pension Appeal

Dear Frank:

Thank you so much for taking the time recently to discuss MERS eligibility with me.

As we discussed, Associate Judge Jack Gannon and I (the Chief Judge) will be appealing your conclusion that we are ineligible for a MERS pension, as you set forth in a letter to us dated August 1, 2022. Please accept this email communication as notice of our intention to appeal.

I know one of the first red flags for you was our relatively low salary, but as we discussed, our salaries have not changed and have not even been adjusted for inflation in over 18 years. Judge Gannon, and I love the city of Pawtucket, and we are well aware of its financial challenges. Accordingly, we both have been willing to serve our city as judges, relying for compensation more on the prospect of a future pension than on the low salary we have been paid. If not for the prospect of a future pension, both Judge Gannon and I would have broached the issue of salaried compensation with the Mayor and City Council. Please note that my salary as the Chief Judge is approximately \$25,000. Adjusted for inflation, this amount which was the Chief Judge's salary when I was appointed Associate Judge in 2004 would now be over \$39,000, much more indicative of the 20 hour per week job that it actually is.

Additionally, as we discussed, the actual job description and/or "job specs," meaning the job's specific requirements have not been reviewed, addressed or updated in well over 18 years. Whatever might be on file with the city's personnel office is nothing short of woefully out of date. The court, like the city, has changed tremendously over the past 20 years.

Reviewing and updating the job descriptions for the Chief Judge and Associate Judge of the Municipal Court will take the involvement of the Pawtucket City Council (by whom we are appointed) and the Mayor (whose personnel office may have to be involved). As you well know, the wheels of government turn slowly, so this will take some time. Having said that, Judge Gannon and I will do our best to work with the "powers that be" to update our job descriptions as soon as possible. However, this could easily take until 12/31/22, or longer. I hope this is not the case, but I am obviously not in control of the other co-equal branches of government. I will be more than happy to stay in touch with you to inform you how this process is unfolding and the date of its potential conclusion.

As soon as we have updated, accurate job descriptions, we will provide the same to you with our request that you reconsider our eligibility for membership in the Municipal Employees' Retirement System (MERS).

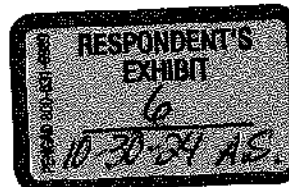
In the meantime, while our appeal is pending, we would like to continue to make our regularly scheduled pension contributions, if that is possible? Is it?

Lastly, please confirm that there are no specific appeal forms or deadlines with which we need to be aware and compliant, and that the timeline outlined in this email is acceptable to you. Again, we will work as diligently as possible.

Kindly advise, and all best regards,

Donna M. Nesselbush, Esq.
Chief Judge
Pawtucket Municipal Court

Sent from my iPad



ERSRI BOARD:

October 24, 2022

Seth Magaziner
General Treasurer Chair

The Honorable Chief Judge Donna M. Nesselbush

John P. Maguire
Vice Chair

Pawtucket, RI 02860

Ernest Almonte

RE: Membership in MERS

Roger P. Boudreau

Dear Honorable Chief Judge Nesselbush:

Mark A. Carruolo

I am writing in response to your email dated September 19, 2022 where you have indicated for yourself and on behalf Associate Judge Jack Gannon your intent to appeal the determination of the Employees' Retirement System of Rhode Island (ERSRI) that you and Judge Gannon are not eligible for membership in the Municipal Employees' Retirement System (MERS).

Joseph Codega

Paul L. Dion

Matthew K. Howard

Claire M. Newell

In making this determination, we relied upon information from the Pawtucket's Municipal Traffic Court website and Human Resources Director of the City of Pawtucket. Absent the receipt of additional information regarding the requirements for the positions of Chief Judge and Associate Judge of the Pawtucket Municipal Traffic Court, our position remains unchanged at this time.

Raymond J. Pouliot

Jean Rondeau

Laura Shawhughes

James E. Thorsen

As a reminder, any revised job descriptions for these positions which you note that you intend to submit to ERSRI for review, must be approved by the Pawtucket City Council and the Mayor of Pawtucket. You have indicated that the job requirements have not been updated in over 18 years, that it will involve the Pawtucket City Council and Mayor, and you will keep us informed as to the status.

Michael J. Twohey

Lisa A. Whiting

Frank J. Karpinski
Executive Director

Finally, you are requesting that you continue to make regular pension contributions during the appeal; however, we have instructed your employer to cease contributions and will do so until the conclusion of this matter. Should ERSRI reconsider the status of your employment after review of any new information provided, both you and the City of Pawtucket will be required to make all retroactive contributions and will receive all retroactive service credits.

Once we have reviewed the updated job descriptions, and any other information you may provide, we will make a final determination in writing. Should you wish to appeal the determination, pursuant to ERSRI and MERS Rules and Regulations, 120-00-1.4, Rules of Practice and

Procedure for Hearings in Contested Cases, you will have 60 days from the date of the formal administrative denial letter to appeal.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank J. Karpinski", written over a horizontal line.

Frank J. Karpinski
Executive Director

Cc: The Honorable Judge John Gannon

Respond #1 7



From: Miranda, Sara <smiranda@PAWTUCKETRI.com>
Sent: Thursday, December 22, 2022 9:39 AM
To: Frank Karpinski <Frank.Karpinski@ersri.org>
Cc: Zelazo, Dylan <dzelazo@PAWTUCKETRI.com>
Subject: [EXTERNAL]FW: Municipal Court Judge Pension Eligibility Question

This Message is From an External Sender
This message came from outside your organization

Report Suspicious

Frank,
Good Morning. Please see the attached thread and corresponding attachments regarding the inquiry on the eligibility of the Municipal Court Judges into the pension. Our City Council has been formally notified of this request via Dylan Zelazo's email below.

Should you have any questions about this, please feel free to reach out to myself or Dylan.

Thank you,
Sara Miranda

Sara Miranda, PHR
Human Resources Coordinator
City of Pawtucket
137 Roosevelt Avenue
Pawtucket RI 02860
(401) 728-0500 ext 332



From: Zelazo, Dylan <dzelazo@PAWTUCKETRI.com>

Sent: Wednesday, December 21, 2022 4:22 PM

To: Goldstein, Richard <RGoldstein@PAWTUCKETRI.com>; Hardy, Michelle <MHardy@PAWTUCKETRI.com>

Cc: Milos, Frank <FMilos@PAWTUCKETRI.com>; Miranda, Sara <smiranda@PAWTUCKETRI.com>; Moran, David <dmoran@PAWTUCKETRI.com>

Subject: Municipal Court Judge Pension Eligibility Question

Dear Honorable Councillors:

As some of you are aware, there is currently a question regarding the pensionable nature of Pawtucket Municipal Court Judges' time on the bench. Ultimately, as I understand the matter, the question comes down to whether our Judges work at least 20-hours per week.

The Administration and the Solicitor reviewed a request (attached) from Chief Judge Nesselbush about creating a formalized job description (Judge Nesselbush's draft attached) for the judges that memorializes the positions as 20-hour positions and MERS eligible. Ultimately, these City positions are appointments of the City Council, and therefore Solicitor Milos has opined that it would be inappropriate for the Administration to attempt to take this action. Out of an abundance of caution, as the attorneys in the Solicitor's Office routinely appear before our Judges, the Solicitor suggested referring to outside counsel for a second opinion (attached). Additionally, as no member of the Administration is responsible for directly managing or supervising the Judges, though many regularly work with them, and the Judges' time and attendance is not tracked by the Administration, I believe no member of the Administration can attest to the greater than 20-hour question. As there are no set job descriptions for the Judges, it may be incumbent upon the City Council to adopt such descriptions if it, in its discretion, deems appropriate.

This matter must, therefore, be considered by the City Council as to whether it, by ordinance or other action, wishes to take affirmative steps to ensure that Pawtucket Municipal Court Judges earn pensions from their service. This will require the Council to assert that the positions work at least 20-hours per week and may require tracking of said hours moving forward. The Administration is happy to assist in this process however necessary, including liaising with the Employee Retirement System of Rhode Island (ERSRI) team.

Thank you for your consideration of this matter,

Dylan M. Zelazo
Director of Administration
City of Pawtucket
137 Roosevelt Avenue
Pawtucket, RI 02860
Office: (401) 728-0500 ext. 281
Cell: (860) 729-0712



City of Pawtucket

City Hall
137 Roosevelt Avenue
Pawtucket, RI 02860

Office of the City Solicitor

Donald R. Grebien
Mayor

Frank J. Milos, Jr., Esq.
City Solicitor ext. 274
Lisette Gomes, Esq.
Assistant City Solicitor ext. 331

November 29, 2022

Dylan Zelazo
Director of Administration
dzelazo@pawtucketri.com

Dear Director Zelazo:

You asked me to look into the legality of the Administration creating a protocol/job description for the Municipal Court Judges that would mandate, among other things, a 20-hour work week for the Judges. As you know, the Municipal Court Judge positions are controlled by the City Charter (See § 2-501). The Judges are elected solely by the City Council. The Mayor/executive branch has no authority or jurisdiction regarding the appointment of the Judges or the hours of operation of the Municipal Court, which is essentially the City's third branch of government.

As Judge Nesselbush has recently stated, under the separation of powers doctrine, the Judges are responsible for establishing court calendars, dockets, and courtroom decorum, including case flow, case management and all aspects of court operations. Therefore, I do not believe that the executive branch has the right or authority to set the hours of operation of the Court, or to set the number of hours that the Municipal Court Judges are required to work during a given week.

Rather, as per Section 2-600 of the Charter "[t]he municipal court, and the judge[s] thereof, shall have all of the powers and duties now or hereafter vested in the municipal court and the judge[s] thereof by the laws of the state and ordinances enacted by the council in conformity therewith." As per this provision, it is my opinion that the City Council may have the express authority to pass ordinances consistent with what Judge Nesselbush is proposing. The City Council has, in fact, passed ordinances regarding the operation of the Municipal Court (See generally Chapter 26 of the Code of Ordinances).

Since my office routinely appears before the Municipal Court, in order to avoid any appearance of impropriety, it might be prudent for the City to have this issue referred to outside counsel for further review and opinion. If so, I would suggest Attorney Vincent Ragosta due to his vast labor experience and also his familiarity with our City Charter. Alternatively, the matter simply could be referred to the City Council and/or its ordinance committee for review and consideration.

(401)725-8650 – Fax (401)727-3961 – TDD (401)722-8239

Dylan Zelazo
Director of Administration
dzelazo@pawtucketri.com
November 29, 2022
Page 2

Please advise at your earliest convenience.

Thank you.

Very truly yours,

/s/ Frank J. Milos, Jr.
Frank J. Milos, Jr., Esq.
City Solicitor

cc: Mayor Donald R. Grebien
Council President David P. Moran
Chief Judge Donna M. Nesselbush

Respond # 8



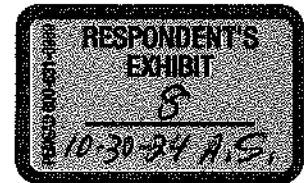
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From: Gayle Mambro-Martin
Sent: Monday, March 20, 2023 5:06 PM
To: 'Miranda, Sara' <smiranda@PAWTUCKETRI.com>
Subject: RE: [EXTERNAL]FW: John Gannon Retirement Questions

Good Afternoon Sara,
Please see my responses to your questions. I have provided them below in red.
Happy to discuss if needed.
Thank you.



Gayle C. Mambro-Martin
Deputy General Counsel – Employees' Retirement System
of Rhode Island
Office of Rhode Island General Treasurer James A. Diossa
50 Service Avenue
Warwick, RI 02886
Phone: (401) 462.7616
Fax: (401) 462.7691
www.ersri.org www.treasury.ri.gov



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From: Miranda, Sara <smiranda@PAWTUCKETRI.com>
Sent: Friday, March 17, 2023 9:59 AM
To: Gayle Mambro-Martin <Gayle.Mambro-Martin@ersri.org>

Subject: FW: [EXTERNAL]FW: John Gannon Retirement Questions
Importance: High

Hi Gayle,

I just left you a message, but I figured I would follow up with an email also. I have a couple of outstanding questions regarding a couple of our employees who should/should not be participants in the pension system, and I just want to understand the difference between them all.

Donna Nesselbush- Judge- does not work 20+hrs week (she is contesting her eligibility), hired 10/1/2004. She was hired after the 6/30/2012 cutoff, so my understanding is that she should never have been a contributor and the entirety of her contributions have been refunded to the City to ultimately give back to her. She is an appointed judge. Therefore, the statute for council and other elected officials does not apply to her. All employees must work/be in a position that is at least a 20 hour per week position (every week).

Christine McBurney- Probate Judge- Hired 2/12/1992. I was under the impression time prior to 6/30/12 would remain but anything going forward she isn't eligible to contribute and she should be refunded those dollars as well. Same as above. We were not aware that she was also contributing to Pawtucket's MERS plan. We will need to write to her. similar to the letters that went to Judges Nesselbush and Gannon.

Mark Wildenhain- City Councilor elected 5/11/2010 and David Moran, also City Councilor, elected 1/6/1992. I was told by Cheryl D in your office that they should still be contributing because they were hired prior to 6/30/2012 and are essentially grandfathered into the system because they had no break and service. Since they are city councilors the law applies to them. They were in continuous council service prior to and after June 30, 2012, and they can continue to contribute and receive service credit.

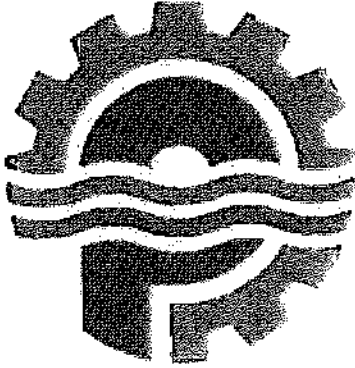
My question is... What is the difference between Wildenhain, Moran, and the 2 judges? The Judges were not elected officials and the city councilmen are elected officials. Nesselbush I understand her date of hire is after 2012 so I can understand that one, but McBurney... shouldn't she be the same as Wildenhain and Moran? Is the deciding factor the 20hrs a week or their date of hire?? No.

Is an elected official different than a mayoral appointment, such as a judge or finance director, from your perspective? Yes, the law applies to city/town council and other elected officials, not appointed positions.

I appreciate your thoughts, just trying to make sure everyone is contributing correctly and I can answer their questions.

Thank you for your time,
Sara Miranda

Sara Miranda, PHR
Human Resources Director
City of Pawtucket
137 Roosevelt Avenue
Pawtucket RI 02860
(401) 728-0500 ext 332



From: Miranda, Sara
Sent: Monday, July 11, 2022 12:56 PM
To: Agostini, Diane <dagostini@PAWTUCKETRI.com>
Subject: FW: [EXTERNAL]FW: John Gannon Retirement Questions

From: Gayle Mambro-Martin [<mailto:Gayle.Mambro-Martin@ersri.org>]
Sent: Friday, July 08, 2022 1:44 PM
To: Miranda, Sara <smiranda@PAWTUCKETRI.com>
Cc: Cheryl DerHagopian <Cheryl.DerHagopian@ersri.org>
Subject: RE: [EXTERNAL]FW: John Gannon Retirement Questions

Sara,

Thank you for taking the time to speak with me today.

I have reached out to my director to ask about salaried employees and membership and will get back to you. My thought is that if they are hired in a position that pays 20 or more hours per week they should be ok. If you can, please provide a posting, contract, etc. which shows the duties and requirements of the job.

Attached you will find a memo that was sent out last year regarding town council members. They should not be contributing unless they are 35 hour per week council members.

Also, thank you in advance for providing responses to the questions regarding the municipal judges.

Should any refund of contributions be needed, Cheryl will be able to assist.

She is the Business Analyst for ERSRI.

Thank you.



Gayle C. Mambro-Martin
Deputy General Counsel – Employees' Retirement System
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Office of Rhode Island General Treasurer Seth Magaziner
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From: Miranda, Sara <smiranda@PAWTUCKETRI.com>
Sent: Friday, July 8, 2022 11:27 AM
To: Gayle Mambro-Martin <Gayle.Mambro-Martin@ersri.org>
Subject: RE: [EXTERNAL]FW: John Gannon Retirement Questions

Hi Gayle, thanks for your prompt response. Can I call you at 1pm today?

Sara

From: Gayle Mambro-Martin [<mailto:Gayle.Mambro-Martin@ersri.org>]
Sent: Friday, July 08, 2022 9:14 AM
To: Miranda, Sara <smiranda@PAWTUCKETRI.com>
Subject: RE: [EXTERNAL]FW: John Gannon Retirement Questions

Good Morning Sara,
Yes. I'm available today.
Do you have time that works best for you?



Gayle C. Mambro-Martin
Deputy General Counsel – Employees' Retirement System
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From: Miranda, Sara <smiranda@PAWTUCKETRI.com>
Sent: Thursday, July 7, 2022 4:38 PM
To: Gayle Mambro-Martin <Gayle.Mambro-Martin@ersri.org>
Subject: [EXTERNAL]FW: John Gannon Retirement Questions

Hi Gayle,
Do you have some time tomorrow that we can discuss this topic that was brought to my attention? I am available all day tomorrow (Friday 7/8), so whenever is convenient for you.

Thank you!
Sara

Sara Miranda, PHR
Human Resources Director
City of Pawtucket
137 Roosevelt Ave
Pawtucket RI 02860
P: (401) 305-7544
F: (401) 722-6211
smiranda@pawtucketri.com



Pawtucket
JOIN THE EVOLUTION

From: Gayle Mambro-Martin <Gayle.Mambro-Martin@ersri.org>
Sent: Wednesday, June 15, 2022 1:33 PM

To: Tracey, Jan <jtracey@PAWTUCKETRI.com>
Subject: RE: [EXTERNAL]RE: John Gannon - Municipal Court Judge

Jan,
We have more questions for you.
Can you confirm that the judges are earning \$8.87 per hour (\$16,000 per year).
Are there 2 judges working the days the courts are open (3 days per week) 35 hours each?
(Judge Nesselbush and Judge Gannon)
Are the judges actually present 35 hours per week?
Are they on the roster of jobs approved by the council? Are they FTE's?
Thank you for your assistance.



Gayle C. Mambro-Martin
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From: Gayle Mambro-Martin
Sent: Wednesday, June 15, 2022 9:44 AM
To: Tracey, Jan <jtracey@PAWTUCKETRI.com>
Subject: RE: [EXTERNAL]RE: John Gannon - Municipal Court Judge

Great thanks,
That would be helpful.



Gayle C. Mambro-Martin
Deputy General Counsel – Employees' Retirement System
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From: Tracey, Jan <jtracey@PAWTUCKETRI.com>
Sent: Wednesday, June 15, 2022 9:34 AM
To: Gayle Mambro-Martin <Gayle.Mambro-Martin@ersri.org>
Subject: [EXTERNAL]RE: John Gannon - Municipal Court Judge

Good morning Gayle,

John Gannon is a Municipal Court Judge and he does also have a private practice. I was giving Claudia the information I have in our computer.

I have attached John's check history from 2013-2022. If you need any other information, please let me know. I can check with Human Resources to see if there are any job specs.

Thank you,

Jan

Jan Tracey
Payroll Assistant
Pawtucket City Hall
137 Roosevelt Avenue
Pawtucket, RI 02861
(401) 305-7542 (p)
(401) 727-4820 (f)
jtracey@pawtucketri.com

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From: Gayle Mambro-Martin <Gayle.Mambro-Martin@ersri.org>
Sent: Tuesday, June 14, 2022 11:10 AM
To: Tracey, Jan <jtracey@PAWTUCKETRI.com>
Cc: Claudia Cardona <Claudia.Cardona@ersri.org>
Subject: John Gannon - Municipal Court Judge

Good Morning Jan,

Claudia provided me with your contact information. It's important that we receive documentation that the Judge position is at least a 20 hour per week position. It has been our experience that the municipal court judges do not meet this criteria.

Judge Gannon earns \$16,000 per year and works 35 hours per week as a Judge? My understanding is that Judge Gannon is a Municipal Court Judge and also has a private practice. Please provide any other documentation such as job specs, payroll information, etc.. which shows a breakdown of the number of hours he works per week, by year.

Thank you for your assistance.

Gayle



Gayle C. Mambro-Martin
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Respond # 9

LAW OFFICES
HARWOOD & GARLAND, LLC

JOHN B. HARWOOD
MICHAEL W. GARLAND
E-mail: contact@harwoodgarland.com



9 THURBER BOULEVARD, SUITE D
SMITHFIELD, R.I. 02917
Telephone: (401) 723-9655
Fax: (401) 723-9106

May 12, 2023

Frank Karpinski
Employees' Retirement System of Rhode Island
50 Service Ave., 2nd Fl.
Warwick, RI 02886

Dear Frank,

Thank you for meeting with me recently to discuss the pension situation relative to Pawtucket Municipal Court Chief Judge Donna Nesselbush and Associate Judge Jack Gannon.

As you know, Chief Judge Nesselbush has promulgated a job description/protocol for the position of Municipal Court Judge (see attached). Promulgating said job description/protocol is well within her purview as Chief Judge, and she has shared it with the City Council which is solely responsible for nominating and appointing the City's judges.

Former City Council President Dave Moran has been on the Pawtucket City Council for over 30 years, serving as President from 2010 to 2022. He has written a letter stating that he is aware of and is in support of the judges' participation in the MERS pension program. In his letter, he states that "[T]he duties and responsibilities of our judges -who most certainly are considered city employees- as you have outlined them in the protocol/job description appear reasonable and accurate to the best of my knowledge.... Moreover, I fully understand that your and Judge Gannon's work to run the judiciary and effectuate a number of special projects, means that your position as judges for the city involves much more than just the hours you spend on the bench Through my participation in numerous judicial appointments over more than three decades, and through my annual participation and deliberations regarding the city's municipal budget, I have long understood that our judges are treated like all other part-time employees in city government; that is, they receive set financial compensation, have access to city health insurance, and participate in the MERS pension program that includes both employee contributions and city (employer) contributions."

Additionally, the current City Council President, Terry Mercer, is of the same accord and mindset. He also has written a letter (see attached) stating that he too has reviewed said job description/protocol, further stating that "[A]s President Pro Tem last December, I worked in close contact with then President Moran on a multitude of matters, including the drafting of his letter regarding this particular pension qualification issue. I concurred with both the intent and content of that letter last December, and remain of the same mindset now.... I believe everyone involved over the last couple of decades earnestly understood that the Municipal Court and Probate Court judges were indistinguishable from all other part-time employees in city government, and, accordingly, are on a proper MERS pension tract. Had that not

been the earnest understanding, employee pension contributions would not have been withheld and remitted to the pension system, (along with the city's employer contributions).

At this point, based on all three documents: 1.) the job description/protocol for Municipal Court Judges; 2.) former City Council President Dave Moran's letter; and 3.) current City Council President Terry Mercer's letter, I believe it is now abundantly clear that the Pawtucket Municipal Court Judges meet all the requirements to be eligible to participate in the Rhode Island Municipal Employee Retirement System (MERS).

The City of Pawtucket has long been aware of their eligibility and participation in the MERS which is why the City had been withholding monies from the payroll checks of Judge Nesselbush and Judge Gannon (and had been making the City's contribution on their behalf as well) since both Judges were appointed (Judge Nesselbush in 2004 and Judge Gannon in 2012).

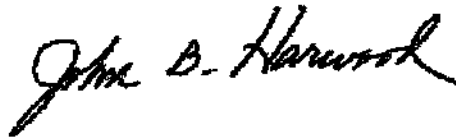
Last year, the MERS returned all of the contributions made on Judge Gannon's behalf, and they instructed the City of Pawtucket to cease withholding and making contributions to the MERS for Judge Gannon.

By letter dated October 24, 2022, you similarly stated that "we have instructed your employer to cease contributions, and will do so until the conclusion of this matter."

I hope we can now conclude this matter. At this time, based on all the evidence submitted, I request that you issue a re-determination that Chief Judge Nesselbush and Associate Judge Gannon are eligible to participate in the MERS pension program. I further request that you take any and all action required to restore their eligibility and participation in the MERS, in a manner that results in no loss to them for the period this has been under consideration.

Thank you for your kind attention to this matter. Please let me know your thoughts as to next steps and please feel free to contact me should you have any questions or concerns.

Very truly yours,

A handwritten signature in black ink, appearing to read "John B. Harwood". The signature is fluid and cursive, with the first name "John" being the most prominent.

John B. Harwood, Esq.

JBH:sls
Enclosure

City Of Pawtucket
Pawtucket Municipal Court
121 Roosevelt Avenue
Pawtucket, RI 02860

Chief Judge Donna M. Neaseboon
Associate Judge John T. Gannon

Municipal Court Judges

BRANCH OF GOVT	JOB TITLE	HOURS	SALARY
Judiciary	Municipal Judge	28 Hours Per Week	\$17,000 - \$25,000

Pawtucket Municipal Traffic and Housing Court

Proposal Job Description for Chief Judge and Associate Judge

The Pawtucket Municipal Court shall be composed of one Chief Judge and one Associate Judge. The City of Pawtucket has also established a Housing Court which conducts its day-to-day business as an adjunct to and extension of the already existing Pawtucket Municipal Traffic Court. Judges are part-time, 20 hour per week employees, and the annual salary of the Chief Judge shall be \$25,000 and the annual salary for the Associate Judge shall be \$17,000.

QUALIFICATIONS

Pursuant to Section 2-30 of the City Charter a Municipal Court Judge, to be appointed, must be a resident of the city and of a law firm practicing law in the state of Rhode Island. The applicant shall have at least ten (10) years' experience in the active practice of law. Appointment as a judge of the Municipal Court shall be by a majority vote of the City Council. Judges also must possess:

- The ability to relate to the needs of a diverse population including the racial, ethnic and socio-economic diversity that is reflected in the City of Pawtucket.
- The ability to handle a high volume of cases.
- The ability to maintain judicial impartiality and judicial temperament in all matters.



Municipal Traffic Court Clerk: Nadine Hughes (401) 727-9100 Ext. 324
Municipal Housing Court Clerk: Donna Pinto (401) 728-0600 Ext. 280

COURT SESSIONS

Pursuant to city ordinance, the Municipal Traffic and Housing Courts shall be considered to be in session at all times and in such place or places as the judges shall direct.

JUDICIAL DUTIES

Court Procedures The Judges Shall:

- Establish the place, days and times of all Traffic and Housing Court sessions.
- Establish Rules of Procedure for both the Traffic and Housing Courts.
- Enforce the Courts Rules of Procedure including but not limited to maintaining courtroom decorum and addressing disruptions from litigants or members of the public.
- Prescribe the form of all Pasquoton Municipal Traffic and Housing Court complaints, warrants, writs or other matters of legal process, consistent with the jurisdiction of the court.
- Ensure that procedures are in place for the security and protection of the judges and court personnel.
- Oversee and supervise the Traffic Court and Housing Court clerks.
- Ensure that all procedures, matters of substance and/or hearings before the court are made for the record and preserved for use in potential appeals.

Day-to-Day Operations

- Establish docketing procedures and docket sizes.
- Adjudicate all complaints filed within the court's jurisdiction, including but not limited to traffic violations, minor vehicle equipment violations, ordinance violations for fence parking, minimum code violations, zoning violations, vandalism and animal control issues.
- Preside over Arraignments.
- Preside over Initial Court Hearings.
- Preside over trials, including performing any legal research necessary to understand factual issues involved and/or be able to determine guilt, responsibility or non-guilt, and impose fines and/or other dispositions as required.
- Enter written and/or verbal decisions.
- Review letters regarding community service.
- Review and Authorize Requests for subpoenas to compel the presence and/or testimony of witnesses.
- Review Motions to Compel Requests for Interrogatories or Production of Documents.

- Dispose of cases in the Traffic Court by reviewing driving records and issuing Default Judgments for motorists who fail to appear.
- Dispose of cases in the Housing Court by reviewing pleadings and issuing Default Judgments for Respondents who fail to appear.
- Review and Dispose of Motions to Vacate Judgments, including Default Judgments and of other new proceeding, as determined necessary by the Judge.
- Review and Dispose of Requests for Receivership proceedings.
- Personally view and/or tour properties, as necessary, that are the subject of proceedings for Receivership or other action, e.g., Motion to Vacate the Premises.
- Review and Sign Off on all Municipal Court Orders.
- Review Appellate decisions that are issued by the 1st District Appellate.
- Conduct proceedings on days, evenings or weekends by appointment and as needed by the public and other agencies to meet.

Special Projects

- Conduct and participate in special projects such as District Enforcement of Motor Vehicle and City Traffic Laws, clearing Municipal Court proceedings, establishing Court procedures, etc.
- Conduct Driver Court programs, including in the District's District Court, District in the 1st District Appellate and in meetings and may conduct as required.
- Conduct all other projects including the reviewing of the Municipal Court and other judicial proceedings to improve contact for the Traffic and Housing Court.

Other Duties as Assigned by the Court

The following duties are not included in the position description of the position and are assigned by the Special Projects of the Court in the field for judicial purposes, e.g., conducting the court's business, conducting other work related to the business of the court, etc.

SALARY AND BENEFITS

The position is a salaried position with wages in City health insurance and participation in the AMBA pension system. There are no vacation or sick days as the position is covered by each other. Because the City recognizes the Court's importance, shall limit.



DAVID P. MORAN
Council President - First District
127 Revere Street
Pawtucket, RI 02861

December 8, 2022

Donna M. Nesselbush, Esq., Chief Judge
Pawtucket Municipal Court
137 Roosevelt Avenue
Pawtucket, RI 02860

Dear Chief Judge Nesselbush:

Thank you for your email. As you know, I have been on the Pawtucket City Council for over 30 years and have served as Council President for the last 12 years. Given that, I can confirm that all of the information you provided appears true and accurate to the best of my knowledge, in terms of the role of the judiciary/judges in our city government. The duties and responsibilities of our judges — who most certainly are considered city employees — as you have outlined them in the protocol/job description, appear reasonable and accurate to the best of my knowledge.

I am well aware of all the work you and Judge Gannon perform on a weekly basis to smoothly run our Municipal Traffic and Housing Courts. In addition, I have seen firsthand your and Judge Gannon's work with the Council to address issues affecting the judiciary, such as changing the name of the court and adjusting court hours to better accommodate residents. Moreover, I fully understand that your and Judge Gannon's work to run the judiciary and effectuate a number of special projects, means that your position as judges for the city involves more than just the hours you spend on the bench.

Through my participation in numerous judicial appointments over more than three decades and through my annual participation and deliberations regarding the city's municipal budget, I have long understood that our judges are treated like all other part-time employees in city government; that is, they receive set financial compensation, have access to city health insurance, and participate in the MERS pension program that includes both employee contributions and city (employer) contributions.

Having said that, nothing herein shall be construed to affect the Council's inherent authority to set or amend the salary and benefit parameters for future judicial or other Council appointments.

Sincerely yours,

Councilor David P. Moran, President
Pawtucket City Council

pawward1@verizon.net
(401) 723-2597



TERRENCE E. MERCER

Councillor - District Three

194 First Street
Pawtucket, Rhode Island 02861

May 2, 2023

Mr. Frank J. Karpinski
Executive Director
Employee Retirement System of RI
50 Service Avenue
Warwick, RI 02886

Dear Mr. Karpinski:

I write as the current president of the Pawtucket City Council to affirm a December 6, 2022 letter sent to Pawtucket Municipal Court Chief Judge Donna Nesselbush by my predecessor in this office, Councillor David P. Moran, and forwarded recently to your office. The gist of that December letter (appended hereto) was to confirm for Judge Nesselbush (and ultimately your office) that then-President Moran had for 30-plus years as a city councilman understood that the city's Municipal Court and Probate Court judges were considered, for all intents and purposes, to be part-time employees of the city.

As President Pro-Tem last December, I worked in close contact with then-President Moran on a multitude of matters, including the drafting of his letter regarding this particular pension-qualification issue. I concurred with both the intent and content of that letter last December and remain of the same mindset now.

I don't know that I can add any more substance to the position put forth by then-President Moran, except to say this: I believe everyone involved over the last couple decades *earnestly* understood that the Municipal Court and Probate Court judges were indistinguishable from all other part-time employees in city government and, accordingly, on a proper MERS pension tract. Had that not been the earnest understanding, employee pension contributions would not have been withheld and remitted to the pension system (along with the city's employer contributions).

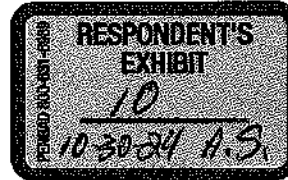
If you have any additional questions or would like any clarification on my stance or that of the council as a whole, please do not hesitate to contact me by cell phone at [REDACTED] or by email at tmracer@pawtucketri.com.

Sincerely,

Terrence E. Mercer
Council President

tmracer@pawtucketri.com

VINCENT F. RAGOSTA, JR.
ATTORNEY AT LAW



CENTER PLACE
50 PARK ROW WEST - SUITE 101
PROVIDENCE, RHODE ISLAND 02903

TEL (401) 274-2100
V.RAGOSTA@VFR-LAW.COM

OF COUNSEL
TIMOTHY M. BLISS
D. PETER DESIMONE

October 11, 2023

Frank J. Karpinski
Executive Director
Employees' Retirement System
of Rhode Island
50 Service Avenue, 2nd Floor
Warwick, Rhode Island 02886-1021

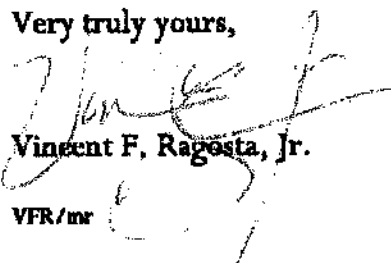
RE: City of Pawtucket-Membership in MERS-Municipal Court Judges

Dear Mr. Karpinski:

My firm serves as outside labor and employment counsel to the City of Pawtucket. In that capacity I write to inquire of the status of the appeal of an ineligibility determination for membership of the City's municipal court judges in the Municipal Employees' Retirement System.

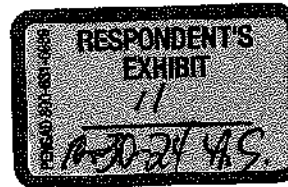
Your prompt attention to this request is appreciated.

Very truly yours,


Vincent F. Ragosta, Jr.

VFR/mr

Copies:
Hon. Donald Grebien, Mayor
Frank J. Milos, Esq., City Solicitor
Sara Miranda, Human Resources Director



ERSRI BOARD:

Sent via U.S. First Class Mail and Certified Mail RRR (council president only)

James A. Diosa
General Treasurer Chair

November 8, 2023

91 7199 9991 7035 4498 1339

John P. Maguire
Vice Chair

The Honorable Terence E. Mercer
Council President

Roger P. Boudreau

Pawtucket City Council
137 Roosevelt Ave.

Mark A. Carruolo

Pawtucket, RI 02860

Joseph Codega

RE: Chief Judge Donna M. Nesselbush and Associate Judge John T. Gannon

Paul L. Dion

Matthew K. Howard

Dear Council President Mercer:

Elena Mertus

Claire M. Newell

Andrew E. Nota

Raymond J. Poullot

Jean Rondeau

Laura Shawhughes

Michael J. Twohey

Thank you for your letter dated May 2, 2023, expressing your understanding that the Pawtucket "Municipal Court and Probate Court judges were indistinguishable from all other part-time employees in city government and, accordingly, on a proper MERS pension tract." As part of the Municipal Employees' Retirement System of the State of Rhode Island ("MERS")'s continuing review of this matter, and whether or not the above-referenced individuals (and any other Municipal Court judge(s) who may be similarly situated) were properly permitted to make pension contributions to and/or be participating members of MERS, I write to request clarification of the City of Pawtucket's position.

Lisa A. Whiting

Frank J. Karpinski
Executive Director

As you may be aware, these individuals were initially advised that they are not eligible for MERS membership based upon information provided to our office by the city that they did not work a minimum of twenty (20) hours per week as required for threshold eligibility pursuant to R.I.G.L. §45-21-2(7). We were thereafter provided with a document purporting to be a "Protocol/Job Description for Chief Judge and Associate Judge" of the Pawtucket Municipal Court, indicating that these judges are in fact "20 hour per week employees." *See attached Exhibit A.* This document was provided to MERS by Chief Judge Nesselbush's attorney. Accompanying this "Protocol/Job Description" was your letter of May 2, 2023, along with a letter dated December 8, 2022 from City Councilman and former Council President David P. Moran to Chief Judge Nesselbush indicating his similar understanding that Pawtucket Municipal Court judges are eligible to

participate in MERS. *See attached Exhibit B.* Thereafter, we received a communication from Attorney Vincent Ragosta, Jr., outside labor and employment counsel to the city, inquiring as to the status of Chief Judge Nesselbush and Associate Judge Gannon's challenges to the initial ineligibility determinations for membership made by the retirement system. Upon review of that communication, and upon further review of the Protocol/Job Description provided by Chief Judge Nesselbush's attorney, we take this opportunity to request additional clarification of the city's position regarding the eligibility of these individuals for membership in the retirement system.

In order to fully evaluate this matter, we are therefore requesting the following additional information:

1. Does the Pawtucket City Council determine the conditions and duties of employment for the Pawtucket Municipal Court judges (including Chief Judge Nesselbush and Associate Judge Gannon, and/or any other Municipal Court judge(s) who may be similarly situated), including with respect to the number of hours worked on a weekly basis, or is there a different individual or entity that would have the authority to do so on behalf of the city with whom the retirement system should be communicating regarding this issue?
2. If the Pawtucket City Council does have the authority to determine the conditions of employment for Judge Nesselbush and Judge Gannon, does the Council as a whole certify the accuracy of the information contained in the "Protocol/Job Description for Chief Judge and Associate Judge" of the Pawtucket Municipal Court that was provided to MERS and that is attached hereto as Exhibit A, including with respect to the number of weekly hours these individuals work and have worked during the course of their municipal employment?

Once we have received responses to these questions, MERS will be able to reach a final determination as to whether or not Chief Judge Nesselbush and/or Associate Judge Gannon (and/or other similarly situated Municipal Court judges) are eligible for membership in the retirement system. If you

have any questions regarding this communication, please do not hesitate to reach out to me directly.

Sincerely,



Frank J. Karpinski
Executive Director

CC: Mayor Donald R. Grebien
Frank Milos, Esq.
John B. Harwood, Esq.
The Honorable Chief Judge Donna M. Nesselbush
The Honorable Judge John Gannon
The Honorable Cristine McBurney
Richard J. Goldstein, City Clerk
Michael P. Robinson, Esq.

Exhibit A

City of Pawtucket
Pawtucket Municipal Court
121 Roosevelt Avenue
Pawtucket, RI 02860

Chief Judge Donna M. Nesselbush
Associate Judge John T. Cannon

Municipal Court Judges

BRANCH OF GOVT	JOB TITLE	HOURS	SALARY
Judiciary	Municipal Judge	20 Hours Per Week	\$17,000 - \$25,000

Pawtucket Municipal Traffic and Housing Courts

Protocol/Job Description for Chief Judge and Associate Judge

The Pawtucket Municipal Court shall be composed of one Chief Judge and one Associate Judge. The City of Pawtucket has also established a Housing Court which conducts its day-to-day business as an adjunct to and extension of the already existing Pawtucket Municipal Traffic Court. Judges are part-time, 20 hour per week employees, and the annual salary of the Chief Judge shall be \$25,000 and the annual salary for the Associate Judge shall be \$17,000.

QUALIFICATIONS

Pursuant to Section 2-501 of the City Charter, a Municipal Court Judge to be appointed must be an elector of the city and be a lawyer in good standing who is admitted to practice before the Rhode Island Supreme Court and who shall have at least ten (2) years' experience in the active practice of law. Appointment as a judge of the Municipal Court shall be by a majority vote of the City Council after a public process.

The ability to relate to the general public including the racial, ethnic and

socioeconomic diversity that is reflected in the City of Pawtucket.

The ability to handle a high volume of cases.

The ability to maintain judicial neutrality and judicial temperament in all matters.



Municipal Traffic Court Clerk: Nadine Elmore (401) 727-9100 Ext. 624
Municipal Housing Court Clerk: Donna Pind (401) 726-0600 Ext. 280

COURT SESSIONS

Pursuant to city ordinance, the Municipal Traffic and Housing Courts shall be considered to be in session at all times and in such place or places as the judges shall direct.

JUDICIAL DUTIES

Court Procedures: The Judges Shall:

- Establish the place, days and times of all Traffic and Housing Court sessions.
- Establish Rules of Procedure for both the Traffic and Housing Courts.
- Enforce the Courts' Rules of Procedure, including but not limited to maintaining courtroom decorum and addressing disruptions from litigants or members of the public.
- Prescribe the form of all Payments, Municipal Traffic and Housing Court complaints, warrants, writs or other matters of legal process consistent with the jurisdiction of the court.
- Ensure that procedures are in place for the security and protection of the Judges and Court personnel.
- Oversee and supervise the Traffic Court and Housing Court clerks.
- Ensure that all proceedings, matters of substance and/or hearings before the court are made "on the record" and preserved for use in potential appeals.

Day-to-Day Operations:

- Establish docketing procedures and docket sizes.
- Adjudicate all complaints filed within the court's jurisdiction, including but not limited to traffic violations, motor vehicle equipment violations, ordinance violations for liquor, parking, minimum code violations, zoning violations, sanitation and animal control issues.
- Preside over Arraignments.
- Preside over Pre-trial Conferences.
- Preside over trials, including establishing any legal research necessary to understand the legal issues involved and to be able to determine guilt or responsibility or non-guilt, and impose fines and/or other dispositions as required.
- Prepare written and/or verbal decisions.
- Review letters regarding community service.
- Review and Authorize Requests for subpoenas to compel the presence and/or testimony of witnesses.
- Review Motions to Compel Requests for Interrogatories or Production of Documents.

- Dispose of cases in the Traffic Court by reviewing driving records and issuing Default judgments for motorists who fail to appear.
- Dispose of cases in the Housing Court by reviewing pleadings and issuing Default Judgments for Respondents who fail to appear.
- Review and Dispose of Motions to Vacate judgments, including default judgments and/or order new proceedings/trials as determined necessary by the judge.
- Review and Oversee Requests for Receivership proceedings.
- Personally view and/or tour properties, as necessary, that are the subject of Requests for Receivership or other action, e.g., Motions to vacate the Premises.
- Review and Sign off on all Municipal Court Orders.
- Review Appellate decisions that are issued by the RI Traffic Tribunal.
- Officiate weddings on days, evenings or weekends, by appointment and as needed by city residents and others wishing to marry.

Special Projects:

- Oversee and participate in special projects such as camera enforcement of school speed zones and city red lights, televising Municipal Court proceedings, establishing Covid procedures, offering "Good Driver" Status Dismissals via the mail, participating in the Driver's License Restoration Project or the Lead Abatement project, attend meetings and press conferences, as required.
- Oversee all digital projects, including the posting of judicial proceedings via zoom, drafting and maintaining appropriate content for the Traffic and Housing Court web pages.

Interact with other Branches of Government:

The Judiciary works together with the Legislature and Executive Branches to implement, manage, and fund the Special Projects of the Court on the local legislative agenda, e.g., changing the court's name, jurisdiction or otherwise, requesting the passage of or amendments to ordinances.

SALARY AND BENEFITS

The position is a salaried position with access to City health insurance and participation in the MERS pension system. There are no vacation or sick days as the provisions cover for each other because, by City ordinance, the Court is in session all times.

Exhibit B



TERRENCE E. MERCER

Councillor - District Three

194 First Street
Pawtucket, Rhode Island 02861

May 2, 2023

Mr. Frank J. Karpinski
Executive Director
Employee Retirement System of RI
50 Service Avenue
Warwick, RI 02886

Dear Mr. Karpinski:

I write as the current president of the Pawtucket City Council to affirm a December 6, 2022 letter sent to Pawtucket Municipal Court Chief Judge Donna Nesselbush by my predecessor in this office, Councillor David P. Moran, and forwarded recently to your office. The gist of that December letter (appended hereto) was to confirm for Judge Nesselbush (and ultimately your office) that then-President Moran had for 30-plus years as a city councilman understood that the city's Municipal Court and Probate Court judges were considered, for all intents and purposes, to be part-time employees of the city.

As President Pro-Tem last December, I worked in close contact with then-President Moran on a multitude of matters, including the drafting of his letter regarding this particular pension-qualification issue. I concurred with both the intent and content of that letter last December and remain of the same mindset now.

I don't know that I can add any more substance to the position put forth by then-President Moran, except to say this: I believe everyone involved over the last couple decades *earnestly* understood that the Municipal Court and Probate Court judges were indistinguishable from all other part-time employees in city government and, accordingly, on a proper MERS pension tract. Had that not been the earnest understanding, employee pension contributions would not have been withheld and retracted to the pension system (along with the city's employer contributions).

If you have any additional questions or would like any clarification on my stance or that of the council as a whole, please do not hesitate to contact me by cell phone at [REDACTED] or by email at tmrcer@pawtucketri.com.

Sincerely,

Terrence E. Mercer
Council President

tmrcer@pawtucketri.com





DAVID P. MORAN
Council President - First District
127 Revere Street
Pawtucket, RI 02861

December 8, 2022

Dorina M. Nesselbush, Esq., Chief Judge
Pawtucket Municipal Court
137 Roosevelt Avenue
Pawtucket, RI 02860

Dear Chief Judge Nesselbush:

Thank you for your email. As you know, I have been on the Pawtucket City Council for over 30 years and have served as Council President for the last 12 years. Given that, I can confirm that all of the information you provided appears true and accurate to the best of my knowledge, in terms of the role of the judiciary/judges in our city government. The duties and responsibilities of our judges — who most certainly are considered city employees — as you have outlined them in the protocol/job description, appear reasonable and accurate to the best of my knowledge.

I am well aware of all the work you and Judge Gannon perform on a weekly basis to smoothly run our Municipal Traffic and Housing Courts. In addition, I have seen firsthand your and Judge Gannon's work with the Council to address issues affecting the judiciary, such as changing the name of the court and adjusting court hours to better accommodate residents. Moreover, I fully understand that your and Judge Gannon's work to run the judiciary and effectuate a number of special projects, means that your position as judges for the city involves more than just the hours you spend on the bench.

Through my participation in numerous judicial appointments over more than three decades and through my annual participation and deliberations regarding the city's municipal budget, I have long understood that our judges are treated like all other part-time employees in city government; that is, they receive set financial compensation, have access to city health insurance, and participate in the MERS pension program that includes both employee contributions and city (employer) contributions.

Having said that, nothing herein shall be construed to affect the Council's inherent authority to set or amend the salary and benefit parameters for future judicial or other Council appointments.

Sincerely yours,

Councilor David P. Moran, President
Pawtucket City Council

pawtward1@verizon.net
(401) 723-2597

SENDER COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature  ☐ Agent ☐ Addressee	
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2. Article Number (Transfer from service label) 9171999991702544981339		D. Is delivery address different from item 1? ☐ Yes ☐ No If YES, enter delivery address below:	
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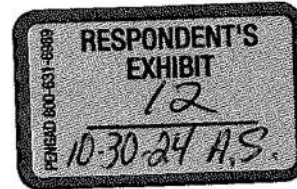
Employees' Retirement System
Of Rhode Island
50 Service Avenue, 2nd Floor
Warwick, Rhode Island 02886-1021

ATT: *Guy*

Respond # 12



TERRENCE E. MERCER
Councilor - District Three



November 17, 2023

Director Karpinski:

I am in receipt of your letter of November 8, 2023, captioned as RE: Chief Judge Donna M. Nesselbush and Associate Judge John T. Gannon, through which you pose two questions for me to answer.

Before providing those requested answers, I'd like to first clarify a couple points. In your correspondence, you reference a letter I wrote to your office last May regarding this pension matter, and point to an excerpt in which I stated that it was my understanding that "Municipal Court and Probate Court judges were indistinguishable from all other part-time employees in city government, and accordingly, on a proper MERS pension tract." I don't mean to quibble with your chosen excerpt, but I'd like to point out that the greater portion of that sentences reads: "I believe everyone involved over the last couple decades earnestly (*italics in original text*) understood that the Municipal Court and Probate Court judges were indistinguishable from all other part-time employees in city government, and accordingly, on a proper MERS pension tract." Moreover, the next sentence reiterates that underlying mindset: "Had that not been the earnest understanding, employee pension contributions would not have been withheld and remitted to the pension system (along with the city's employee contributions)."

My reason for pointing out these nuances is to illustrate that my letter (as with former President Moran's earlier letter) was drafted solely to point out that we (collectively) always *believed* that the Municipal and Probate judges were "pension-eligible" simply because your office was receiving contributions from both the judges' wages and the city as their employer. Nothing more – we *believed* it to be so. I honestly never gave it a moment's thought; it just seemed to make sense that withheld contributions equaled eligibility.

As for your questions:

Q. *Does the Pawtucket City Council determine the conditions and duties of employment for the Pawtucket Municipal Court judges (including Chief Judge Nesselbush and Associate Judge Gannon, and/or any other Municipal Court judge(s) who may be similarly situated), including with respect to the number of hours worked on a weekly basis, or is there a different individual or entity that would have the authority to do so on behalf of the city with whom the retirement system should be communicating regarding this issue?*

A. The short answer to this question is No. To the best of my knowledge after 11 years on the Council, the city's legislative body does not determine the conditions, duties, weekly workload or weekly hours worked. The expectation is that the workload is self-dictating (by charter,

tmerc@pawtucketri.com

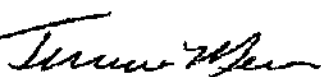
statute and/or ordinance and matters advanced by Zoning and Code Enforcement) and is accomplished in whatever time is necessary As for the second part of this question, perhaps the city's Personnel Director may provide some additional insight.

Q. If the Pawtucket City Council does have the authority to determine the conditions of employment for Judge Nesselbush and Judge Gannon, does the Council as a whole certify the accuracy of the information contained in the "Protocol/Job Description for Chief Judge and Associate Judge" of the Pawtucket Municipal Court that was provided to MERS and that is attached hereto as Exhibit A, including with respect to the number of weekly hours these individuals work and have worked during the course of their municipal employment?

A. Again, the short answer to this question is No. As stated above, the City Council does not determine the working conditions, and, accordingly it does not establish such "protocols and job descriptions" for the judges appointed by that body – or, for matter, for the City Sergeant or Sealers of Weight and Measures as the only other Council-appointed employees in the city. If the protocol presented as Exhibit A has been adopted, presumably it was done by the Personnel Department.

I hope I have adequately answered your questions. If not, or if you require further clarification, please do not hesitate to reach out. Finally, inasmuch as your letter asked me for my personal response, I do not intend to copy the individuals cc'd on your letter to me, although I do not object to you forwarding this correspondence to any (or all) of those individuals if you see fit.

Sincerely,



Terrence Mercer,
President
Pawtucket City Council



CITY COUNCIL
PAWTUCKET CITY HALL
137 ROOSEVELT AVENUE
PAWTUCKET, RI 02860

ERSRI

2023 NOV 20 A 11:10

Employees' Retirement System of Rhode Island
ATTN: Frank J. Karpinski, Executive Director
50 Service Avenue
Warwick, RI 02886

0288631021 0508



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Respond # 13

Gayle Mambro-Martin

From: Milos, Frank <FMilos@pawtucketri.gov>
Sent: Monday, February 19, 2024 2:03 PM
To: Gayle Mambro-Martin; Michael Robinson; Mercer, Terrence; Greblen, Donald; Goldstein, Richard; contact@harwoodgarland.com; Donnanesselbush@gmail.com; Jack@mccorryandgannon.com; Araujo, Michael; Moreno, Roberto; Rubio, Yesenia; Moran, David; Wildenhain, Mark J.; Coderre, Neicy; Gregor, Clovis; Martins Stachowiak, Marlena; cris@mcburneylawri.com
Cc: v.ragosta@vfr-law.com
Subject: [EXTERNAL]Re: Pawtucket Judges - Membership in MERS - Follow Up
Attachments: Mercer, Terrence Pawtucket Judges Follow Up 2024-02-19.pdf

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Gayle:

I hope all is well.

Thank you for your email. However, please be advised that as Frank Karpinski states on Page 2 of his 11/08/23 letter (see attached), the City is represented by Attorney Vincent Ragosta on this matter. I have copied Attorney Ragosta, so he is aware of this exchange.

Call with any questions.

Thank you.

Frank J. Milos, Jr., Esq.
City Solicitor
137 Roosevelt Avenue
Pawtucket, RI 02861
Tel.: 401-728-0500 (Ext. 274)
Fax: 401-727-3961

e-mail: fmilos@pawtucketri.com <<mailto:fmilos@pawtucketri.com>>

This transmittal is intended for a particular addressee(s). It may constitute a confidential attorney-client communication. If it is not clear that you are the intended recipient, you are hereby notified that you have received this transmittal in error; any review, copying or distribution or dissemination is strictly prohibited. If you suspect that you have received this transmittal in error, please notify the Pawtucket Law Department immediately at 401-728-0500 (Ext. 308), or by email reply to the sender, and delete the transmittal and any attachments. Documents attached to this message are not encrypted.

From: Gayle Mambro-Martin <Gayle.Mambro-Martin@ersri.org>

Sent: Monday, February 19, 2024 12:46 PM

To: Michael Robinson <mrobinson@savagelawpartners.com>; Mercer, Terrence <tmercer@pawtucketri.gov>; Greblen, Donald <dgreblen@pawtucketri.gov>; Milos, Frank <FMilos@pawtucketri.gov>; Goldstein, Richard <RGoldstein@pawtucketri.gov>; contact@harwoodgarland.com <contact@harwoodgarland.com>; Donnanesselbush@gmail.com <Donnanesselbush@gmail.com>; Jack@mccorryandgannon.com

<Jack@mccormyandganahan.com>; Araujo, Michael <maraujo@pawtucketri.gov>; Moreno, Roberto <rmoreno@pawtucketri.gov>; Rubio, Yesenia <yrubio@pawtucketri.gov>; Moran, David <dmoran@pawtucketri.gov>; Wildenhain, Mark J. <MJWildenhain@pawtucketri.gov>; Coderre, Neicy <ncoderre@pawtucketri.gov>; Gregor, Clovis <cgregor@pawtucketri.gov>; Martins Stachowiak, Marlena <mstachowiak@pawtucketri.gov>; cris@mcburneylawri.com <cris@mcburneylawri.com>

Subject: Pawtucket Judges - Membership in MERS - Follow Up

Some people who receive this message don't often get email from gayle mambro-martin@ersri.org. [Learn why this is important](#)
[aka.ms]

Good Afternoon,
Please see attached.
Thank you



Gayle C. Mambro-Martin
Deputy General Counsel - Employees' Retirement System
of Rhode Island
Office of Rhode Island General Treasurer James A. Diossa
50 Service Avenue
Warwick, RI 02886
Phone: (401) 462.7616
Fax: (401) 462.7691
www.ersri.org www.treasury.ri.gov



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Frank J. Karpinski
Executive Director

The Honorable Terence E. Mercer Tmercerc@pawtucketri.gov

Council President
Pawtucket City Council
137 Roosevelt Ave
Pawtucket, RI 02860

Dear Council President Mercer:

We are writing regarding our letter of November 8, 2023. To date we have not received a response.

Enclosed please find a copy of the letter of November 8, 2023 and exhibits. We kindly ask that you provide clarification of the City of Pawtucket's position as soon as possible.

Sincerely



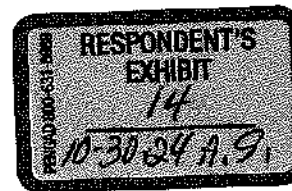
Frank J. Karpinski
Executive Director

Enclosures

cc: The Honorable Mayor Donald R. Grebien Dgrebien@pawtucketri.gov
Vincent Ragosta, Esq. v.ragosta@vfr-law.com
Frank Milos, Esq. Fmilos@pawtucketri.gov
John B. Harwood, Esq. contact@harwoodgarland.com
The Honorable Chief Judge Donna Nesselbush Donnanesselbush@gmail.com
The Honorable Judge John Gannon Jack@mccorrvandgannon.com
The Honorable Cristine McBurney cris@mcburneylawri.com
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Marlena Martins Stachowiak mstachowiak@pawtucketri.gov

Respond # 14



From: Vincent Ragosta <v.ragosta@vfr-law.com>

Sent: Tuesday, February 20, 2024 7:39 PM

To: Gayle Mambro-Martin <Gayle.Mambro-Martin@ersri.org>

Cc: Frank Karpinski <Frank.Karpinski@ersri.org>; Michael Robinson <mrobinson@savagelawpartners.com>; Grebien, Donald <dgrebien@pawtucketri.gov>; Milos, Frank <FMilos@pawtucketri.gov>; Goldstein, Richard <RGoldstein@pawtucketri.gov>; Araujo, Michael <maraujo@pawtucketri.gov>; Moreno, Roberto <rmoreno@pawtucketri.gov>; Rubio, Yesenia <yrubio@pawtucketri.gov>; Moran, David <dmoran@pawtucketri.gov>; Wildenhain, Mark J. <MJWildenhain@pawtucketri.gov>; Coderre, Nelcy <ncoderre@pawtucketri.gov>; Gregor, Clovis <cgregor@pawtucketri.gov>; Martins Stachowiak, Marlena <mstachowiak@pawtucketri.gov>
Subject: [EXTERNAL]City of Pawtucket: Municipal Judges - Membership in MERS

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Report Suspicious

Good Evening Gayle-

I understand that you have been advised by City Solicitor Frank Milos that I serve as outside labor and employment counsel to the City. On October 11, 2023, I wrote to Executive Director Karpinski inquiring as to the status of the appeal of his October 24, 2022 ineligibility determination for membership of the City's municipal court judges in MERS. To date I have not received a response.

Nonetheless, since in June and July 2022 you communicated with the City's then-Human Resources Director, Sara Miranda, seeking information relevant to Director Karpinski's subsequent determination of ineligibility, I write to confirm indispensable facts bearing on any ongoing efforts to appeal, unwind or rescind his

legally correct conclusion, barring the municipal court judges' membership in MERS.

First, and of primary and indispensable statutory import, on July 18, 2022, Ms. Miranda responded to your direct inquiry whether the judges work 20 hours weekly. She pointedly and succinctly responded, "No, they do not". I am told there is no reliable or credible evidence to support the notion that the judges, all of whom are engaged in busy private law practices, work 20 hours or more weekly (nor are they present in City Hall for such hours). I note parenthetically that there is no evidence of compliance with R.I.G.L. § 28-12-12 by the City Council or other branch of City government, i.e. of the making or keeping of records of "...hours worked each day and each workweek by the (judges)...". As you know, that statute unequivocally mandates the generation and retention of such records. Apparently, none exist.

Second, to the extent that ERSRI has been provided any purported job description(s) for one or more of the municipal judges, they ought not be deemed authenticated or official records by ERSRI. I so state because the City's Law Department advises that there has been no legislative action adopting them. Moreover, any notations in such description(s) referencing the quantum of hours worked (or to be worked) by the judges are likewise ultra vires, and hence unreliable.

I trust this may be useful to any factual and legal determinations to be made by ERSRI if it were to consider reversal of Director Karpinski's assiduous ineligibility determination. Hopefully that will not be the case.

Should you see a need to discuss this further, I will be available after 2:30 tomorrow afternoon. Don't hesitate to call.

Best regards,

Vin Ragosta

VINCENT F. RAGOSTA, JR.
ATTORNEY AT LAW
CENTER PLACE

50 PARK ROW WEST
PROVIDENCE, RHODE ISLAND 02903
TEL: 401-274-2100
V.RAGOSTA@VFR-LAW.COM

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Respond # 15

From: John Harwood <jharwood@hgmlawllc.com>
Sent: Tuesday, May 7, 2024 4:53 PM
To: Frank Karpinski <Frank.Karpinski@ersri.org>
Subject: [EXTERNAL] Notice of Appeal



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Report Suspicious

Good Afternoon,

Please see the attached letter dated March 7, 2024 which has also been sent via certified mail today.

Very truly yours,

John B. Harwood, Esq.
Harwood, Garland & McKiernan, LLC.
9 Thurber Blvd., Ste. D
Smithfield, RI 02917
401-723-9655
401-722-9106 (fax)
jharwood@harwoodgarland.com

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LAW OFFICES
HARWOOD, GARLAND & McKIERNAN, LLC

JOHN B. HARWOOD
MICHAEL W. GARLAND
DANIEL E. MCKIERNAN
P: 401-722-2653
F: 401-722-2653

9 THURBER BLVD., SUITE D
SMITHFIELD, RI 02917
Telephone: (401) 722-2653
Fax: (401) 722-2653

May 7, 2024

Rhode Island Retirement Board
50 Service Avenue, 2nd Floor
Warwick, RI 02886

By email and Certified Mail, RRR
7017-3648-8084-8926-1704

Attn: Frank J. Karpinski, Executive Director

**Notice of Appeal
of Administrative Denial dated March 11, 2024**

Request for Hearing before a Hearing Officer

NOW COMES Member Donna M. Nesselbush who hereby appeals the March 11, 2024 administrative denial of her right to participate in the Municipal Employees Retirement System (MERS).

The basis for the appeal is to correct fact and legal errors and to allow Donna M. Nesselbush to present her case as it relates to her position as Chief Judge of the City of Pawtucket, explicating her role, the role of the City's judiciary, the hours of operation of the court, and the total number of hours worked by the Chief Judge to carry out her statutory and civic duties. Chief Judge Emeritus Nesselbush is entitled to relief because she has met the requirements for participation in the Municipal Employee Retirement System (MERS), and the relief she seeks is to be reinstated into said system.

All factual and legal arguments will be set forth more fully and additional evidence presented in a Memorandum of Law which will be submitted as soon as practicable after the Member receives a complete copy of her file.

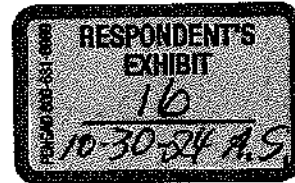
Respectfully submitted,

By Her Attorney,


Donna M. Nesselbush


John B. Harwood
Harwood and Garland
9 Thurber Blvd., Suite D
Smithfield, RI 02917

Respond IT 16



ERSRI BOARD:

August 13, 2024

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Frank J. Karpinski
Executive Director

John B. Harwood, Esq.
Harwood, Garland & McKiernan, LLC
9 Thurber Boulevard., Suite D
Smithfield, RI 02917

RE: *Request for a Hearing – Donna M. Nesselbush*

Dear Attorney Harwood:

In accordance with Rhode Island General Laws §36-8-3 and the Rules of Practice and Procedures for Hearings, your request for a hearing has been re-assigned to:

HEARING OFFICER: Charles M. Koutsogiane, Esq.
Phone: (401) 434-2800
LOCATION: Employees' Retirement System of Rhode Island
50 Service Avenue, 2nd Floor
Warwick, RI 02886

Kindly contact the hearing officer to arrange a mutually convenient time to hold the hearing.

An applicant may represent themselves at this Hearing or the case may be presented by a lawyer. Consistent with Rhode Island General Law §11-27-2, entitled "*Practice of law*" defined, any person accompanying the applicant who is not a lawyer cannot present the applicant's case to the Hearing Officer.

Should you have any additional questions, please do not hesitate to contact me at (401) 462-7608.

Sincerely,

Roxanne Donoyan
Roxanne Donoyan
Assistant to the Executive Director

cc: Charles M. Koutsogiane, Esq.
Michael P. Robinson, Esq.
Donna M. Nesselbush



5.1.3. Pawtucket Request for Leave to Submit Memorandum/Evidence

RIGL Title 45

Towns and Cities

Chapter 2

General Powers

R.I. Gen. Laws § 45-2-13

§ 45-2-13. City of Pawtucket — Municipal police court — Municipal housing court.

(a) The city council of the city of Pawtucket may establish a municipal police court and confer upon the court original jurisdiction, notwithstanding any other provisions of the general laws, to hear and determine causes involving the violation of any ordinance; provided, that any defendant found guilty of any offense, excluding violations of the city's minimum housing ordinances and zoning ordinances, may, within seven (7) days of conviction, file an appeal from the conviction to the Providence superior court and be entitled in the latter court to a trial de novo.

(b) The city council of the city of Pawtucket may establish a municipal housing court and confer upon the court original jurisdiction, notwithstanding any other provisions of the general laws, to hear and determine causes involving the violation of the zoning ordinances of the city and any violation of the provisions of chapter 24 of this title, entitled the Rhode Island zoning enabling act of 1991, and any violation of the provisions of chapter 27.3 of title 23 entitled the Rhode Island state building code, and any violation of the provisions of those regulations promulgated by the state building code commission entitled SBC-1 Rhode Island state building code, SBC-2 Rhode Island state one and two (2) family dwelling code, SBC-3 Rhode Island state plumbing code, SBC-4 Rhode Island state mechanical code, SBC-5 Rhode Island state electrical code, SBC-6 state property maintenance code, and SBC-8 Rhode Island state energy conservation code; and provided, further, that any party aggrieved by a final judgment, decree or order of the Pawtucket housing court may, within twenty (20) days after entry of this judgment, decree or order, petition to the supreme court for the state of Rhode Island for a writ of certiorari to review any errors involved. The petition for the writ of certiorari shall state the errors claimed. Upon the filing of a petition with the clerk of the supreme court, the supreme court may, if it sees fit, issue a writ of certiorari to the Pawtucket housing court to certify to the supreme court the record of the proceedings of the case together with and transcript of the proceedings by the petitioner at his expense.

(c) With respect to violations of either municipal ordinances dealing with minimum housing or zoning regulations, or chapter 24.3 et seq., of this title dealing with housing maintenance and occupancy, or chapter 24 et seq., of this title dealing with enforcement of zoning regulations, the city council may also confer upon the Pawtucket housing court, in furtherance of its jurisdiction, the power to proceed according to equity:

- (1)** To restrain, prevent, enjoin, abate, or correct a violation;
- (2)** To order the repair, vacation, or demolition of any dwelling existing in violation;
- (3)** To otherwise compel compliance with all of the provisions of those ordinances and statutes; or
- (4)** To order a dwelling into receivership and to order the removal of any cloud on the title to the building or property which shall be binding upon all those claiming by, through, under, or by virtue of any inferior liens or encumbrances pursuant to chapter 44 et seq., of title 34.

(d) The city council of the city of Pawtucket is authorized and empowered to appoint a judge to serve as both the municipal police court judge and the municipal housing court judge. The city council of the city is authorized and empowered to enact ordinances governing the personnel, operation, and procedure to be followed in the court and to establish a schedule of fees and costs and to otherwise provide for the operation and management of the court. The municipal courts created by this section may impose a sentence not to exceed thirty (30) days in jail and impose a fine not in excess of one thousand dollars (\$1,000), or both. The courts are empowered to administer oaths, compel the attendance of witnesses, and punish persons for contempt, and to execute search warrants to the extent the warrants could be executed by a judge of the district court.

History of Section.

P.L. 1995, ch. 17, § 2; P.L. 2012, ch. 57, § 1; P.L. 2012, ch. 73, § 1.

MUNICIPAL COURT JUDGES

** Pawtucket City Charter Sections*

Sec. 2-501 Judge of the municipal court; acting judge.

[Amended 7-31-1991 by Ch. No. 2205 (Ref. of 11-6-1990, Sec. 1); Ref. of 11-2-2010]

At the first regular meeting of the council in February every third year, or as soon as may be thereafter, the council shall elect the judge of the municipal court by a majority of the council membership, to serve for a term of three years or until his or her successor shall be duly elected as aforesaid by the succeeding council. The person so elected shall be a qualified elector of the city and be a lawyer admitted to practice before the supreme court of the state and shall have had at least two years experience in the active practice of the law. The council shall also appoint an associate judge who shall perform the services of the judge in his or her absence, and also act as clerk of the municipal court for a three year term. The clerk shall be a qualified elector of the city, and shall be a lawyer admitted to practice before the supreme court of the state and shall have had at least two years experience in the active practice of the law. In case of sickness, absence from the city or other disability or ineligibility of the judge of the municipal court to serve, the clerk of the municipal court shall perform the duties of such judge during any such period of inability or ineligibility of the judge to serve. The acts of such clerk in the performance of such duties shall have the same effect as if performed by such judge.

MUNICIPAL COURT JUDGES – POWERS & DUTIES

Sec. 2-600 Probate and municipal courts.

The probate court, and the judge thereof, shall have all of the powers and duties now or hereafter vested in the probate court and the judge thereof by law. The municipal court, and the judge thereof, shall have all of the powers and duties now or hereafter vested in the municipal court and the judge thereof by the laws of the state and ordinances enacted by the council in conformity therewith.

Chapter 26

Courts

[HISTORY: Adopted by the Council of the City of Pawtucket as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Judge of Probate Court — See Secs. 2-500 and 2-600 of Charter.

Judge of Municipal Court — See Secs. 2-501 and 2-600 of Charter.

Article I

Municipal Court

[Approved 6-21-1973 by Ch. No. 1401; amended in its entirety 11-12-2020 by Ch. No. 3235]

§ 26-1 Establishment.

Pursuant to R.I.G.L. § 45-2-13, as amended, there is hereby established a Municipal Court in the City of Pawtucket.

§ 26-2 Judge and Associate Judge of Municipal Court.

Said Court shall be composed of one Judge and one Associate Judge who shall be elected in accordance with all of the provisions of Section 2-501 of the City Charter.

§ 26-3 Witnesses; attendance; subpoenas; warrants.

Said Court shall have power to issue writs of summons for witnesses, and compel their attendance, and to punish for contempt by fine. In addition, said Court shall have the power to execute search warrants to the extent the warrants could be executed by a Judge of the District Court.

§ 26-4 Associate Justice/Clerk.

(Reserved)

§ 26-5 Duties of Clerk.

In case of the sickness, absence from the City or other disability or ineligibility of the Judge of the Municipal Court to serve, the Clerk of the Municipal Court shall perform the duties of said Judge during the sickness, absence or other inability or ineligibility of said Judge. The acts of said Clerk in the performance of said duties shall have the same effect as if performed by said Judge. The Clerk of said Court shall keep a regular docket of all cases therein, including a record of all cases disposed of, shall record the judgments, orders and sentences of said Court and shall furnish certified copies thereof when required, for which copies said clerk shall charge the same fees as are by law allowed to Clerks of the Superior Court. He or she shall keep his or her office open to the public during such hours as the Court shall determine.

§ 26-6 Power of Clerk to arraign and take recognizance to state.

The Clerk of the Municipal Court shall have the power to arraign and take recognizance to the state.

§ 26-7 Employment of clerical assistance by Clerk.

The Clerk of the Municipal Court, with the approval of the Judge thereof, is hereby authorized and empowered to employ such clerical assistance as he or she may require in his or her office in copying, recording, indexing and attending upon the files of said Court.

§ 26-8 Seal; oaths.

The Municipal Court shall have a seal which shall contain such words and device as the Court shall adopt. The Judge of the Municipal Court shall have power to administer oaths and affirmations.

§ 26-9 Sessions; time; place.

The Municipal Court shall be considered to be in session at all times and in such place or places in the City as the Court or the justice holding the same shall direct.

§ 26-10 Jurisdiction.

The Municipal Court shall have original jurisdiction to hear and determine causes involving violation of any ordinance of the City of Pawtucket.

§ 26-11 Sentencing; appeals.

- A. The Municipal Court may impose a fine not in excess of \$500. Fines so imposed shall be paid over and disposed of in like manner as moneys had been obtained for violations of City ordinances previously handled in the District Court.
- B. Every person aggrieved by any fine or sentence of said Municipal Court may within seven days of such conviction appeal from such sentence to the Superior Court in and for Providence County, in the same manner and with the same procedure, and such appeal shall be disposed of in said Superior Court in like manner as is prescribed in the case of appeals in criminal cases from the sentence of any District Court.

§ 26-12 Complaints, warrants and writs.

It shall be lawful for the Judge of said Court so to prescribe and vary the form of all complaints, warrants, writs or other process as to make the same consistent with the organization, style and jurisdiction of said Court, and such complaints, warrants, writs and other process shall have the same effect, validity and extent, and be served, obeyed, enforced and returned, in the same manner and by the same officers as if issued from the District Courts, and they may also be served by any constables of said town who are authorized to serve process in civil or criminal cases.

§ 26-13 Costs.

Costs taxed by said Municipal Court shall be the same as those taxed by District Courts, and the payment of the costs shall be a part of the sentence to the extent they would be in the District Courts, or as otherwise authorized by state law.

§ 26-14 Appeal costs.

All moneys derived from such appeals, whether for fine and costs, or otherwise, including costs imposed in said Municipal Court on such appealed cases, shall be paid over and disposed of in like manner as moneys obtained in cases of appeal from District Courts to said Superior Courts in criminal cases are paid over and disposed of.

§ 26-15 Effect of Charter.

The provisions of the Charter shall apply to the Municipal Court of the City and to the functions within the jurisdiction of the Court to the extent that such provisions are consistent with this article. To the extent that such provisions are inconsistent with this article, the provisions of the City Charter shall control.

Article II Housing Court

[Approved 5-5-1995 by Ch. No. 2384]

§ 26-16 Title.

This article shall be known and may be cited as the "Housing Court Act."

§ 26-17 Purpose.

This article shall be liberally construed to the end that all people be housed in dwellings that are safe, sanitary and fit for human habitation and that levels of residential environmental quality be achieved and maintained as will protect and promote the health, safety and general welfare of the people of the City of Pawtucket.

§ 26-18 Establishment; Judge; jurisdiction; seal; oaths.

- A. In accordance with the express enabling authority granted by the General Assembly in R.I.G.L. § 45-2-13, there is hereby established in the City of Pawtucket a Housing Court, which shall conduct its day-to-day business as an adjunct to and extension of the already existing Pawtucket Municipal Police Court.
- B. There shall be a Housing Court Judge and an Associate Housing Court Judge to hear and determine causes brought before the Housing Court by the Director of Zoning and Code Enforcement and the City Solicitor's Office involving violation of the zoning ordinances of the City and any violation of the provisions of Chapter 24 of Title 45 of the General Laws of the State of Rhode Island entitled the "State Zoning Enabling Act," and any violation of the provisions of Chapter 27.3 of Title 23 of the General Laws of the State of Rhode Island entitled the Rhode Island "State Building Code," and any violation of the provisions of those regulations promulgated by the State Building Code Commission entitled "SBC-1 Rhode Island State Building Code," "SBC-4 Rhode Island State One and Two family dwelling code," "SBC-5 Rhode Island State Electrical Code," "SBD-6 State Property Maintenance Code," "SBC-8 Rhode Island State Energy Conservation Code" and to hear and determine any other causes brought to promote, protect or enhance the residential environmental quality of the people.
[Amended 7-12-2012 by Ch. No. 3003]
- C. The Housing Court Judge shall serve simultaneously as the Judge of the Pawtucket Municipal Police Court. **[Amended 5-9-2013 by Ch. No. 3025]**
- D. The Associate Housing Court Judge shall serve simultaneously as the Associate Judge of the Pawtucket Municipal Court. **[Amended 5-9-2013 by Ch. No. 3025]**
- E. The Housing Court will commence upon the passage of this article. Upon commencement, the Housing Court shall assume jurisdiction over all matters then pending in the District Court and the Superior Court or remanded to District Court or Superior Court pursuant to Court Order.
- F. Pursuant to R.I.G.L. § 8-18-4(e), the Housing Court shall be a court of record and shall, at a minimum, tape record all sessions.
- G. The Housing Court shall have a seal which shall contain such words and devices as the Court shall adopt.

- H. The Housing Court Judge and the Associate Housing Court Judge shall have the power to administer oaths and affirmations, compel the attendance of witnesses, punish persons for contempt and to execute search warrants to the extent warrants could be executed by a Judge of the District Court.

§ 26-19 Powers of the Housing Court.

- A. The Housing Court shall be a court of City-wide jurisdiction; and no order, decree, judgment, sentence, warrant, writ or process made, issued or pronounced by it need set out any adjudication or circumstances with greater particularity than would be required in courts of superior and general jurisdiction. The writs, subpoenas, citations, orders, notices, executions and all other processes issued by the Housing Court shall be under the seal of the Housing Court, signed by the Housing Court Clerk and bear the signature of the Housing Court Judge and shall run throughout the state.
- B. In all matters within its jurisdiction, the Housing Court shall have the power to proceed according to equity to:
- (1) Restrain, prevent, enjoin, abate or correct a violation.
 - (2) Order the repair, vacation or demolition of any dwelling existing in violation.
 - (3) Otherwise compel compliance with all of the provisions of these ordinances or statutes.
 - (4) Order a dwelling into receivership and to order the removal of any clouds on the title to the building or property which shall be binding upon all those claiming by, through, under or by virtue of any inferior liens or encumbrances pursuant to Chapter 44 et seq. of Title 34 of the General Laws of the State of Rhode Island.
- C. In all matters within its jurisdiction, the Housing Court may impose a fine not in excess of \$500. **[Amended 4-20-2017 by Ch. No. 3125; 5-24-2018 by Ch. No. 3160]**
- D. All fees and costs assessed by the Housing Court shall be the same as the Police Court, or as otherwise authorized by state law. **[Added 4-20-2017 by Ch. No. 3125]**

§ 26-20 Sessions.

The Housing Court shall conduct business in the Pawtucket Municipal Courthouse at such times and under such conditions as the Housing Court Judge may from time to time direct.

§ 26-21 Housing Court Registry.

Within the Housing Court there shall be a registry, to be administered by the Housing Court Clerk, which shall receive and disburse all payments made by direction of the Court, voluntary payments and those pursuant to the minimum standards housing ordinances, which shall be regularly and promptly paid to the City Treasurer.

§ 26-22 Administration of operation.

- A. The Housing Court Judge shall be Administrative Judge of said Court and shall be the head of said Court and have supervision and control of the calendars and the assignments of his or her Associate Judge.
- B. All court stenographers and secretaries shall be under the supervision of the Housing Court Judge whose duty it shall be to gather such statistics as shall reflect accurately the work of the Court, for the information of the Court and such other use as may be deemed expedient.
- C. The Housing Court Judge shall also be charged with the general responsibility for any

recommendations that may be important for the work of said Court.

§ 26-23 Rule of practice and procedure.

The Housing Court, through its Judge, may from time to time make and promulgate rules for regulating practice and conducting business therein. In all matters wherein the Housing Court is authorized or directed to make or promulgate rules, said Court shall have the authority, until such time as such rules may be promulgated, to provide by order in special cases.

§ 26-24 Authority and duties of Clerks.

The Housing Court Clerk shall serve simultaneously as the Clerk of the Pawtucket Municipal Court. In addition to any other authority or duties provided by this article, the Housing Court Clerk shall have the authority to carry out the duties with respect to the Housing Court that are exercised or performed by the Clerks of the District Courts or Superior Court in housing and zoning enforcement matters.

§ 26-25 Report of trials; transcripts.

- A. A court stenographer, except where a tape recording device is employed, shall report stenographically the proceedings in the trial of every action or proceeding in the Housing Court. If ordered to do so by the Judge, the stenographer shall transcribe the report and file the same with the papers in the case.
- B. The stenographer shall also make a transcript of the whole or any part of such report upon the written request filed with the Clerk, by either party to such action or proceeding, and when completed and within the time limited by the Court for filing the same, shall immediately deliver the same to the party ordering it, to the attorney of record of such party and for such service shall be paid a reasonable compensation to be allowed by the Court; and in case the transcript is used in subsequent proceedings in the cause, the cost of the same may be allowed as part of the costs.

§ 26-26 Appeal.

Any party aggrieved by final judgment, decree or order of the Housing Court may, within 20 days after entry of judgment, petition to the Supreme Court for the State of Rhode Island for a writ of certiorari to review any errors involved. The petition for the writ of certiorari shall set forth the errors claimed. Upon the filing of such a petition with the clerk of the Supreme Court, the Supreme Court may, if it sees fit, issue a writ of certiorari to the Housing Court to certify to the Supreme Court the record of the proceedings of the case, together with any transcript of the proceedings furnished by the petitioner at his or her expense.

§ 26-27 Annual appropriations.

The City Council shall annually appropriate such sums as shall be necessary to carry out the purposes of this article, and the City Treasurer is hereby authorized and directed to draw their order for the payment of such sum, or so much thereof as may be required from time to time, upon receipt by them of duly authenticated vouchers approved by the Housing Court Judge.



City of Pawtucket

City Hall
137 Roosevelt Avenue
Pawtucket, RI 02860

Office of the City Solicitor

Donald R. Grebien
Mayor

Frank J. Milos, Jr., Esq.
City Solicitor ext. 274
Lisette Gomes, Esq.
Assistant City Solicitor ext. 331

November 29, 2022

Dylan Zelazo
Director of Administration
dzelazo@pawtucketri.com

Dear Director Zelazo:

You asked me to look into the legality of the Administration creating a protocol/job description for the Municipal Court Judges that would mandate, among other things, a 20-hour work week for the Judges. As you know, the Municipal Court Judge positions are controlled by the City Charter (See § 2-501). The Judges are elected solely by the City Council. The Mayor/executive branch has no authority or jurisdiction regarding the appointment of the Judges or the hours of operation of the Municipal Court, which is essentially the City's third branch of government.

As Judge Nesselbush has recently stated, under the separation of powers doctrine, the Judges are responsible for establishing court calendars, dockets, and courtroom decorum, including case flow, case management and all aspects of court operations. Therefore, I do not believe that the executive branch has the right or authority to set the hours of operation of the Court, or to set the number of hours that the Municipal Court Judges are required to work during a given week.

Rather, as per Section 2-600 of the Charter "[t]he municipal court, and the judge[s] thereof, shall have all of the powers and duties now or hereafter vested in the municipal court and the judge[s] thereof by the laws of the state and ordinances enacted by the council in conformity therewith." As per this provision, it is my opinion that the City Council may have the express authority to pass ordinances consistent with what Judge Nesselbush is proposing. The City Council has, in fact, passed ordinances regarding the operation of the Municipal Court (See generally Chapter 26 of the Code of Ordinances).

Since my office routinely appears before the Municipal Court, in order to avoid any appearance of impropriety, it might be prudent for the City to have this issue referred to outside counsel for further review and opinion. If so, I would suggest Attorney Vincent Ragosta due to his vast labor experience and also his familiarity with our City Charter. Alternatively, the matter simply could be referred to the City Council and/or its ordinance committee for review and consideration.

Dylan Zelazo
Director of Administration
dzelazo@pawtucketri.com
November 29, 2022
Page 2

Please advise at your earliest convenience.

Thank you.

Very truly yours,

/s/ Frank J. Milos, Jr.
Frank J. Milos, Jr., Esq.
City Solicitor

cc: Mayor Donald R. Grebien
Council President David P. Moran
Chief Judge Donna M. Nesselbush

MEMORANDUM

DATE: DECEMBER 8, 2022

TO: MAYOR DONALD R. GREBIEN
DYLAN ZELAZO, DIRECTOR OF ADMINISTRATION

FROM: VINCENT F. RAGOSTA, JR., ESQ.
D. PETER DESIMONE, ESQ.

RE: PAWTUCKET MUNICIPAL COURT

CONFIDENTIAL ATTORNEY WORK PRODUCT

OPINION

For the reasons that follow, and given the facts as known and presented to us, it is our professional opinion that the mayor of the City of Pawtucket ("city") does not have operational authority over the city's municipal court. Rather, that authority, which includes governance over the personnel, operation, and procedure to be followed in municipal court, lies with the city council by virtue of a legislative grant from the Rhode Island general assembly.

FACTS

We have been asked for an opinion as to whether the mayor can, among other things, create or sanction a protocol/job description for municipal court judges that would mandate a 20-hour work week.¹

ANALYSIS

Pawtucket municipal court is a creature of the Rhode Island general assembly and the city council. As for the general assembly's enabling legislation, it provides in relevant part as follows:

"§ 45-2-13. City of Pawtucket — Municipal police court — Municipal housing court.

¹ The question of whether the sitting municipal court judges have actually devoted twenty business hours per week *in the past* is a factual question beyond the scope of this analysis. Based on the information we have been provided, it appears that the city's Human Resources Office has already informed ERSRI that there is no evidence that the municipal court judges work twenty hours per week.



DAVID P. MORAN

Council President – First District

127 Revere Street
Pawtucket, RI 02861

December 8, 2022

Donna M. Nesselbush, Esq., Chief Judge
Pawtucket Municipal Court
137 Roosevelt Avenue
Pawtucket, RI 02860

Dear Chief Judge Nesselbush:

Thank you for your email. As you know, I have been on the Pawtucket City Council for over 30 years and have served as Council President for the last 12 years. Given that, I can confirm that all of the information you provided appears true and accurate to the best of my knowledge, in terms of the role of the judiciary/judges in our city government. The duties and responsibilities of our judges — who most certainly are considered city employees — as you have outlined them in the protocol/job description, appear reasonable and accurate to the best of my knowledge.

I am well aware of all the work you and Judge Gannon perform on a weekly basis to smoothly run our Municipal Traffic and Housing Courts. In addition, I have seen firsthand your and Judge Gannon's work with the Council to address issues affecting the judiciary, such as changing the name of the court and adjusting court hours to better accommodate residents. Moreover, I fully understand that your and Judge Gannon's work to run the judiciary and effectuate a number of special projects, means that your position as judges for the city involves more than just the hours you spend on the bench.

Through my participation in numerous judicial appointments over more than three decades and through my annual participation and deliberations regarding the city's municipal budget, I have long understood that our judges are treated like all other part-time employees in city government; that is, they receive set financial compensation, have access to city health insurance, and participate in the MERS pension program that includes both employee contributions and city (employer) contributions.

Having said that, nothing herein shall be construed to affect the Council's inherent authority to set or amend the salary and benefit parameters for future judicial or other Council appointments.

Sincerely yours,

Councilor David P. Moran, President
Pawtucket City Council

pawtward1@verizon.net
(401) 723-2597



TERRENCE E. MERCER

Councilor - District Three

194 First Street
Pawtucket, Rhode Island 02861

May 2, 2023

Mr. Frank J. Karpinski
Executive Director
Employee Retirement System of RI
50 Service Avenue
Warwick, RI 02886

Dear Mr. Karpinski:

I write as the current president of the Pawtucket City Council to affirm a December 6, 2022 letter sent to Pawtucket Municipal Court Chief Judge Donna Nesselbush by my predecessor in this office, Councilor David P. Moran, and forwarded recently to your office. The gist of that December letter (appended hereto) was to confirm for Judge Nesselbush (and ultimately your office) that then-President Moran had for 30-plus years as a city councilman understood that the city's Municipal Court and Probate Court judges were considered, for all intents and purposes, to be part-time employees of the city.

As President Pro-Tem last December, I worked in close contact with then-President Moran on a multitude of matters, including the drafting of his letter regarding this particular pension-qualification issue. I concurred with both the intent and content of that letter last December and remain of the same mindset now.

I don't know that I can add any more substance to the position put forth by then-President Moran, except to say this: I believe everyone involved over the last couple decades *earnestly* understood that the Municipal Court and Probate Court judges were indistinguishable from all other part-time employees in city government and, accordingly, on a proper MERS pension tract. Had that not been the earnest understanding, employee pension contributions would not have been withheld and remitted to the pension system (along with the city's employer contributions).

If you have any additional questions or would like any clarification on my stance or that of the council as a whole, please do not hesitate to contact me by cell phone at [REDACTED] or by email at tmercerc@pawtucketri.com.

Sincerely,

Terrence E. Mercer
Council President

tmercerc@pawtucketri.com

Chief Judge
John T. Gannon



Associate Judge
Patrick J. McBurney

Chief Judge Emeritus
Donna M. Nesselbush

CITY OF PAWTUCKET OFFICE OF THE MUNICIPAL COURT

November 21, 2024

Mr. Charles M. Koutosogiane Esq.
Employees Retirement System of RI
50 Service Avenue 2nd Floor
Warwick, RI 02886

Re: Donna M. Nesselbush

Dear Mr. Koutosogiane:

I write to you in my capacity as the Chief Judge of the Pawtucket Municipal Court. My interest in writing to you is to make it clear that Attorney Vincent Ragosta has not been engaged by this court and has no authority whatsoever to represent this courts interest in this dispute. Any assertion by Mr. Ragosta or the city's administration that it has standing in this matter must be rejected.

The establishment of the municipal court and its personnel rests solely with the Pawtucket City Council. All operational and administrative authority of the court has been delegated by ordinance to the courts chief judge.

Unfortunately, the shenanigans of the current mayor have created an issue where none has ever existed before. All my predecessors enjoyed being members of the municipal pension system as part of their compensation package, this is nothing new.

I, both personally and in my capacity as Chief Judge support Chief Judge Nesselbushes pension eligibility and the eligibility of all of Pawtucket's municipal judges, both past and present.

Sincerely yours,



John T. Gannon, Esq.
Chief Judge

Mayor: Gannon's ethics complaint part of 'personal vendetta'

Judge's son was fired as Pawtucket firefighter

ETHAN SHOREY, Breeze Online News Editor
May 31, 2016



PAWTUCKET – Mayor Donald Grebien is accusing his former director of administration, John “Jack” Gannon, of carrying out a vendetta against him for the 2013 firing of Gannon’s son, Sean, who was a probationary city firefighter.

Gannon’s filing of an ethics complaint against Grebien last week is the latest example of what Grebien calls the attorney’s “outright lies” about the mayor, his administration, and members of the Pawtucket Fire Department.

“Clearly this is a personal vendetta from a disgruntled father regarding the termination of his son, Sean Gannon,” he told The Breeze, adding that Jack Gannon has been using his power to “intimidate” Pawtucket employees and get money from the city.

The elder Gannon, who works as associate judge for Pawtucket Municipal Court after numerous roles in local government across the area, filed a complaint with the Rhode Island Ethics Commission on May 23 alleging that Grebien was deeply involved in the city’s hiring of the mayor’s tenant John Datel in 2011, a view that contradicts the mayor’s repeated claim...

(Cited in relevant part only to demonstrate the personal conflict between the mayor and Judge Gannon. A full copy of the media story can be found by clicking the hot link in the Objection.)

NBC 10 I-Team: Pawtucket mayor defends himself from ethics complaint

by PARKER GAVIGAN, NBC 10 NEWS

Wed, June 29th 2016 at 6:17 PM

Updated Wed, June 29th 2016 at 7:25 PM

...Grebien's own former director of administration, John "Jack" Gannon, filed the ethics complaint, saying he remembers the mayor ordering him to hire Datel... *(several paragraphs omitted)*

Grebien claimed the complaint by his former aide, Gannon, is politically motivated, centering around the firing of Gannon's son, Sean, from the city's fire department. Sean was let go in November 2013 and the city has since been embattled in a series of labor disputes and lawsuits. Grebien contends within months of the younger Gannon losing his job, his father began filing open record requests for salary and employment information on Datel.

"It's shameful that he (the mayor) has tried to use my son's case as a means of attempting to distract the public from his own wrongdoing," Gannon told the NBC 10 I-Team in a statement.

Grebien's response to the ethics complaint asks the commission to dismiss the complaint and, if found to be frivolous, pay him up to \$5,000 in penalties and legal costs.

<https://www.valleybreeze.com/2019-02-12/pawtucket/ri-supreme-court-sides-city-gannon-firing>

R.I. Supreme Court sides with city in Gannon firing

ETHAN SHOREY, Valley Breeze Managing Editor
Feb 12, 2019



PAWTUCKET - Members of Mayor Donald Grebien's administration say they hope a Rhode Island Supreme Court decision affirming the firing of former firefighter Sean Gannon will put an end to continued "frivolous" legal action by Gannon's father, Associate Pawtucket Municipal Court Judge Jack Gannon.

The state's highest court last week sided with the city in the matter, declining to overturn a Superior Court ruling. Gannon now owes costs and attorney fees to the city, according to the Feb. 6 ruling.

"We are extremely disappointed in the Supreme Court's decision not to allow Sean Gannon's claim to be heard on the merits and to uphold the Superior Court's decision to dismiss on procedural grounds because the local firefighters' union refused to represent Gannon as a petitioner in the civil action," said attorney Joel Votolato, of Jack Gannon's Pawtucket law firm of Gannon, Bailey and Votolato, in a statement Monday.

"Sean Gannon was not terminated due to his performance, but for sticking up for himself and refusing to tolerate the culture of bullying and harassment rampant throughout the Pawtucket Fire Department," he added.

https://www.valleybreeze.com/news/gannon-top-contender-for-magistrate-judge-selection-process-called-into-question/article_54d35be8-cddf-11ee-ae85-f3d7f5e49cee.html

FEATURED

Gannon top contender for magistrate judge, selection process called into question

By LUZJENNIFER MARTINEZ

and ETHAN SHOREY Valley Breeze Editors luzjennifer@valleybreeze.com

Feb 21, 2024



Jack Gannon

PAWTUCKET – An associate municipal court judge with a turbulent history in the city appears on his way to an easy appointment as top judge in Pawtucket Municipal Court.

https://www.valleybreeze.com/news/council-decides-against-delay-approves-gannon-as-lead-judge/article_5daef892-d4df-11ee-be44-afc2b242f822.html

Council decides against delay, approves Gannon as lead judge

By ETHAN SHOREY Valley Breeze Editor ethan@valleybreeze.com
Feb 28, 2024



PAWTUCKET ~ In a split vote last week, the City Council approved the controversial appointment of John "Jack" Gannon as the city's top Municipal Court judge.

The 6-2 vote came after a 5-3 vote not to delay the appointment amid concerns expressed by some council members about it.

Council President Terry Mercer said he was "astounded" that the conversation was even happening, saying a *Breeze* article published earlier that day was about an old feud between Gannon and Mayor Donald Grebien. He said it didn't reflect at all on the job Gannon has done as associate judge for the past decade.

Grebien and his staff had advocated against the appointment, citing Gannon's track record of legal cases against the city in defense of his son Sean, a probationary firefighter fired 10 years ago, and Gannon carrying out what Grebien described as a vendetta against the administration. Actions included a failed complaint by Gannon to the Rhode Island Ethics Commission, which was broadly dismissed and drew criticism of Gannon from commissioners.

Donna M. Nesselbush

v.

Employee Retirement System of Rhode Island

***Petitioner's Objection
to Attorney Vincent Ragosta's Request to Submit Post Hearing Memorandum***

I respectfully object to Attorney Ragosta's request to submit a post hearing memorandum of law in this matter, as he clearly lacks the legal standing to do so. He is not a party to this legal action. This is a matter between the Employee Retirement System of Rhode Island and Chief Judge Emeritus Donna M. Nesselbush. The City of Pawtucket and/or the Mayor are not parties to this legal action, and the fact that they have submitted evidence does not confer upon them the right to submit a post hearing memorandum. There could conceivably be 10 or more sources of evidence in a case like this, and surely each provider of evidence does not gain the right to submit a post-hearing memorandum.

Ragosta lacks standing not only because the Mayor and the City are not parties to this legal action, but also because the Mayor of the City of Pawtucket has no statutory or legal authority over the judges, the hours they work, the day-to-day operation/supervision of the courts and hence over the pension eligibility of the judges. And this is not John Harwood alleging this (as Judge Nesselbush's attorney). The Mayor's powerlessness over the judicial branch (including their pension eligibility) is statutory, and has been communicated to him by two of his own attorneys. Yet he persists, in violation of the doctrine of separation of powers.

RIGL 45-2-13 is the enabling state statute that provides the **City Council alone** the power to establish a municipal court and to appoint judges (See RIGL 45-2-13 attached).

The City Charter then provides the **City Council alone** the same power. (See Pawtucket City Charter sections 2-501 and 2-600 attached).

The City Council alone then enacted ordinances to establish the municipal courts, delegating by ordinance all adjudicatory, operational and administrative authority to the judges. (See City Ordinance Chapter 26, Articles I & II attached).

The Mayor's own City Solicitor has confirmed this in a letter to the Mayor:

"[Y]ou asked me to look into the legality of the Administration creating a protocol/job description for the Municipal Court Judges that would mandate, among other things, a 20 hour work week for the judges. As you know, the Municipal Court Judge positions are controlled by the City Charter (See 2-501). The Judges are elected solely by the City Council. The Mayor/executive branch has no authority or jurisdiction regarding the appointment of the Judges or the hours of operation of the municipal court, which is essentially the City's third branch of government." As Judge Nesselbush has recently stated, under the separation of powers doctrine, the Judges are responsible for establishing court calendars, dockets, and courtroom decorum, including case flow, case management and all aspects of court operations. Therefore, I do not believe that the executive branch has the right or authority to set the hours of operation of the court, or to set the number of hours that the Municipal Court Judges are required to work during a given week. (See exhibit #5 of Petitioner's Main Memo, Frank J. Milos, Jr. Letter dated November 29, 2022 which is incorporated into the hearing record as Petitioner's Hearing Exhibit #2) (attached).

"Outside legal counsel" Vincent Ragosta confirmed the same thing for the Mayor:

"[F]or the reasons that follow, and given the facts as known and presented to us, it is our professional opinion that the Mayor of the City of Pawtucket does not have operational authority over the City's Municipal Court. Rather, that authority, which includes governance over the personnel, operation, and procedures to be followed in Municipal Court, lies with the City Council by virtue of a legislative grant from the Rhode Island General Assembly. (See Ragosta Memorandum dated December 8, 2022, Petitioner's Hearing Exhibit #5 which can also be found as Exhibit #6 of Petitioner's Main Memo) (attached).

It appears disingenuous and perhaps even subterfuge for Attorney Ragosta to consistently write that he represents "the City." If subterfuge is defined as mis-information intended to help accomplish one's goals, it appears there may be an element of legal subterfuge here where Attorney Ragosta repeatedly writes, "I am outside labor and employment counsel to the City of Pawtucket." Apparently, Attorney Ragosta would have you believe he represents the entire City of Pawtucket. In the context of this tug-of-war between branches of government, this is simply not true.

It is elementary that government consists of three coequal branches of government: the legislative branch, the executive branch and the judicial branch. Ragosta represents only the Mayor and the executive branch. He does not represent the entire City. He most certainly does not represent the judicial branch of government which feels strongly about its autonomy and the pension eligibility of the City's Municipal Judges (see attached letter dated November 21, 2024 from Pawtucket's current Chief Judge Jack Gannon).

The City Council has the legal authority to hire its own outside counsel (see City Charter Sec. 2-106), but it has not done so. Rather, past City Council President P. David Moran has stated:

As you know, I have been on the Pawtucket City Council for over 30 years and have served as Council President for the last 12 years. Given that, I can confirm that all of the information you provided appears true and accurate to the best of my knowledge, in terms of the role of the judiciary/judges in our city government. The duties and responsibilities of our judges. -most certainly are considered city employees- as you have outlined them in the protocol/job description, appear reasonable and accurate to the best of my knowledge.

I am well aware of all the work you and Judge Gannon perform on a weekly basis to smoothly run our Municipal Traffic and Housing Courts. In addition, I have seen firsthand your...work with the Council to address issues affecting the judiciary, such as changing the name of the court, and adjusting court hours to better accommodate residents. Moreover, I fully understand that your...work to run the judiciary and effectuate a number of special projects, means that your position as judge...for the city involves more than just the hours you spend on the bench.

Through my participation in numerous judicial appointments over more than three decades and my annual participation and deliberations regarding the city's municipal budget, I have understood that our judges are treated like all other part-time employees in city government; that is, they receive financial compensation, have access to city health insurance, and participate in the MERS pension program that includes both employee contributions and city (employer) contributions. (See David P. Moran's Letter dated December 8, 2022, exhibit #7 of Petitioner's Main Memo which is incorporated into the hearing record through Petitioner's Hearing Exhibit #2) (attached).

Current City Council President Terrence Mercer has stated:

I write as the current President of the Pawtucket City Council to affirm a December 8, 2022 letter...by my predecessor in this office, councilor David P. Moran... The gist of that December letter was to confirm for Judge Nesselbush (and ultimately your office) that then-President Moran had for 30 plus years as a city councilman understood that the city's municipal court and probate court judges were considered, for all intents and purposes, to be part-time employees of the city.

As President Pro Tem last December, I worked in close contact with President Moran on ...the drafting of his letter regarding this particular pension-qualification issue. I concurred with the intent and content of that letter last December and remain of the same mindset now.

... I believe everyone involved over the last couple decades earnestly understood that the municipal court and probate court judges were indistinguishable from all other part-time employees in city government and, accordingly, on a proper MERS pension tract. Had that not been the earnest understanding, employee pension contributions would not have been withheld and remitted to the pension system (along with the city's employer contributions). (See, Letter from Current Council President Terry Mercer, dated May 2, 2023, Exhibit #8 of Petitioner's Main Memo) (attached).

It is clear that it is the Mayor alone who seeks to torpedo the longstanding pension eligibility of Pawtucket's hard working Municipal Judges, to advance his vendetta against Jack Gannon, whom the City Council appointed, over the Mayor's strong objection, as Associate Judge in 2012 and Chief Judge in February, 2024 (upon the retirement of Judge Nesselbush). This vendetta/dispute is long standing and well known and has been covered by the media with headlines such as:

- [Mayor: Gannon's ethics complaint part of 'personal vendetta'](#) (Judges son was fired as Pawtucket Firefighter – May 31, 2016)
- [NBC 10 I-Team: Pawtucket mayor defends himself from ethics complaint](#) (Filed by Gannon – June 29, 2016)
- [R.I. Supreme Court sides with city in Gannon firing](#) (February 12, 2019)

Petitioner has outlined in her Memorandum of Law how the Grebien/Gannon conflict turned into a conflict between the City Council and the Mayor as to the recent elevation of Jack Gannon to Chief Judge. Media coverage of this tug-of-war/dispute includes headlines such as:

- [Gannon top contender for magistrate judge, selection process called into question](#) (February 21, 2024)
- [Council decides against delay, approves Gannon as lead judge](#) (February 28, 2024)

This case exists and is before a Hearing Officer because of a personal war between Mayor Grebien and Judge Gannon; Judge Nesselbush is just collateral damage. This personal conflict has given rise to a tug-of-war between the branches of government. The executive branch is clearly against the pension eligibility of the judges. The judicial branch is clearly in favor of the pension eligibility of judges (see attached letter from Chief Judge Gannon dated November 21, 2024). The City Council has weighed in as quoted above. [Note that all previous judges are in the MERS without question by any branch of city government. How can this be?]

We assume that Judge Nesselbush's entire pension file at the retirement board was provided to the Hearing Officer and that it is *ipso facto* part of the hearing record. For identification purposes, we request that it be labelled as Petitioner's Hearing #6. (We will forward you the actual email we received from the retirement board attaching Judge Nesselbush's file, copying attorney Robinson). We cite Judge Nesselbush's retirement board file because it contains the evidence submitted by each branch of government.

Based on evidence provided by the Mayor's office, the retirement board denied Judge Nesselbush's pension eligibility by way of a letter dated August 1, 2022. Then, based on additional evidence provided by the City Council and the Judiciary, the retirement board allowed the pension eligibility by letter dated July 3, 2023. Then, based on Attorney Ragosta's February 20, 2024 email, the retirement board reversed course and again denied pension eligibility. This back-and-forth decision making is due to the tug-of-war within the city. Judge

Nesselbush's appeal is now before you, a Hearing Officer. It would be inappropriate, unfair and lop-sided at this point to allow one branch of government, one provider of evidence to submit a post hearing memo of law. Only ***the parties*** to this legal action are legally allowed to do so.

The evidence is in. The hearing has taken place. Post hearing memos are due ***from the parties*** on December 2, 2024. Soon the hearing officer will consider the evidence, apply the rule of law and make a determination as to the pension eligibility of Pawtucket's longest-serving municipal judge, Donna M. Nesselbush. For the foregoing reasons, I respectfully request that Vincent Ragosta's request to submit a post hearing memorandum of law be denied.

Respectfully submitted,

John B. Harwood, Esq.
Harwood, Garland & McKiernan
9 Thurber Blvd. D.
Smithfield, RI 02917

November 22, 2024

STATE OF RHODE ISLAND
PROVIDENCE, SC

EMPLOYEES RETIREMENT
SYSTEM OF RHODE ISLAND

Appeal of:

Donna Nesselbush
Appellant - Petitioner

vs.

Employees Retirement System of Rhode Island
Appellee - Respondent

RULING

For the reasons to follow the request by the City of Pawtucket (executive branch) to file a post-hearing memorandum of law is declined.

Donna Nesselbush ("Petitioner") is appealing the decision of the Employees Retirement System of Rhode Island ("ERSRI") denying her application for a pension.

In preparation for the hearing on the merits this Hearing Officer reviewed the pre-hearing briefs submitted by Petitioner and ERSRI. The memorandum of law and exhibits submitted by the Petitioner were voluminous and consisted of more than 425 pages. Given the very unusual size of Petitioner's memorandum of law, as well as the claims asserted therein, this Hearing Officer requested a pre-hearing telephone conference with counsel on October 22, 2024, approximately two weeks before the full hearing scheduled for October 30, 2024. At the telephone conference respective counsel identified their only witnesses – Petitioner Donna Nesselbush and Frank Karpinski for ERSRI. A hearing on the merits involving those witnesses was held and concluded on October 30, 2024 and a briefing schedule was established.

On November 14, 2024, two weeks after the hearing, Attorney Vincent Ragosta sent an email to this Hearing Office indicating that he represented the City of Pawtucket and requested the opportunity to submit a post-hearing memorandum in order “to ensure that truthful and reliable evidence is furnished as to work history.” Petitioner objected, ERSRI did not. Counsel for all three parties were allowed to submit memoranda of law on the narrow issue of standing by the City of Pawtucket.

For clarity, the record shows that in actuality Attorney Ragosta represents the mayor of Pawtucket, the executive branch (herein the “City”), not the city council (legislative branch) and not the Pawtucket courts (judicial branch).

In Rhode Island v. Chevron Corp., C.A. No. PC 2018, 4716 (RI Super Ct. August 2020), the trial judge opined that there are no guidelines in the Superior Court Rules of Civil Procedure regarding filing an amicus brief. The Court there looked to the substance of the requested filing and whether it provided for a just, speedy and inexpensive determination. The Court indicated that it was a matter of discretion and looked to whether the amicus brief would provide a different and specialized perspective that counsel of record may not have already articulated. The ERSRI Regulations similarly allow for the exercise of discretion.

Both ERSRI and the City argue that the City meets the definition of “party” under ERSRI Regulation 120-RICR-1.4 B1(b) and should be allowed to file a post-hearing brief– “Party means any member, beneficiary, Retirement System, or such other person or organization deemed by the Hearing Officer to have standing.” ERSRI Regulation 120-RICR-1.4 also provides that parties can submit evidence and examine and cross examine witnesses.

However, all parties, however they might be recognized, must also comply with ERSRI Regulation 120-RICR-1.4I, which emphasizes that the Superior Court Rules of

Evidence apply at hearings. At the hearing on the merits both attorneys offered exhibits and testimony which allowed opposing counsel the opportunity to accept or challenge the same. Among other things, ERSRI offered evidence that included information from the Pawtucket executive branch. For example, the record shows that the City, through its HR Office, as well as from Attorney Ragosta (and other representatives), previously exchanged information with ERSRI regarding Petitioner's work history. ERSRI presented this evidence at the hearing. Mr. Karpinski testified that he had phone conversations with Attorney Ragosta. The concerns articulated in Attorney Ragosta's mail of November 14, 2024 as to "relevant and material" evidence were addressed by ERSRI. What is important is that all the exhibits admitted at the hearing were scrutinized by both sides before being accepted or challenged.

The Rules of Evidence protect the fairness of hearings. Here, the proposed submission by the City, while necessarily not explicit in the offer, would still appear to contain repetitive averments and/or observations from counsel, relying in turn upon assertions and/or evidence from other sources within the City's executive branch, but who did not testify at the hearing. Attendance by any such witnesses would have given all counsel a fair chance to examine and cross examine them, in person, assuming that the executive branch had legal standing in the first place. There is little doubt that at the hearing the two witnesses who did testify did so at considerable length and were cross-examined. Getting to the truth is admittedly paramount, but adherence to the rules of evidence is the only reasonable and acceptable way to ascertain it reliably and fairly.

This Hearing Officer exercises flexibility at the hearings, but here the City's proposed offer might have duplicative averments, and risks introducing hearsay evidence or opinion, which could not be questioned and which does not otherwise meet the requirements of the ERSRI Rules

of Practice, when viewed in its totality, or which comply with the Superior Court Rules of Evidence. It does not meet the standard articulated in Rhode Island v. Chevron Corp, *supra*, of providing for a just, speedy and inexpensive determination as it leads to the possible need to reopen a completed hearing and attempt to bring forth possible new witnesses; however, there are no subpoena powers in administrative hearings.

The doctrine of separation of powers is even more fundamentally at play here. It provides that the separation of powers prohibits the usurpation of the power of one branch of government by a coordinate branch of government. State Dept of Corr. V. RI Bhd. of Corr. Officers, 115 A3d 924 (RI 2015); Woonsocket School Committee v. Chafee, 89 A 3d 718 (RI 2014). One case held that the doctrine can be breached when 1) one branch interferes impermissibly with the other's performance of its constitutionally assigned function, or 2) when one branch assumes functions more properly entrusted to another. Quattrucci v. Lombardi, 232 A 2d 1062, 1066 (RI 2020).

RIGL 45-2-13, enacted by the General Assembly, is the enabling legislation and subsection (d) states that the Pawtucket City Council has the exclusive "authority to establish the courts and to enact ordinances governing the personnel, operation and procedures to be followed." Section 2-600 of the Pawtucket City Charter also echoes that authority. Under Section 4-102 the mayor may make recommendations but it is the City Council, in concert with the judiciary, that has the authority to address questions on operational boundaries, including hours worked, per RIGL 45-2-13. If there be a need for additional or improved oversight of "personnel, operation and procedures" under RIGL 45-2-13 it would be within the purview of the Pawtucket City Council and/or the Pawtucket Courts.

Consistent with those findings, and by way of example, in an internal memo dated

November 29, 2022, Frank Milos, the Pawtucket City Solicitor, wrote the following to the Pawtucket Director of Administration (with copies to the Mayor and City Council): “I do not believe that the executive branch has the right or authority to set the hours of operation of the Court, or to set the number of hours that the Municipal Court judges are required to work during a given week.” As previously noted, Section 2-600 of the City Charter, and other ordinances enacted by the City Council, are consistent with this statement.

Apparently, the Mayor requested a second opinion. By letter dated December 8, 2022 Attorney Ragosta, as outside counsel, conducted his own review and similarly responded “that the mayor of the city of Pawtucket (“city”) does not have operational authority over the city’s Municipal Court ...rather, that authority which includes governance over the personnel, operation and procedure to be followed in the municipal court, lies with the city council by virtue of a legislative grant from the Rhode Island General Assembly.” The December 8, 2022 letter-opinion was informative, clear and thorough in its findings and conclusion.

In the present matter, the City (mayor) does indeed have a role to play in the process but perhaps just not in the manner that is being advocated. The mayor can approve, disapprove or modify ordinances enacted by the City Council under Section 2-203, but subject to an override by the City Council. But that is not really at issue here. RIGL 45-2-13 gave the authority to create the Pawtucket Courts to the City Council and that body duly acted on it. When a legislature confers legislative powers on a municipal body a judicial or executive body may not interfere with that power except as the legislature authorizes. Moreau v. Flanders, RI Superior Ct, No 2010-400, March 29, 2011.

Moreover, with regard to funding oversight involving the respective branches, under Section 2-301, the City Council is the body charged with adopting annual budget appropriations

after the mayor submits the annual operating budget message. Similarly, Section 2-309, entitled "Pension and Retirement System," provides that the "Mayor shall submit to the council his proposal for a comprehensive, fair and actuarially sound pension and retirement system covering officers and employees of the city and the council shall promptly consider it and act upon the setting up of such a system." These Sections are not inconsistent with RIGL 45-2-13 and that latter statute does not confer standing to the executive branch.

To further illustrate, in Harrisburg Associates v. The City of Providence, RI Superior Ct, C.A. PC 2020-04757 August 24, 2023, the judge noted that legislative powers of a city are vested in the city council and the powers and duties usually include to adopt an annual city budget appropriation as well as for personnel. He indicated that the executive branch cannot insert itself on the prerogatives of the legislative branch (city council) without authority. This is analogous to the doctrine of separation of powers recognized and practiced at the state level, with the interaction of the General Assembly, the Governor's office and the Rhode Island judiciary, and in which the General Assembly has the ultimate authority to consider and to enact annual appropriation requests that are channeled from the other branches.

In light of the above, and after careful consideration of the record adduced to date, and after a review of the ERSRI Regulations and the Superior Court Rules of Evidence, as well as the separation of powers doctrine, there is persuasive evidence and legal authority that leads to a finding that the City's request must be declined.

Date: December 29, 2024

/S/ Charles M. Koutsogiane, Esq.
By: _____

Charles M. Koutsogiane, Esq.
Hearing Officer
One Grove Avenue
East Providence, RI 02903

From: Michael Robinson <mrobinson@savagelawpartners.com>
Sent: Wednesday, August 20, 2025 11:34 AM
To: Gayle Mambro-Martin
Subject: [EXTERNAL]FW: Donna Nesselbush Appeal of ERSRI's Denial of Pension Eligibility City of Pawtucket

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Michael Robinson, Esq. | Partner



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From: Vincent Ragosta <v.ragosta@vfr-law.com>
Sent: Wednesday, December 4, 2024 9:14 PM
To: Charles Koutsogiane <ckouts.law@gmail.com>
Cc: Michael Robinson <mrobinson@savagelawpartners.com>; John Harwood <jharwood@hgmlawllc.com>; Allison Charette <acharette@savagelawpartners.com>; Alyssa Lemire <alemire@savagelawpartners.com>
Subject: Re: Donna Nesselbush Appeal of ERSRI's Denial of Pension Eligibility City of Pawtucket

Dear Hearing Officer Koutsogiane-

I am in the midst of a trial and therefore resort to this email as the City's submission as instructed in Paragraph Number 3 of your November 26, 2024 9:25 AM email below.

I trust you will find it to be in compliance with the limitation you imposed on the City in addressing the narrow issue of standing.

To that end, given Attorney Robinson's concise summary and well-researched citations in his November 25, 2024 2:14 PM email on the issue of standing, the City joins in and adopts that summary as its argument in support of its standing to submit a concise brief on the merits at some future date. Specifically, and for your ease of reference, Attorney Robinson wrote:

With respect to the concept of "standing", the Rhode Island Supreme Court stated in *Watson v. Fox*, 44 A.3d 130 (RI 2012) as follows:

"In *Rhode Island Ophthalmological Society v. Cannon*, 113 R.I. 16, 22, 317 A.2d 124, 128 (1974) [m365.us.vadesecure.com], this Court articulated the applicable test. To satisfy the **standing** requirement, a plaintiff must allege "that the challenged action has caused him injury in fact, economic or otherwise." *Id.* (quoting *Association of Data Processing Service Organizations, Inc. v. Camp*, 397 U.S. 150, 152, 90 S.Ct. 827, 25 L.Ed.2d 184 (1970) [m365.us.vadesecure.com]). Our prior cases have provided some depth to this seemingly sparse prescription, recognizing that plaintiff's alleged injury must be a "legally cognizable and protected interest that is 'concrete and *136 particularized * * * and * * * actual or imminent, not 'conjectural' or 'hypothetical.' " *McKenna*, 874 A.2d at 226 [m365.us.vadesecure.com] (quoting *Pontbriand v. Sundlun*, 699 A.2d 856, 862 (R.I.1997) [m365.us.vadesecure.com]). In conducting our analysis in this case, we do not write on a blank slate; the necessity of a "concrete" injury has been the subject of particular emphasis in this jurisdiction. "[M]ere 'interest in a problem,' no matter how longstanding the interest and no matter how qualified the organization is in evaluating the problem, is not sufficient by itself to render the organization 'adversely affected' or 'aggrieved' * * *." *Blackstone Valley Chamber of Commerce v. Public Utilities Commission*, 452 A.2d 931, 933 (R.I.1982) [m365.us.vadesecure.com] (quoting *Sierra Club v. Morton*, 405 U.S. 727, 739, 92 S.Ct. 1361, 31 L.Ed.2d 636 (1972) [m365.us.vadesecure.com]). This Court has held fast to the notion that a plaintiff's injury must be "particularized" and that he must "demonstrate that he has a stake in the outcome that distinguishes his claims from the claims of the public at large." *Bowen v. Mollis*, 945 A.2d 314, 317 (R.I.2008) [m365.us.vadesecure.com]; see also *Blackstone Valley Chamber of Commerce*, 452 A.2d at 933; [m365.us.vadesecure.com] accord *Frothingham v. Mellon*, 262 U.S. 447, 487, 43 S.Ct. 597, 67 L.Ed. 1078 (1923) [m365.us.vadesecure.com]. In this jurisdiction, generalized claims alleging purely public harm are an insufficient basis for sustaining a private lawsuit. See *In re Review of Proposed Town of New Shoreham Project*, 19 A.3d 1226, 1227-29 (R.I.2011) [m365.us.vadesecure.com] (mem.); *Berberian v. Solomon*, 122 R.I. 259, 261, 405 A.2d 1178, 1180 (1979) [m365.us.vadesecure.com]; *McCarthy v. McAloon*, 79 R.I. 55, 62, 83 A.2d 75, 78 (1951) [m365.us.vadesecure.com]."

There is no dispute about the fact that Judge Nesselbush is a City of Pawtucket employee. As such it can hardly be contested that the City faces a financial impact in the form of employer contributions associated with whether or not she is permitted to be a member of the Municipal Employees' Retirement System. See R.I.G.L. Sec. 45-21-42. This potential liability for the city is concrete and particularized, not conjectural or hypothetical,

and directly related to the outcome of this administrative appeal. Accordingly, the administrative challenge is not, as Judge Nesselbush argues, solely a dispute between her and the retirement system, but rather is an issue which affects the city in a very direct way. Moreover, as has been demonstrated by the evidence to date, the information provided to MERS by the city is directly relevant to the outcome of this case. Accordingly, the City does indeed have "standing" to be heard should it wish to be.

I hasten to add that John T. Gannon's November 21, 2024 letter of support of Donna Nesselbush is of little (if any) probative value to the issues you are assigned to adjudicate. Putting aside the grammatical and punctuation errors laden in his letter, he apparently misapprehends and ignores the critical difference between the establishment and control of the City's municipal court and ERSRI pension eligibility. Inasmuch as he postures himself as having "All operational and administrative authority..." of the municipal court, the City will have more to say about that contention and its ramifications if it is permitted to submit a brief on the merits.

Respectfully,
City of Pawtucket
By its Attorney

/s/ Vincent F. Ragosta, Jr.

VINCENT F. RAGOSTA, JR.
ATTORNEY AT LAW
CENTER PLACE
50 PARK ROW WEST
PROVIDENCE, RHODE ISLAND 02903
TEL: 401-274-2100
V.RAGOSTA@VFR-LAW.COM

STATEMENT OF CONFIDENTIALITY

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On Nov 26, 2024, at 9:25 AM, Charles Koutsogiane <ckouts.law@gmail.com> wrote:

Good morning gentlemen. Please note the following:

1. I have received the brief from Attorney Harwood.
2. I approve the submission of the reply brief from ERSRI, and given the time constraints approval shall be to the end of day for December 5, 2024.
3. I approve the submission of a brief from Attorney Ragosta to the same time period, if he so chooses, provided however it shall be limited at this time to the NARROW issue of standing and whether the City should be permitted to provide a second brief on the merits. Attorney Ragosta has already touched on this in a previous email to the parties.

Once I have received all the memoranda I will be in a better position to properly assess the situation. Thank you.

Charles Koutsogiane

On Fri, Nov 22, 2024 at 3:41 PM Michael Robinson <mrobinson@savagelawpartners.com> wrote:

Good afternoon Hearing Officer Koutsogiane—I acknowledge receipt of Judge Nesselbush's memorandum (attached) opposing the City of Pawtucket's request to file a memorandum of law on the merits of the administrative appeal presently before you. In light of the holiday weekend next week, I would request that I be given until close of business on December 3 to respond.

As this issue directly relates to the City's request to be heard in this matter, it seems appropriate that Mr. Ragosta be included on communications related to this issue, so unless you direct otherwise I am copying him here.

While I do not know if the City wishes to be given an opportunity to respond to Judge Nesselbush's memorandum on the narrow issue of whether or not it should be permitted to file a memorandum on the merits of the action, ERSRI does not object if it wishes to do so.

Michael Robinson, Esq. | Partner

<image001.jpg>

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From: John Harwood <jharwood@hgmlawllc.com>

Sent: Friday, November 22, 2024 2:34 PM

To: Charles Koutsogiane <ckouts.law@gmail.com>

Cc: Michael Robinson <mrobinson@savagelawpartners.com>

Subject: Donna Nesselbush - Petitioner's Objection

Good Afternoon,

Please see the attached Petitioner's Objection and attachment to the Objection.

Very truly yours,

John B. Harwood, Esq.

Harwood, Garland & McKiernan, LLC.

9 Thurber Blvd., Ste. D

Smithfield, RI 02917

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401-722-9106 (fax)

jharwood@harwoodgarland.com

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From: Michael Robinson <mrobinson@savagelawpartners.com>
Sent: Wednesday, August 20, 2025 11:32 AM
To: Gayle Mambro-Martin
Subject: [EXTERNAL]FW: Donna Nesselbush - Petitioner's Objection
Attachments: RE: Donna Nesselbush - Petitioner's Objection ; Re: Donna Nesselbush

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From: Michael Robinson
Sent: Tuesday, November 26, 2024 9:48 AM
To: Charles Koutsogiane <ckouts.law@gmail.com>
Cc: John Harwood <jharwood@hgmlawllc.com>; Vincent Ragosta <v.ragosta@vfr-law.com>; Allison Charette <acharette@savagelawpartners.com>; Alyssa Lemire <alemire@savagelawpartners.com>
Subject: RE: Donna Nesselbush - Petitioner's Objection

Good morning Hearing Officer Koutsogiane—on behalf of the retirement system, I do not intend to submit anything further beyond the attached e-mail I sent to your attention yesterday afternoon (11/25/24) at 2:14 PM. Can you confirm receipt of that e-mail outlining my position?

On the issue of briefing with respect to the merits of the underlying administrative appeal, my understanding from your e-mail dated 11/20/24 at 12:39 PM (attached) was that the original schedule established at the hearing would be vacated, and a new schedule will be established once the issue of

the City's ability to submit a brief on the merits of the appeal has been resolved. Can you confirm my understanding in this regard is correct?

Michael Robinson, Esq. | Partner



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From: Charles Koutsogiane <ckouts.law@gmail.com>

Sent: Tuesday, November 26, 2024 9:26 AM

To: Michael Robinson <mrobinson@savagelawpartners.com>

Cc: John Harwood <jharwood@hgmllawllc.com>; Vincent Ragosta <v.ragosta@vfr-law.com>; Allison Charette <acharette@savagelawpartners.com>; Alyssa Lemire <alemire@savagelawpartners.com>

Subject: Re: Donna Nesselbush - Petitioner's Objection

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Once I have received all the memoranda I will be in a better position to properly assess the situation. Thank you.

Charles Koutsogiane

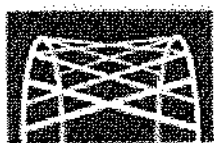
On Fri, Nov 22, 2024 at 3:41 PM Michael Robinson <mrobinson@savagelawpartners.com> wrote:

Good afternoon Hearing Officer Koutsogiane—I acknowledge receipt of Judge Nesselbush's memorandum (attached) opposing the City of Pawtucket's request to file a memorandum of law on the merits of the administrative appeal presently before you. In light of the holiday weekend next week, I would request that I be given until close of business on December 3 to respond.

As this issue directly relates to the City's request to be heard in this matter, it seems appropriate that Mr. Ragosta be included on communications related to this issue, so unless you direct otherwise I am copying him here.

While I do not know if the City wishes to be given an opportunity to respond to Judge Nesselbush's memorandum on the narrow issue of whether or not it should be permitted to file a memorandum on the merits of the action, ERSRI does not object if it wishes to do so.

Michael Robinson, Esq. | Partner



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Sent: Friday, November 22, 2024 2:34 PM
To: Charles Koutsogiane <ckouts.law@gmail.com>
Cc: Michael Robinson <mrobinson@savagelawpartners.com>
Subject: Donna Nesselbush - Petitioner's Objection

Good Afternoon,

Please see the attached Petitioner's Objection and attachment to the Objection.

Very truly yours,

John B. Harwood, Esq.

Harwood, Garland & McKiernan, LLC.

9 Thurber Blvd., Ste. D

Smithfield, RI 02917

401-723-9655

401-722-9106 (fax)

jharwood@harwoodgarland.com

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From: Michael Robinson <mrobinson@savagelawpartners.com>
Sent: Monday, November 25, 2024 2:14 PM
To: John Harwood; Charles Koutsogiane
Cc: Vincent Ragosta; Allison Charette; Alyssa Lemire
Subject: RE: Donna Nesselbush - Petitioner's Objection
Attachments: 00-00-14 Rules of Practice and Procedure for Hearings in Contested Cases.pdf

Dear Hearing Officer Koutsogiane: having had an opportunity to review Judge Nesselbush's memorandum opposing the City of Pawtucket's request for leave to submit a brief memorandum of law on the merits of this administrative appeal over the weekend, I no longer believe it is necessary that I be permitted until December 3 to respond as initially requested in my e-mail below. Instead, I believe it is sufficient to draw your attention to MERS' Regulation 1.4, which allows all "parties" an opportunity to be heard after reasonable notice. The term "party" is defined to include any person or organization "deemed by the Hearing Officer to have standing." With respect to the concept of "standing", the Rhode Island Supreme Court stated in *Watson v. Fox*, 44 A.3d 130 (RI 2012) as follows:

"In *Rhode Island Ophthalmological Society v. Cannon*, 113 R.I. 16, 22, 317 A.2d 124, 128 (1974) [1.next.westlaw.com], this Court articulated the applicable test. To satisfy the **standing** requirement, a plaintiff must allege "that the challenged action has caused him injury in fact, economic or otherwise." *Id.* (quoting *Association of Data Processing Service Organizations, Inc. v. Camp*, 397 U.S. 150, 152, 90 S.Ct. 827, 25 L.Ed.2d 184 (1970) [1.next.westlaw.com]). Our prior cases have provided some depth to this seemingly sparse prescription, recognizing that plaintiff's alleged injury must be a "legally cognizable and protected interest that is 'concrete and *136 particularized * * * and * * * actual or imminent, not 'conjectural' or 'hypothetical.' " *McKenna*, 874 A.2d at 226 [1.next.westlaw.com] (quoting *Pontbriand v. Sundlin*, 699 A.2d 856, 862 (R.I.1997) [1.next.westlaw.com]). In conducting our analysis in this case, we do not write on a blank slate; the necessity of a "concrete" injury has been the subject of particular emphasis in this jurisdiction. "[M]ere 'interest in a problem,' no matter how longstanding the interest and no matter how qualified the organization is in evaluating the problem, is not sufficient by itself to render the organization 'adversely affected' or 'aggrieved' * * *." *Blackstone Valley Chamber of Commerce v. Public Utilities Commission*, 452 A.2d 931, 933 (R.I.1982) [1.next.westlaw.com] (quoting *Sierra Club v. Morton*, 405 U.S. 727, 739, 92 S.Ct. 1361, 31 L.Ed.2d 636 (1972) [1.next.westlaw.com]). This Court has held fast to the notion that a plaintiff's injury must be "particularized" and that he must "demonstrate that he has a stake in the outcome that distinguishes his claims from the claims of the public at large." *Bowen v. Mollis*, 945 A.2d 314, 317 (R.I.2008) [1.next.westlaw.com]; *see also Blackstone Valley Chamber of Commerce*, 452 A.2d at 933; [1.next.westlaw.com] *accord Frothingham v. Mellon*, 262 U.S. 447, 487, 43 S.Ct. 597, 67 L.Ed. 1078 (1923) [1.next.westlaw.com]. In this jurisdiction, generalized claims alleging purely public harm are an insufficient basis for sustaining a private lawsuit. *See In re Review of Proposed Town of New Shoreham Project*, 19 A.3d 1226, 1227-29 (R.I.2011) [1.next.westlaw.com] (mem.); *Berberian v. Solomon*, 122 R.I. 259, 261, 405 A.2d 1178, 1180 (1979) [1.next.westlaw.com]; *McCarthy v. McAloon*, 79 R.I. 55, 62, 83 A.2d 75, 78 (1951) [1.next.westlaw.com]."

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not, as Judge Nesselbush argues, solely a dispute between her and the retirement system, but rather is an issue which affects the city in a very direct way. Moreover, as has been demonstrated by the evidence to date, the information provided to MERS by the city is directly relevant to the outcome of this case. Accordingly, the City does indeed have “standing” to be heard should it wish to be.

The retirement system has no objection to the City of Pawtucket submitting a memorandum of law as requested, and suggests that it would be altogether appropriate that it be permitted to do so.

Michael Robinson, Esq. | Partner



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564 South Water Street, Providence, RI 02903

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Direct: 401-238-9300

mrobinson@savagelawpartners.com

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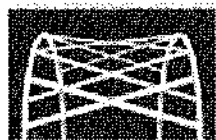
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Subject: RE: Donna Nesselbush - Petitioner's Objection

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Very truly yours,

John B. Harwood, Esq.
Harwood, Garland & McKiernan, LLC.
9 Thurber Blvd., Ste. D
Smithfield, RI 02917
401-723-9655
401-722-9106 (fax)
jharwood@harwoodgarland.com

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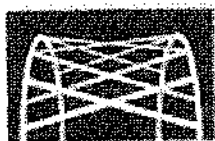
From: Michael Robinson <mrobinson@savagelawpartners.com>
Sent: Wednesday, August 20, 2025 11:31 AM
To: Gayle Mambro-Martin
Subject: [EXTERNAL]FW: Donna Nesselbush - Petitioner's Objection
Attachments: 00-00-14 Rules of Practice and Procedure for Hearings in Contested Cases.pdf

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Michael Robinson, Esq. | Partner



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From: Michael Robinson
Sent: Monday, November 25, 2024 2:14 PM
To: John Harwood <jharwood@hgmlawllc.com>; Charles Koutsogiane <ckouts.law@gmail.com>
Cc: Vincent Ragosta <v.ragosta@vfr-law.com>; Allison Charette <acharette@savagelawpartners.com>; Alyssa Lemire <alemire@savagelawpartners.com>
Subject: RE: Donna Nesselbush - Petitioner's Objection

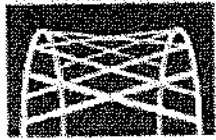
Dear Hearing Officer Koutsogiane: having had an opportunity to review Judge Nesselbush's memorandum opposing the City of Pawtucket's request for leave to submit a brief memorandum of law on the merits of this administrative appeal over the weekend, I no longer believe it is necessary that I be permitted until December 3 to respond as initially requested in my e-mail below. Instead, I believe it is sufficient to draw your attention to MERS' Regulation 1.4, which allows all "parties" an opportunity to be heard after reasonable notice. The term "party" is defined to include any person or organization "deemed by the Hearing Officer to have standing." With respect to the concept of "standing", the Rhode Island Supreme Court stated in *Watson v. Fox*, 44 A.3d 130 (RI 2012) as follows:

“In *Rhode Island Ophthalmological Society v. Cannon*, 113 R.I. 16, 22, 317 A.2d 124, 128 (1974) [1.next.westlaw.com], this Court articulated the applicable test. To satisfy the **standing** requirement, a plaintiff must allege “that the challenged action has caused him injury in fact, economic or otherwise.” *Id.* (quoting *Association of Data Processing Service Organizations, Inc. v. Camp*, 397 U.S. 150, 152, 90 S.Ct. 827, 25 L.Ed.2d 184 (1970) [1.next.westlaw.com]). Our prior cases have provided some depth to this seemingly sparse prescription, recognizing that plaintiff’s alleged injury must be a “legally cognizable and protected interest that is ‘concrete and *136 particularized * * * and * * * actual or imminent, not ‘conjectural’ or ‘hypothetical.’” *McKenna*, 874 A.2d at 226 [1.next.westlaw.com] (quoting *Pontbriand v. Sundlun*, 699 A.2d 856, 862 (R.I.1997) [1.next.westlaw.com]). In conducting our analysis in this case, we do not write on a blank slate; the necessity of a “concrete” injury has been the subject of particular emphasis in this jurisdiction. “[M]ere ‘interest in a problem,’ no matter how longstanding the interest and no matter how qualified the organization is in evaluating the problem, is not sufficient by itself to render the organization ‘adversely affected’ or ‘aggrieved’ * * *.” *Blackstone Valley Chamber of Commerce v. Public Utilities Commission*, 452 A.2d 931, 933 (R.I.1982) [1.next.westlaw.com] (quoting *Sierra Club v. Morton*, 405 U.S. 727, 739, 92 S.Ct. 1361, 31 L.Ed.2d 636 (1972) [1.next.westlaw.com]). This Court has held fast to the notion that a plaintiff’s injury must be “particularized” and that he must “demonstrate that he has a stake in the outcome that distinguishes his claims from the claims of the public at large.” *Bowen v. Mollis*, 945 A.2d 314, 317 (R.I.2008) [1.next.westlaw.com]; *see also Blackstone Valley Chamber of Commerce*, 452 A.2d at 933; [1.next.westlaw.com] *accord Frothingham v. Mellon*, 262 U.S. 447, 487, 43 S.Ct. 597, 67 L.Ed. 1078 (1923) [1.next.westlaw.com]. In this jurisdiction, generalized claims alleging purely public harm are an insufficient basis for sustaining a private lawsuit. *See In re Review of Proposed Town of New Shoreham Project*, 19 A.3d 1226, 1227–29 (R.I.2011) [1.next.westlaw.com] (mem.); *Berberian v. Solomon*, 122 R.I. 259, 261, 405 A.2d 1178, 1180 (1979) [1.next.westlaw.com]; *McCarthy v. McAloon*, 79 R.I. 55, 62, 83 A.2d 75, 78 (1951) [1.next.westlaw.com].”

There is no dispute about the fact that Judge Nesselbush is a City of Pawtucket employee. As such it can hardly be contested that the City faces a financial impact in the form of employer contributions associated with whether or not she is permitted to be a member of the Municipal Employees’ Retirement System. *See* R.I.G.L. Sec. 45-21-42. This potential liability for the city is concrete and particularized, not conjectural or hypothetical, and directly related to the outcome of this administrative appeal. Accordingly, the administrative challenge is not, as Judge Nesselbush argues, solely a dispute between her and the retirement system, but rather is an issue which affects the city in a very direct way. Moreover, as has been demonstrated by the evidence to date, the information provided to MERS by the city is directly relevant to the outcome of this case. Accordingly, the City does indeed have “standing” to be heard should it wish to be.

The retirement system has no objection to the City of Pawtucket submitting a memorandum of law as requested, and suggests that it would be altogether appropriate that it be permitted to do so.

Michael Robinson, Esq. | Partner



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From: Michael Robinson

Sent: Friday, November 22, 2024 3:41 PM

To: John Harwood <jharwood@hgmtlawllc.com>; Charles Koutsogiane <ckouts.law@gmail.com>

Cc: Vincent Ragosta <v.ragosta@vfr-law.com>; Allison Charette <acharette@savagelawpartners.com>; Alyssa Lemire <alemire@savagelawpartners.com>

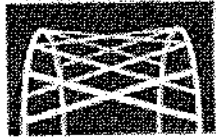
Subject: RE: Donna Nesselbush - Petitioner's Objection

Good afternoon Hearing Officer Koutsogiane—I acknowledge receipt of Judge Nesselbush's memorandum (attached) opposing the City of Pawtucket's request to file a memorandum of law on the merits of the administrative appeal presently before you. In light of the holiday weekend next week, I would request that I be given until close of business on December 3 to respond.

As this issue directly relates to the City's request to be heard in this matter, it seems appropriate that Mr. Ragosta be included on communications related to this issue, so unless you direct otherwise I am copying him here.

While I do not know if the City wishes to be given an opportunity to respond to Judge Nesselbush's memorandum on the narrow issue of whether or not it should be permitted to file a memorandum on the merits of the action, ERSRI does not object if it wishes to do so.

Michael Robinson, Esq. | Partner



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From: John Harwood <jharwood@hgmllawllc.com>

Sent: Friday, November 22, 2024 2:34 PM

To: Charles Koutsogiane <ckouts.law@gmail.com>

Cc: Michael Robinson <mrobinson@savagelawpartners.com>

Subject: Donna Nesselbush - Petitioner's Objection

Good Afternoon,

Please see the attached Petitioner's Objection and attachment to the Objection.

Very truly yours,

John B. Harwood, Esq.
Harwood, Garland & McKiernan, LLC.
9 Thurber Blvd., Ste. D
Smithfield, RI 02917
401-723-9655
401-722-9106 (fax)
jharwood@harwoodgarland.com

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From: Charles Koutsogiane <ckouts.law@gmail.com>
Sent: Wednesday, November 20, 2024 12:39 PM
To: Michael Robinson
Cc: John Harwood; Frank Karpinski; Gayle Mambro-Martin; Roxanne Donoyan; Vincent Ragosta; Allison Charette; Alyssa Lemire
Subject: Re: Donna Nesselbush

Please note that the original briefing schedule established at the hearing will be changed once the present matter is addressed. Thank you.

Charles Koutsogiane Esq

On Tue, Nov 19, 2024 at 3:50 PM Michael Robinson <mrobinson@savagelawpartners.com> wrote:

I have just been notified that the transcript has been completed. In accordance with the regulation, any party may request a copy of the transcript at their own expense. The stenographer information is below.

Rebecca Forte
Certified Professional Stenographers

33 Rollingwood Drive

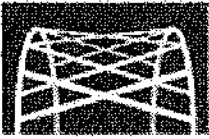
Johnston, RI 02919

(401)474-8441

stenorf@gmail.com

The Retirement System will forward a copy to the Hearing Officer directly.

Michael Robinson, Esq. | Partner



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From: Michael Robinson

Sent: Tuesday, November 19, 2024 12:53 PM

To: Charles Koutsogiane <ckouts.law@gmail.com>; John Harwood <jharwood@hgmlawllc.com>; Frank Karpinski (<Frank.Karpinski@ersri.org> <Frank.Karpinski@ersri.org>; Gayle Mambro-Martin <Gayle.Mambro-Martin@ersri.org>; Roxanne Donoyan (<Roxanne.Donoyan@ersri.org> <Roxanne.Donoyan@ersri.org>; Vincent Ragosta <v.ragosta@vfr-law.com>

Cc: Allison Charette <acharette@savagelawpartners.com>; Alyssa Lemire <alemire@savagelawpartners.com>

Subject: RE: Donna Nesselbush

Dear Hearing Officer Koutsogiane—I acknowledge receipt your e-mail below granting Mr. Harwood's request to submit a brief by the close of business on Friday (11/22) addressing the standing of the City of Pawtucket to be heard on this administrative appeal. I also acknowledge receipt of Attorney Ragosta's request for leave to submit a brief memorandum on the merits of the issues presently before you (copy attached).

Attached for your convenience is a copy of MERS' Regulation 1.4, which allows all "parties" an opportunity to be heard after reasonable notice. The term "party" is defined to include any person or organization "deemed by the Hearing Officer to have standing."

As there is no dispute that Judge Nesselbush is a City of Pawtucket employee, or that the City faces potential financial impacts depending upon your ultimate decision in this case, it would seem obvious that the City has standing to assert a position in the case if it wishes to do so.

In any event, I would request an opportunity to respond to whatever Mr. Harwood may submit on behalf of Judge Nesselbush with regard to the City's request for leave to file a memorandum. I would also suggest that we should revisit the existing briefing deadline with regard to the merits of the case while the City's request is being addressed, especially since I have also not yet received a copy of the transcript from the hearing. Currently briefs are due by December 5. Can we vacate that deadline and re-assess the briefing schedule after resolution of the City's present request to address you?

Finally, I would ask that all counsel (myself, Mr. Harwood and Mr. Ragosta) be included on all communications directed to your attention.

Michael Robinson, Esq. | Partner



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Direct: 401-238-9300

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From: Charles Koutsogiane <ckouts.law@gmail.com>

Sent: Tuesday, November 19, 2024 10:08 AM

To: John Harwood <jharwood@hgmlawllc.com>; Michael Robinson <mrobinson@savagelawpartners.com>; Frank Karpinski (Frank.Karpinski@ersri.org) <Frank.Karpinski@ersri.org>; Gayle Mambro-Martin <Gayle.Mambro-Martin@ersri.org>; Roxanne Donoyan (Roxanne.Donoyan@ersri.org) <Roxanne.Donoyan@ersri.org>

Subject: Re: Donna Nesselbush

Your request is granted. Please advise Attorney Robinson with all notices. Thank you.

Charles Koutsogiane, Esq.

On Tue, Nov 19, 2024 at 8:46 AM John Harwood <jharwood@hgmlawllc.com> wrote:

Dear Mr. Koutsogiane:

Please accept this communication as notice of my strong objection to Vincent Ragosta's request to submit a Memorandum of Law. This matter is between the retirement system (ERSRI) and its near 20 year member, Judge Donna Nesselbush. Legally speaking, a provider of evidence does not have standing to submit a post hearing Memorandum of Law. Please allow me a few days (no later than close of business Friday) to submit legal argument in support of my objection. Thank you.

Sincerely,

John B. Harwood, Esq.

Harwood, Garland & McKiernan, LLC.

9 Thurber Blvd., Ste. D

Smithfield, RI 02917

401-723-9655

401-722-9106 (fax)

jharwood@harwoodgarland.com

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From: Vincent Ragosta <v.ragosta@vfr-law.com>
Sent: Tuesday, November 19, 2024 10:52 AM
To: Charles Koutsogiane
Cc: Michael Robinson; John Harwood; Frank Karpinski
Subject: Re: Donna Nesselbush Appeal of Denial of Pension Eligibility

Mr. Koutsogiane-

Please keep the City informed of: 1) the filing of the Nesselbush/Harwood brief (in support of their objection to the City's intended submission of a very short memorandum); and 2) your ruling thereon. As previously mentioned, if allowed at this stage of the ERSRI proceedings, the City would submit a succinct but pointed memorandum to aid in your deliberations.

/s/ Vin Ragosta

VINCENT F. RAGOSTA, JR.
ATTORNEY AT LAW
CENTER PLACE
50 PARK ROW WEST
PROVIDENCE, RHODE ISLAND 02903
TEL: 401-274-2100
V.RAGOSTA@VFR-LAW.COM

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On Nov 19, 2024, at 10:11 AM, Charles Koutsogiane <ckouts.law@gmail.com> wrote:

Mike. Perhaps so, but I wish to see John's Objection brief first.

Charles Koutsogiane, Esq.

On Fri, Nov 15, 2024 at 4:38 PM Michael Robinson <mrobinson@savagelawpartners.com> wrote:

Charles—perhaps a conference call on this would make sense?

Michael Robinson, Esq. | Partner



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From: John Harwood <jharwood@hgmlawllc.com>

Sent: Friday, November 15, 2024 4:37 PM

To: Michael Robinson <mrobinson@savagelawpartners.com>; Vincent Ragosta <v.ragosta@vfr-law.com>; ckouts.law@gmail.com

Cc: Frank J. Karpinski <frank.karpinski@ersri.org>

Subject: RE: Donna Nesselbush Appeal of Denial of Pension Eligibility

Appellant, Donna Nesselbush objects.

From: Michael Robinson <mrobinson@savagelawpartners.com>

Sent: Thursday, November 14, 2024 5:11 PM

To: Vincent Ragosta <v.ragosta@vfr-law.com>; ckouts.law@gmail.com

Cc: John Harwood <jharwood@hgmlawllc.com>; Frank J. Karpinski <frank.karpinski@ersri.org>

Subject: RE: Donna Nesselbush Appeal of Denial of Pension Eligibility

ERSRI has no objection to this request.

Michael Robinson, Esq. | Partner



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From: Vincent Ragosta <v.ragosta@vfr-law.com>

Sent: Thursday, November 14, 2024 11:33 AM

To: ckouts.law@gmail.com

Cc: Michael Robinson <mrobinson@savagelawpartners.com>; John Harwood <jharwood@harwoodgarland.com>; Frank J. Karpinski <frank.karpinski@ersri.org>

Subject: Donna Nesselbush Appeal of Denial of Pension Eligibility

Good Morning Mr. Koutsogiane:

I have been informed by Michael Robinson, Esq. that you have been assigned as a hearing officer on the referenced appeal. I am outside labor and employment counsel to the City of Pawtucket. The City has furnished relevant and material evidence to ERSRI bearing upon the ineligibility of Ms. Nesselbush for receipt of pension benefits. The City has a fiduciary obligation to ERSRI and its constituency to insure that truthful and reliable evidence is furnished to ERSRI as to the work history of City employees and appointees, and that only those employees meeting ERSRI's eligibility requirements receive benefits. To that end, the City seeks to submit a very brief memorandum for your consideration.

To that end, please advise if: you will entertain such a memorandum; whether the stenographic record of the hearing before you is sharable with my firm; and the date by which the City's memorandum should be submitted. I assure you it shall be very brief and pointed, and I trust it will assist you in your deliberations and decision-making.

I copy counsel of record for their input, if any, as to the City's intentions.

/s/ Vincent F. Ragosta, Jr.

VINCENT F. RAGOSTA, JR.
ATTORNEY AT LAW
CENTER PLACE
50 PARK ROW WEST
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TEL: 401-274-2100
V.RAGOSTA@VFR-LAW.COM

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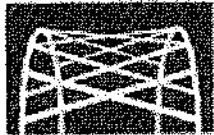
From: Michael Robinson <mrobinson@savagelawpartners.com>
Sent: Wednesday, August 20, 2025 11:29 AM
To: Gayle Mambro-Martin
Subject: [EXTERNAL]FW: Donna Nesselbush Appeal of Denial of Pension Eligibility

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Michael Robinson, Esq. | Partner



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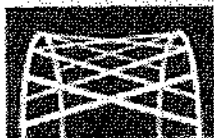
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From: Michael Robinson
Sent: Thursday, November 14, 2024 5:11 PM
To: Vincent Ragosta <v.ragosta@vfr-law.com>; ckouts.law@gmail.com
Cc: John Harwood <jharwood@harwoodgarland.com>; Frank J. Karpinski <frank.karpinski@ersri.org>
Subject: RE: Donna Nesselbush Appeal of Denial of Pension Eligibility

ERSRI has no objection to this request.

Michael Robinson, Esq. | Partner



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Sent: Thursday, November 14, 2024 11:33 AM

To: ckouts.law@gmail.com

Cc: Michael Robinson <mrobinson@savagelawpartners.com>; John Harwood <jharwood@harwoodgarland.com>; Frank J. Karpinski <frank.karpinski@ersri.org>

Subject: Donna Nesselbush Appeal of Denial of Pension Eligibility

Good Morning Mr. Koutsogiane:

I have been informed by Michael Robinson, Esq. that you have been assigned as a hearing officer on the referenced appeal. I am outside labor and employment counsel to the City of Pawtucket. The City has furnished relevant and material evidence to ERSRI bearing upon the ineligibility of Ms. Nesselbush for receipt of pension benefits. The City has a fiduciary obligation to ERSRI and its constituency to insure that truthful and reliable evidence is furnished to ERSRI as to the work history of City employees and appointees, and that only those employees meeting ERSRI's eligibility requirements receive benefits. To that end, the City seeks to submit a very brief memorandum for your consideration.

To that end, please advise if: you will entertain such a memorandum; whether the stenographic record of the hearing before you is sharable with my firm; and the date by which the City's memorandum should be submitted. I assure you it shall be very brief and pointed, and I trust it will assist you in your deliberations and decision-making.

I copy counsel of record for their input, if any, as to the City's intentions.

/s/ Vincent F. Ragosta, Jr.

VINCENT F. RAGOSTA, JR.

ATTORNEY AT LAW

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V.RAGOSTA@VFR-LAW.COM

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5.1.4. Post-Hearing

APPEAL OF:

RICHARD D'ADDARIO, Appellant

vs.

EMPLOYEES' RETIREMENT SYSTEM
OF RHODE ISLAND, Respondent

Appearance for Appellant: THOMAS CONNOLLY, ESQ.
1 Courthouse Square
Newport, Rhode Island 02840

Appearance for Respondent: MICHAEL P. ROBINSON, ESQ.
Legal Counsel
Employees Retirement System
of Rhode Island
50 Service Avenue
Warwick, Rhode Island 02886

Hearing Officer: TERESA M. RUSBINO, ESQ.
Employees' Retirement System
of Rhode Island
50 Service Avenue
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DECISION

Pursuant to R.I.G.L. Section 36-8-3 and Regulation Four, Rules of Practice and Procedure for Hearings, Richard D'Addario (hereinafter "Appellant") is appealing the August 11, 2017 Administrative Denial of the Employees' Retirement System of Rhode Island (hereinafter "Respondent"). Respondent's decision denied the Appellant's 2008 request to purchase service credit for the period 1993-2007, during which time he served as a probate judge for the Town of Tiverton ("Town"). In denying the Appellant's request to purchase service credit, the Respondent determined that the Appellant was not eligible for

membership in the Municipal Employees' Retirement System ("MERS") because he had not worked a minimum of twenty (20) business hours per week for the Town, in accordance with the requirements of R.I.G.L. Section 45-21-2(5), which defines "employee" for purposes of membership eligibility in MERS.¹

The August 11, 2017 decision was appealed and subsequently referred for hearing to this Hearing Officer. The appeal was perfected in accordance with the Rules of Practice. A Hearing was held on December 7, 2017 at the offices of the Employees' Retirement System, 50 Service Avenue, Warwick, Rhode Island. Both parties submitted pre-hearing memoranda of law. Exhibits were introduced at the hearing by agreement (see joint exhibits 1-14) and by Appellant with no objection from Respondent (see Appellant's exhibits 1-2). The Appellant testified in his own behalf. Testifying for the Respondent was Frank J. Karpinski, Executive Director of the Employees' Retirement System. The parties submitted pre and post hearing memoranda of law in support of their respective positions.

FINDINGS OF FACT:

1. On or about July 26, 1993, the Appellant was appointed probate judge of the Town of Tiverton, Rhode Island.
2. By letter dated January 4, 2008, the Appellant applied for membership in MERS and sought to purchase service credit retroactive to the date

¹ R.I.G.L. Section 45-21-2 was amended in 2009 to add two definitions prior to that of "employee," such that the definition of "employee" now appears in R.I.G.L. Section 45-21-2(7).

of his appointment, namely, for the period August, 1993 to December, 2007.

3. For the period August of 1993 to October of 2007, neither the Appellant nor the Town made any contributions to MERS.
4. On or about October of 2007, the Town began to pay employer and employee contributions to MERS.
5. From the time of his appointment as probate judge in August of 1993 to the present, the Appellant has not worked consistently a minimum of twenty (20) hours per week for the Town.
6. By letter dated January 10, 2008, the Respondent requested that the Appellant provide information necessary for the Respondent to evaluate his request to purchase service credit for the period August, 1993 to December, 2007, including, but not limited to, the number of hours actually worked.
7. By email dated April 13, 2010, the Appellant inquired about the status of his January 10, 2008 request.
8. By email dated April 22, 2010, and by letter dated June 15, 2010, the Respondent informed Appellant that he was not eligible for membership in MERS, nor was he eligible to purchase service credit for the period 1993-2007, because he did not meet the statutory definition of "employee."

9. By email and letter addressed to the Town, both dated June 28, 2016, Respondent notified the Town that it should cease deducting retirement contributions from the Appellant's wages.
10. By letter dated July 8, 2016, the Respondent informed Appellant that the Town had been instructed to cease deducting retirement contributions from his wages and that the retirement contributions previously deducted by the Town for the period 9/28/2007 to 6/23/2016 would be refunded to him.
11. By letter dated February 22, 2017, Appellant's counsel requested that Respondent suspend any actions regarding Appellant's retirement contributions.
12. By letter dated February 22, 2017, Respondent reiterated its earlier position that Appellant did not meet the statutory definition of "employee," as he did not meet the minimum work requirement of twenty (20) hours per week for the Town.
13. By letter dated April 12, 2017, Respondent informed Appellant that he had fourteen (14) days to provide Respondent with evidence to support his claim that he was eligible for membership in MERS.
14. By letter and memorandum, both dated May 12, 2017, the Appellant set forth his position that he was eligible for membership in MERS as a condition of his employment with the Town, retroactive to his initial appointment as probate judge in 1993.

15. By letter dated August 11, 2017, the Respondent issued an Administrative Denial of Appellant's request for retroactive membership in MERS and his request to purchase service credit for the period 1993 to 2007.

16. By letter dated September 5, 2017, the Appellant's appeal of Respondent's Administrative Denial was assigned for hearing to this hearing officer.

ISSUE ON APPEAL:

Did the Respondent err in its determination that Appellant was not eligible for membership in MERS, nor entitled to purchase or otherwise obtain service credit for the period 1993 to 2007, because he was not an "employee" within the meaning of R.I.G.L. Section 45-21-2(5)?

CONCLUSION AND ORDER:

Membership in the Municipal Employees' Retirement System is a condition of employment and is required of all employees who meet the Board's eligibility requirements. (See Joint Exhibit 2, Employees' Retirement System of Rhode Island Handbook, 7th Edition, August 2006). R.I.G.L. Section 36-8-3 vests the Retirement Board with, "the general administration and responsibility for the proper operation of the retirement system..." The Retirement Board has been granted authority to establish and implement rules and regulations to effectuate the provisions of the retirement statutes. See Perotti v. Solomon, 657 A.2d 1045, 1048 (R.I. 1995). The Rhode Island Supreme Court has consistently held that an administrative agency will be accorded great deference in interpreting a statute

whose administration and enforcement have been entrusted to the agency. Town of Richmond v. R.I. Dept. of Env'tl. Mgmt., 941 A.2d 151, 157 (R.I. 2008). Moreover, its interpretation is entitled to substantial deference, even if the agency's interpretation is not the only permissible interpretation that could be applied. Lyman v. Employees' Retirement Sys., 693 A.2d 1030, 1031 (R.I. 1997). Specifically, in this instance, Respondent has been charged with determining what constitutes an "employee" within the meaning of R.I.G.L. Section 45-21-2(5) [now Section 45-21-2(7)] for the purpose of determining Appellant's eligibility for participation in MERS, as well as his eligibility to purchase service credit towards a MERS retirement benefit.

At the time of Appellant's request to purchase service credit, the governing statutory section was R.I.G.L. Section 45-21-2(5), and it reads in relevant part as follows:

(5) "Employee" means any regular and permanent employee or officer of any municipality, whose business time at a minimum of twenty (20) hours a week is devoted to the service of the municipality.... Notwithstanding the previous sentence, the term "employee", for the purposes of this chapter, does not include any person whose duties are of a casual or seasonal nature. The retirement board shall decide who are employees within the meaning of this chapter, but in no case shall it deem as an employee any individual who annually devotes less than twenty (20) business hours per week to the service of the municipality.... (emphasis supplied)

The Appellant argues that when he was appointed a probate judge in 1993, he was automatically eligible for enrollment in MERS. In support of his argument, Appellant cites R.I.G.L. Section 45-21-8(a), which states in part that, "

Any employee...shall, under contract of his or her employment, become a member of the retirement system.” Appellant contends that he should be deemed an “employee” under R.I.G.L. Section 45-21-2(5), because the statute did not yet include the twenty (20) hour per week minimum work requirement, at the time Appellant was appointed a probate judge in 1993. However, even before the minimum twenty (20) hour per week work requirement was codified into the statute in 1994, Respondent was empowered by the legislature to decide who was an employee within the meaning of the statute. In so doing, Respondent was within its authority to adopt rules and policies regarding the number of hours devoted to the municipality’s business, in determining whether one was a regular and permanent employee of a municipality or a casual or seasonal employee. The retirement board has always had the authority to decide who are “employees” within the meaning of the statute.

At the hearing, the Appellant testified that he had not worked a minimum of twenty (20) business hours per week for the Town between the time of his appointment as probate judge in 1993 to the present. Respondent concluded that the Appellant did not meet the statutory definition of employee, even prior to the 1994 amendment imposing a twenty (20) hour minimum weekly work requirement. Respondent determined that the business time Appellant devoted to the service of the municipality was of a casual or seasonal nature and did not rise to the level of a regular and permanent employee whose business time was devoted to the service of the municipality. Respondent exercised its authority in interpreting the language of R.I.G.L. Section 45-21-2(5), and its interpretation is

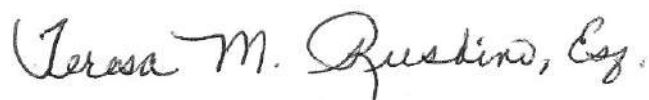
entitled to substantial deference, even if it is not the only permissible interpretation that could be applied. See Lyman v. Employees' Retirement Sys., 693 A.2d 1030, 1031 (R.I. 1997). Moreover, the 1994 codification in the statute of a minimum twenty (20) hour per week work requirement only serves to bolster Respondent's position that its interpretation of the statute prior to the 1994 amendment was a reasonable one.

Even assuming, arguendo, that Appellant had been considered an employee pursuant to the statute as it existed prior to the 1994 amendment, his 2008 request to purchase service credit would have been evaluated under the language of the statute in effect at the time he applied to purchase said credit. Since the statute in effect after the 1994 amendment included the twenty (20) hour per week minimum work requirement to be considered an "employee," the Appellant, having not met that standard, would not have been permitted to purchase the service credits.

For the reasons set forth herein, the Decision of the Respondent, dated August 11, 2017, is hereby affirmed.

It is so ordered.

DATED: April 22, 2019



TERESA M. RUSBINO, ESQ.
Hearing Officer
Employees' Retirement System
50 Service Avenue, 2nd floor

Warwick, Rhode Island 02886

CERTIFICATION

I hereby certify that on the 22nd day of April, 2019, I emailed a true copy of the Within Decision to the following email addresses:

tconnolly109@gmail.com (Thomas Connolly, counsel for Appellant);

mrobinson@shslawfirm.com (Michael P. Robinson, counsel for Respondent);

FKarpinski@ersri.org (Frank Karpinski, Executive Director, ERSRI);

Gayle.Mambro-Martin@ersri.org (Gayle Mambro-Martin, Deputy General Counsel, ERSRI).

Teresa M. Ruskin, Esq.

**MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM OF THE STATE OF RHODE
ISLAND**

IN RE: DONNA NESSELBUSH

**Before Hearing Officer
Charles Koutsogiane, Esq.**

**MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM OF THE STATE OF RHODE
ISLAND'S POST-HEARING MEMORANDUM OF LAW**

I. INTRODUCTION

Now comes the Municipal Employee's Retirement System of the State of Rhode Island ("MERS" or "Retirement Board"), and hereby submits its Post-Hearing Memorandum of Law in support of the March 11, 2024 decision of its Executive Director determining that Chief Judge Donna M. Nesselbush is not eligible for membership in MERS, because she has failed to establish that she has devoted a minimum of twenty hours per week to the service of the municipality during the years in question. As the Executive Director's administrative determination is well-grounded in the factual record and amply supported by the applicable law, it must be upheld.

II. BACKGROUND

Judge Nesselbush was appointed as Associate Judge in 2004 and Chief Judge on April 25, 2012. *Hearing Transcript at 13.* She submitted an application for membership in MERS on or about October 26, 2006. *See Respondent's Exhibit 2.* In or about 2022, MERS received information from Sara Miranda, the Human Resources Director for the City of Pawtucket ("City"), confirming that Judge Nesselbush does not work 20+ hours per week as a Municipal Court judge. *See Respondent's Exhibit 8.*

Based on this information, by way of a letter dated August 1, 2022, MERS' Executive Director, Frank J. Karpinski informed Judge Nesselbush that "[s]ince the information [obtained

from the City] reveals that you did not meet the definition of employee, specifically the minimum requirement of 20 hours per week, you are therefore not eligible for membership in MERS and thus your contributions will be returned to you, and you will not receive the applicable service credit towards your retirement.” *Respondent’s Exhibit 4*. As a result, MERS informed Judge Nesselbush: “Your MERS and TIAA Defined Contribution Plan employee contributions will be refunded to you by your employer.” *Id.*

Thereafter, on September 19, 2022, Judge Nesselbush informed Mr. Karpinski in an email that she would be appealing MERS’ conclusion that she was ineligible for a MERS pension. *See Respondent’s Exhibit 5*. In response, MERS’ Executive Director sent a letter to Judge Nesselbush, dated October 24, 2022 noting that the ineligibility determination was based upon information provided by the Pawtucket Municipal Traffic Court website and the Human Resources Director of the City of Pawtucket, and informing Judge Nesselbush that, absent additional information regarding the requirements of her position as Chief Judge, the administrative position would remain unchanged. *See Respondent’s Exhibit 6*. The Executive Director also noted that any revised job description for the position must be officially approved by the City of Pawtucket, and that a final determination would be made once any updated job description or other information had been provided. *Id.* Further, the Executive Director stated that Pawtucket had been directed to cease contributions until the conclusion of the matter. *Id.*

Judge Nesselbush then sent an email to Mr. Karpinski on December 12, 2022 appealing the denial of her pension eligibility. *See Respondent’s Exhibit 3*. In the email, Judge Nesselbush asserted that the Human Resources Director of the City of Pawtucket provided MERS with “incomplete information.” *Id.* Judge Nesselbush asserted that her hours working as a judge for the City included hours in addition to her sitting on the bench. *Id.* Judge Nesselbush also noted

that she had “promulgated an up to date, accurate ‘protocol/job description’ for Pawtucket’s judges (see attached).” *Id.* The purported “job description” attached to the email provided that “Judges are part-time 20 hour per week employees[.]” *Id.* Also attached to the email was a letter from David P. Moran, President of the Pawtucket City Council, dated December 8, 2022, which stated that “[t]he duties and responsibilities of our judges—who most certainly are considered city employees—as you have outlined them in the protocol/job description, appear reasonable and accurate to the best of my knowledge.” *Id.* The letter noted that Judge Nesselbush’s position as a judge for the City “involves more than just the hours you spend on the bench” and that President Moran has “long understood that our judges are treated like all other part-time employees in city government; that is, they receive set financial compensation, have access to city health insurance, and participate in the MERS pension program that includes both employee contributions and city (employer) contributions.” *Id.* Notably, Judge Nesselbush did not provide any evidence that the City Council (or any other official or department of the City of Pawtucket) had ever formally adopted the job description that she produced. No information was produced to indicate that the “job description” was anything other than a document generated entirely by Judge Nesselbush herself.

Subsequently, on May 12, 2023, counsel for Judge Nesselbush wrote to Mr. Karpinski referencing the December 8, 2022 letter from City Council President David Moran, and indicating that he “is in support of the judges’ participation in the MERS pension program[.]” *See Respondent’s Exhibit 9.* Counsel also referenced an attached letter from current City Council President Terrence E. Mercer dated May 2, 2023, which referenced Mr. Moran’s earlier letter, and indicated that he “understood that the city’s Municipal Court and Probate Court judges were considered, for all intents and purposes, to be part-time employees of the city” and noted that he

“believe[d] everyone involved over the last couple decades *earnestly* understood that the Municipal Court and Probate Court judges were indistinguishable from all other part-time employees in city government and, accordingly, on a proper MERS pension tract. Had that not been the earnest understanding, employee pension contributions would not have been withheld and remitted to the pension system (along with the city’s employer contributions).” *Id.* (emphasis in original). Based on the so-called “job description” and these two letters from Mr. Moran and Mr. Mercer, counsel for Judge Nesselbush requested that MERS’ Executive Director issue a re-determination as to Judge Nesselbush’s eligibility to participate in the MERS pension program. *Id.*

By way of a letter dated July 3, 2023, Executive Director Karpinski wrote to counsel for Judge Nesselbush stating that it was “interpreting your [May 12, 2023] letter to indicate that the City Council members are confirming that the Pawtucket Municipal and Probate Court Judges have always worked and continue to work a minimum of 20 hours per week 52 weeks per year.” *Petitioner’s Exhibit 3*. Based upon that understanding, the letter concluded that Judge Nesselbush would be permitted to remain a member of MERS. *See id.*

Thereafter, on October 11, 2023, Executive Director Karpinski received a communication from Attorney Vincent Ragosta, Jr., representing that he “serves as outside labor and employment counsel to *the City of Pawtucket*.” *See Respondent’s Exhibit 10* (emphasis added). The letter included no qualifications as to the scope of his representation of the City at large, and requested an update as to the status of the appeal of MERS’ prior ineligibility determination. *See id.*

On November 8, 2023, in an effort to obtain clarification of the City’s position following receipt of the December 8, 2022 and May 2, 2023 letters from Messrs. Moran and Mercer and the follow-up inquiry from Attorney Ragosta, as counsel for the City, Executive Director Karpinski

wrote to Council President Mercer. *See Petitioner's Exhibit 6* at 52. The Executive Director sought: 1) clarification as to whether or not the City Council had authority to determine the conditions and duties of employment of the City's Municipal Court judges, including with respect to the number of hours worked on a weekly basis (and if not, clarification as to what individual or entity MERS should in fact be communicating with on this issue); and 2) clarification as to whether or not the City Council itself was certifying the accuracy of the information contained in Judge Nesselbush's purported "job description." *See id.* The Executive Director indicated that upon receipt of responses to these inquiries, a final determination would be made on the pending administrative appeal. *See id.*

Council President Mercer responded by letter dated November 17, 2023 indicating that the purpose of his, and former Council President Moran's, letters were "solely to point out that we (collectively) always *believed* that the Municipal and Probate judges were 'pension-eligible' simply because your office was receiving contributions from both the judges' wages and the city as their employer. Nothing more—we *believed* it to be so." *Id.* at 49. Council President Mercer also stated that the City Council does **not** determine the working conditions or establish protocols or job descriptions for judges appointed by it. *Id.* President Mercer stated: "[t]o the best of my knowledge after 11 years on the Council, the city's legislative body does not determine the conditions, duties, weekly workload or weekly hours worked." *Id.* (emphasis in original). Importantly, he also indicated that the City Council does not certify the accuracy of Judge Nesselbush's purported "job description." *Id.* Moreover, he suggested that the City Personnel Department might have additional "insight" into who would establish the duties of employment (including hours worked) of the Municipal Court judges, and as to who would be able to promulgate a job description for Judge Nesselbush. *See id.*

On February 19, 2024, MERS received an e-mail from Pawtucket City Solicitor Frank Milos, indicating that: “the City is represented by Attorney Vincent Ragosta on this matter.” *See Respondent’s Exhibit 13*. On February 20, 2024, MERS received a communication from Attorney Ragosta, “confirm[ing] indispensable facts bearing on any ongoing efforts to appeal, unwind or rescind [the] legally correct conclusion, barring the municipal court judges’ membership in MERS.” *See Respondent’s Exhibit 14*. Attorney Ragosta’s letter reiterated the 2022 representation of Sara Miranda that the Municipal Court judges do not work 20 or more hours per week, and indicated that “there is no reliable or credible evidence to support the notion that the judges, all of whom are engaged in busy private law practices, work 20 hours or more weekly[.]” Attorney Ragosta also noted that “to the extent that ERSRI has been provided any purported job description(s) for one or more of the municipal judges, they ought not be deemed authenticated or official records by ERSRI” and “[m]oreover, any notations in such description(s) referencing the quantum of hours worked (or to be worked) by the judges are likewise ultra vires, and hence unreliable.” *See id.*

On March 11, 2024, the Executive Director sent a final administrative denial letter to Judge Nesselbush, informing her that she remains ineligible to be enrolled as a member of MERS based upon the information made available to MERS from the City of Pawtucket, including: (a) a communication from the Human Resources Director for the City of Pawtucket stating that Judge Nesselbush does not and has not worked at least twenty hours per week as a Municipal Court judge; (b) a communication from Attorney Ragosta confirming that there is no reliable or credible evidence to support a claim that the Municipal Court judges work at least twenty hours per week; and (c) the fact that the purported job description provided had not been formally adopted or ratified by the City. The letter stated that it constituted “official notification of an administrative

denial” and informed Judge Nesselbush of her right to challenge the decision. *Petitioner’s Exhibit 4*.

On May 7, 2024, Judge Nesselbush submitted a Notice of Appeal of Administrative Denial and Request for Hearing.¹ *Petitioner’s Exhibit 6* at 82. This administrative appeal ensued, and a hearing was held on October 30, 2024. *See Hearing Transcript*.

Thereafter, on November 14, 2024, the City sought leave from the Hearing Officer to submit a post-hearing memorandum of law. In the request, the City explained that “[t]he City has furnished relevant and material evidence to ERSRI bearing upon the ineligibility of Ms. Nesselbush for receipt of pension benefits. The City has a fiduciary obligation to ERSRI and its constituency to insure that truthful and reliable evidence is furnished to ERSRI as to the work history of City employees and appointees, and that only those employees meeting ERSRI’s eligibility requirements receive benefits.”

Judge Nesselbush objected to the request; MERS did not. The Hearing Officer permitted Judge Nesselbush, MERS, and the City to submit memoranda on the discrete issue of whether the City had standing in the matter to submit a post-hearing memorandum. In support of her objection, Judge Nesselbush argued that the matter involved only MERS and Judge Nesselbush, and that the City lacked standing “because the Mayor and the City are not parties to th[e] legal action, but also because the Mayor and the City of Pawtucket has no statutory or legal authority over the judges, the hours they work, the day-to-day operation/supervision of the courts and hence over the pension eligibility of the judges.”

¹ In an email dated April 23, 2024, counsel for Judge Nesselbush indicated that another Pawtucket Municipal Court judge, Judge Gannon, was not appealing MERS’ decision and requested to bifurcate the two cases. As the cases have never been consolidated, we address only Judge Nesselbush’s appeal.

MERS, on the other hand, argued that the City was entitled to be heard on the merits of the administrative appeal pursuant to 120-RICR-1.4(B)(1)(b) which allows all “parties” an opportunity to be heard after reasonable notice. MERS noted that the term “party” is defined to include any person or entity “deemed by the Hearing Officer to have standing.” MERS argued that the City has standing to be heard in this matter because the City faces a financial impact in the form of employer contributions associated with whether or not Judge Nesselbush is ultimately entitled to remain a member of MERS. That potential liability, MERS argued, was concrete and particularized, not conjectural or hypothetical, and directly related to the outcome of the administrative appeal. *See Watson v. Fox*, 44 A.3d 130 (RI 2012). Further, the information provided to MERS by the City was directly relevant to the outcome of the case. Therefore, MERS contended that the City had standing, certainly, to be permitted to submit relevant arguments to the Hearing Officer.

The City joined in and adopted MERS’ argument in support of the City’s request to submit a post-hearing memorandum of law. Attorney Ragosta also emphasized that he represented the City as a whole, and not just the Mayor or the executive branch. It should be noted that Attorney Ragosta has consistently held himself out as counsel for **the City of Pawtucket**—without qualification. His engagement by **the City** with respect to this matter was also confirmed by City Solicitor Milos, and is not a proposition reasonably subject to dispute by anything currently in the record.² *See Respondent’s Exhibit 13*.

² The present Chief Judge of the Municipal Court, John T. Gannon, submitted an unsolicited letter to this Hearing Officer dated November 21, 2024, asserting that Attorney Ragosta does not represent the Municipal Court. The letter further posits that: “[a]ll operational and administrative authority of the court has been delegated by ordinance to the courts chief judge.” As a threshold matter it should be pointed out that if the City of Pawtucket (as a municipal entity and full member of MERS) is not to be permitted to be heard in this administrative appeal, then a single judge of the Municipal Court should not be permitted to address this Hearing Officer on the issues in dispute. Judge Gannon is not a party to this appeal, was not subject to cross-examination, and

The Hearing Officer issued a decision on December 29, 2024, denying the City’s request to file a post-hearing memorandum of law (the “Interim Decision”). In the Interim Decision, the Hearing Officer concluded that “Attorney Ragosta represents the mayor of Pawtucket, the executive branch * * * not the city council (legislative branch) and not the Pawtucket courts (judicial branch).” The Hearing Officer also relied on the doctrine of separation of powers, explaining that the Mayor does not have authority over the City’s Municipal Court. The Hearing Officer thereafter established an updated briefing schedule for the parties’ post-hearing memoranda. This memorandum is submitted in accordance therewith.

III. STANDARD OF REVIEW

In Chapter 8 of Title 36, the Legislature expressly vested the Retirement Board of ERSRI with “the general administration and the responsibility for the proper operation of the retirement system.” See R.I. Gen Laws § 36-8-3; *Town of Richmond v. R.I. Dep’t of Env’t Mgmt.*, 941 A.2d 151, 157 (R.I. 2008). The Legislature has also expressly granted the Retirement Board the power to “establish rules and regulations for the administration of the business of the retirement system.” See § 36-8-3; see also *Perrotti v. Solomon*, 657 A.2d 1045, 1048 (R.I. 1995) (“The retirement board [] possesses the power to ‘establish rules and regulations’ for the administration and transaction of the retirement system and may ‘perform other such functions as are required’ for the administration of the retirement system.”).

himself has a vested interest in the outcome of the case. Moreover, the unsolicited letter apparently is seeking to advance the untenable position (similar to that advanced by Judge Nesselbush herself) that the Pawtucket Municipal Court judges have the unfettered ability to write themselves into pension eligibility by virtue of whatever it is they say they do in their “official” capacity—divorced of any oversight or record keeping by anyone else in the City of Pawtucket, despite their uncontested status as City employees, and regardless of what they may do outside of City employment in the form of busy private law practices. This self-serving proposition should be rejected out of hand, and the letter itself should not be considered by this Hearing Officer.

Furthermore, it is long recognized that “an administrative agency will be accorded great deference in interpreting a statute whose administration and enforcement have been entrusted to the agency.” *Town of Richmond v. R.I. Dept. of Environmental Mgmt.*, 941 A.2d 151, 157 (R.I. 2008). “Deference is accorded even when the agency’s interpretation is not the only permissible interpretation that could be applied.” *Pawtucket Power Assocs. Ltd. P’ship v. City of Pawtucket*, 622 A.2d 452, 456-57 (R.I. 1993). Moreover, “the construction given [a statute] by the agency charged with its enforcement is entitled to weight and deference as long as that construction is not clearly erroneous or unauthorized.” *Grasso v. Raimondo*, 177 A.3d 482, 486-87 (R.I. 2018) (citing *State v. Swindell*, 895 A.2d 100, 105 (R.I. 2006)).

As such, ERSRI routinely interprets the statutes it has been entrusted with administering, including §§ 45-21-2 and 45-21-8, and its interpretation of these statutes requires deference. *See Pawtucket Power Assocs. Ltd. P’ship*, 622 A.2d at 542 (stating that “deference will be accorded to an administrative agency when it interprets a statute whose administration and enforcement have been entrusted to the agency”).

IV. ARGUMENT

A. Judge Nesselbush Is Not Eligible for Membership in MERS Because She Does Not Meet the Definition of “Employee” Under Rhode Island General Laws § 45-21-2(7).

Judge Nesselbush is not eligible for membership in MERS because only “employees” are eligible for membership in MERS and Judge Nesselbush does not fall within the statutory definition of an “employee” because she has failed to establish that she devotes a minimum of twenty hours per week to the service of the municipality.

Rhode Island General Laws § 45-21-8(a) which governs membership in MERS states:

“Any employee of a participating municipality as defined in this chapter, who becomes an employee on and after the effective date of participation, shall, under contract of his or her employment, become a member of the retirement system[.]”

By its plain and express language, § 45-21-8(a) provides that any “employee” shall become a member of MERS. It necessarily follows that to be eligible for membership in MERS, an individual must be an “employee.” *See Ret. Bd. of Employees' Ret. Sys. of State v. DiPrete*, 845 A.2d 270, 287 (R.I. 2004) (“*expressio unis est exclusio alterius* * * * provides ‘the expression of one thing is the exclusion of another’”).

The term “employee” is defined by R.I. Gen. Law § 45-21-2(7) which provides:

“‘Employee’ means any regular and permanent employee or officer of any municipality, whose business time at a minimum of twenty (20) hours a week is devoted to the service of the municipality, including elective officials and officials and employees of city and town housing authorities. Notwithstanding the previous sentence, the term ‘employee’, for the purposes of this chapter, does not include any person whose duties are of a casual or seasonal nature. ***The retirement board shall decide who are employees within the meaning of this chapter, but in no case shall it deem as an employee any individual who annually devotes less than twenty (20) business hours per week to the service of the municipality*** and who receives less than the equivalent of minimum wage compensation on an hourly basis for his or her services, except as provided in § 45-21-14.1. Casual employees mean those persons hired for an occasional period or a period of emergency to perform special jobs or functions not necessarily related to the work of regular employees. Any commissioner of a municipal housing authority, or any member of a part-time state board commission, committee or other authority is not deemed to be an employee within the meaning of this chapter.”

Id. (emphasis added). Simply because individuals may have *believed* or *earnestly understood* that Municipal Court judges were eligible to participate in MERS is of no consequence. When the language of a statute or enactment is “clear and unambiguous” then it must be interpreted literally and the words of the statute or enactment must be given “their plain and ordinary meanings.” *See Planned Environments Mgmt. Corp. v. Robert*, 996 A.2d 117, 121 (R.I. 2009). Further, when a statute or enactment is unambiguous “there is no room for statutory construction and we must apply the statute as written.” *State v. Oliveira*, 882 A.2d 1092, 110 (R.I. 2005).

The clear and unambiguous language of R.I. Gen. Law § 45-21-2(7) provides that to qualify as an “employee” an individual must devote at a minimum, twenty (20) business hours per week to the service of the municipality. As previously noted, there is no credible or reliable evidence in the record that Judge Nesselbush works or has worked at a minimum, twenty hours per week in the service of the municipality each and every week. To the contrary, the Human Resources Director for the City of Pawtucket stated that Judge Nesselbush “does not work 20+hrs week[.]” *See Respondent’s Exhibit 8*. Moreover, Attorney Ragosta, legal counsel to the City of Pawtucket, represented to MERS that “there is no reliable or credible evidence to support the notion that the judges, all of whom are engaged in busy private law practices, work 20 hours or more weekly[.]” *See Respondent’s Exhibit 14*. Attorney Ragosta also noted that “to the extent that ERSRI has been provided any purported job description(s) for one or more of the municipal judges, they ought not be deemed authenticated or official records by ERSRI” and “[m]oreover, any notations in such description(s) referencing the quantum of hours worked (or to be worked) by the judges are likewise ultra vires, and hence unreliable.” *Id.*

City Council President Mercer represented to MERS that the City Council does **not** determine the working conditions or establish protocols or job descriptions for judges appointed by it. *See Petitioner’s Exhibit 6* at 49. President Mercer stated: “[t]o the best of my knowledge after 11 years on the Council, the city’s legislative body does not determine the conditions, duties, weekly workload or weekly hours worked.” *Id.* (emphasis in original). He also indicated that the City Council (as a body) does not certify the accuracy of Judge Nesselbush’s purported “job description.” *Id.* Council President Mercer simply did not and could not validate the representations contained in Judge Nesselbush’s self-prepared “job description”, and his “earnest” understanding (and that of former President Moran) are not sufficient to allow the Retirement

System to permit membership in MERS under these circumstances. Moreover, it bears mentioning that the “earnest” belief of the President and former President of the City Council appears to have been based entirely on the fact that contributions were made by the Municipal Court judges and the City of Pawtucket historically. It should go without saying that the making of contributions in the absence of an analysis of whether or not a particular individual should ever have been a member of MERS in the first instance based on his or her actual job duties, should not be a sufficient basis to carry forward historical errors into the future.³

Judge Nesselbush has failed to provide any credible evidence with regard to the hours she has worked each day or each week as a Municipal Court judge. MERS properly relied on the City’s official representations that Judge Nesselbush does not and has not worked a minimum of twenty hours per week in determining that she is not eligible for membership in MERS.

B. Judge Nesselbush Cannot Manufacture MERS Eligibility By Unilaterally Determining Her Own Job Duties.

To the extent that Judge Nesselbush relies on the purported job description she drafted for the Municipal Court judges, which purports to assert that Municipal Court judges work twenty hours per week, she has failed to provide any evidence that the form or contents have been

³ To the extent Judge Nesselbush asserts that MERS should be equitably estopped from denying her membership in MERS, the hearing officer should reject this argument because MERS cannot provide benefits contrary to the statute. The Rhode Island Supreme Court has “refused to estop a governmental entity when to do so would contravene state law[.]” *Romano v. Ret. Bd. of Employees’ Ret. Sys. of R.I.*, 767 A.2d 35, 39 (R.I. 2001). The Court has explained that “notions of promissory estoppel that are routinely applied in private contractual contexts are ill-suited to public-contract-rights analysis.” *Id.* MERS does not have “any actual or apparent authority to vary or contradict a valid employment requirement prescribed by state law” and statutory obligations cannot “be compromised by the past or present practices of the parties.” *Id.* at 39-40. As explained herein, Judge Nesselbush does not fall within the statutory definition of an “employee” because she has failed to establish that she devotes a minimum of twenty hours per week to the service of the municipality. Therefore, the fact that Judge Nesselbush made contributions is insufficient to override the requirement that she work at least twenty hours per week to qualify as an employee under § 45-21-2(7).

confirmed or ratified by her municipal employer. Without any such evidence indicating that the City of Pawtucket has adopted or ratified the purported job description Judge Nesselbush relies on, or the contents thereof, MERS must rely on the information it has from City officials that she does not in fact (and has not in fact) work(ed) at least twenty hours per week during her years of employment.

Contrary to the Hearing Officer's conclusion in the Interim Decision, and Judge Nesselbush's testimony during the hearing, this administrative appeal does not involve questions of separation of powers.⁴ Although "[t]he separation of powers doctrine prohibits the usurpation of the power of one branch of government by a coordinate branch of government", the Supreme Court has opined that it "discern[s] nothing in the Rhode Island Constitution, or in our case law, that guarantees, or even implicates, separation of powers considerations at the municipal level" and therefore "the separation of powers doctrine is a concept foreign to municipal governance." *Moreau v. Flanders*, 15 A.3d 565, 579 (R.I. 2011).

Furthermore, the Municipal Court is not a constitutional court—a fact Judge Nesselbush acknowledged. *See Hearing Transcript* at 108-109. The General Assembly has no involvement in the establishment or operation of the Municipal Court beyond the City's Home Rule Charter—the enabling legislation. Rather, Municipal Court judge positions are controlled by Section 2-501 of the City Charter which provides that the judges are elected solely by the City Council.⁵ Further,

⁴ MERS pauses to emphasize that although the Hearing Officer concluded that Attorney Ragosta represents only the Mayor of Pawtucket and the Executive Branch—and not the City as a whole, the City Council or the judiciary—there is no competent evidence in the record actually supporting this conclusion. To the contrary, Attorney Ragosta informed the Hearing Officer that he represents the City as a whole and the record demonstrates the same. *See Hearing Transcript* at 228-231; *see also Respondent's Exhibits 10 and 13 (City Solicitor Milos' confirmation that "the City is represented by Attorney Vincent Ragosta on this matter")*.

⁵ Because the judges are not elected officials, Rhode Island General Laws. § 45-21-8.1 does not apply to them.

Rhode Island General Laws § 45-2-13(d) provides that: “The city council of the city of Pawtucket is authorized and empowered to appoint a judge to serve as both the municipal police court judge and the municipal housing court judge. The city council of the city is authorized and empowered to enact ordinances governing the personnel, operation, and procedure to be followed in the court and to establish a schedule of fees and costs and to otherwise provide for the operation and management of the court.”

Therefore, the Municipal Court is not a separate and co-equal branch of the City’s government. Instead, Municipal Court positions are created by the City Council and are funded by the City. The City Council can enact ordinances governing the Municipal Court judges. The Municipal Court judge positions can be unilaterally altered, amended, or even abolished by the City Council—facts Judge Nesselbush has acknowledged. *See Hearing Transcript* at 152. Significantly, however, in the present case, Judge Nesselbush has failed to provide any evidence that the City Council has adopted, confirmed or ratified the purported job description she prepared, in a self-serving attempt to establish that she works twenty hours per week.⁶ In fact, Judge Nesselbush conceded during the hearing that there is no official job description setting forth the duties of the Municipal Court judges. *See Hearing Transcript* at 122-23.

As noted above, President Mercer confirmed that the City Council does not determine the conditions, duties, weekly workload or weekly hours worked for Municipal Court judges, and has not certified the accuracy of Judge Nesselbush’s self-prepared “job description.” *See Petitioner’s Exhibit 6* at 49. Attorney Ragosta, on behalf of the City of Pawtucket, stated to MERS that “there is no reliable or credible evidence to support the notion that the judges, all of whom are engaged

⁶ Chapter 26 of the ordinances of the City of Pawtucket governs the Municipal Court and cites to § 45-2-13 for statutory authority to establish the Municipal Court. Those ordinances, however, do not address how many hours per week the Municipal Court judges work.

in busy private law practices, work 20 hours or more weekly”, and that “to the extent that ERSRI has been provided any purported job description(s) for one or more of the municipal judges, they ought not be deemed authenticated or official records by ERSRI.” *See Respondent’s Exhibit 14*. He also noted that “any notations in such description(s) referencing the quantum of hours worked (or to be worked) by the judges are likewise ultra vires, and hence unreliable.” *Id.*

Because the Municipal Court is not a separate branch of City government, Judge Nesselbush does not have the right to unilaterally establish her own job duties. As demonstrated by Judge Nesselbush’s testimony, her assertion that she worked more than twenty hours per week is predicated on her own self-established job duties. *See Hearing Transcript* at 142. Judge Nesselbush testified extensively regarding (and described at length in her pre-hearing memorandum—*see, e.g.*, pgs. 19-28) the various things that she has chosen to do in her role as a judge of the Pawtucket Municipal Court. While MERS has no doubt that Judge Nesselbush is a hard-working and dedicated employee of the City of Pawtucket, virtually all of the items she has described (ranging from staying abreast of developments in the law, to attending City ceremonies, to renovating judicial chambers, to creating a website, to hosting gatherings at her home) are emphatically not required by ordinance, statute, or any other formal source of authority within or without the City of Pawtucket. There are no formalized City requirements with respect to any of the items she has described, and the City has not endorsed her self-prepared “job description.” It should also not go unmentioned that Judge Nesselbush has at all relevant times maintained a busy private law practice, which undoubtedly limits the amount of time she is able to spend elsewhere (this is not to denigrate the work Judge Nesselbush has *elected* to do for the City, but instead to underscore that she remains unable to obtain City verification of the hours she claims are expended in furtherance of any actual *requirements* that may exist with respect to the position of Municipal

Court judge). In light of what MERS has been provided by the City of Pawtucket, it simply cannot be concluded that Judge Nesselbush is a City employee working on City-required matters a minimum of 20 hours per week, each and every week, during the years in question, such as to sustain membership in MERS.

If Municipal Court judges, including Judge Nesselbush, had the power or authority to unilaterally establish their own job duties, they would essentially be permitted to write themselves into pension eligibility. Stated differently, they could unilaterally determine membership in MERS simply by virtue of saying what it is they do, divorced of verification by their municipal employer, and no matter how self-serving the description of “work” performed might be. To avoid such a situation, it is the practice of MERS administration to rely on official job specifications established by the applicant’s hiring authority to determine whether an individual works at least twenty hours thus meeting the statutory criteria for membership in the retirement system. *See Hearing Transcript* at 207; 219; 223-24. Here, without any evidence demonstrating that the City of Pawtucket has adopted or ratified the form or contents of the purported job description presented by Judge Nesselbush, MERS properly relied on the representations made by the City that Judge Nesselbush does not work at least twenty hours per week.⁷

Absent any credible evidence that Judge Nesselbush works and has worked a minimum of twenty hours per week in the service of the municipality, a review of the clear and unambiguous

⁷ For the reasons cited herein, it is a red herring to focus on the City Council vs. the Mayor vs. the Judiciary. This case simply does not implicate separation of powers issues, and MERS is entitled to rely on information provided by the actual MERS unit—in this case the municipal employer: City of Pawtucket itself. There is simply no need to delve into intra-City political issues or divergences, even assuming (without acknowledging) that they exist. With respect to the formal job duties and work conditions of City employees, the City speaks with one voice: that of the City of Pawtucket. For this reason as well as the others addressed herein, it is a mistake to assume that outside counsel (Attorney Ragosta) represents anything or anyone other than what he has said, i.e., the City of Pawtucket itself.

language of § 45-21-8(a) and § 45-21-2(7), in light of the actual facts of this case, evinces that Judge Nesselbush is not eligible for participation in MERS.

C. MERS' Interpretation of the Relevant Statutes is Not Clearly Erroneous and Should Therefore be Accorded Deference.

Importantly, the Legislature has vested the “general administration and the responsibility for the proper operation of the retirement system” of Rhode Island in the Retirement Board. *See* R.I. Gen. Laws § 36-8-3. It is long recognized that an administrative agency, such as MERS, “will be accorded great deference in interpreting a statute whose administration and enforcement have been entrusted to the agency.” *Town of Richmond v. R.I. Dept. of Environmental Mgmt.*, 941 A.2d 151, 157 (R.I. 2008). Deference shall also be given to MERS’ interpretation even if it “is not the only permissible interpretation that could be applied.” *Pawtucket Power Assocs. Ltd. P’ship v. City of Pawtucket*, 622 A.2d 452, 456-57 (R.I. 1993). Moreover, “the construction given [a statute] by the agency charged with its enforcement is entitled to weight and deference as long as that construction is not clearly erroneous or unauthorized.” *Grasso v. Raimondo*, 177 A.3d 482, 486-87 (R.I. 2018) (citing *State v. Swindell*, 895 A.2d 100, 105 (R.I. 2006)). Additionally, § 45-21-2(7) explicitly provides that “[t]he retirement board *shall decide who are employees within the meaning of this chapter*, but in no case shall it deem as an employee any individual who annually devotes less than twenty (20) business hours per week to the service of the municipality and who receives less than the equivalent of minimum wage compensation on an hourly basis for his or her services, except as provided in § 45-21-14.1.”

MERS’ administration routinely interprets the statutes it has been entrusted with administering, including §§ 45-21-2(7) and 45-21-8. Its interpretation of the relevant legislation addressed herein, and its resulting determination that Judge Nesselbush is not an “employee” under § 45-21-2(7), based upon official information provided by her municipal employer, the City of

Pawtucket, that she does not work a minimum of twenty hours per week for the municipality, and therefore is not eligible to participate in MERS pursuant to § 45-21-8(a), is entirely reasonable in light of the evidence presented and in accordance with the plain and clear language of the relevant provisions.

Accordingly, per the clear language of § 45-21-8(a) and § 45-21-2(7), MERS was fully entitled to determine that Judge Nesselbush is not eligible for membership in the retirement system.

V. CONCLUSION

For all the reasons stated above and in MERS' Pre-Hearing Memorandum, the Hearing Officer should uphold the decision of the Executive Director determining that Judge Nesselbush is not eligible for membership in MERS and consequently, direct the City to cease making contributions on her behalf, return her contributions, and inform her that she is not entitled to receive service credit towards her retirement as a member of the retirement system.

Respectfully submitted,

Municipal Employees' Retirement System of the
State of Rhode Island,

By its attorney,

/s/Michael P. Robinson
Michael P. Robinson, Esq. (#6306)
SAVAGE LAW PARTNERS, LLP
564 South Water Street
Providence, RI 02903
Tel: (401) 238-8500
Fax: (401) 648-6748
mrobinson@savagelawpartners.com

Chief Judge
John T. Gannon



Associate Judge
Patrick J. McBurney

Chief Judge Emeritus
Donna M. Nesselbush

CITY OF PAWTUCKET OFFICE OF THE MUNICIPAL COURT

November 21, 2024

Mr. Charles M. Koutosogiane Esq.
Employees Retirement System of RI
50 Service Avenue 2nd Floor
Warwick, RI 02886

Re: Donna M. Nesselbush

Dear Mr. Koutosogiane:

I write to you in my capacity as the Chief Judge of the Pawtucket Municipal Court. My interest in writing to you is to make it clear that Attorney Vincent Ragosta has not been engaged by this court and has no authority whatsoever to represent this courts interest in this dispute. Any assertion by Mr. Ragosta or the city's administration that it has standing in this matter must be rejected.

The establishment of the municipal court and its personnel rests solely with the Pawtucket City Council. All operational and administrative authority of the court has been delegated by ordinance to the courts chief judge.

Unfortunately, the shenanigans of the current mayor have created an issue where none has ever existed before. All my predecessors enjoyed being members of the municipal pension system as part of their compensation package, this is nothing new.

I, both personally and in my capacity as Chief Judge support Chief Judge Nesselbushes pension eligibility and the eligibility of all of Pawtucket's municipal judges, both past and present.

Sincerely yours,

John T. Gannon, Esq.
Chief Judge

ERSRI BOARD:

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Laura Shawhughes

Michael J. Twohey

Lisa A. Whiting

Frank J. Karpinski
Executive Director

Sent via U.S. First Class Mail and Certified Mail RRR (council president only)

November 8, 2023

91 7199 9991 7035 4498 1339

The Honorable Terence E. Mercer
Council President
Pawtucket City Council
137 Roosevelt Ave.
Pawtucket, RI 02860

RE: Chief Judge Donna M. Nesselbush and Associate Judge John T. Gannon

Dear Council President Mercer:

Thank you for your letter dated May 2, 2023, expressing your understanding that the Pawtucket "Municipal Court and Probate Court judges were indistinguishable from all other part-time employees in city government and, accordingly, on a proper MERS pension tract." As part of the Municipal Employees' Retirement System of the State of Rhode Island ("MERS")'s continuing review of this matter, and whether or not the above-referenced individuals (and any other Municipal Court judge(s) who may be similarly situated) were properly permitted to make pension contributions to and/or be participating members of MERS, I write to request clarification of the City of Pawtucket's position.

As you may be aware, these individuals were initially advised that they are not eligible for MERS membership based upon information provided to our office by the city that they did not work a minimum of twenty (20) hours per week as required for threshold eligibility pursuant to R.I.G.L. §45-21-2(7). We were thereafter provided with a document purporting to be a "Protocol/Job Description for Chief Judge and Associate Judge" of the Pawtucket Municipal Court, indicating that these judges are in fact "20 hour per week employees." *See attached Exhibit A.* This document was provided to MERS by Chief Judge Nesselbush's attorney. Accompanying this "Protocol/Job Description" was your letter of May 2, 2023, along with a letter dated December 8, 2022 from City Councilman and former Council President David P. Moran to Chief Judge Nesselbush indicating his similar understanding that Pawtucket Municipal Court judges are eligible to

participate in MERS. *See attached Exhibit B.* Thereafter, we received a communication from Attorney Vincent Ragosta, Jr., outside labor and employment counsel to the city, inquiring as to the status of Chief Judge Nesselbush and Associate Judge Gannon's challenges to the initial ineligibility determinations for membership made by the retirement system. Upon review of that communication, and upon further review of the Protocol/Job Description provided by Chief Judge Nesselbush's attorney, we take this opportunity to request additional clarification of the city's position regarding the eligibility of these individuals for membership in the retirement system.

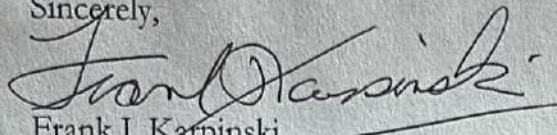
In order to fully evaluate this matter, we are therefore requesting the following additional information:

1. Does the Pawtucket City Council determine the conditions and duties of employment for the Pawtucket Municipal Court judges (including Chief Judge Nesselbush and Associate Judge Gannon, and/or any other Municipal Court judge(s) who may be similarly situated), including with respect to the number of hours worked on a weekly basis, or is there a different individual or entity that would have the authority to do so on behalf of the city with whom the retirement system should be communicating regarding this issue?
2. If the Pawtucket City Council does have the authority to determine the conditions of employment for Judge Nesselbush and Judge Gannon, does the Council as a whole certify the accuracy of the information contained in the "Protocol/Job Description for Chief Judge and Associate Judge" of the Pawtucket Municipal Court that was provided to MERS and that is attached hereto as Exhibit A, including with respect to the number of weekly hours these individuals work and have worked during the course of their municipal employment?

Once we have received responses to these questions, MERS will be able to reach a final determination as to whether or not Chief Judge Nesselbush and/or Associate Judge Gannon (and/or other similarly situated Municipal Court judges) are eligible for membership in the retirement system. If you

have any questions regarding this communication, please do not hesitate to reach out to me directly.

Sincerely,



Frank J. Karpinski
Executive Director

CC: Mayor Donald R. Grebien
Frank Milos, Esq.
John B. Harwood, Esq.
The Honorable Chief Judge Donna M. Nesselbush
The Honorable Judge John Gannon
The Honorable Cristine McBurney
Richard J. Goldstein, City Clerk
Michael P. Robinson, Esq.



**State of Rhode Island
Official Ballot**

General Election
November 8, 2016
Pawtucket

**Papeleta Oficial del
Estado de Rhode Island**

Elección General
8 de noviembre de 2016
Pawtucket

**Page 1
Página 1**

Precinct 2619

Congressional District 1
Senate District 8
Representative District 61
Pawtucket District 2

**18. COUNCIL OUTSIDE LEGAL
SERVICES**

Shall amendments to Sections 4-300,
2-106 and 2-301 of the Home Rule
Charter of the City of Pawtucket
authorizing the city council to employ
outside legal services when deemed
necessary by the council, be
approved?

ERSRI BOARD:

July 3, 2023

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General Treasurer Chair

John B. Harwood, Esq.
Law Offices of Harwood & Garland, LLC
9 Thurber Boulevard - Suite D
Smithfield, RI 02917

John P. Maguire
Vice Chair

Ernest Almonte

RE: Municipal Court Judges - Membership in MERS

Roger P. Boudreau

Dear Attorney Harwood:

Mark A. Carruolo

Joseph Codega

We write in response to your letter of May 12, 2023 whereby you request that we issue a re-determination that Chief Judge Nesselbush and Associate Judge Gannon are eligible to participate in the MERS pension program.

Paul L. Dion

Matthew K. Howard

As we have previously noted, in order to be or remain a member of MERS, employees are required to work a minimum of 20 hours or more per week - every week, consistent with RIGL §45-21-2(7). ERSRI certifies this information by obtaining job descriptions, Collective Bargaining Agreements (CBA) or direct contact with employers when issues are identified.

Claire M. Newell

Raymond J. Pouliot

Jean Rondeau

Laura Shawhughes

At the time of our original inquiry, we were unable to secure a job description and any documented hours required for the position other than noting when the applicable municipal courts were in session. Consequently, that prompted our decision to notify Judges Nesselbush and Gannon of their ineligibility for membership in MERS consistent with RIGL §45-21-2(7).

James E. Thorsen

Michael J. Twohey

Lisa A. Whiting

Frank J. Karpinski
Executive Director

However, since the Pawtucket City Solicitor, Frank J. Milos, Jr., indicated in his letter of November 29, 2022 that the Municipal Court Judge positions are controlled by Section 2-501 of the City Charter whereby the Judges are elected solely by the City Council, and since the information you obtained from City Council President David P. Moran and current City Council President Terrence E. Mercer includes a job description with the requisite 20 minimum hours, we will consider Judges Nesselbush and Gannon's job requirements to be in line with the requirements set forth in RIGL §45-21-2(7) and have them remain members of the Municipal Employees' Retirement System (MERS).

We are interpreting your letter to indicate that the City Council members are confirming that the Pawtucket Municipal and Probate Court Judges have always worked and continue to work a minimum of 20 hours per week 52 weeks per year. Should the employment status of any of the judges change, the retirement system must immediately be notified, and retirement contributions must cease.

We will begin the process of restoring the retirement contributions and service credit for Judge Nesselbush and Judge Gannon and make any necessary adjustments to Judge Gannon's pension benefit. In addition, Pawtucket Probate Judge Cristine McBurney will remain a contributing member of MERS.

Sincerely,



Frank J. Karpinski
Executive Director

Cc: Pawtucket City Council
Judge Donna Nesselbush
Judge John Gannon
Judge Cristine McBurney

Milos, Frank

From: Nesselbush, Donna
Sent: Friday, November 18, 2022 2:18 PM
To: Zelazo, Dylan; Milos, Frank
Subject: Municipal Court
Attachments: Employees Retirement Letter 10.24.22.pdf; Employee Retirement System of RI.pdf; Municipal Court Judges Job Description.docx

Dear Dylan and Frank,

I am writing to you in your official capacities as Director of Administration and City Solicitor, respectively. Thank you both for speaking with me about this issue. As we are Council appointees, I have also spoken to Councilor Mercer, and I believe he has discussed this briefly with the Mayor. As you requested, attached is a judicial protocol or job description that I drafted based upon my experience serving both as the Associate Judge and then the Chief Judge of our city over the past 18 years. This document outlines the responsibilities and duties of our city's Municipal Traffic and Housing Court Judges.

Please let me know if you have any questions. After reviewing and finalizing this document (and conferring with the City Council, if that is necessary or warranted), I respectfully request that the appropriate person in city government draft a cover letter (or other appropriate document) to Frank J. Karpinsky, Executive Director of the Employees' Retirement System of Rhode Island, assenting to and enclosing the final version of the judicial protocol/job description and confirming that we are 20 hour per week employees/appointees.

Thank you for your kind attention to this matter. Your prompt response would be most greatly appreciated, as I would like to resolve this before the MERS takes any further action.

Sincerely yours,

Donna M. Nesselbush, Esq.

Donna M. Nesselbush, Esq.
Chief Judge
Pawtucket Municipal Court
www.PawtucketRI.com

COURT SESSIONS:

Pursuant to city ordinance, the Municipal Traffic and Housing Courts shall be considered to be in session at all times and in such place or places as the judges shall direct.

JUDICIAL DUTIES:

Court Procedures. The Judges Shall:

- Establish the place, days and times of all Traffic and Housing Court sessions;
- Establish Rules of Procedure for both the Traffic and Housing Courts;
- Enforce the Courts' Rules of Procedure, including but not limited to maintaining courtroom decorum and addressing disruptions from litigants or members of the public;
- Prescribe the form of all Pawtucket Municipal Traffic and Housing Court complaints, warrants, writs or other matters of legal process, consistent with the jurisdiction of the court;
- Ensure that procedures are in place for the security and protection of the Judges and Court personnel;
- Oversee and supervise the Traffic Court and Housing Court clerks;
- Ensure that all proceedings, matters of substance and/or hearings before the court are made "on the record" and preserved for use in potential appeals;

Day to Day Operations:

- Establish docketing procedures and docket sizes;
- Adjudicate all complaints filed within the court's jurisdiction, including but not limited to traffic violations, motor vehicle equipment violations, ordinance violations for liquor, parking, minimum code violations, zoning violations, vandalism and animal control issues;
- Preside over Arraignments;
- Preside over Pre-trial Conferences;
- Preside over Trials, including performing any legal research necessary to understand the legal issues involved and to be able to determine guilt/responsibility or non-guilt, and impose fines and/or other dispositions, as required;
- Prepare written and/or verbal decisions;
- Review letters regarding community service;
- Review and Authorize Requests for subpoenas to compel the presence and/or testimony of witnesses;
- Review Motions to Compel Requests for Interrogatories or Production of Documents;

- Dispose of cases in the Traffic Court by reviewing driving records and issuing Default Judgments for motorists who fail to appear;
- Dispose of cases in the Housing Court by reviewing pleadings and issuing Default Judgments for Respondents who fail to appear;
- Review and Dispose of Motions to Vacate judgments, including default judgments and/or order new proceedings/trials, as determined necessary by the judge;
- Review and Oversee Requests for Receivership proceedings;
- Personally view and/or tour properties, as necessary, that are the subject of Requests for Receivership or other action, e.g., Motions to vacate the Premises;
- Review and Sign off on all Municipal Court Orders;
- Review Appellate decisions that are issued by the RI Traffic Tribunal;
- Officiate weddings on days, evenings, or weekends, by appointment and as needed by city residents and others wishing to marry;

Special Projects:

- Oversee and participate in special projects such as camera enforcement of school speed zones and city red lights; televising Municipal Court proceedings, establishing Covid procedures, offering "Good Driver Statute Dismissals via the mail, participating in the Driver's License Restoration Project or the Lead Abatement project; attend meetings and press conferences, as required.
- Oversee all digital projects, including the possibility of judicial proceedings via zoom, drafting and maintaining appropriate content for the Traffic and Housing Court web-pages;

Interact with other Branches of Government:

The Judiciary works together with the Legislative and Executive branches to keep them informed regarding the Special Projects of the Court or the need for legislative changes, e.g., changing the courts name, jurisdiction or otherwise requesting the passage of or amendments to ordinances;

SALARY AND BENEFITS:

The position is a salaried position, with access to City health insurance and participation in the MERS pension system. There are no vacation or sick days as the two judges cover for each other because, by City ordinance, the Court is in session at all times.

City Of Pawtucket
Pawtucket Municipal Court
121 Roosevelt Avenue
Pawtucket, RI 02860

Chief Judge Donna M. Nesselbush
Associate Judge John T. Gannon

Municipal Court Judges

BRANCH OF GOV'T	JOB TITLE	HOURS	SALARY
Judiciary	Municipal Judge	20 Hours Per Week	\$17,000 - \$25,000

Pawtucket Municipal Traffic and Housing Courts:

Protocol / Job Description for Chief Judge and Associate Judge

The Pawtucket Municipal Court shall be composed of one Chief Judge and one Associate Judge. The City of Pawtucket has also established a Housing Court which conducts its day-to-day business as an adjunct to and extension of the already existing Pawtucket Municipal Traffic Court. Judges are part-time, 20 hour per week employees, and the annual salary of the Chief Judge shall be **\$25,000** and the annual salary for the Associate Judge shall be **\$17,000**.

QUALIFICATIONS:

Pursuant to Section 2-501 of the city charter, a Municipal Court judge, to be appointed, must be an elector of the city and be a lawyer in good standing who is admitted to practice before the Rhode Island Supreme Court and who shall have at least two (2) years' experience in the active practice of law. Appointment as a judge of the Municipal Court shall be by a majority vote of the City Council. Judges also must possess:

- The ability to relate to the general public, including the racial, ethnic and socioeconomic diversity that is reflected in the City of Pawtucket;
- The ability to handle a high volume of cases;
- The ability to maintain judicial impartiality and judicial temperament in all matters.



Municipal Traffic Court Clerk: Nadine Higgins (401) 727-9100 Ext. 824
Municipal Housing Court Clerk: Donna Pinto (401) 728-0500 Ext. 280



TERRENCE E. MERCER

Councilor - District Three

194 First Street
Pawtucket, Rhode Island 02861

November 17, 2023

Director Karpinski:

I am in receipt of your letter of November 8, 2023, captioned as **RE: Chief Judge Donna M. Nesselbush and Associate Judge John T. Gannon**, through which you pose two questions for me to answer.

Before providing those requested answers, I'd like to first clarify a couple points. In your correspondence, you reference a letter I wrote to your office last May regarding this pension matter, and point to an excerpt in which I stated that it was my understanding that "Municipal Court and Probate Court judges were indistinguishable from all other part-time employees in city government, and accordingly, on a proper MERS pension tract." I don't mean to quibble with your chosen excerpt, but I'd like to point out that the greater portion of that sentences reads: "I believe everyone involved over the last couple decades *earnestly (italics in original text)* understood that the Municipal Court and Probate Court judges were indistinguishable from all other part-time employees in city government, and accordingly, on a proper MERS pension tract." Moreover, the next sentence reiterates that underlying mindset: "Had that not been the earnest understanding, employee pension contributions would not have been withheld and remitted to the pension system (along with the city's employee contributions)."

My reason for pointing out these nuances is to illustrate that my letter (as with former President Moran's earlier letter) was drafted solely to point out that we (collectively) always *believed* that the Municipal and Probate judges were "pension-eligible" simply because your office was receiving contributions from both the judges' wages and the city as their employer. Nothing more – we *believed* it to be so. I honestly never gave it a moment's thought; it just seemed to make sense that withheld contributions equaled eligibility.

As for your questions:

Q. *Does the Pawtucket City Council determine the conditions and duties of employment for the Pawtucket Municipal Court judges (including Chief Judge Nesselbush and Associate Judge Gannon, and/or any other Municipal Court judge(s) who may be similarly situated), including with respect to the number of hours worked on a weekly basis, or is there a different individual or entity that would have the authority to do so on behalf of the city with whom the retirement system should be communicating regarding this issue?*

A. The short answer to this question is **No**. To the best of my knowledge after 11 years on the Council, the city's legislative body does not determine the conditions, duties, weekly workload or weekly hours worked. The expectation is that the workload is self-dictating (by charter,

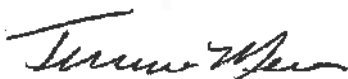
statute and/or ordinance and matters advanced by Zoning and Code Enforcement) and is accomplished in whatever time is necessary. As for the second part of this question, perhaps the city's Personnel Director may provide some additional insight.

Q. If the Pawtucket City Council does have the authority to determine the conditions of employment for Judge Nesselbush and Judge Gannon, does the Council as a whole certify the accuracy of the information contained in the "Protocol/Job Description for Chief Judge and Associate Judge" of the Pawtucket Municipal Court that was provided to MERS and that is attached hereto as Exhibit A, including with respect to the number of weekly hours these individuals work and have worked during the course of their municipal employment?

A. Again, the short answer to this question is No. As stated above, the City Council does not determine the working conditions, and, accordingly it does not establish such "protocols and job descriptions" for the judges appointed by that body – or, for matter, for the City Sergeant or Sealers of Weight and Measures as the only other Council-appointed employees in the city. If the protocol presented as Exhibit A has been adopted, presumably it was done by the Personnel Department.

I hope I have adequately answered your questions. If not, or if you require further clarification, please do not hesitate to reach out. Finally, inasmuch as your letter asked me for my personal response, I do not intend to copy the individuals cc'd on your letter to me, although I do not object to you forwarding this correspondence to any (or all) of those individuals if you see fit.

Sincerely,



Terrence Mercer,
President
Pawtucket City Council



TERRENCE E. MERCER

Councilor - District Three

194 First Street
Pawtucket, Rhode Island 02861

May 2, 2023

Mr. Frank J. Karpinski
Executive Director
Employee Retirement System of RI
50 Service Avenue
Warwick, RI 02886

Dear Mr. Karpinski:

I write as the current president of the Pawtucket City Council to affirm a December 6, 2022 letter sent to Pawtucket Municipal Court Chief Judge Donna Nesselbush by my predecessor in this office, Councilor David P. Moran, and forwarded recently to your office. The gist of that December letter (appended hereto) was to confirm for Judge Nesselbush (and ultimately your office) that then-President Moran had for 30-plus years as a city councilman understood that the city's Municipal Court and Probate Court judges were considered, for all intents and purposes, to be part-time employees of the city.

As President Pro-Tem last December, I worked in close contact with then-President Moran on a multitude of matters, including the drafting of his letter regarding this particular pension-qualification issue. I concurred with both the intent and content of that letter last December and remain of the same mindset now.

I don't know that I can add any more substance to the position put forth by then-President Moran, except to say this: I believe everyone involved over the last couple decades *earnestly* understood that the Municipal Court and Probate Court judges were indistinguishable from all other part-time employees in city government and, accordingly, on a proper MERS pension tract. Had that not been the earnest understanding, employee pension contributions would not have been withheld and remitted to the pension system (along with the city's employer contributions).

If you have any additional questions or would like any clarification on my stance or that of the council as a whole, please do not hesitate to contact me by cell phone at [REDACTED] or by email at tmercerc@pawtucketri.com.

Sincerely,

Terrence E. Mercer
Council President

tmercerc@pawtucketri.com





DAVID P. MORAN

Council President – First District

127 Revere Street
Pawtucket, RI 02861

December 8, 2022

Donna M. Nesselbush, Esq., Chief Judge
Pawtucket Municipal Court
137 Roosevelt Avenue
Pawtucket, RI 02860

Dear Chief Judge Nesselbush:

Thank you for your email. As you know, I have been on the Pawtucket City Council for over 30 years and have served as Council President for the last 12 years. Given that, I can confirm that all of the information you provided appears true and accurate to the best of my knowledge, in terms of the role of the judiciary/judges in our city government. The duties and responsibilities of our judges — who most certainly are considered city employees — as you have outlined them in the protocol/job description, appear reasonable and accurate to the best of my knowledge.

I am well aware of all the work you and Judge Gannon perform on a weekly basis to smoothly run our Municipal Traffic and Housing Courts. In addition, I have seen firsthand your and Judge Gannon's work with the Council to address issues affecting the judiciary, such as changing the name of the court and adjusting court hours to better accommodate residents. Moreover, I fully understand that your and Judge Gannon's work to run the judiciary and effectuate a number of special projects, means that your position as judges for the city involves more than just the hours you spend on the bench.

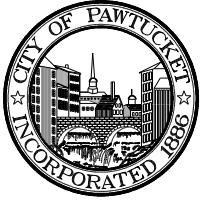
Through my participation in numerous judicial appointments over more than three decades and through my annual participation and deliberations regarding the city's municipal budget, I have long understood that our judges are treated like all other part-time employees in city government; that is, they receive set financial compensation, have access to city health insurance, and participate in the MERS pension program that includes both employee contributions and city (employer) contributions.

Having said that, nothing herein shall be construed to affect the Council's inherent authority to set or amend the salary and benefit parameters for future judicial or other Council appointments.

Sincerely yours,

Councilor David P. Moran, President
Pawtucket City Council

pawtward1@verizon.net
(401) 723-2597



DAVID P. MORAN

Council President – First District

127 Revere Street
Pawtucket, RI 02861

December 8, 2022

Donna M. Nesselbush, Esq., Chief Judge
Pawtucket Municipal Court
137 Roosevelt Avenue
Pawtucket, RI 02860

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Through my participation in numerous judicial appointments over more than three decades and through my annual participation and deliberations regarding the city's municipal budget, I have long understood that our judges are treated like all other part-time employees in city government; that is, they receive set financial compensation, have access to city health insurance, and participate in the MERS pension program that includes both employee contributions and city (employer) contributions.

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Sincerely yours,

Councilor David P. Moran, President
Pawtucket City Council

pawtward1@verizon.net
(401) 723-2597

RIGL Title 45

Towns and Cities

Chapter 2

General Powers

R.I. Gen. Laws § 45-2-13

§ 45-2-13. City of Pawtucket — Municipal police court — Municipal housing court.

(a) The city council of the city of Pawtucket may establish a municipal police court and confer upon the court original jurisdiction, notwithstanding any other provisions of the general laws, to hear and determine causes involving the violation of any ordinance; provided, that any defendant found guilty of any offense, excluding violations of the city's minimum housing ordinances and zoning ordinances, may, within seven (7) days of conviction, file an appeal from the conviction to the Providence superior court and be entitled in the latter court to a trial de novo.

(b) The city council of the city of Pawtucket may establish a municipal housing court and confer upon the court original jurisdiction, notwithstanding any other provisions of the general laws, to hear and determine causes involving the violation of the zoning ordinances of the city and any violation of the provisions of chapter 24 of this title, entitled the Rhode Island zoning enabling act of 1991, and any violation of the provisions of chapter 27.3 of title 23 entitled the Rhode Island state building code, and any violation of the provisions of those regulations promulgated by the state building code commission entitled SBC-1 Rhode Island state building code, SBC-2 Rhode Island state one and two (2) family dwelling code, SBC-3 Rhode Island state plumbing code, SBC-4 Rhode Island state mechanical code, SBC-5 Rhode Island state electrical code, SBC-6 state property maintenance code, and SBC-8 Rhode Island state energy conservation code; and provided, further, that any party aggrieved by a final judgment, decree or order of the Pawtucket housing court may, within twenty (20) days after entry of this judgment, decree or order, petition to the supreme court for the state of Rhode Island for a writ of certiorari to review any errors involved. The petition for the writ of certiorari shall state the errors claimed. Upon the filing of a petition with the clerk of the supreme court, the supreme court may, if it sees fit, issue a writ of certiorari to the Pawtucket housing court to certify to the supreme court the record of the proceedings of the case together with and transcript of the proceedings by the petitioner at his expense.

(c) With respect to violations of either municipal ordinances dealing with minimum housing or zoning regulations, or chapter 24.3 et seq., of this title dealing with housing maintenance and occupancy, or chapter 24 et seq., of this title dealing with enforcement of zoning regulations, the city council may also confer upon the Pawtucket housing court, in furtherance of its jurisdiction, the power to proceed according to equity:

- (1)** To restrain, prevent, enjoin, abate, or correct a violation;
- (2)** To order the repair, vacation, or demolition of any dwelling existing in violation;
- (3)** To otherwise compel compliance with all of the provisions of those ordinances and statutes; or
- (4)** To order a dwelling into receivership and to order the removal of any cloud on the title to the building or property which shall be binding upon all those claiming by, through, under, or by virtue of any inferior liens or encumbrances pursuant to chapter 44 et seq., of title 34.

(d) The city council of the city of Pawtucket is authorized and empowered to appoint a judge to serve as both the municipal police court judge and the municipal housing court judge. The city council of the city is authorized and empowered to enact ordinances governing the personnel, operation, and procedure to be followed in the court and to establish a schedule of fees and costs and to otherwise provide for the operation and management of the court. The municipal courts created by this section may impose a sentence not to exceed thirty (30) days in jail and impose a fine not in excess of one thousand dollars (\$1,000), or both. The courts are empowered to administer oaths, compel the attendance of witnesses, and punish persons for contempt, and to execute search warrants to the extent the warrants could be executed by a judge of the district court.

History of Section.

P.L. 1995, ch. 17, § 2; P.L. 2012, ch. 57, § 1; P.L. 2012, ch. 73, § 1.

Chapter 26

Courts

[HISTORY: Adopted by the Council of the City of Pawtucket as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Judge of Probate Court — See Secs. 2-500 and 2-600 of Charter.

Judge of Municipal Court — See Secs. 2-501 and 2-600 of Charter.

Article I

Municipal Court

[Approved 6-21-1973 by Ch. No. 1401; amended in its entirety 11-12-2020 by Ch. No. 3235]

§ 26-1 Establishment.

Pursuant to R.I.G.L. § 45-2-13, as amended, there is hereby established a Municipal Court in the City of Pawtucket.

§ 26-2 Judge and Associate Judge of Municipal Court.

Said Court shall be composed of one Judge and one Associate Judge who shall be elected in accordance with all of the provisions of Section 2-501 of the City Charter.

§ 26-3 Witnesses; attendance; subpoenas; warrants.

Said Court shall have power to issue writs of summons for witnesses, and compel their attendance, and to punish for contempt by fine. In addition, said Court shall have the power to execute search warrants to the extent the warrants could be executed by a Judge of the District Court.

§ 26-4 Associate Justice/Clerk.

(Reserved)

§ 26-5 Duties of Clerk.

In case of the sickness, absence from the City or other disability or ineligibility of the Judge of the Municipal Court to serve, the Clerk of the Municipal Court shall perform the duties of said Judge during the sickness, absence or other inability or ineligibility of said Judge. The acts of said Clerk in the performance of said duties shall have the same effect as if performed by said Judge. The Clerk of said Court shall keep a regular docket of all cases therein, including a record of all cases disposed of, shall record the judgments, orders and sentences of said Court and shall furnish certified copies thereof when required, for which copies said clerk shall charge the same fees as are by law allowed to Clerks of the Superior Court. He or she shall keep his or her office open to the public during such hours as the Court shall determine.

§ 26-6 Power of Clerk to arraign and take recognizance to state.

The Clerk of the Municipal Court shall have the power to arraign and take recognizance to the state.

§ 26-7 Employment of clerical assistance by Clerk.

The Clerk of the Municipal Court, with the approval of the Judge thereof, is hereby authorized and empowered to employ such clerical assistance as he or she may require in his or her office in copying,

recording, indexing and attending upon the files of said Court.

§ 26-8 Seal; oaths.

The Municipal Court shall have a seal which shall contain such words and device as the Court shall adopt. The Judge of the Municipal Court shall have power to administer oaths and affirmations.

§ 26-9 Sessions; time; place.

The Municipal Court shall be considered to be in session at all times and in such place or places in the City as the Court or the justice holding the same shall direct.

§ 26-10 Jurisdiction.

The Municipal Court shall have original jurisdiction to hear and determine causes involving violation of any ordinance of the City of Pawtucket.

§ 26-11 Sentencing; appeals.

- A. The Municipal Court may impose a fine not in excess of \$500. Fines so imposed shall be paid over and disposed of in like manner as moneys had been obtained for violations of City ordinances previously handled in the District Court.
- B. Every person aggrieved by any fine or sentence of said Municipal Court may within seven days of such conviction appeal from such sentence to the Superior Court in and for Providence County, in the same manner and with the same procedure, and such appeal shall be disposed of in said Superior Court in like manner as is prescribed in the case of appeals in criminal cases from the sentence of any District Court.

§ 26-12 Complaints, warrants and writs.

It shall be lawful for the Judge of said Court so to prescribe and vary the form of all complaints, warrants, writs or other process as to make the same consistent with the organization, style and jurisdiction of said Court, and such complaints, warrants, writs and other process shall have the same effect, validity and extent, and be served, obeyed, enforced and returned, in the same manner and by the same officers as if issued from the District Courts, and they may also be served by any constables of said town who are authorized to serve process in civil or criminal cases.

§ 26-13 Costs.

Costs taxed by said Municipal Court shall be the same as those taxed by District Courts, and the payment of the costs shall be a part of the sentence to the extent they would be in the District Courts, or as otherwise authorized by state law.

§ 26-14 Appeal costs.

All moneys derived from such appeals, whether for fine and costs, or otherwise, including costs imposed in said Municipal Court on such appealed cases, shall be paid over and disposed of in like manner as moneys obtained in cases of appeal from District Courts to said Superior Courts in criminal cases are paid over and disposed of.

§ 26-15 Effect of Charter.

The provisions of the Charter shall apply to the Municipal Court of the City and to the functions within the jurisdiction of the Court to the extent that such provisions are consistent with this article. To the extent that such provisions are inconsistent with this article, the provisions of the City Charter shall control.

Article II Housing Court

[Approved 5-5-1995 by Ch. No. 2384]

§ 26-16 Title.

This article shall be known and may be cited as the "Housing Court Act."

§ 26-17 Purpose.

This article shall be liberally construed to the end that all people be housed in dwellings that are safe, sanitary and fit for human habitation and that levels of residential environmental quality be achieved and maintained as will protect and promote the health, safety and general welfare of the people of the City of Pawtucket.

§ 26-18 Establishment; Judge; jurisdiction; seal; oaths.

- A. In accordance with the express enabling authority granted by the General Assembly in R.I.G.L. § 45-2-13, there is hereby established in the City of Pawtucket a Housing Court, which shall conduct its day-to-day business as an adjunct to and extension of the already existing Pawtucket Municipal Police Court.
- B. There shall be a Housing Court Judge and an Associate Housing Court Judge to hear and determine causes brought before the Housing Court by the Director of Zoning and Code Enforcement and the City Solicitor's Office involving violation of the zoning ordinances of the City and any violation of the provisions of Chapter 24 of Title 45 of the General Laws of the State of Rhode Island entitled the "State Zoning Enabling Act," and any violation of the provisions of Chapter 27.3 of Title 23 of the General Laws of the State of Rhode Island entitled the Rhode Island "State Building Code," and any violation of the provisions of those regulations promulgated by the State Building Code Commission entitled "SBC-1 Rhode Island State Building Code," "SBC-4 Rhode Island State One and Two family dwelling code," "SBC-5 Rhode Island State Electrical Code," "SBD-6 State Property Maintenance Code," "SBC-8 Rhode Island State Energy Conservation Code" and to hear and determine any other causes brought to promote, protect or enhance the residential environmental quality of the people. **[Amended 7-12-2012 by Ch. No. 3003]**
- C. The Housing Court Judge shall serve simultaneously as the Judge of the Pawtucket Municipal Police Court. **[Amended 5-9-2013 by Ch. No. 3025]**
- D. The Associate Housing Court Judge shall serve simultaneously as the Associate Judge of the Pawtucket Municipal Court. **[Amended 5-9-2013 by Ch. No. 3025]**
- E. The Housing Court will commence upon the passage of this article. Upon commencement, the Housing Court shall assume jurisdiction over all matters then pending in the District Court and the Superior Court or remanded to District Court or Superior Court pursuant to Court Order.
- F. Pursuant to R.I.G.L. § 8-18-4(e), the Housing Court shall be a court of record and shall, at a minimum, tape record all sessions.
- G. The Housing Court shall have a seal which shall contain such words and devices as the Court shall adopt.
- H. The Housing Court Judge and the Associate Housing Court Judge shall have the power to administer oaths and affirmations, compel the attendance of witnesses, punish persons for contempt and to execute search warrants to the extent warrants could be executed by a Judge of the District Court.

§ 26-19 Powers of the Housing Court.

- A. The Housing Court shall be a court of City-wide jurisdiction; and no order, decree, judgment, sentence, warrant, writ or process made, issued or pronounced by it need set out any adjudication or

circumstances with greater particularity than would be required in courts of superior and general jurisdiction. The writs, subpoenas, citations, orders, notices, executions and all other processes issued by the Housing Court shall be under the seal of the Housing Court, signed by the Housing Court Clerk and bear the signature of the Housing Court Judge and shall run throughout the state.

B. In all matters within its jurisdiction, the Housing Court shall have the power to proceed according to equity to:

- (1) Restrain, prevent, enjoin, abate or correct a violation.
- (2) Order the repair, vacation or demolition of any dwelling existing in violation.
- (3) Otherwise compel compliance with all of the provisions of these ordinances or statutes.
- (4) Order a dwelling into receivership and to order the removal of any clouds on the title to the building or property which shall be binding upon all those claiming by, through, under or by virtue of any inferior liens or encumbrances pursuant to Chapter 44 et seq. of Title 34 of the General Laws of the State of Rhode Island.

C. In all matters within its jurisdiction, the Housing Court may impose a fine not in excess of \$500.
[Amended 4-20-2017 by Ch. No. 3125; 5-24-2018 by Ch. No. 3160]

D. All fees and costs assessed by the Housing Court shall be the same as the Police Court, or as otherwise authorized by state law. **[Added 4-20-2017 by Ch. No. 3125]**

§ 26-20 Sessions.

The Housing Court shall conduct business in the Pawtucket Municipal Courthouse at such times and under such conditions as the Housing Court Judge may from time to time direct.

§ 26-21 Housing Court Registry.

Within the Housing Court there shall be a registry, to be administered by the Housing Court Clerk, which shall receive and disburse all payments made by direction of the Court, voluntary payments and those pursuant to the minimum standards housing ordinances, which shall be regularly and promptly paid to the City Treasurer.

§ 26-22 Administration of operation.

- A. The Housing Court Judge shall be Administrative Judge of said Court and shall be the head of said Court and have supervision and control of the calendars and the assignments of his or her Associate Judge.
- B. All court stenographers and secretaries shall be under the supervision of the Housing Court Judge whose duty it shall be to gather such statistics as shall reflect accurately the work of the Court, for the information of the Court and such other use as may be deemed expedient.
- C. The Housing Court Judge shall also be charged with the general responsibility for any recommendations that may be important for the work of said Court.

§ 26-23 Rule of practice and procedure.

The Housing Court, through its Judge, may from time to time make and promulgate rules for regulating practice and conducting business therein. In all matters wherein the Housing Court is authorized or directed to make or promulgate rules, said Court shall have the authority, until such time as such rules may be promulgated, to provide by order in special cases.

§ 26-24 Authority and duties of Clerks.

The Housing Court Clerk shall serve simultaneously as the Clerk of the Pawtucket Municipal Court. In addition to any other authority or duties provided by this article, the Housing Court Clerk shall have the authority to carry out the duties with respect to the Housing Court that are exercised or performed by the Clerks of the District Courts or Superior Court in housing and zoning enforcement matters.

§ 26-25 Report of trials; transcripts.

- A. A court stenographer, except where a tape recording device is employed, shall report stenographically the proceedings in the trial of every action or proceeding in the Housing Court. If ordered to do so by the Judge, the stenographer shall transcribe the report and file the same with the papers in the case.
- B. The stenographer shall also make a transcript of the whole or any part of such report upon the written request filed with the Clerk, by either party to such action or proceeding, and when completed and within the time limited by the Court for filing the same, shall immediately deliver the same to the party ordering it, to the attorney of record of such party and for such service shall be paid a reasonable compensation to be allowed by the Court; and in case the transcript is used in subsequent proceedings in the cause, the cost of the same may be allowed as part of the costs.

§ 26-26 Appeal.

Any party aggrieved by final judgment, decree or order of the Housing Court may, within 20 days after entry of judgment, petition to the Supreme Court for the State of Rhode Island for a writ of certiorari to review any errors involved. The petition for the writ of certiorari shall set forth the errors claimed. Upon the filing of such a petition with the clerk of the Supreme Court, the Supreme Court may, if it sees fit, issue a writ of certiorari to the Housing Court to certify to the Supreme Court the record of the proceedings of the case, together with any transcript of the proceedings furnished by the petitioner at his or her expense.

§ 26-27 Annual appropriations.

The City Council shall annually appropriate such sums as shall be necessary to carry out the purposes of this article, and the City Treasurer is hereby authorized and directed to draw their order for the payment of such sum, or so much thereof as may be required from time to time, upon receipt by them of duly authenticated vouchers approved by the Housing Court Judge.

☐ **Sec. 2-106 Employment of counsel; legal advice generally.**

[Amended Ref. of 11-8-2016, Sec. 18]

In the event that the law department declines to advise or render legal services to the council in any matter, and whenever the council is conducting an investigation relating to the executive and administrative branch of city government, the council may employ and fix compensation of counsel of its own selection to handle such matters or to assist in conducting such investigation. In all other cases the council shall obtain legal advice and services from the law department; however, nothing contained in this Charter shall prohibit the council from employing outside legal counsel from time to time when deemed necessary by the council.

VINCENT F. RAGOSTA, JR.

ATTORNEY AT LAW

CENTER PLACE
50 PARK ROW WEST - SUITE 101
PROVIDENCE, RHODE ISLAND 02903

TEL (401) 274-2100
V.RAGOSTA@VFR-LAW.COM

OF COUNSEL
TIMOTHY M. BLISS
D. PETER DESIMONE

October 11, 2023

Frank J. Karpinski
Executive Director
Employees' Retirement System
of Rhode Island
50 Service Avenue, 2nd Floor
Warwick, Rhode Island 02886-1021

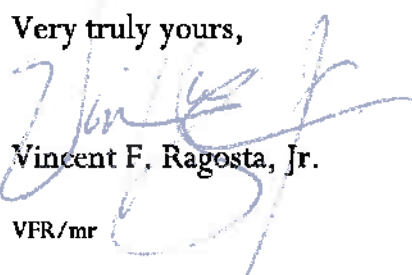
RE: City of Pawtucket-Membership in MERS-Municipal Court Judges

Dear Mr. Karpinski:

My firm serves as outside labor and employment counsel to the City of Pawtucket. In that capacity I write to inquire of the status of the appeal of an ineligibility determination for membership of the City's municipal court judges in the Municipal Employees' Retirement System.

Your prompt attention to this request is appreciated.

Very truly yours,



Vincent F. Ragosta, Jr.

VFR/mr

Copies:

Hon. Donald Grebien, Mayor
Frank J. Milos, Esq., City Solicitor
Sara Miranda, Human Resources Director

VINCENT F. RAGOSTA, JR.

ATTORNEY AT LAW

CENTER PLACE

50 PARK ROW WEST - SUITE 101
PROVIDENCE, RHODE ISLAND 02903

PROVIDENCE RI 02903

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OCT 11 2023



Frank J. Karpinski
Executive Director
Employees' Retirement System
of Rhode Island

50 Service Avenue, 2nd Floor
Warwick, Rhode Island 02886-1021

02886-102150



ERSRI
2023 OCT 16 A 10:40

From: Vincent Ragosta <v.ragosta@vfr-law.com>

Sent: Tuesday, February 20, 2024 7:39 PM

To: Gayle Mambro-Martin <Gayle.Mambro-Martin@ersri.org>

Cc: Frank Karpinski <Frank.Karpinski@ersri.org>; Michael Robinson <mrobinson@savagelawpartners.com>; Grebien, Donald <dgrebien@pawtucketri.gov>; Milos, Frank <FMilos@pawtucketri.gov>; Goldstein, Richard <RGoldstein@pawtucketri.gov>; Araujo, Michael <maraujo@pawtucketri.gov>; Moreno, Roberto <rmoreno@pawtucketri.gov>; Rubio, Yesenia <yrubio@pawtucketri.gov>; Moran, David <dmoran@pawtucketri.gov>; Wildenhain, Mark J. <MJWildenhain@pawtucketri.gov>; Coderre, Nelcy <ncoderre@pawtucketri.gov>; Gregor, Clovis <cgregor@pawtucketri.gov>; Martins Stachowiak, Marlena <mstachowiak@pawtucketri.gov>

Subject: [EXTERNAL]City of Pawtucket: Municipal Judges - Membership in MERS

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Report Suspicious

Good Evening Gayle-

I understand that you have been advised by City Solicitor Frank Milos that I serve as outside labor and employment counsel to the City. On October 11, 2023, I wrote to Executive Director Karpinski inquiring as to the status of the appeal of his October 24, 2022 ineligibility determination for membership of the City's municipal court judges in MERS. To date I have not received a response.

Nonetheless, since in June and July 2022 you communicated with the City's then-Human Resources Director, Sara Miranda, seeking information relevant to Director Karpinski's subsequent determination of ineligibility, I write to confirm indispensable facts bearing on any ongoing efforts to appeal, unwind or rescind his

legally correct conclusion, barring the municipal court judges' membership in MERS.

First, and of primary and indispensable statutory import, on July 18, 2022, Ms. Miranda responded to your direct inquiry whether the judges work 20 hours weekly. She pointedly and succinctly responded, "No, they do not". I am told there is no reliable or credible evidence to support the notion that the judges, all of whom are engaged in busy private law practices, work 20 hours or more weekly (nor are they present in City Hall for such hours). I note parenthetically that there is no evidence of compliance with R.I.G.L. § 28-12-12 by the City Council or other branch of City government, i.e. of the making or keeping of records of "...hours worked each day and each workweek by the (judges)...". As you know, that statute unequivocally mandates the generation and retention of such records. Apparently, none exist.

Second, to the extent that ERSRI has been provided any purported job description(s) for one or more of the municipal judges, they ought not be deemed authenticated or official records by ERSRI. I so state because the City's Law Department advises that there has been no legislative action adopting them. Moreover, any notations in such description(s) referencing the quantum of hours worked (or to be worked) by the judges are likewise ultra vires, and hence unreliable.

I trust this may be useful to any factual and legal determinations to be made by ERSRI if it were to consider reversal of Director Karpinski's assiduous ineligibility determination. Hopefully that will not be the case.

Should you see a need to discuss this further, I will be available after 2:30 tomorrow afternoon. Don't hesitate to call.

Best regards,

Vin Ragosta

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STATEMENT OF CONFIDENTIALITY

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MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM OF THE STATE OF RHODE ISLAND

IN RE: DONNA M. NESSELBUSH, ESQ.

HEARING OFFICER:

CHARLES M. KOUTSOGIANE, ESQ.

**PETITIONER'S REPLY TO
RESPONDENT'S POST HEARING MEMORANDUM**

Petitioner has already recited the facts, evaluated and parsed the evidence, advanced her legal arguments, and exposed the infirmities of Respondent's case, along with the political context (and subtext) of this case. The political context of this case is not mere allegation or supposition; it is record evidence. Judge Nesselbush has cited in her memos to the voluminous press coverage of said dispute. All has been well developed and cited in her previous memoranda and will not be repeated here. Rather, Petitioner will respectfully disentangle the legal arguments advanced by Respondent in his Post Hearing Memorandum, in seriatim. All references, unless otherwise cited, are to his Post Hearing Memorandum.

My brother, Attorney Robinson, correctly sets forth the travel of this case with its "back and forth" decision making. He correctly notes that after a thorough investigation of the matter, Frank Karpinski reinstated Judge Nesselbush into the MERS by certified [letter](#) dated July 3, 2023. Three months late to the party, Attorney Ragosta [emailed](#) Director Karpinski on October 11, 2023, inquiring about the status of a case that had been closed over three months previous (*see attached*). Director Karpinski testified at the hearing that he was confused by this communication. However, his response to said confusion is revealing. He did not respond to Attorney Ragosta by stating that on July 3, 2023 he had reinstated Judge Nesselbush, and the inquiry was over. Rather, upon information and belief, he was made aware of Mayor Grebien's keen interest in this case, and he understood Ragosta's communication to mean that the City was rolling back its support for Judge Nesselbush's pension eligibility. Apparently, Karpinski interpreted Ragosta's communication to mean that he should reopen an investigation that he had closed 3 months earlier.

While Petitioner hates to "nit-pick," Attorney Robinson mispeaks on page 5 of his Post Hearing Memorandum when he states that "[T]he Executive Director indicated that upon receipt of (additional) responses to these inquiries, a final determination would be made on the *pending administrative appeal*." In fact, at that time, there was no "*pending administrative appeal*, and Director Karpinski makes no mention in his November 8th, 2023 [letter](#) of a "pending administrative appeal" (because there was none) (*see attached*). The previously pending administrative appeal, after a thorough investigation by Mr. Karpinski, had been finally

adjudicated in Judge Nesselbush's favor, by certified [letter](#) dated July 3, 2023 (reinstating Judge Nesselbush in the MERS). Interestingly, in Karpinski's November 8, 2023 [letter](#) to Mercer, he states:

“[O]nce we have received responses to these questions, MERS will be able to reach a final determination as to whether or not Chief Judge Nesselbush and/or Associate Judge Gannon (***and/or other similarly situated Municipal Court judges***) are eligible for membership in the retirement system.” (emphasis added).

After receiving Mercer's responses, it's interesting and revealing that, contrary to what Director Karpinski stated above, only Judges Nesselbush and Gannon were notified of non-eligibility (past Judges John F. McBurney, III, William T. Noonan and sitting Probate Judge Christine McBurney have received nothing) which certainly suggests, or at least raises the specter of, unlawful disparate treatment. The city is well aware that it has made employee and employer pension contributions on behalf of Judge John F. McBurney and Judge William T. Noonan, both of whom served as Municipal Judges for Pawtucket, both of whom currently serve as Statewide Magistrates and both of whom, upon information and belief, are counting on their Pawtucket pension credits when they retire. The same is true for Pawtucket's current sitting Probate Judge, Christine McBurney.

On page 37 of Judge Nesselbush's actual pension file that was emailed to her, Sara Miranda states in an April 6, 2023 email to ERSRI “[F]or Christine McBurney-Judge of the Probate Court, her circumstances mirror Jack Gannon...” In an email on page 37-38 of Nesselbush's pension file dated March 21, 2023, ERSRI's Gayle Mambro-Martin wrote to Sara Miranda stating, “[I] am in the process of writing a letter to Judge McBurney...” On page 39 of Nesselbush's pension file, in an email from Sara Miranda to Gayle Mambro-Martin, dated March 17, 2023, Miranda writes, “[W]e will need to write to her similar to the letters that went to Judges Nesselbush and Gannon.” But upon information and belief, neither Judge Christine McBurney nor any other previous Pawtucket Municipal Judges received such letters, again evidence of disparate treatment.

On page 5, Attorney Robinson tries to gently twist the meaning of President Mercer's words (as stated in his [letter](#) dated November 17, 2023) into something other than what they are:

support for the well known fact that the Municipal Court judges have always been pension eligible (*see attached*). Respondent touts Mercer's letter as meaning that the Council, having a reason and the authority to do so, does not (or will not) state that the Judges work 20 hours per week. That's not what Mercer says. What Mercer's letter actually says and means is that the City Council cannot confirm that Municipal Court judges work 20 hours per week because the Council does not supervise the Judges. It does not micro-manage the Municipal Court. It is not and has never been involved with the Judges or the Court at that level. Rather, the Council, by ordinance, had historically and long ago delegated all adjudicatory, administrative, and supervisory authority over the Municipal Court, to the Judges. Essentially, once the Council, by majority vote, appoints the Chief Judge and the Associate Judge, by operation of law (city ordinance Chapter 26, [Articles I & II](#)), the Court takes over the administration, operation and supervision of the Court (*see attached*). The City Council, as clearly stated by Council President Mercer in his November 17, 2023 [letter](#), does not determine the hours worked, the working conditions or establish protocols or job descriptions for the judges..." The state legislature does not, would not and should not over-reach and micro-manage the judiciary like that, and neither do the municipal legislatures.

On page 6 of his Post Hearing Memo, Attorney Robinson tries to strengthen the status of the Mayor and his attorney, Vincent Ragosta, by trying to buttress the fiction that attorney Ragosta represents the entire City of Pawtucket. Attorney Robinson states:

"[O]n February 19, 2024, MERS received an email from Pawtucket City Solicitor Frank Milos, indicating that: "the City is represented by attorney Vincent Ragosta on this matter." (see Respondent's Exhibit 13).

With all due respect to Frank Milos who is a good lawyer and Petitioner's good friend, his offhand statement does not establish a fact. In fact, Petitioner avers that Milos was really just communicating that he (Milos) did not represent the City in this matter. In fact, Milos's loyalty to the Mayor has occasionally bothered the City Council, so much so that the Council in 2016 successfully proposed and supported a Charter change on the 2016 [ballot](#) giving the Council full authority to hire their own lawyer, if and when they felt the City Solicitor was not representing their interests. ([See Pawtucket City Charter, Sec. 2-106](#)) (*see attached*). The City

Council, in fact, did hire its own lawyer, Joel Votalato, Esq., as was well covered by the press and well cited by Petitioner in her memos.

Petitioner continues to strongly object to any allegation that attorney Ragosta represents all 3 branches of the City of Pawtucket. The City's current Chief Judge, Jack Gannon, unequivocally stated that Attorney Ragosta does not represent the Judiciary. The fact that the City Council *successfully* sought a charter change in 2016 to be able to hire its own legal counsel, coupled with the fact that neither Council President ever mentions or refers to Ragosta in their correspondence belies the allegation that the City Solicitor or the Mayor's lawyer *always* represents the *entire* City of Pawtucket.

Attorney Ragosta frequently has referred to Judge's Nesselbush's job description as *ultra vires* (beyond her power). However, if the Mayor has no statutory authority over the Court, and if the City Council has delegated administrative and supervisory authority to the Court, then, from the perspective of statutory construction, the Mayor's constant meddling and constant malevolent attempts to intervene in this matter are, in fact, what is *ultra vires*, beyond his authority to do so. Petitioner alleges that his singular persistence against only Judges Nesselbush and Gannon is evidence that said persistence is an abuse of power to advance his personal and political vendetta against Judge Gannon. Said vendetta is well known, has been well covered by the press and well cited by Petitioner in her previous memos. The timing of Ragosta's February 20, 2024 email, essentially stating "hail Mary...please punish Judge Gannon (and by association Judge Nesselbush)" is revealing in that it was sent to Karpinski on the eve of the Council's shunning the Mayor by **elevating** Judge Gannon to the position of Chief Judge. The timing of that email cannot be ignored.

Petitioner has respectfully elucidated in her Post Hearing Memo that Attorney Ragosta's February 20, 2024 email is nothing more than repetition of previously alleged arguments which were considered and rejected by Director Karpinski, as is evidenced by the fact that Karpinsky reinstated Judge Nesselbush into the MERS on July 3, 2023.

Next, Petitioner addresses the pabulum set forth in Respondent's footnote 2, on pages 8 & 9. It states in relevant part that the current Chief Judge Jack Gannon seeks

“to advance the untenable position (similar to that advanced by Judge Nesselbush herself) that the Pawtucket Municipal Court judges have the unfettered ability to write themselves into pension eligibility by virtue of whatever it is they say they do in their ‘official’ capacity—divorced of any oversight or record keeping by anyone else in the City of Pawtucket...”

Nothing could be further from the truth. Neither Petitioner nor Judge Gannon has **ever** alleged that Municipal Judges have unfettered ability to write themselves into pension eligibility. Judge Nesselbush never wrote herself into pension eligibility. Rather, soon after she was hired, the Mayor's Personnel Office presented Judge Nesselbush with the MERS membership application, as the Mayor's Personnel Office had done with every single other Municipal Judge, since the inception of the Court in the 1950's. This action by the Mayor's Personnel Office comported with the promise of pension eligibility that was initially made to her by the then hiring authority, Chief Judge John F. Mcburney, III, who hired Judge Nesselbush. (At the time Judge Nesselbush was hired in 2004, by Charter, the Chief Judge hired the Associate Judge.)

In addition to the fact that the Mayor's Personnel Office presented the pension membership application to Judge Nesselbush is the fact that the Mayor's office then included pension contributions for her for the next 20 years, as the City had done for all the previous Municipal Judges in all of the budgets presented to the City Council, including 12 years of budgets drafted and presented by this very same Mayor who now seeks to about face and reverse course. In fact, akin to “the pot calling the kettle black,” it is Mayor Grebien who seeks the unfettered ability to write Judge Nesselbush “**out of**” pension eligibility after he and his very own office included her pension eligibility in the City's budget for almost 20 years. Said pension eligibility was ratified by the City Council which approved each of those budgets, over the past 20 years and beyond, since the inception of the Court. As petitioner stated in her Post Hearing Memo, it strains credulity to think that all of this was somehow a mistake, and that countless Mayors and City Councilors over decades **all** somehow “earnestly” believed something that was actually a mistake. Respondent's assertion that Petitioner seeks to unilaterally “manufacture” her pension eligibility is not only hyperbole, it is nonsense that is simply untrue.

Rather, what is true is that this and all previous Mayors have included pension contributions for all the Municipal Judges in their budgets since the inception of the court, almost 50 years ago **because** all Mayors (including this one) have always known that the Municipal Judges work 20 hours per week. Likewise, the reason that the City Council has always ratified the inclusion of pension contributions for the Municipal Judges in the budget is **because** they too have always known that the Judges work 20 hours per week. The City Council has always had full legislative authority over the Court. The City Council has always had the authority to dictate the number of hours to be worked or the promulgation of a job description for the Municipal Judges, but importantly, the City Council has **never** done so. Rather, the City Council chose instead to delegate all administrative and supervisory authority to the Chief Judge of the Court.

Petitioner concurs with Attorney Robinson that “an administrative agency will be accorded great deference in interpreting a statute... as long as that construction is not clearly erroneous....” Petitioner alleges that the agency mis-relied on statements from Sara Miranda and Vincent Ragosta to issue its March 11, 2024 re-determination of Judge Nesselbush’s pension **ineligibility** because the statements relied on are *ultra vires* and contain erroneous information. Sara Miranda was a Human Resources Officer who worked for the Mayor. In Nesselbush’s ERSRI pension file, sometimes her title is Human Resources Coordinator and sometimes it is Human Resources Director. Maybe she received a promotion or title change. Regardless, the Mayor has no statutory authority over the Judges, and Miranda provided inaccurate and incomplete information to the MERS (as has been set forth in Petitioner’s Memoranda). Moreover, Sara Miranda has never met the Judges or stepped foot in their courtroom. Judge Nesselbush alleges Miranda had little or no idea what the Judge actually did. Can the inaccurate statements of the city’s “Human Resources Coordinator” remove a Judge’s 20 year pension eligibility? Judge Nesselbush has shown in her main memo the inaccuracies of the information she provided. She did not even get right the days and times the Court was open to the public. That’s how little she knew about the Court/Judges.

Additionally, the agency relied on erroneous information from Attorney Ragosta in his February 20, 2024 [email](#) to make its “tables-turned” decision of March 11, 2024. Frank Karpinski testified

that Ragosta's February 20, 2024 email (*see attached*) led him to conclude that the City had pulled back its support for Judge Nesselbush's pension. This conclusion is erroneous. Ragosta's email does not represent the opinion of the City Council or the Judiciary. Rather, Ragosta was writing only on behalf of a spurned and statutorily powerless mayor.

There is literally nothing else in the record on which director Karpinski could have relied to issue his "tables turned" decision. Respectfully, Ragosta's email should be regarded as political speech that falls woefully short of a basis upon which to extinguish Judge Nesselbush's well established 20 year pension eligibility and change a previously well investigated and well thought out decision by the Director on July 3, 2023 to reinstate Judge Nesselbush.

On page 10, my brother blithely states that Judge Nesselbush "has failed to establish that she devotes a minimum of 20 hours per week to the service of the municipality." On what evidentiary basis does he make said assertion? Judge Nesselbush is well aware of the 20 hour per week requirement to meet the definition of "employee." She avers that the evidence easily proves she met that requirement. Let's review the evidence that belies said statement and, in fact, **establishes** that Judge Nesselbush worked the requisite hours:

1. Judge Nesselbush collegially reached out to the Mayor's office and the City Council regarding the drafting of a job description. Based on her clear statutory authority to do so, she drafted a job description for the Municipal Judges. This job description is in the record and contains **record evidence** that she worked 20 hours per week.
2. City Council President Moran's December 8, 2022 [letter](#) is **record evidence** in which he makes favorable and relevant assertions including, "[T]he duties and responsibilities of our judges— who most certainly are considered City employees— as you have outlined them in the protocol/job description, appear reasonable and accurate to the best of my knowledge." Said statements endorse the job description and are **record evidence**. (*see attached*).
3. City Council President Terry Mercer's May 2, 2023 [letter](#) is **record evidence** that further endorses the job description, "[A]s President Pro Tem last December, I worked in close contact

with then President Moran, on a multitude of matters, including the drafting of his letter (above) regarding this particular pension qualification issue. I concurred with both the intent and content of that letter last December and remain of the same mindset now.” (*see attached*).

Thus, there is **record evidence** that both Council Presidents reviewed the job description, and they both endorsed the duties, responsibilities and hours worked, as outlined in the job description, stating “they appear reasonable and accurate to the best of their knowledge.”

4. Terry Mercer’s letter of November 17, 2023 is **record evidence** in which he states that the City Council does not establish the number of hours worked by the Judges, and that the City Councilors, historically, have always earnestly believed the Judges were pension eligible. (*see attached*).

5. Judge Nesselbush’s hours-long testimony is **record evidence**. She testified sincerely and credibly as to the work she did to constitute the requisite 20 hours per week, including adjudication of cases, administration of the Pawtucket Municipal Court system and supervision of the Associate Judge and the Courts’ staff, as well as the many special projects she implemented at the municipal level to effectuate statewide efforts, including the Drivers License Restoration Project, the Lead Abatement Project and many others that were described in her Main Memorandum.

The Pawtucket Municipal Court actually consists of two courts: the Pawtucket Traffic Court and the Pawtucket Housing Court. Nesselbush served as Chief Judge of both. Pawtucket is a large, urban, diverse city, and both courts are **very** busy. Judge Nesselbush has provided statistics regarding the large number of cases handled and adjudicated by both courts. Judge Nesselbush does not have access to statistics from other municipal courts, but upon information and belief, the Pawtucket Municipal Courts are likely the second busiest municipal courts in the state, behind only Providence. The Pawtucket Municipal Court meets three (3) times per week, every week, for several hours, and that’s just the time on the bench when the court is open to the public! Common sense requires that Nesselbush be given credit for the many hours off the bench during which Judge Nesselbush would take calls, prepare for and

officiate weddings, work on special projects, attend meetings with the Mayor or the Police Chief or the City Solicitor (among others), read and draft emails as well as the research she had to do to prepare for trials and issue the right decisions. The breadth and scope of all her “off the bench” hours of work is outlined in her main memo and was testified to at her hearing.

All of this work was “in service of the municipality.” Moreover, she testified that her law firm hired one or more additional attorneys to handle her responsibilities at the law firm, such that she could dedicate the requisite 20 hours to the Pawtucket Municipal Court. Judge Nesselbush is a senior, founding partner of Marasco & Nesselbush who can spend her time as she wishes. Respectfully, Attorney Robinson has absolutely no idea how “busy” Judge Nesselbush’s law firm is, or how “busy” she is, and he has no idea how many hours per week she works: in total, for her law firm, or for the City of Pawtucket. The Hearing Officer should rely on the **record evidence** and not on Attorney Robinson’s post hearing bald assertions.

Judge Nesselbush served as the President of the Municipal Court Judges Association. The Association meetings occasionally turned to pension eligibility issues. Through that Association and those conversations, she was aware that all Providence Municipal Judges participate in their pension system, Warwick’s prior Judge Gerstenblatt received pension benefits, and she was aware that her friend, Judge Richard D’Addario, had applied for a MERS pension. However, his situation is entirely distinguishable as he was actually “elected” to the position of Probate Judge in Tiverton, RI. Tiverton is the only community in Rhode Island which elects their Probate Judge, and the law is different vis-a-vis “elected officials.” Additionally, his situation is entirely distinguishable as the Tiverton Probate Court meets **once a month**. Judge D’Addario never alleged that he worked the requisite 20 hours per week. The Tiverton Probate Court which meets once per month and the Pawtucket Municipal Traffic and Housing Courts, which meet three times per week, are entirely different animals.

6. Frank Karpinski conducted a thorough investigation, and based on his review and analysis of **record evidence**, said seasoned and experienced public servant concluded that Judge Nesselbush deserved to be reinstated into the pension. This reinstatement itself is **record evidence** of Judge Nesselbush’s eligibility which was only later called into question by

Attorney Ragosta's "hail Mary" email dated February 20, 2024, which email has been thoroughly exposed and debunked, rendering its evidentiary value questionable at best.

Were this a case of the pension eligibility of a City Hall worker who works for the executive branch, Sara Miranda's statements should and would be accorded some weight. But that is not the case here. Here we are dealing with the Chief Judge of a "coordinate branch of government." Because the Mayor / Miranda / Ragosta are all cut from the same statutorily powerless cloth, all of Nesselbush's above cited **record evidence** stands legally uncontroverted; there is actually no competent evidence at all that Judge Nesselbush did not work the requisite 20 hours per week.

The Mayor did not want to accept Karpinski's July 3, 2023 reinstatement of Judge Nesselbush, so he instructed his attorney to raise questions/meddle, which he did via an October 11, 2023 [email](#). (see attached). In response to Ragosta's 3 sentence email, Karpinski wrote President Mercer a 3 page [email](#). (see attached). President Mercer responded in a November 17, 2023 [letter](#) that "the city's legislative body does not determine the conditions, duties, weekly workload, or weekly hours worked. **The expectation is that the workload is self dictating...and is accomplished in whatever time is necessary,**" (see attached), thus endorsing Nesselbush's authority to do the work she deemed necessary in the time she deemed necessary. This statement ratifies all of the work that Judge Nesselbush listed in her main memo and testified to at hearing. No one told her what to do. She is a Judge. She did what she thought was right and necessary to adjudicate cases and run the court and serve as the titular head of Pawtucket's Judiciary. Mercer's above statement also undermines Respondents' attempt at the hearing to mischaracterize the work Judge Nesselbush did to constitute the 20 hours as work she "chose to do." Again, Judge Nesselbush was well within her statutory authority to do the work and the many projects she spearheaded, and she has submitted **record evidence** of all the emails proving she did that work.

The reason that the city's legislative body **does not** "determine the conditions, duties, weekly workload, or weekly hours worked," is because said legislative body already delegated all adjudicatory, administrative, and supervisory authority over the court to the Chief Judge in the

broad grant of statutory authority contained in City ordinance Chapter 26, [Articles I & II](#). (see *attached*).

Judge Nesselbush's Adjudicatory Authority:

"[T]he Municipal Court shall have original jurisdiction to hear and determine causes involving violation of any ordinance of the City of Pawtucket." (26-10) "There shall be a Housing Court Judge... to hear and determine causes brought before the housing court...." (26-18(B). Additionally, "said court shall have the power to issue writs of summons for witnesses, and compel their attendance, and to punish for contempt by fine. Said Court shall have the power to... execute search warrants to the extent the warrants could be executed by a Judge of the District Court. (26-3).

Judge Nesselbush's Administrative and Supervisory authority:

"The...Judge shall be the **administrative judge** of said court, and shall be the head of said Court and have **supervision and control** of the calendars and the assignments of his or her Associate Judge" (26-22 Administration/Operation). "All court stenographers and secretaries shall be under the **supervision** of the...Judge whose duty it shall be to gather such statistics as shall reflect accurately the work of the court, for the information of the court and such other use as may be deemed expedient." (26-22B). "The...Judge shall also be charged with the general responsibility for any recommendations that may be important for the work of the court." (26-22C).

Accordingly, Attorney Robinson's statement that Judge Nesselbush has failed to establish that she devotes the requisite hours to the municipality is simply bald assertion unsupported by the above-cited evidence of record.

Attorney Robinson again takes a bit of "poetic license" when he re-orders words to assert that "[H]e (referring to Council President Mercer) also indicated that the City Council (as a body) does not certify the accuracy of Judge Nesselbush's purported job description. Council President Mercer **did not** say that phrase/sentence.

Rather, on November 8, 2023 Frank Karpinski posed these long questions to Terry Mercer:

1. Does the Pawtucket City Council determine the conditions and duties of employment for the Pawtucket Municipal Court judges (including chief Judge Nesselbush and Associate Judge Gannon, and/or any other Municipal Court judge(s) who may be similarly situated), including with respect to the number of hours worked on a weekly basis, or is there a different individual or entity that would have the authority to do so on behalf of the city with whom the retirement system should be communicating regarding this issue?
2. If the Pawtucket City Council does not have the authority to determine the conditions of employment for Judge Nesselbush..., does the Council *as a whole* certify the accuracy of the information contained in the “protocol/job description” for Chief Judge (Nesselbush) of the Pawtucket Mun. Court that was provided to MERS and that is attached here to as exhibit a, including with respect to the number of weekly hours, these individuals work and have worked during the course of their municipal employment?....” (italics added).

Council President Mercer tersely responded by stating, “The short answer is No....”

The reason President Mercer responded so tersely is because he is well aware that the Council had long ago delegated all adjudicatory, administrative, and supervisory authority over the Municipal Court to the Chief Judge.

Accordingly, it would be against historical practice and wholly unnecessary to have the Council **as a whole** vote on a job description for the judges, when the Council, from time immemorial since the inception of the Court, had delegated all administrative and supervisory authority to the Chief Judge via Chapter 26 of the Pawtucket Ordinances.

As the Hearing Officer can see, President Mercer did not indicate or make the statement that “the City Council (as a body) does not certify the accuracy of Judge Nesselbush’s purported “job description.” Rather, he simply answered very long-winded questions with “[T]he short answer is: No.”

Attorney Robinson’s poetic license continues on page 13 when he states:

“Moreover, it bears mentioning that the “earnest” belief of the President and former President of the City Council appears to have been based entirely on the fact that contributions were made by the Municipal Court judges and the City of Pawtucket historically. It should go without saying that the making of contributions in the absence

of an analysis of whether or not a particular individual should have been a member of MERS in the first instance...should not be a sufficient basis to carry forward historical errors into the future.”

Petitioner strongly objects to the notion that the contributions/pension eligibility of previous judges’ was “historical error;” there is absolutely no evidence to support that self-serving conclusion. Petitioner points out that the “earnest” beliefs of the current and former Council Presidents **do not** appear to be based (as my brother suggests) solely on the fact of contributions, but rather are based on several factors plainly stated in their letters.

Former Council President Moran states in his December 8, 2022 [letter](#):

“I can confirm that all of the information you provided (in the protocol/job description) appears true and accurate to the best of my knowledge... The duties and responsibilities of our judges...appear reasonable and accurate to the best of my knowledge. I am well aware of all the work [that Judge Nesselbush] perform[s] on a weekly basis to smoothly run our municipal traffic and housing courts.... I have seen firsthand Judge Nesselbush’s work with the Council... Moreover, I fully understand that Judge Nesselbush’s work to run the judiciary and effectuate a number of special projects, means that your position as judge for the city involves more than just the hours you spend on the bench. Through my participation in numerous judicial appointments over more than three decades, and through my annual participation and deliberation regarding the city’s municipal budget, I have long understood that our judges... participate in the MERS pension program that includes both employee contributions and city (employer) contributions.” (see *attached*).

Current Council President Mercer states in his May 2, 2023 [letter](#):

“As President Pro-Tem last December, I worked in close contact with then-President Moran on a multitude of matters, including the drafting of his letter regarding this particular pension qualification issue. I concurred with both the intent and contents of that letter last December and remain of the same mindset now.” (see *attached*)

According to the above quoted plain language, both former President Moran and current President Mercer relied on and stated several factors (not just contributions) as the basis of their *earnest* beliefs that Judge Nesselbush is pension eligible.

On page 13, Respondent contends that “Judge Nesselbush cannot manufacture MERS eligibility by unilaterally determining her own job duties.” Judge Nesselbush emphatically

responds by stating that she unequivocally did not “unilaterally manufacture” MERS eligibility. Rather, MERS eligibility was offered to her by then Chief Judge John F. McBurney, III (the hiring authority) as a benefit of her 20 hour per week employment. Judge Nesselbush never called ERSRI to inquire about applying for MERS membership. Rather, the City’s Personnel Office presented her with the MERS Membership Application. She signed the application at Pawtucket City Hall in the Personnel Office, in the presence of Personnel Assistant, Barbara Sladen. The City then began making employee/employer contributions over the next 20 years.

There has never been a job description for the Municipal Court judges since the inception of the court, almost 50 years ago. The lack of job description has never been an issue or presented any problem with pension membership application, eligibility or participation of any previous Municipal Court Judges. Somehow, after 50 years, suddenly a job description for the position of Municipal Judge is now required. Petitioner avers that the Mayor has manufactured unnecessary drama regarding the job description to advance his unfortunate, abusive (of his power), malevolent quest to work with his good friend, Treasurer James Diossa (who is the boss of Frank Karpinski) to surgically remove Judge Gannon, and by association Judge Nesselbush, from the pension system. The rule of law cannot abide such high jinx.¹

In an attempt to provide a job description and seeking collegiality (and not unilateralism), Judge Nesselbush [emailed](#) the Mayor’s office. The Mayor was told by both of his attorneys that he had no statutory authority to work with her. With the Mayor unable to participate and with Judge Nesselbush possessing full administrative and supervisory authority over the Court, Nesselbush drafted the requested Municipal Judge job description. (*see attached*).

Again seeking collegiality (and not unilateralism), she then called City Council President Dave Moran who suggested she send him the job description she had drafted. Presidents Dave Moran and Terry Mercer have stated and re-stated their support of said job description.

¹ Petitioner seeks to be respectful, but because of “raise it or waive it,” she must raise the issue of potential unlawful communication between Mayor Grebien’s office and Treasurer Diossa’s office to preserve said issue in the event of appeal.

The job description and supportive letters from Moran and Mercer ended the analysis and the inquiry, and Judge Nesselbush was reinstated by Director Karpinski on July 3, 2023, but the Mayor would not abide this decision. Instead, he instructed his attorney (Ragosta) to write a meddling email to Director Karpinski on October 11, 2023. Based thereon and reading between the lines, Director Karpinski requested further clarification from Mercer, which he provided via his November 17, 2023 [communication](#) and which Attorney Robinson attempts to gently twist into something other than what it is: support for Judge Nesselbush's pension eligibility. Then, the Mayor was infuriated by and could not accept the Council's planned elevation of Jack Gannon to Chief Judge which occurred on February 21, 2024. Accordingly, the day before said elevation, the Mayor again unleashed Attorney Ragosta to "grasp at straws" and to hurl via [email](#) dated February 20, 2024 yet another round of baseless and insipid inquiries regarding a previously investigated and settled matter. (*see attached*).

Attorney Robinson states on page 14, "Without any...evidence indicating that the City of Pawtucket has adopted or ratified the purported job description..., MERS must rely on the information it has from City **officials**..."(emphasis added). Why would the City of Pawtucket adopt or ratify a job description for the Municipal Judges when the City Council had long ago delegated all administrative and supervisory authority to the Chief Judge? And who are these "City **officials**"? The Mayor has no authority to adopt or ratify a job description, and the City Council has no need to do so. Furthermore, there is only one city clerk (hardly a City official) who stated that the Municipal Judges do not work the requisite hours, Sara Miranda (the city's Human Resources Coordinator), provided incomplete and inaccurate information. No other city "officials" have opined on the matter, other than the statutorily powerless Mayor (through his attorney), while two City Council Presidents have opined in support of her eligibility.

Moreau v. Flanders, 15A.3D 565,579 (RI 2011) Supports the Use of the Separation of Powers Doctrine in this case:

Attorney Robinson trumpets the case of Moreau v. Flanders as if said case is *for* Respondent and *against* Petitioner. Respondent grabs on to one proposition and paints it over the case at bar, without ever grappling with the Court's analysis and teachings about the "separation of

powers” doctrine. Said case is actually good law, and a careful reading of the case reveals that the case fully supports Petitioner’s arguments and position in this litigation. In fact, the Moreau Court supports the use of the “separation of powers” doctrine at the municipal level **in only one setting**: the exact setting presented here where there is a legal dispute between “coordinate branches of (municipal) government.” Let’s carefully review Moreau.

Moreau involved the City of Central Falls’ insolvency which began as early as 1991 when the city no longer had the financial resources to operate its schools, resulting in a takeover by the state. (*Moreau at page 9.*) By 2010, in response to the city’s mismanagement and dire financial plight, the Central Falls Mayor, Charles Moreau, and members of the City Council petitioned the Superior Court for the appointment of a receiver. Soon thereafter, the plaintiffs objected to the actions of the receiver, and they lodged several legal challenges to his statutory authority and the actions he had taken, pursuant to **state** law. Petitioner points out importantly that former Mayor Moreau is a convicted felon, and that the City’s position in the litigation was so untenable that then City Councilor (now General Treasurer) James Diossa did not join as a plaintiff in the lawsuit. *Id. at 9, footnote 3.*

In an odd and inapposite application of the “separation of powers” doctrine (which is entirely distinguishable from the case at bar), the Central Falls Mayor and City Council tried to claim that the **state** law (RI Gen. Laws S 45-9-1 et seq) under which the state Director of the Department of Revenue appointed the receiver violated the separation of powers doctrine because it collapsed the Central Falls municipal executive and legislative branches of government into one entity, the state appointed receiver. *Id. at 16.* The city’s “separation of powers” claim was just one of 7 claims made, all of which failed, and the Supreme Court easily affirmed the judgment of the trial court.

In dealing with the City’s separation of powers claim, the Supreme Court in *Moreau* noted that the doctrine necessarily fails when its application is used to exalt the powers of municipal government vis-à-vis the state. The state establishes municipalities and obviously has authority over them, and the state will and should obviously win when its interests are posited against a municipality’s. The *Moreau* Court stated that the plaintiffs’ application of the

separation of powers doctrine must fail because the said Central Falls case involved municipal powers versus state powers, and state powers will always trump municipal powers.

In declining to apply the separation of powers doctrine, the *Moreau* Court, citing its decision in *Town of East Greenwich v. O'Neill*, 617 A.2d 104, 107 (R.I. 1992), stated “[W]e so held because the reviewing **state** agency and the **town’s** legislative branch were not **coordinate branches of government**. Rather, we said that the town is a creature of the state and, as such, its conflicting and overreaching legislative enactments are subordinate to those promulgated by a branch of state government.” *Id.* at 17.

The *Moreau* Court stated *in dicta* that “the separation of powers doctrine” as alleged by plaintiffs fails “because the traditional basis for the separation of powers doctrine derives from the concern about *** **tyranny** (which) danger is diminished for a level of government whose powers are (*already*) subordinated to the higher (*state*) levels of government...” *Id.* at 17 (*emphasis by Petitioner*). The *Moreau* Court went on *in dicta* to state that the only plausible use of the “separation of powers” doctrine at the municipal level is to prevent “the usurpation of the power of one branch of government by a **coordinate branch of government**” (*Id.* at 16) which is exactly what is happening in the case at bar and why the doctrine is relevant here. In the case at bar, the Mayor (the executive branch) is tyrannically trying to usurp the authority of a coordinate branch of government (the Municipal Court) to govern itself (including the drafting of a job description). In the case at bar, the Mayor is also tyrannically trying to usurp the authority the Pawtucket City Council lawfully delegated to the Municipal Court in Chapter 26 of its ordinances. In *Moreau*, the Court stated “we have said without equivocation that a constitutional violation of separation of powers is an assumption by one branch of powers that are central or essential to the operation of a **coordinate branch**.” *Id.* at 16. The *Moreau* Court stated its support “for a more narrow principle— and one that is consistent with our interpretation of the doctrine— that when a legislature has authorized a grant of power at the municipal level, it alone may interfere with that grant.” In the case at bar, the Pawtucket City Council made a grant of power at the municipal level, granting the Municipal Court all adjudicatory, administrative and supervisory authority over the Municipal Court.

In the case at bar, Mayor Grebian, has spent the past two years tyrannically trying to undermine said grant of power from the Pawtucket City Council to the Municipal Court by consistently objecting to the validity of the Municipal Judge job description and the pension eligibility, **only** of the Court's two most recent Chief Judges. Mayor Grebien's silence vis-à-vis the other judges has been deafening. It is revealing (and disturbing) that he has raised no objection to the pension eligibility of Pawtucket's previous municipal judges, John F. McBurney, III or William T. Noonan, or its current Probate Judge, Christine McBurney, all of whom are similarly situated, enrolled in MERS and counting on and deserving of pension eligibility.

The Mayor's motives are laid bare if you add up the time/money he has spent on this case, what he has paid his City Solicitor (Milos) and his Attorney (Ragosta), coupled with what the state is paying Michael Robinson and Hearing Officer Koutsogiane. If you add all that up, more money has likely been spent litigating this pension than the totality of the city's contributions which upon information and belief, over 20 years, is approximately \$50,000. The city and state have likely spent more money litigating this case than the case is worth monetarily. For Judge Nesselbush (whose entire annual pension is likely between \$5,000-\$7,000 per year), the case is not about money; it's about justice. She cannot abide the Mayor's attempted high jinx.

Petitioner wholly concurs that the "separation of powers" doctrine is a concept foreign to municipal governance when municipal government is posited against state government. Said doctrine will not help a municipality thwart the power of the state, but the "separation of powers doctrine" is entirely alive and well and applicable here in a case solidly involving tension at the local level due to the usurpation of power between **"coordinate branches of government."**

MERS Interpretation of the Statute is Erroneous:

On page 18, Respondent alleges that "MERS' Interpretation of the Relevant Statute is Not Clearly Erroneous..." As was thoroughly discussed in Petitioner's previous memos, Sara Miranda's statements about the hours worked by the Judges are clearly erroneous, even in terms of the hours she stated the Court is open to the public. Petitioner avers and requests that the Hearing Officer take judicial notice of the obvious fact that judges work more than

simply the hours they sit on the bench. Hearing Officer Koutsogiane has obviously spent more time working on the case at bar than the hours he spent in the hearing room. Sara Miranda's statements are erroneous and clearly *ultra vires* because she works for the Mayor who has no statutory authority over the Judges or the Municipal Court. Lastly, after making erroneous and *ultra vires* statements, she left her stint of employment with the city. She did not testify at the hearing, and her statements accordingly could not be cross-examined. Likewise, everything "alleged" by attorney Ragosta is likewise *ultra vires*, alleged on behalf of a spurned Mayor who has no statutory authority over Pawtucket's Municipal Judges, including the hours they work. Ragosta's *erroneous* reference to the minimum wage statute and his erroneous assertion that some person in City Hall was required to keep time sheets/records for the Judges who have always been salaried employees should be rejected out of hand. The political background and subtext of the feud between (the Mayor and Judge Gannon) and the political tension between (the City Council and the Mayor) and (the Mayor and the Judiciary) cannot be ignored. For all these reasons, dispositive deference to the agency is inappropriate in this case.

Conclusion:

For all of the persuasive reasons set forth by Judge Nesselbush in all her various memoranda regarding this unsavory litigation, Petitioner avers that her pension eligibility is rightful and lawful, and she prays that it be restored.

Respectfully submitted,

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MUNICIPAL EMPLOYEES RETIREMENT SYSTEM**IN RE: PENSION ELIGIBILITY OF DONNA M. NESSELBUSH****PETITIONER'S****POST HEARING MEMORANDUM****IN SUPPORT OF MEMBER, DONNA M. NESSELBUSH'S
APPEAL OF ADMINISTRATIVE DENIAL**

“Problems cannot be solved on the same level and with the same thinking that created them.” ...Albert Einstein

That's why we have the “rule of law.” Hearing Officer Charles Koutsogiane has been asked to determine the pension eligibility of Donna M. Nesselbush, Pawtucket's longest serving Municipal Judge (2004-2024). We allege that this pension dispute has little to do with Judge Nesselbush, but rather has arisen due to personal animosity between Pawtucket Mayor Don Grebien and Pawtucket Judge Jack Gannon as well as political tension between the three co-equal branches of Pawtucket's municipal government.

It is elementary to us as lawyers that the founders of our nation and the framers of our constitution established three, co-equal branches of government so as to create a system of “checks and balances” which would prevent tyranny and prevent any one

branch from becoming too powerful or abusing its power. Each branch has its stated statutory authority upon which neither of the other branches can encroach. Yet there is an inter-dependence between the three co-equal branches of government that produces a natural tension.

When personal/political tensions flare to the extent that they become legal disputes, we must apply the rule of law, which in this case consists of statutory authority, legal precedent and the doctrine of the separation of powers to resolve this governmental conflict and to guide government back to smooth functioning. Here, it is the Hearing Officer's role to eschew "politics and personal animosities" and to blindly apply the rule of law, statutory authority and the separation of powers doctrine to resolve this pension dispute.

The personal animosity between Mayor Don Grebien and Judge Jack Gannon is a well known fact that has been well covered in the press and well cited in Petitioner's Main Memo and Objection. It is re-cited here for easy reference.

[NBC 10 - June 29, 2016 - NBC 10 I-Team: Pawtucket mayor defends himself from ethics complaint](#)

[Valley Breeze - May 31, 2016 - Mayor: Gannon's ethics complaint part of 'personal vendetta'](#)

[Valley Breeze - June 7, 2016 - Pires defends hiring, firing of Sean Gannon](#)

[Valley Breeze - February 12, 2019 R.I. Supreme Court sides with city in Gannon firing](#)

[Valley Breeze - June 28, 2019 - Grebien: 'False' ethics complaint should be dismissed](#)

The political tension between Pawtucket's three branches of government is also a well known fact that has been well covered by the press and well cited in Petitioner's Main Memo and Objection. Just a few of the many media articles are cited here for easy reference.

2017 City Council hires Judge Gannon's law partner to investigate the Mayor:

[Valley Breeze - April 25, 2017 - Vitali denied request to ask Votolato if he's in conflict](#)

2017 Mayor will try "to rebuild a fractured relationship" with the City Council:

[Valley Breeze - March 28, 2017 - Council set to hire attorney who's suing the city](#)

[Valley Breeze - February 21, 2024 - Gannon top contender for magistrate judge, selection process called into question](#)

[Valley Breeze - February 28, 2024 -Council decides against delay, approves Gannon as lead judge](#)

In 2022, Associate Judge Jack Gannon inquired of the retirement board about his pension benefits. He has worked for various municipalities (Central Falls and Pawtucket) in various pension eligible capacities from City Solicitor to Mayor Grebien's Director of Administration to Associate Judge. As part of ERSRI's due diligence and probably without any knowledge of the sordid background, their staff inquired of the Mayor's Personnel Director (Sara Miranda) about Jack Gannon's work history and pension eligibility. That inquiry began this odyssey.

Whether intentionally or perfunctorily, Sara Miranda provided inaccurate and incomplete information about the hours worked by the Judges (as elucidated in Petitioner's Main Memo), a subject which by statute does not fall under the purview of the Mayor or his Administration or his Personnel Director. If Sara Miranda had known the law, she should have responded by stating that she has no statutory or actual authority to provide information about the hours worked by the judges. Alternatively, she would have admitted that she knew nothing about the hours worked by the Judges, other than what she read on the city's website. We allege that the Mayor got wind of this inquiry about the pension eligibility of Jack Gannon, and he glimpsed a coveted opportunity to exact a pound of flesh in the longstanding war between the two men.

Since then, despite a clear lack of statutory authority, the Mayor has repeatedly sought to surgically remove his enemy, Jack Gannon, from pension eligibility based on Gannon's 10+ years of service as Pawtucket's Associate Judge. Judge Nesselbush avers that she had a good and friendly relationship with Mayor Grebien for all the years they worked together. She avers that if she were to have retired before Judge Gannon inquired about his pension benefits, her pension eligibility would have been unquestioned. She avers that she is "collateral damage" in a war between Mayor Grebien and Judge Gannon, a war in which she never participated. If this war did not exist, we aver there would be no question about Judge Nesselbush's pension eligibility; she would have been pension eligible like every single one of her predecessors (See

Petitioner's Hearing Exhibit #1, setting forth the pension enrollment and sequela of each of her predecessors). It is uncontroverted that Pawtucket made employer and employee pension contributions on behalf of Judge Nesselbush for almost 20 years as well as all of its municipal judges since the inception of the Pawtucket Municipal Courts, some 50 years ago.

Petitioner avers the Mayor here is acting as a wolf in sheep's clothing, feigning concern about taxpayers' money when in reality he is trying to surgically remove his enemy's from the pension system. If the Mayor were truly worried about the City's (meager) judicial pensions, he would be asking the retirement system to send similar denial letters to the City's current long-sitting Probate Judge, Christine McBurney, and to its former judges, John F. McBurney, III and William T. Noonan, when upon information and belief from conversations with these individuals, none of them has received similar letters denying their pension eligibility. Petitioner avers that the Mayor thinks he must keep fighting against Judge Nesselbush's meager pension in order to obfuscate his true mission which is to deny Judge Gannon pension credits for his judicial service.

Personal and political conflicts are as old as dirt. When they turn into legal disputes, we turn to the rule of law, statutory authority and the doctrine of the separation of powers. A rational mind must pursue blind justice by considering the facts, applying that law and rationally resolving the legal dispute. Here the only rational resolution is for Judge Nesselbush to receive the pension credits she was promised based on the contributions which both she and the city have made over the past 20 years.

Statutory Authority:

The law is clear. The mayor has no statutory authority over the judges or the judiciary. He has no authority whatsoever over the appointment of judges, the operation and/or administration of the courts, the adjudication of cases or the hours worked by the judges. Two of the Mayor's own lawyers have told this to the Mayor:

City Solicitor Frank Milos stated this to the Mayor in his November 29, 2022 [letter](#):

"The judges are elected solely by the City Council. The Mayor/executive branch has no authority or jurisdiction...over the Municipal Court which is essentially the City's third branch of government...I do not believe that the executive branch has

the right or authority...to set the number of hours that the Municipal Court judges...work during a given week.” ([See Petitioner's Main Memorandum Exhibit 5, attached](#)).

The Mayor apparently did not like this opinion, so he spent taxpayer money to obtain a second opinion from Attorney Vincent Ragosta, who stated the same thing to the Mayor in his December 8, 2022 [Memorandum](#):

For the reasons that follow... it is our professional opinion that the mayor of the City of Pawtucket (“city”) does not have operational authority over the city's municipal court. ([See Main Petitioner's Memorandum Exhibit 6, attached](#)).

The law is equally clear that the General Assembly enabled the Pawtucket **City Council** (exclusively) to establish a Municipal Court. ([See attached R.I.G.L 42-2-13](#)). Then, the people of Pawtucket ratified Charter changes which granted the **City Council** the authority to establish the Municipal Court and to appoint a Chief Judge and an Associate Judge. (See attached Pawtucket City Charter section [2-501](#) and [2-600](#). The Pawtucket **City Council** then enacted ordinances to establish the Pawtucket Municipal Traffic Court and the Pawtucket Municipal Housing Court; they appointed Judges and they conferred upon those judges **all** adjudicatory, administrative and supervisory authority over those Courts. ([See attached Pawtucket Ordinances, Chapter 26, Articles I & II](#)).

The City Council’s authority is exclusive. Careful review of these laws reveals that the Mayor has absolutely no statutory authority over the Court.

Despite the absence of legal authority and/or standing, the Mayor, through attorney Vincent Ragosta has consistently sought to derail the pension eligibility (not of any previous judges and not of Pawtucket’s long-sitting Probate Judge) but of his arch-enemy, Judge Jack Gannon, and the woman who has been caught in the cross-fire, Chief Judge Emeritus Donna M. Nesselbush.

On behalf of a spurned Mayor, Attorney Ragosta has written several emails to the MERS pension authorities, even though Attorneys Milos and Ragosta have both told

the Mayor that he has no authority over the Court or the Judges (including the number of hours they work).

Frank Karpinski testified at the hearing that he was confused about Judge Nesselbush's pension eligibility because 2 successive City Council Presidents made written statements which appeared to be in support of Judge Nesselbush's pension eligibility (See Petitioner's main memo exhibits #'s [7](#) & [8](#)), but then he would receive communications from Vincent Ragosta which appeared to be on behalf of the City (we allege he only represents the Mayor/executive branch) which were not in favor of her pension eligibility. This ambiguity confused Frank Karpinski who, as a result, flipped-flopped in his decision making three times!

After issuing his initial denial of pension eligibility in August 2022, Frank Karpinski thoroughly investigated the matter, speaking directly with and receiving written communications from both the current City Council President, Terry Mercer, the past City Council President, Dave Moran, and Chief Judge Donna Nesselbush herself. As a result of his thorough investigation, Mr. Karpinski reinstated Judge Nesselbush into the MERS by letter dated July 3, 2023.

All was quiet for over 7 months, but literally on the eve of the Council again spurning the Mayor by elevating Jack Gannon to the position of Chief Judge (upon the retirement of Judge Nesselbush who waited to retire until after her pension dispute was supposedly resolved, and after she had testified her full support for Judge Gannon), the Mayor's attorney wrote a long email to the MERS dated February 20, 2024 ([Petitioner's Main Memo Ex. #32](#)), attempting yet again to derail the pension eligibility of Judge Nesselbush. Apparently, the Mayor thinks he has to continually fight against Judge Nesselbush in order to keep Judge Gannon from receiving pension credits for his judicial service. In truth, Judge Nesselbush requested that Judge Gannon not appeal his denial in order to remove himself as the impediment to the pension eligibility of Judge Nesselbush (and Judges Christine McBurney, John McBurney, III and William T. Noonan, for their service as municipal judges). To his credit, Judge Gannon obliged, and he knowingly did not appeal the determination of his judicial pension **ineligibility**, such that said issue is moot and not before the hearing officer.

After Ragosta's February 20, 2024 long email and (probably) without Mr. Karpinsky having any knowledge of its sordid political context, just three weeks later on March 11, 2024, he reversed course, and denied Nesselbush's pension eligibility.

Careful review of the legal and evidentiary value of Ragosta's February 20, 2024 email demonstrates that it is insipid, substantively lacking and legally insufficient as a basis upon which to change course and deny Judge Nesselbush's pension eligibility.

Attorney Ragosta writes, and I quote in relevant part to expose and diminish the factual basis, legal relevance and probative value of each of his assertions:

Paragraph 1 : "I...serve as outside labor and employment counsel to the City."

We allege that this statement is misleading in that Attorney Vincent Ragosta represents only the executive branch, the Mayor, in this dispute between branches of government. He does not represent the judiciary or the City Council, both of which have spoken definitively in favor of Judge Nesselbush's pension eligibility.

Paragraph 2: "... I write to confirm indispensable facts bearing on any ongoing efforts to appeal, unwind, or rescind his legally correct conclusion, barring the municipal court judges' membership in MERS."

When Attorney Ragosta writes on February 20, 2024 to supposedly present "indispensable facts" on any "ongoing efforts," he apparently did not know the fact that, at that point, there were no ongoing efforts to do or undo anything, as Frank Karpinski had reinstated Judge Nesselbush into the MERS seven months earlier by certified letter dated July 3, 2023, after his thorough investigation.

In Paragraph 3 Ragosta states: "First, and of primary and indispensable statutory import, on July 18, 2022, Ms. Miranda responded to your direct inquiry whether the judges work 20 hours weekly. She pointedly and succinctly responded, "No, they do not."

In actuality, Ragosta states nothing new or "indispensable." Rather, he only regurgitates Ms. Miranda's 18 month old previous comment which is her "opinion" and not a "fact." In fact, the opinion/information she relayed was inaccurate and incomplete as is explained in Petitioner's main memo. She simply read from the website the hours the court is in session and open to the public, and she espoused the ridiculous notion that judges work no more than those hours. That would be the equivalent of the Hearing

Officer, in this case, getting paid for nothing more than the hours associated with the hearing.

Additionally, her opinion/information is actually irrelevant and of no statutory value or import as the Mayor and his personnel director have no statutory authority over the hours worked by the judges. Ragosta simply repeats something that Sara Miranda opined back in July 2022, a statement that was carefully considered and rejected by Frank Karpinsky after his thorough investigation, as is evidenced by the content and language he used in his July 3, 2023 certified letter reinstating Judge Nesselbush back into the MERS. As part of Frank Karpinsky's investigation into this matter, he personally spoke to Judge Nesselbush, he reviewed the job description she presented, he verified the information she provided by speaking with and receiving written confirmation from two City Council Presidents (where the Council is the appointing authority). He deemed said information credible and persuasive, and he reinstated Judge Nesselbush into the MERS by certified letter dated July 3, 2023 ([See Petitioner's main memo exhibit #9](#))

In paragraph 3, Ragosta again attempts to muddy the water by stating: "I am told there is no reliable or credible evidence to support the notion that the judges, all of whom are engaged in busy private law practices, work 20 hours or more weekly (nor are they present in City Hall for such hours).

This hearsay, ("I am told..." by whom, when, why?) is of little probative value. In fact, Chief Judge Nesselbush drafted a job description which she shared with both the Mayor's office and the City Council. When the Mayor's office first received said job description, they never raised any issue about the 20 hours. Rather, they were advised by two attorneys that they have no statutory authority over the judges and no statutory authority to participate in the promulgation of a job description for the judges.

On the other hand, when Chief Judge Nesselbush shared her draft job description with the City Council, two Presidents stated in writing that they reviewed the job description ***and it appears true and accurate to the best of their knowledge***, noting that the City Council for decades earnestly believed that the judges were pension eligible. (See the letters from Past President Moran and current President Mercer, Petitioner's Main Memo Exhibits #'s [7](#) & [8](#)). Contrary to what Ragosta alleges, in fact,

there is ample reliable and credible evidence that supports Judge Nesselbush's pension eligibility and that contradicts the Mayor's jaded and statutorily baseless pleas.

Judge Nesselbush testified credibly at her hearing as to the thousands of cases she heard and adjudicated and the many projects and administrative duties she worked on to constitute the requisite 20 hours per week. She also provided actual print outs of hundreds of pages of contemporaneous emails that prove the veracity of her testimony. This evidence is highly probative of the number of hours she worked. We point out that most if not all municipal judges throughout the state are also involved in busy law practices (as are most if not all attorney members of the General Assembly). Judge Nesselbush testified that her law firm hired several additional attorneys to help with the firm's workload while she engaged in "public service" as Pawtucket's Chief Municipal Judge. Lastly, we point out that nowhere in the pension statute does it require that work done on behalf of the city be conducted within City Hall. Presumably, a great deal of the Mayor's work is done outside of City Hall.

In Paragraph 3 Ragosta raises an utter "red herring" by stating, "I note parenthetically that there is no evidence of compliance with RIGL section 28-12-12 by the City Council or other branch of government, i.e. of the making or keeping of records of "... hours worked each day and each week by the (judges)..." As you know, that statute unequivocally mandates the generation and retention of such records. Apparently none exist.

RIGL 28-12-12 is a red herring! A careful review of the statute cited, [RIGL 28-12-12](#) (press for a hot link or see attached), demonstrates that it is totally inapposite and irrelevant because the title of RIGL 28-12-12 is the "Rhode Island Minimum Wage Act." Why would Ragosta cite to the Rhode Island Minimum Wage Act to suggest that the employer was required to keep time and wage records when it is abundantly clear that Judge Nesselbush (and all of Pawtucket's municipal judges) are and always have been salaried employees who were never paid minimum wage. It is well known that salaried employees do not have to keep time and wage records. This wilful, inapposite reference to the minimum wage statute demonstrates that the Mayor is grasping at straws. There are no time slips required for salaried judges. There never have been since the inception of Pawtucket's judiciary, and the lack of time slips has never been an issue with the pension eligibility of all Pawtucket's past judges over the past 50 years.

In paragraph 4, Ragosta seeks to undermine the validity of the job description offered by Judge Nesselbush. He writes: “Second, to the extent that ERSRI has been provided any purported job description(s) of one or more of the municipal judges, they ought not to be deemed authenticated or official records by ERSRI. I so state because the City’s Law Department advises that there has been no legislative action adopting them. Moreover, any notations in such descriptions, referencing the quantum of hours worked (or to be worked) by the judges are likewise ultra vires, and hence unreliable.

Judge Nesselbush produced the actual email she wrote to the Mayor’s office, in an attempt to collegially share her job description, only to receive word from City Solicitor Frank Milos and Attorney Vincent Ragosta that the Mayor could not participate or promulgate the job description because the Mayor lacks the statutory authority to do so ([See Petitioner’s Main Memo Exhibit #4](#)).

In response to the Mayor’s impotence, Judge Nesselbush then exercised her clear statutory authority, the statutory authority that was lawfully delegated to her as Chief Judge by the City Council, and she drafted and promulgated a job description for the position of Municipal Judge. She collegially shared this document with the City Council, and both the current and past Presidents have stated in writing that they have reviewed the job description she promulgated, and that it comports with their knowledge of the Municipal Judge positions.

Accordingly, and based on a careful paragraph by paragraph factual and legal analysis, Ragosta’s February 20, 2024 email is highly flawed and of minimal, if any, probative value.

City Precedent favors Judge Nesselbush’s pension eligibility:

It is a fact that up until 2024, all Pawtucket Municipal Judges had been enrolled in the Municipal Employees Retirement System. (See Petitioner’s Exhibit #1). Those who served long enough to vest, received their pension credit(s), without issue. The participation of all previous judges is strong evidence that the position has always been considered a 20 hour per week position. It’s strains credulity to assume that the Pawtucket Mayor’s office (which assiduously drafts the budget) **and** the Pawtucket City Council (which meticulously digests and enacts the budget) all somehow mistakenly missed the inclusion of pension payments for the City Judges in the city’s budget..**for 50 years!** Those entities have either actively approved, tacitly approved, or acquiesced all

these years, as the city has funded these pensions for decades. Little has changed in the job over the last 50 years, except perhaps that the court has become busier as the city has become denser and more diverse.

State precedent favors Judge Nesselbush's pension eligibility:

Petitioner has cited the Superior Court case of Rhode Island Laborers' District Council v. ERSRI, C.A. No.:04-2905 in her main memo. The case involves a similar situation where the city of Cranston had paid pension contributions for many years on behalf of its crossing guards. Judge Proccacini ruled in favor of the pension eligibility of the crossing guards.

The Equal Protection Clause favors Judge Nesselbush's pension eligibility:

As is thoroughly argued in our main memo, the Mayor's current attempt to surgically remove Judge Nesselbush cannot withstand equal protection scrutiny. It is elementary that the equal protection clause of the United States Constitution and the Rhode Island Constitution guarantee equal protection of the laws to all. Government action which treats one person differently than other similarly situated persons cannot stand. Here, ERSRI has offered no rational basis to treat Judge Nesselbush differently *than all her predecessors*.

The Separation of Powers Doctrine favors Judge Nesselbush's pension eligibility:

To resolve the tension that naturally arises between branches of government, Supreme Court Justice Antonin Scalia recommends reliance on the "separation of powers" doctrine. He writes:

"The principle of separation of powers was set forth in the Constitution of the Commonwealth of Massachusetts well before it found its way into the federal document. The Massachusetts Constitution reads, with lawyer-like (if somewhat tedious) clarity: "the legislative department shall never exercise the executive and judicial powers, or either of them; the executive shall never exercise the legislative and judicial powers, or either of them; the judiciary shall never exercise the legislative and executive powers, or either of them." It goes on to emphasize the importance attached to this provision by adding: "to the end it may be a government of laws and not of men"—as though that feature, above all

others, [would] assure the absence of despotism.” (See, Antonin Scalia, The Doctrine of Standing as an Essential Element of the Separation of Powers, 17 Suffolk Univ. L. Rev. 881, 881 (1983).

Essentially, when there is discord between the three co-equal branches of government, Justice Scalia recommends harkening back to the statutory authority of each branch, advising each branch to stay in its own lane! Respectfully, here the mayor is acting like a despot, abusing his power by using taxpayer money (paying Attorney Vincent Ragosta) to advance his long-standing personal vendetta against Pawtucket’s now Chief Judge Gannon.

Evidence in Support of Judge Nesselbush’s Pension Eligibility:

1. Judge Nesselbush’s Job Description which she had clear legal authority to promulgate;
2. Judge Nesselbush’s Credible Hearing Testimony;
3. Past City Council President Dave Moran’s December 8, 2022 letter;
4. Current City Council President Terry Mercer’s May 2, 2023 letter.
5. The equal protection Clause;
6. Past City precedent;
7. Past state precedent.

Evidence Against Judge Nesselbush’s Pension Eligibility:

1. Sara Miranda’s initial statements to ERSRI;
2. Attorney Ragosta’s February 20, 2024 email to ERSRI.

1. Sara Miranda’s initial statements to ERSRI are of little probative value:

Sara Miranda served a stint as Pawtucket's Personnel Director, but she left the City's employ soon after this controversy began. She was hired by the Mayor, and she worked for the Mayor. Accordingly, all of her statements should be viewed in light of the fact that the Mayor (and therefore Sara Miranda) has no statutory authority over the judges and in light of the on-going war between the Mayor and Jack Gannon. Judge Nesselbush testified that she has never met Sara Miranda and that Sara Miranda never stepped foot into the municipal courtroom.

As was thoroughly explained in our main memo, the information provided by Sara Miranda came from the website which was designed for the public and **not** as a job description for the judges. In fact, as was elucidated in our main memo, the information she provided was incomplete and inaccurate.

Judge Nesselbush testified that Sara Miranda never contacted her to inquire about what Judge Nesselbush did for the city or how many hours she worked. Importantly, Sara Miranda was not present at the hearing. She did not testify, and as such she could not be cross-examined. Accordingly, her statements are of limited probative/evidentiary value.

2. Attorney Ragosta's February 20, 2024 email at 7:39PM:

After a thorough investigation, Frank Karpinski re-instated Judge Nesselbush into the pension system on July 3, 2023. Attorney Ragosta did nothing for 7 months, and then he gaslighted the issue by sending ERSRI an email on February 20, 2024 in which he mis-led Mr. Karpinski by stating that he was writing "on behalf of the city" when we allege he was really writing only on behalf of the **about to be spurned Mayor**. Mr. Karpinski testified that he understood that email to mean that "the city" was pulling back its support of Judge Nesselbush's pension eligibility which he testified is the reason he again revoked Judge Nesselbush's pension eligibility on March 11, 2024.

Ragosta's February 20, 2024 email has been thoroughly reviewed and debunked. He represents the Mayor who has no statutory authority over the Judges and whose main mission is revenge against Jack Gannon. His email to ERSRI on behalf of the Mayor's vendetta is more inflammatory than informative, and accordingly it too is of little probative or evidentiary value.

The weight of the evidence strongly favors Judge Nesselbush's pension eligibility:

From a legal standpoint, there is actually no relevant or statutorily lawful evidence to contradict Judge Nesselbush's credible testimony (judicial branch) or the supportive/corroborative statements of Past City Council President Moran and current City Council President Mercer (the legislative branch and the appointing authority). It is only the Mayor (the executive branch) who opposes Judge Nesselbush's pension eligibility, and petitioner has explained why.

For the reasons set forth herein, the Mayor's opposition is without merit and without import/consequence since he has absolutely no statutory authority over the judges. Accordingly, since the City Council and the Judiciary have stated their support of her pension eligibility, Judge Nesselbush's credible testimony stands legally uncontroverted.

The Exact Wording of the Pension Statute:

[RIGL 45-21-2\(7\)](#) was amended in 1994 to provide the following definition, cited in pertinent part only:

(7) "Employee" means any regular and permanent employee or officer of any municipality, whose business time at a minimum of twenty (20) hours a week is devoted to the service of the municipality.

Judge Nesselbush testified credibly that she always devoted in excess of 20 hours per week to the City of Pawtucket. Her duties were statutory and weekly; she was diligent, assiduous and most certainly not seasonal. Judge Nesselbush credibly testified regarding all of the work she did as well as the various projects she spearheaded as Chief Judge of the City of Pawtucket (and she produced hundreds of pages of contemporaneous emails proving her workload and the veracity of her testimony).

It appears that opposing counsel did not question Judge Nesselbush's testimony about her workload; rather, his only line of cross examination was to inquire whether Judge Nesselbush performed her work on those judicial initiatives under threat that she would be fired or not re-appointed, if she did not do those things. She responded in the

negative, pointing out that no one, and no other branch of government told her what to do. Rather, she exercised her statutory authority and the authority delegated to her by the City Council to run the judiciary as she saw fit. See Article II, section 26-19(C): “The...Judge shall also be charged with the general responsibility for any recommendations that may be important for the work of said Court.” City Council President Terry Mercer confirms this statutory authority in his November 17, 2023 letter, when he states that the Judge’s “workload is self-dictating (by charter, statute, and/or ordinance and matters advanced by Zoning and Code Enforcement) and is accomplished in whatever time is necessary.” (See main memo, exhibit 13).

Additionally, there is absolutely nothing in the above pension statute that requires the 20 hours of work to be done in response to a written instruction or edict by another branch of government, or under threat of firing or not being reappointed. Opposing counsel’s cross examination was unrevealing.

Conclusion:

This dispute arises out of personal animosity and political tension in the City of Pawtucket. Essentially, the legislative and judicial branches of government are in support of Judge Nesselbush’s pension eligibility, but the executive branch is not (for the ignominious reasons set forth herein). Fortunately for Judge Nesselbush, the evidence and statutory authority weigh strongly in her favor. Not only is it 2:1 (legislative & judicial v. executive) in favor of her eligibility, but importantly and fortunately for her, the only branch fighting against her eligibility has no statutory authority over the matter.

Upon information and belief, Judge Nesselbush’s annual pension would be approximately \$7000 per year, and it has already been fully funded by her and the City. After taxes, it would amount to only slightly more than half that amount. Accordingly, this case is not about money; it is about justice. For all those 20 years, Judge Nesselbush woke up and went to bed everyday proud to be Pawtucket’s Chief Judge. For 20 years, she never went on vacation or travelled out of state without ensuring the other municipal judge was available, as by statute, the Pawtucket Municipal Court is in session at all times. This pension dispute is definitely not how Judge Nesselbush wanted to end her

esteemed career, a career known for hard work and honorable judicial service, without headline or scandal.

The only rational resolution of this matter is for Judge Nesselbush to be awarded the pension she was promised almost 20 years ago, the pension to which she and the city contributed for almost 20 years, the pension she earned by her honorable service and which she lawfully deserves.

Should the city wish to treat its municipal judges differently going forward, the City Council has full legislative authority to do so. New judges were just appointed last year.

For all of the reasons set forth herein and in our main memorandum, petty personal problems and political tensions must give way to the rule of law, and Judge Nesselbush must be awarded the pension she is rightfully and lawfully due.

Respectfully submitted,

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Petitioner’s Reply Addendum: In RE: Nesselbush v. Employee Retirement System of RI

In his Reply, Respondent raises *for the first time* in this litigation the unpublished case of *D’Addario v. ERSRI* as support for the proposition that municipal judges do not work 20 hours per week. Although Petitioner knows Judge D’Addario, she never had the opportunity to review said unpublished decision until Respondent cited it and attached it to his Reply. Accordingly, Petitioner requests the opportunity to briefly address said case.

Petitioner avers that said case is entirely distinguishable from her case. In *D’Addario*, Appellant Richard D’Addario was appointed Probate Judge of the Town of Tiverton in 1993 to fill out the unfinished elected term of the previous Probate Judge. Tiverton is the only community in Rhode Island that elects its Probate Judge, and D’Addario has been elected Probate Judge every two years from 1994 to present. The town did not enroll him in the MERS pension system, and it made no employee or employer contributions on his behalf from 1993-2007. In 2008, D’Addario applied for MERS membership, and he requested to purchase service credits. D’Addario is a distinguished Probate Judge and member of the Rhode Island Bar who has served as President of the Bar Association from 2020-2021. *Because* he was appointed in 1993 before the 20-hour per week requirement was enacted in 1994, *because* the Town of Tiverton enrolled him in the MERS in 2008 and began making retirement contributions for him and *because* he was an elected official, he brought an action to determine his possible pension eligibility. D’Addario never alleged that he worked 20 hours per week, and at his hearing, he testified that he did not work 20 hours per week. (See page 7 of the decision,) “[A]t the hearing, the appellant testified that he had not worked a minimum of 20 business hours per week for the town....” Rather Judge D’Addario was requesting to purchase service credits in lieu of meeting the 20 hour per week requirement.

This case is distinguishable from the case at bar because D’Addario never testified that he worked 20 hours per week and because the Tiverton Probate Court is completely different from the Pawtucket Municipal Traffic and Housing Courts. Tiverton is a rural town with a population of approximately 16,000. Pawtucket is an urban city with a population of approximately 76,000, almost (5) times that of Tiverton. Tiverton Probate Court meets once per month while the Pawtucket Municipal Traffic Court meets (3) three times per week, and the Housing Court meets

once per week, for a total of 4 separate court sessions per week. Judge Nesselbush avers that she regularly adjudicated more cases in one week of just Pawtucket Traffic Court than the entire number of Probate cases in Tiverton in an entire year!

Respondent states “[H]ere, as in *D’Addario v. Employees Retirement System of Rhode Island*, there is no credible or reliable evidence in the record that Judge Nesselbush...worked, at a minimum, 20 hours per week in the service of the municipality...” This is simply not true.

There was no credible evidence that Judge D’Addario worked 20 hours per week because he did not work 20 hours per week, and he never said he did. That was not the gravamen, or the primary issue in his case. Rather than work 20 hours per week, based on his particular set of circumstances, he had requested to buy pension service credits, which request was denied.

Judge Nesselbush’s case is entirely distinguishable from *D’Addario*. Here, Judge Nesselbush is the Chief Judge of two courts (Traffic and Housing) in a busy, diverse, urban city that is RI’s 4th largest municipality. Unlike Judge D’Addario, Judge Nesselbush has presented a plethora of reliable and credible evidence that she, in fact, worked the requisite 20 hours per week to adjudicate thousands of cases per year and to run the Pawtucket court system. Importantly, she has submitted *uncontroverted*, dispositive evidence in the form of *hundreds of pages* of emails from the ordinary course of her job (See Main Memo). These emails were all contemporaneously written to advance the adjudication of cases and the work of the Court. The actual emails are in the record in *black and white*. Her hours-long testimony is in the record. Her job description is in the record, as are the persuasive letters from two successive Council Presidents. Respectfully, there is clear and convincing evidence that Judge Nesselbush worked the requisite hours; my brother’s reliance on D’Addario is unavailing. Thank you for allowing us to comment on this inapposite case.

Respectfully submitted,

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February 19, 2025

**MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM OF THE STATE OF RHODE
ISLAND**

IN RE: DONNA NESSELBUSH

**Before Hearing Officer
Charles Koutsogiane, Esq.**

**MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM OF THE STATE OF RHODE
ISLAND'S REPLY MEMORANDUM OF LAW**

I. INTRODUCTION

Now comes the Municipal Employee's Retirement System of the State of Rhode Island ("MERS"), and hereby submits this Reply to the Post-Hearing Memorandum of Law of Chief Judge Donna M. Nesselbush ("Nesselbush"), and in further support of the March 11, 2024 decision of MERS' Executive Director determining that Nesselbush is not eligible for membership in MERS, because she has failed to establish that she has devoted a minimum of twenty hours per week to the service of the municipality during the years in question. As the Executive Director's administrative determination was well-grounded in the factual record and amply supported by the applicable law, it must be upheld.

II. ARGUMENT

1. Contributions Made to MERS Do Not Create Eligibility for Membership in MERS.

Judge Nesselbush is not eligible for membership in MERS, because she has failed to establish that she has devoted a minimum of twenty hours per week to the service of the municipality during the years in question. Simply because Judge Nesselbush and the City of Pawtucket ("City") made contributions to MERS does not make her eligible for membership in MERS. As MERS' Executive Director, Frank J. Karpinski explained during the hearing, MERS is a large and complex public employee pension system and does not make eligibility

determinations until such time as an individual seeks to retire and his or her account is formally validated. *See Transcript* at 199. It is simply not possible to verify eligibility for membership of each and every individual for whom MERS is receiving contributions until such time as the individual employee seeks to retire, nor is it possible for MERS to verify the appropriateness of employer or employee contributions prior to validating a particular account. *See id.* at 200. Executive Director Frank J. Karpinski stated: “I can’t imagine the size of the staff when trying to validate a person and their exact job, and what they’re doing, and whether they actually [worked] the number of hours. That would be almost impossible.” *Id.* It is certainly not dispositive of a given employee’s entitlement to eligibility in MERS that he or she made individual contributions to MERS during employment, or that a given employer similarly made contributions on that employee’s behalf. Consequently, the fact that Judge Nesselbush and/or the City may have made contributions in this case historically is irrelevant to the ultimate question of whether or not Judge Nesselbush is eligible to be a member of MERS in light of the relevant statutory requirements.

As explained in detail in MERS’ Pre-Hearing and Post-Hearing Memoranda of Law, Judge Nesselbush is not eligible for membership in MERS because only “employees” are eligible for membership in MERS and Judge Nesselbush does not fall within the statutory definition of an “employee” because she has failed to establish that she has devoted a minimum of twenty hours per week each and every week to the service of the municipality. *See* R.I. Gen. Law § 45-21-2(7); *see also* R.I. Gen. Laws § 45-21-8(a). In *D’Addario v. Employees’ Retirement System of Rhode Island*, April 22, 2024 (Hearing Officer Rusbino), attached hereto as *Exhibit A*, an ERSRI administrative Hearing Officer made clear that a municipal court judge must work a minimum of twenty business hours per week for the municipality in order to fall within the statutory definition of “employee.” The Hearing Officer also made clear that MERS “has been charged with

determining what constitutes an ‘employee’ within the meaning of R.I.G.L. Section 45-21-2(5) [now Section 45-21-2(7)] for the purpose of determining Appellant’s eligibility for participation in MERS[.]” *Id.* The Hearing Officer affirmed the decision of MERS to exclude the municipal court judge from MERS membership based on the evidence that the appellant had not worked at least twenty hours per week for the municipality and because MERS “exercised its authority in interpreting the language of R.I.G.L. Section 45-21-2[7], and its interpretation is entitled to substantial deference, even if it is not the only permissible interpretation that could be applied.” *Id.*

Here, as in *D’Addario v. Employees’ Retirement System of Rhode Island*, there is no credible or reliable evidence in the record that Judge Nesselbush satisfied the statutory definition of “employee” based upon the hours she worked during her years of employment. Specifically, there is no credible or reliable evidence that Judge Nesselbush worked, at a minimum, twenty hours per week in the service of the municipality each and every week. The information provided to MERS demonstrates, instead, that Judge Nesselbush does not and has not worked twenty hours per week in the service of the municipality each and every week. *See Respondent’s Exhibit 8; see also Respondent’s Exhibit 14.*

MERS provided Judge Nesselbush ample opportunity to produce verifiable evidence establishing that she worked a minimum of twenty hours per week in the service of the municipality and she failed to do so. The only written evidence Judge Nesselbush presented to MERS in an attempt to establish that she satisfied the statutory requirement was a purported “job description” that she prepared, in a self-serving attempt to establish that she met the requisite criteria.

Moreover, the President of the City Council confirmed that the City Council does not determine the conditions, duties, weekly workload or weekly hours worked for municipal court judges, and he declined to certify the accuracy of Judge Nesselbush's self-prepared "job description." A reputable member in good standing of the Rhode Island Bar, holding himself out as legal counsel to the City of Pawtucket, represented to MERS that "there is no reliable or credible evidence to support the notion that the judges, all of whom are engaged in busy private law practices, work 20 hours or more weekly" and that "to the extent that ERSRI has been provided any purported job description(s) for one or more of the municipal judges, they ought not be deemed authenticated or official records by ERSRI." Respondent's Exhibit 14. He also noted that "any notations in such description(s) referencing the quantum of hours worked (or to be worked) by the judges are likewise ultra vires, and hence unreliable." *Id.* Without any reliable evidence to the contrary, MERS was entirely justified in relying on the information it received from the City of Pawtucket that Judge Nesselbush does not in fact (and has not in fact) work(ed) at least twenty hours per week during her years of employment.

To the extent that Judge Nesselbush implies that MERS delayed its determination of her eligibility over a period of seven months from the date of Executive Director Karpinski's July 3, 2023 letter to the date of his March 11, 2024 letter, Judge Nesselbush mischaracterizes the sequence of events and omits references to the multiple communications to and from MERS regarding her eligibility. For example, after the July 3, 2023 letter, on October 11, 2023 MERS received a communication from Attorney Vincent Ragosta, Jr. *See Respondent's Exhibit 10.* Then, on November 2, 2023, MERS wrote to Council President Mercer asking various questions in order to determine Judge Nesselbush's eligibility. *See Petitioner's Exhibit 6* at 52. Council President Mercer responded on November 17, 2023. *Id.* at 49. Subsequently, on February 19, 2024, MERS

received an email from Pawtucket City Solicitor Frank Milos and on February 20, 2024, an email from Attorney Ragosta. *See Respondent's Exhibit 13; see also Respondent's Exhibit 14.* It is simply inaccurate to suggest that MERS did nothing between July 3, 2023 and March 11, 2024. The reality is that MERS spent substantial time obtaining information from the City of Pawtucket in an effort to determine whether or not Judge Nesselbush satisfied the requisite statutory membership eligibility requirements—and the information received indicates unequivocally that she does not.

2. This Case Does Not Implicate the Doctrine of Separation of Powers.

The only issue before the Hearing Office is whether there is any credible or reliable evidence in the record establishing that Judge Nesselbush worked at least twenty business hours per week in the service of the municipality during the period in question. This question does not implicate the doctrine of separation of powers.

To begin, “the separation of powers doctrine is a concept foreign to municipal governance.” *Moreau v. Flanders*, 15 A.3d 565, 579 (R.I. 2011). The municipal court is not a constitutional court—a fact Judge Nesselbush acknowledged. *See Hearing Transcript* at 108-109. The General Assembly has no involvement in the establishment or operation of the municipal court beyond the City’s Home Rule Charter—the enabling legislation. Rather, municipal court judge positions are controlled by Section 2-501 of the City Charter which provides that the judges are elected solely by the City Council. Therefore, the municipal court is not a separate and co-equal branch of the City’s government. Instead, municipal court positions are created by the City Council and are funded by the City. The City Council can enact ordinances governing the municipal court judges. *See Rhode Island General Laws § 45-2-13(d).* The municipal court judge positions can be unilaterally altered, amended, or even abolished by the City Council—facts Judge Nesselbush has

acknowledged. *See Hearing Transcript* at 152. Significantly, however, in the present case, Judge Nesselbush has failed to provide any evidence that the City Council adopted, confirmed, or ratified the purported job description she prepared (or the contents thereof), in a self-serving attempt to establish that she works twenty hours per week performing the actual required duties of the municipal court judge position. In fact, Judge Nesselbush conceded during the hearing that there is no official job description setting forth the duties of the municipal court judges. *See Hearing Transcript* at 122-23.

It bears emphasizing that when MERS sought clarification from the Pawtucket City Council as to whether or not the Council determines the conditions and duties of employment for the municipal court judges, including with respect to the number of hours worked on a weekly basis, the response from Council President Mercer was “No.” *See Respondent’s Exhibit 12*. City Council President Mercer further confirmed that the City Council itself had not certified the accuracy of Judge Nesselbush’s self-prepared “job description.” *See Petitioner’s Exhibit 6* at 49. Because the municipal court is not a separate branch of City government, and for the reasons set forth in MERS’ post-hearing memorandum, Judge Nesselbush does not have the right to unilaterally establish her own job duties, and correspondingly the ability to unilaterally determine her own entitlement to a pension, completely free of substantiation or verification by her municipal employer. As demonstrated by Judge Nesselbush’s testimony, her evidence in support of her claim that she worked more than twenty hours per week each and every week as a municipal court judge is predicated solely on her own self-serving identification of things she *chose* to do, as opposed to things that were actually part of her formal job duties. *See Hearing Transcript* at 142.

Rather than determining Judge Nesselbush’s eligibility for membership in MERS based upon her own unilateral self-determination, MERS properly issued its March 11, 2024 decision

determining that she is *not* eligible for membership in MERS based upon the actual evidence it received from the City—her municipal employer. According to Executive Director Karpinski, it is ordinary and customary practice for MERS to rely upon official information provided by an individual’s employer in order to determine whether the individual is eligible for membership in MERS. *See Transcript* at 206. MERS relies on the information provided by the employer as a primary source since the employer is the hiring authority. *See id.* at 207. As a matter of practice, MERS requests information from human resources directors or the business office within MERS units and relies on the information provided. *See id.* at 209-10. Here, MERS requested information regarding Judge Nesselbush’s duties and hours worked from Sara Miranda, the Human Resources Director for the City, in accordance with its usual practice. Ms. Miranda confirmed that Judge Nesselbush “does not work 20+hrs [per] week” as a municipal court judge. *See Respondent’s Exhibit 8*. No reliable or credible evidence to the contrary was received from any other City official, and the information from Ms. Miranda was in fact emphatically reinforced by the City’s attorney.

Judge Nesselbush has gone to great lengths in these proceedings to describe purported intra-City political issues that she believes are the genesis of the City’s declination of support for her membership claim. There is no evidence to support these claims, however, and MERS should be entitled to rely on the official position of the actual MERS unit that employs this particular appellant. Stated differently, MERS’ administration should not be required to attempt resolution of a foreign municipal controversy (even assuming without acknowledging that one existed in this case), and is entitled to rely on information provided by the actual MERS unit itself—in this case the municipal employer, the City of Pawtucket.

With respect to the formal job duties and hours worked by City employees, the City speaks with one voice: that of the City of Pawtucket. The Executive Director was therefore entirely justified in relying on the representations of the City's attorney and its HR director. Attorney Ragosta's representation of the City itself was also confirmed by Pawtucket City Solicitor Milos. *See Respondent's Exhibits 10 and 13 (City Solicitor Milos' confirmation that "the City is represented by Attorney Vincent Ragosta on this matter")*. For this reason as well as the others addressed herein, Judge Nesselbush's attempt to couch this dispute as a by-product of intra-city politics is simply a red-herring. The sole issue before this Hearing Officer is whether or not the Executive Director's decision to deny membership to Judge Nesselbush was justified, and it unequivocally was. As set forth in Rhode Island General Laws § 45-21-2, "[t]he retirement board shall decide who are employees within the meaning of this chapter."

3. Judge Nesselbush's Equal Protection Claim Fails.

Judge Nesselbush also contends that MERS' determination that she is not eligible for membership in MERS violates the equal protection clause. This assertion, however, is unavailing as MERS' determination is predicated on a rational basis—the fact that Judge Nesselbush did not work the requisite twenty hours per week.

"The Fourteenth Amendment to the United States Constitution and art. 1, sec. 2, of the Rhode Island Constitution guarantee to every individual equal protection of the laws. Generally, it proscribes governmental action which treats one class of people less favorably than others similarly situated." *Perrotti v. Solomon*, 657 A.2d 1045, 1049 (R.I. 1995). "An equal protection violation may be established by showing that an impermissible classification has occurred." *Id.* "However, the Fourteenth Amendment does not require perfectly equal treatment for every individual." *Id.* "Where, as here, the state does not classify persons along suspect or quasi-suspect

lines, or impinge upon fundamental rights, the action must be rationally related to a legitimate government purpose to survive a challenge under the Equal Protection Clause.” *McGrath v. Rhode Island Ret. Bd. By & Through Mayer*, 906 F. Supp. 749, 767 (D.R.I. 1995), *aff’d sub nom. McGrath v. Rhode Island Ret. Bd.*, 88 F.3d 12 (1st Cir. 1996).

In *Perotti v. Solomon*, the plaintiff sought an injunction enjoining the chairman of the Retirement Board of the Employees’ Retirement System of the State of Rhode Island from conducting a hearing to determine the propriety of his state pension benefits. *Id.* at 1047. The plaintiff argued, *inter alia*, that the denial of the injunction violated his rights to equal protection. *Id.* The Supreme Court rejected this argument, noting that the plaintiff did “not claim that he has been impermissibly classified, nor does he attack the constitutionality of any statute on its face. Rather, he is specifically challenging the retirement board’s review of his pension. [The plaintiff] has failed to allege any grounds which would constitute an equal protection violation. Accordingly, we reject his constitutional challenge to the retirement board’s review of his pension.” *Id.* at 1049. Here, as in *Perotti v. Solomon*, Judge Nesselbush does not claim that she is being impermissibly classified nor that the statute is unconstitutional on its face.

Therefore, MERS’ determination that Judge Nesselbush is not an “employee” and therefore not eligible for membership in MERS need only survive rational basis review to defeat Judge Nesselbush’s claim. Here, as in *Perotti v. Solomon*, Judge Nesselbush has failed to allege any grounds which would constitute an equal protection violation. The reason for MERS’ decision and the distinction in R.I. Gen. Law § 45-21-2(7) between individuals who devote less than twenty business hours per week and those who devote twenty business hours or more per week to the service of the municipality is self-evident. The legislature must distinguish between those

individuals who qualify as “employees” and those who do not, in order to determine which individuals are eligible for membership in MERS.

Further, to the extent that Judge Nesselbush asserts that other Pawtucket municipal court judges have been enrolled in MERS, MERS emphasizes that information regarding other municipal court judges is not before the Hearing Officer and is not part of the record. Furthermore, such information is not relevant to the discrete issue before the Hearing Officer—whether MERS at the time of its decision had been provided with any credible or reliable evidence indicating that Judge Nesselbush worked the requisite minimum twenty hours per week each and every week in the service of the municipality in order to qualify as an “employee.”

Even assuming, without conceding, that Judge Nesselbush is being treated differently from similarly situated municipal court judges, such alleged discrimination passes the minimum scrutiny test applicable to the rights claimed by Judge Nesselbush as she is not a member of a suspect class or alleging a fundamental right. MERS’ legitimate interest in granting MERS membership to only “employees” as defined by R.I. Gen. Law § 45-21-2(7) is a sufficient rational basis for denying Judge Nesselbush membership in MERS. *See West v. Town of Bristol*, 712 F. Supp. 269, 275 (D.R.I. 1989). Therefore, Judge Nesselbush’s assertions that MERS violated the equal protection clause are unavailing.

4. Judge Nesselbush’s Detrimental Reliance, Promissory Estoppel, and Implied-in-Fact Contract Claims Fail.

To the extent Judge Nesselbush asserts that MERS should be equitably estopped from denying her membership in MERS, the hearing officer should reject this argument because MERS cannot provide benefits contrary to the statute.

The Rhode Island Supreme Court has “refused to estop a governmental entity when to do so would contravene state law[.]” *Romano v. Ret. Bd. of Employees’ Ret. Sys. of R.I.*, 767 A.2d 35,

39 (R.I. 2001). The Court has explained that “notions of promissory estoppel that are routinely applied in private contractual contexts are ill-suited to public-contract-rights analysis.” *Id.* “[C]ourts have consistently refused to give effect to government-fostered expectations that, had they arisen in the private sector, might well have formed the basis of a contract or an estoppel.” *Id.* The Court in *Romano* made clear that if the government’s representation or action is contrary to a statute, those representations or actions will be deemed ultra vires and a taxpayer will be unable to estop the government from reneging on its promises merely because the taxpayer had relied upon the government’s assurances to their detriment. *Id.* The Court in *Romano* explained:

“[N]either the retirement counselor nor the board's executive director possessed any actual or apparent authority to vary or contradict a valid employment requirement prescribed by state law. * * * Although in an appropriate factual context the doctrine of estoppel should be applied against public agencies to prevent injustice and fraud where the agency or officers thereof, acting within their authority, made representations to cause the party seeking to invoke the doctrine either to act or refrain from acting in a particular manner to his [, her, or its] detriment, * * * neither a government entity nor any of its representatives has any implied or actual authority to modify, waive, or ignore applicable state law that conflicts with its actions or representations. * * * [S]tatutory obligations cannot be bargained away via contrary provisions in a [collective bargaining agreement], nor can they be compromised by the past or present practices of the parties[.] As we have stated repeatedly, such an estoppel cannot be applicable when the acts in question are clearly ultra vires. * * * Thus, [t]his Court has squarely rejected the proposition that a municipality may be bound by the actions of an agent without actual authority.” *Id.* at 39-40.

In other words, “if a statute contains or provides for nondelegable and/or nonmodifiable duties, rights, and/or obligations, then neither contractual provisions nor purported past practices nor arbitration awards that would alter those mandates are enforceable.” *Id.* at 40. The Court in *Romano* held that the executive director and retirement counselor who spoke with Romano before he retired possessed no authority to waive the statutory requirements, and therefore, to the extent that they had improperly advised Romano as to his right to receive retirement benefits, the agents of the retirement board were “acting ultra vires and lacked authority to bind the state to provide

retirement benefits to Romano beyond those allowed by state law.” *Id.* at 40-41 (citing *City of Baltimore v. Chesapeake Marine Railway Co.*, 233 Md. 559, 197 A.2d 821, 831-32 (1964) (“Estoppel against a municipal corporation growing out of affirmative action must be predicated upon the acts or conduct of its officers, agents or official bodies acting within the scope of their authority.”). Further, “a person's failure to discover the true scope of a government agent's actual authority will not provide any grounds to relieve that person's detrimental reliance upon the agent's representations or actions.” *Id.* at 43. “Indeed, to rule otherwise would undermine the integrity and structure of our state government because it would allow every government official to act as his own mini-legislature, cashiering those laws he or she dislikes, is ignorant of, or misinterprets, and instead molding the law to be whatever the government official claims it to be.” *Id.*

In sum, “government officials must be duly authorized—acting within their authority and consistently with state statutes—before governmental entities can be subject to equitable estoppel based upon their representations or conduct.” *Id.* at 42; *see also State v. Rhode Island Alliance of Social Services Employees, Local 580, SEIU*, 747 A.2d 465, 469 (R.I. 2000); *Rhode Island Brotherhood of Correctional Officers v. State Department of Corrections*, 707 A.2d 1229, 1237-38 (R.I. 1998); *Technology Investors v. Town of Westerly*, 689 A.2d 1060, 1062 (R.I. 1997); *Providence Teachers Union v. Providence School Board*, 689 A.2d 388, 391-92 (R.I. 1997); *Providence Teachers Union v. Providence School Board*, 689 A.2d 384, 388 (R.I. 1996); *Warwick Teachers' Union Local No. 915 v. Warwick School Committee*, 624 A.2d 849, 851 (R.I. 1993); *School Committee of Providence v. Board of Regents for Education*, 429 A.2d 1297, 1302 (R.I.1981); *Ferrelli v. Department of Employment Security*, 106 R.I. 588, 593-94, 261 A.2d 906, 909-10 (R.I. 1970).

As explained herein, Judge Nesselbush does not fall within the statutory definition of an “employee” because she has failed to establish that she devoted a minimum of twenty hours per week to the service of the municipality. Therefore, the fact that Judge Nesselbush may have made contributions is insufficient to override the statutory requirement that she work at least twenty hours per week, each and every week during the period in question, in order to qualify as an employee under § 45-21-2(7).

Further, “[t]he mere fact that a state enacts laws that benefit the interests of some people does not automatically create contract rights to those benefits.” *Retired Adjunct Professors of the State of R.I. v. Almond*, 690 A.2d 1342, 1345 (R.I. 1997). “Rather, a statute will be treated as creating a binding contract with its beneficiaries only when the language and the circumstances of the statute's enactment evince a clear legislative intent to create private and enforceable contract rights against the state.” *Id.* “Moreover, there is a strong presumption against construing a statute to create such contractual obligations, and individuals alleging its creation bear the heavy burden of overcoming this presumption.” *Id.* “Mere reliance by benefited parties on legislative enactments and their unilateral beliefs concerning what the statute will mean to them in the future, no matter how reasonable they may seem at the time, cannot create a legislative intent to establish enforceable contractual rights that is not otherwise manifest in the words of the legislation.” *Id.* at 1346.

Here, Judge Nesselbush has failed to identify any language or circumstances of the statute’s enactment that evince a clear legislative intent to create a private and enforceable contract with MERS. *See Cranston Firefighters v. Raimondo City of Cranston*, No. CV 16-130-ML, 2017 WL 899948, at *11 (D.R.I. Mar. 7, 2017), *aff’d sub nom. Cranston Firefighters, IAFF Loc. 1363, AFL-CIO v. Raimondo*, 880 F.3d 44 (1st Cir. 2018) (“The Plaintiffs have not pointed to any provisions

in the Rhode Island retirement statutes that would demonstrate an unmistakable intent on the part of the legislature to establish a contractual right to pension benefits. Rather, the Plaintiffs suggest that they may possess implied unilateral contract rights arising from an implied-in-fact contract between the Plaintiffs and the State.”). Furthermore, as detailed herein, because Judge Nesselbush does not meet the requirements to be eligible for membership in MERS under the statute, she cannot assert that she has an implied contract with MERS. Therefore, Judge Nesselbush has failed to meet the heavy burden required to overcome the presumption that the statute does not create contractual rights.

III. CONCLUSION

For all the reasons stated above, and in MERS’ Post-Hearing Memorandum of Law, and MERS’ Pre-Hearing Memorandum, the Hearing Officer should uphold the decision of the Executive Director determining that Judge Nesselbush is not eligible for membership in MERS, and inform her that she is not entitled to receive a retirement benefit as a member of the retirement system based upon service as a municipal court judge under these circumstances.

Respectfully submitted,

Municipal Employees’ Retirement System of the
State of Rhode Island,

By its attorney,

/s/Michael P. Robinson
Michael P. Robinson, Esq. (#6306)
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EXHIBIT A

APPEAL OF:

RICHARD D'ADDARIO, Appellant

vs.

EMPLOYEES' RETIREMENT SYSTEM
OF RHODE ISLAND, Respondent

Appearance for Appellant: THOMAS CONNOLLY, ESQ.
1 Courthouse Square
Newport, Rhode Island 02840

Appearance for Respondent: MICHAEL P. ROBINSON, ESQ.
Legal Counsel
Employees Retirement System
of Rhode Island
50 Service Avenue
Warwick, Rhode Island 02886

Hearing Officer: TERESA M. RUSBINO, ESQ.
Employees' Retirement System
of Rhode Island
50 Service Avenue
Warwick, Rhode Island 02886

DECISION

Pursuant to R.I.G.L. Section 36-8-3 and Regulation Four, Rules of Practice and Procedure for Hearings, Richard D'Addario (hereinafter "Appellant") is appealing the August 11, 2017 Administrative Denial of the Employees' Retirement System of Rhode Island (hereinafter "Respondent"). Respondent's decision denied the Appellant's 2008 request to purchase service credit for the period 1993-2007, during which time he served as a probate judge for the Town of Tiverton ("Town"). In denying the Appellant's request to purchase service credit, the Respondent determined that the Appellant was not eligible for

membership in the Municipal Employees' Retirement System ("MERS") because he had not worked a minimum of twenty (20) business hours per week for the Town, in accordance with the requirements of R.I.G.L. Section 45-21-2(5), which defines "employee" for purposes of membership eligibility in MERS.¹

The August 11, 2017 decision was appealed and subsequently referred for hearing to this Hearing Officer. The appeal was perfected in accordance with the Rules of Practice. A Hearing was held on December 7, 2017 at the offices of the Employees' Retirement System, 50 Service Avenue, Warwick, Rhode Island. Both parties submitted pre-hearing memoranda of law. Exhibits were introduced at the hearing by agreement (see joint exhibits 1-14) and by Appellant with no objection from Respondent (see Appellant's exhibits 1-2). The Appellant testified in his own behalf. Testifying for the Respondent was Frank J. Karpinski, Executive Director of the Employees' Retirement System. The parties submitted pre and post hearing memoranda of law in support of their respective positions.

FINDINGS OF FACT:

1. On or about July 26, 1993, the Appellant was appointed probate judge of the Town of Tiverton, Rhode Island.
2. By letter dated January 4, 2008, the Appellant applied for membership in MERS and sought to purchase service credit retroactive to the date

¹ R.I.G.L. Section 45-21-2 was amended in 2009 to add two definitions prior to that of "employee," such that the definition of "employee" now appears in R.I.G.L. Section 45-21-2(7).

of his appointment, namely, for the period August, 1993 to December, 2007.

3. For the period August of 1993 to October of 2007, neither the Appellant nor the Town made any contributions to MERS.
4. On or about October of 2007, the Town began to pay employer and employee contributions to MERS.
5. From the time of his appointment as probate judge in August of 1993 to the present, the Appellant has not worked consistently a minimum of twenty (20) hours per week for the Town.
6. By letter dated January 10, 2008, the Respondent requested that the Appellant provide information necessary for the Respondent to evaluate his request to purchase service credit for the period August, 1993 to December, 2007, including, but not limited to, the number of hours actually worked.
7. By email dated April 13, 2010, the Appellant inquired about the status of his January 10, 2008 request.
8. By email dated April 22, 2010, and by letter dated June 15, 2010, the Respondent informed Appellant that he was not eligible for membership in MERS, nor was he eligible to purchase service credit for the period 1993-2007, because he did not meet the statutory definition of "employee."

9. By email and letter addressed to the Town, both dated June 28, 2016, Respondent notified the Town that it should cease deducting retirement contributions from the Appellant's wages.
10. By letter dated July 8, 2016, the Respondent informed Appellant that the Town had been instructed to cease deducting retirement contributions from his wages and that the retirement contributions previously deducted by the Town for the period 9/28/2007 to 6/23/2016 would be refunded to him.
11. By letter dated February 22, 2017, Appellant's counsel requested that Respondent suspend any actions regarding Appellant's retirement contributions.
12. By letter dated February 22, 2017, Respondent reiterated its earlier position that Appellant did not meet the statutory definition of "employee," as he did not meet the minimum work requirement of twenty (20) hours per week for the Town.
13. By letter dated April 12, 2017, Respondent informed Appellant that he had fourteen (14) days to provide Respondent with evidence to support his claim that he was eligible for membership in MERS.
14. By letter and memorandum, both dated May 12, 2017, the Appellant set forth his position that he was eligible for membership in MERS as a condition of his employment with the Town, retroactive to his initial appointment as probate judge in 1993.

15. By letter dated August 11, 2017, the Respondent issued an Administrative Denial of Appellant's request for retroactive membership in MERS and his request to purchase service credit for the period 1993 to 2007.

16. By letter dated September 5, 2017, the Appellant's appeal of Respondent's Administrative Denial was assigned for hearing to this hearing officer.

ISSUE ON APPEAL:

Did the Respondent err in its determination that Appellant was not eligible for membership in MERS, nor entitled to purchase or otherwise obtain service credit for the period 1993 to 2007, because he was not an "employee" within the meaning of R.I.G.L. Section 45-21-2(5)?

CONCLUSION AND ORDER:

Membership in the Municipal Employees' Retirement System is a condition of employment and is required of all employees who meet the Board's eligibility requirements. (See Joint Exhibit 2, Employees' Retirement System of Rhode Island Handbook, 7th Edition, August 2006). R.I.G.L. Section 36-8-3 vests the Retirement Board with, "the general administration and responsibility for the proper operation of the retirement system..." The Retirement Board has been granted authority to establish and implement rules and regulations to effectuate the provisions of the retirement statutes. See Perotti v. Solomon, 657 A.2d 1045, 1048 (R.I. 1995). The Rhode Island Supreme Court has consistently held that an administrative agency will be accorded great deference in interpreting a statute

whose administration and enforcement have been entrusted to the agency. Town of Richmond v. R.I. Dept. of Env'tl. Mgmt., 941 A.2d 151, 157 (R.I. 2008). Moreover, its interpretation is entitled to substantial deference, even if the agency's interpretation is not the only permissible interpretation that could be applied. Lyman v. Employees' Retirement Sys., 693 A.2d 1030, 1031 (R.I. 1997). Specifically, in this instance, Respondent has been charged with determining what constitutes an "employee" within the meaning of R.I.G.L. Section 45-21-2(5) [now Section 45-21-2(7)] for the purpose of determining Appellant's eligibility for participation in MERS, as well as his eligibility to purchase service credit towards a MERS retirement benefit.

At the time of Appellant's request to purchase service credit, the governing statutory section was R.I.G.L. Section 45-21-2(5), and it reads in relevant part as follows:

(5) "Employee" means any regular and permanent employee or officer of any municipality, whose business time at a minimum of twenty (20) hours a week is devoted to the service of the municipality.... Notwithstanding the previous sentence, the term "employee", for the purposes of this chapter, does not include any person whose duties are of a casual or seasonal nature. The retirement board shall decide who are employees within the meaning of this chapter, but in no case shall it deem as an employee any individual who annually devotes less than twenty (20) business hours per week to the service of the municipality.... (emphasis supplied)

The Appellant argues that when he was appointed a probate judge in 1993, he was automatically eligible for enrollment in MERS. In support of his argument, Appellant cites R.I.G.L. Section 45-21-8(a), which states in part that, "

Any employee...shall, under contract of his or her employment, become a member of the retirement system.” Appellant contends that he should be deemed an “employee” under R.I.G.L. Section 45-21-2(5), because the statute did not yet include the twenty (20) hour per week minimum work requirement, at the time Appellant was appointed a probate judge in 1993. However, even before the minimum twenty (20) hour per week work requirement was codified into the statute in 1994, Respondent was empowered by the legislature to decide who was an employee within the meaning of the statute. In so doing, Respondent was within its authority to adopt rules and policies regarding the number of hours devoted to the municipality’s business, in determining whether one was a regular and permanent employee of a municipality or a casual or seasonal employee. The retirement board has always had the authority to decide who are “employees” within the meaning of the statute.

At the hearing, the Appellant testified that he had not worked a minimum of twenty (20) business hours per week for the Town between the time of his appointment as probate judge in 1993 to the present. Respondent concluded that the Appellant did not meet the statutory definition of employee, even prior to the 1994 amendment imposing a twenty (20) hour minimum weekly work requirement. Respondent determined that the business time Appellant devoted to the service of the municipality was of a casual or seasonal nature and did not rise to the level of a regular and permanent employee whose business time was devoted to the service of the municipality. Respondent exercised its authority in interpreting the language of R.I.G.L. Section 45-21-2(5), and its interpretation is

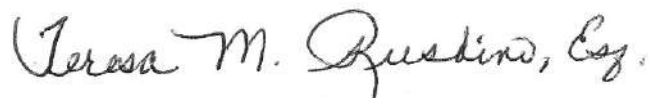
entitled to substantial deference, even if it is not the only permissible interpretation that could be applied. See Lyman v. Employees' Retirement Sys., 693 A.2d 1030, 1031 (R.I. 1997). Moreover, the 1994 codification in the statute of a minimum twenty (20) hour per week work requirement only serves to bolster Respondent's position that its interpretation of the statute prior to the 1994 amendment was a reasonable one.

Even assuming, arguendo, that Appellant had been considered an employee pursuant to the statute as it existed prior to the 1994 amendment, his 2008 request to purchase service credit would have been evaluated under the language of the statute in effect at the time he applied to purchase said credit. Since the statute in effect after the 1994 amendment included the twenty (20) hour per week minimum work requirement to be considered an "employee," the Appellant, having not met that standard, would not have been permitted to purchase the service credits.

For the reasons set forth herein, the Decision of the Respondent, dated August 11, 2017, is hereby affirmed.

It is so ordered.

DATED: April 22, 2019



TERESA M. RUSBINO, ESQ.
Hearing Officer
Employees' Retirement System
50 Service Avenue, 2nd floor

Warwick, Rhode Island 02886

CERTIFICATION

I hereby certify that on the 22nd day of April, 2019, I emailed a true copy of the Within Decision to the following email addresses:

tconnolly109@gmail.com (Thomas Connolly, counsel for Appellant);

mrobinson@shslawfirm.com (Michael P. Robinson, counsel for Respondent);

FKarpinski@ersri.org (Frank Karpinski, Executive Director, ERSRI);

Gayle.Mambro-Martin@ersri.org (Gayle Mambro-Martin, Deputy General Counsel, ERSRI).

Teresa M. Ruskin, Esq.



5.1.5. Nesselbush Hearing Officer Decision

STATE OF RHODE ISLAND
PROVIDENCE, SC

EMPLOYEES RETIREMENT
SYSTEM OF RHODE ISLAND

Appeal of:

Donna Nesselbush
Appellant-Petitioner

vs.

Employees Retirement System of Rhode Island and
Municipal Employees Retirement System of Rhode Island
Appellee-Respondent

DECISION

Appearances

For Petitioner:

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9 Thurber Blvd., St. D
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For Respondent:

Michael Robinson, Esq.
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Providence, RI 02903

Hearing Officer:

Charles M. Koutsogiane, Esq.
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East Providence, RI 02914

OVERVIEW

Donna Nesselbush (“Petitioner”) is appealing the March 11, 2024, determination of the Employees Retirement System of Rhode Island-Municipal Employees Retirement System of Rhode Island (“ERSRI” or “MERS” or “agency”) denying her application for a MERS pension because she allegedly failed to prove that she was an “employee,” pursuant to the requirements of RIGL 45-21-2 (7), who had devoted a minimum of twenty (20) hours per week as a municipal court judge for the City of Pawtucket during the years in question. (Pet exh 4)

R.I.G.L. 45-21-2 (7), entitled “Retirement of Municipal Employees,” provides in pertinent part:

“**Employee**” means any regular or permanent employee or officer of any municipality, whose business time at a minimum of twenty (20) hours a week is devoted to the service of the municipality ... The retirement board shall decide who are employees within the meaning of this chapter, but in no case shall it deem as an employee any individual who annually devotes less than twenty (20) business hours per week to the service of the municipality ...” (emphasis supplied)

Petitioner’s appeal was perfected in accordance with R.I.G.L. 36-8-3 and Regulation 1.4, Rules of Practice and Procedure for Hearings in Contested Cases. An extensive hearing was conducted at ERSRI headquarters in Warwick on October 30, 2024, commencing at 10:47 A.M. and ending at 4:15 P.M. Petitioner submitted a pre-hearing memorandum of law, a post-hearing memorandum of law, a memorandum on legal standing, and an additional post-hearing case-specific reply memorandum of law. She testified for hours and also introduced documentary evidence, along with hundreds of pages of exhibits.

ERSRI presented one witness, Executive Director Frank Karpinski, who also testified at length. ERSRI submitted documentary evidence, and exhibits, as well as pre-hearing and post-hearing memoranda of law, a memorandum on legal standing and a post-hearing case-specific reply memorandum of law. No other witnesses testified.

An Interim Ruling, discussed hereinafter, was also issued by this Hearing Officer. The testimony, memoranda of law, written evidence, exhibits and the Interim Ruling are all deemed part of the record.

For the reasons to follow, based on the evidence and the law, ERSRI's denial must be overturned.

TRAVEL OF THE CASE

There is an extensive trail of events in this case, involving multiple parties, going back to 2004 but showing contested and disputed activity principally beginning in 2022. The salient facts in the record are as follows:

Petitioner testified that she was appointed by the Pawtucket City Council as Associate Judge of the Pawtucket Traffic Court and the Pawtucket Housing Court in 2004, and that she was later appointed Chief Judge in 2012. (Hearing Transcript, hereafter "Tr." at 13). Like other municipal court judges in the state, she sat on the bench part-time and at all times pertinent to this matter she maintained a private law practice. (Tr. 107-108)

On or about October 26, 2006, in conjunction with the assistance and participation of the City of Pawtucket Human Resources Department ("HR"), she submitted, as she was directed, an application for membership in MERS. (Respond exh 2) (Tr. 22-24) She testified that during the entire period of her twenty (20) years of employment both she and the City of Pawtucket cooperatively made contributions on her behalf to MERS. (Tr. 22-24) She claimed that from the outset of her employment in 2004, until she retired in February 2024, her hours of employment were always self-dictated and were a minimum of twenty (20) hours per week for the periods in question. (Tr. 14-15, 23-24)

Petitioner stated in her post-hearing memorandum of law that her pension, if approved, would roughly be \$7,000 per year, or \$583 per month gross, or \$291 per month net. (Pet post-hearing memorandum at 15, hereinafter post-memorandum) The salary for Associate Judge was about \$16,000 and about \$24,000 for Chief Judge. (Pet exh 1, pre-hearing memorandum at 3, hereinafter “pre-memorandum”)

At some point in 2022, Petitioner made exploratory retirement enquiries with the City of Pawtucket HR Department and with MERS (via ERSRI). ERSRI similarly made enquiries with the City of Pawtucket HR Department for standard preliminary compliance and background. In June/July 2022 ERSRI received information from Sara Miranda, the then-HR Director for the City of Pawtucket, in which she averred that the City of Pawtucket judges did not work twenty (20) hours weekly. (Respond exh 8; Pet ex 1, pre-memorandum, subexh 32)

In reliance upon the HR Department information, ERSRI informed Petitioner by letter dated August 1, 2022, that she was deemed ineligible for MERS membership because she did not satisfy the statutory requirements of working twenty (20) hours per week. (Respond exh 4) The letter recited that ERSRI had obtained its information from the HR Department for the City of Pawtucket regarding the days and hours the two courts were in session, and that ERSRI also took information “from the website” for the municipal courts. Significantly, the letter recognized: “Judges are appointed, and then approved by the City Council.” Id

Petitioner thereafter contacted ERSRI Executive Director Frank Karpinski by telephone and explained that ERSRI’s August 1, 2022 letter (Respond exh 4) contained incomplete and/or insufficient facts from the HR Director, namely, that the HR Director had provided incorrect information on the days and hours the courts were in session, and even then she only drew upon

information and hours posted on the municipal courts' website; that website was simply designed as an information tool for the public, not as a source to verify the hours that the judges worked. She also contended that the HR Director failed to address the fact that Petitioner worked considerable hours off the bench. She stated that her hours both on and off the bench definitely exceeded the twenty (20) hours per week requirement under the statute. (Pet post-memorandum at 16-17) "I devoted myself to that job and I am certain that I worked the required hours." (Tr. 158)

On September 19, 2022, Petitioner followed up with an email to ERSRI advising that she intended to appeal should the matter not get resolved. (Respond exh 5).

On or about October 24, 2022, ERSRI sent Petitioner a letter reasserting that she was not eligible for membership in MERS and restated: "we relied upon information from Pawtucket's Municipal Traffic Court website and the Human Resources Director of the City of Pawtucket." (Respond exh 6) The correspondence further informed Petitioner that the agency position would stand unless and until she was able to provide additional information in the form of a job description, approved by the City Council and the Mayor's office (which need, ERSRI indicated, was partially based upon prior representations from Petitioner). (Tr. 204-205) A final determination would follow from ERSRI once the requested job description and any other pertinent information was provided. Id

In response, Petitioner telephoned the Executive Director and underscored the following: the Pawtucket Court's website had not been updated for years, the website only made reference to the hours of operation as a convenience to the public, it obviously did not refer to hours worked off the bench (including in chambers, at Petitioner's home, private law firm, or other locations),

and that the HR Director had made only a limited or cursory investigation. Petitioner emphasized to Mr. Karpinski that there never had been a job description for the Pawtucket Municipal Judges throughout the many years the Pawtucket Courts existed. During the course of the conversation the parties agreed that she would prepare one. (Tr. 112) (Pet exh 1, pre-memorandum at 5)

Petitioner prepared the draft job description and on November 18, 2022, she communicated with two officials from the executive branch of Pawtucket government - the Pawtucket Director of Administration of the Mayor's Office (Dylan Zelazo), as well as with the Pawtucket City Solicitor of the Mayor's Office (Frank Milos), providing both officials with a copy. (Pet exh 1, pre-memorandum subexh 4). She also provided a copy of the job description to current City Council President Mercer and she was of the understanding that he too had conferred with the Pawtucket Mayor on the issue. She stated in the letter to those two officials:

"I drafted based upon my experience, serving both as the Associate Judge and then Chief Judge of our city over the past 18 years. Please let me know if you have any questions. After reviewing and finalizing this document (and conferring with the City Council, if that is necessary or warranted), I respectfully request that the appropriate person in city government draft a cover letter (or other appropriate document) to Frank J. Karpinski, Executive Director of the Employees Retirement System of Rhode Island, assenting to and enclosing the final version of the judicial protocol/job description and confirming that we are 20 hour per week employees/appointees." (Pet exh 1, pre-memorandum subex. 4) (see also Tr.135-136)

On November 29, 2022, City Solicitor Frank Milos wrote to Dylan Zelazo, the Mayor's Director of Administration (copied to the Mayor, City Council President Moran and to Petitioner), as follows:

"You asked me to look into the legality of the Administration creating a protocol/job description for the Municipal Court Judges that would mandate, among other things, a 20-hour work week for judges. As you know, the Municipal Court judge positions are controlled by the City Charter (See 2-501). The Judges are elected solely by the City Council. The mayor/executive branch has no authority or jurisdiction regarding the appointment of the Judges or the hours of operation of the municipal court, which is essentially the City's third branch of government. ***As Judge Nesselbush has recently stated, under the separation of powers doctrine, the Judges are responsible for establishing court calendars, dockets, and courtroom decorum, including case

flow, management, and all aspects of court operations. Therefore, I do not believe that the executive branch has the right or authority to set the hours of operation of the Court, or to set the number of hours that the Municipal Court Judges are required to work during a given week. Rather, as per Section 2-600 of the Charter “the municipal court, and the judges thereof, shall have all the powers and duties now or hereafter vested in the municipal court by the law of the state and the ordinances enacted by the council in conformity therewith.” As per this provision, it is my opinion that the City Council may have the express authority to pass ordinances consistent with what Judge Nesselbush is proposing. The City Council has, in fact, passed ordinances regarding the operation of the Municipal Court (see generally Chapter 26 of the Code of Ordinances) Since my office routinely appears before the Municipal Court, in order to avoid any appearance of impropriety, it might be prudent for the City to have this issue referred to outside counsel for further review and opinion. If so, I would suggest Attorney Vincent Ragosta due to his vast labor experience and also his familiarity with our City Charter. Alternatively, the matter simply could be referred to the City Council and/or its ordinance committee for review and consideration.” (Respond exh 7)

The Pawtucket Mayor sought a second review and opinion and retained outside counsel, Attorney Vincent Ragosta. In a confidential memorandum to the Mayor and Dylan Zelazo, dated December 8, 2022, Attorney Ragosta echoed the same foundational conclusions proffered by the City Solicitor - the Mayor cannot “create or sanction a protocol/job description for municipal court judges that would mandate a 20-hour work week.” He further stated:

“For the reasons that follow, and given the facts as known and presented to us, it is our professional opinion that the **mayor of the city of Pawtucket (“city”)** does not have the operational authority over the city’s municipal court. Rather, that authority, which includes governance over the personnel, operation and procedure to be followed in municipal court lies with the city council by virtue of a legislative grant from the Rhode Island General Assembly.” (emphasis added) (Pet exh 5)

In a footnote in his confidential memorandum, Attorney Ragosta stated: “based on the information we have been provided, it appears that the city’s Human Resources Office has already informed ERSRI that there is no evidence that the municipal court judges work twenty hours per week.” This statement itself is at once conflicting and perplexing – as he had just acknowledged in the confidential memorandum that the Mayor of the City of Pawtucket (“city”) does not have operational authority over the judiciary, but nonetheless made reference to

continuing involvement from the city's HR Department, a unit of the executive branch, that had disseminated adverse conclusory information to ERSRI. No suggestion was made for the HR Department to refrain from any further contact or involvement. No additional explanation was made. (Pet exh 5)

Petitioner reached out to Pawtucket City Council President Pro Tem Moran regarding the job description. In a letter dated December 8, 2022, he replied that based upon 30 years of experience, including 12 years as City Council President, all the duties and responsibilities of the judges outlined "in the protocol/job description, appear reasonable and accurate to the best of my knowledge." (Pet exh 1, pre-memorandum subexh 7; Respond exh 9) He also recognized that her position as judge "involves more than just the hours you spend on the bench." Id.

On December 12, 2022, Petitioner sent an email to the ERSRI Executive Director re-emphasizing that the Pawtucket HR Director had failed to provide complete and accurate information regarding the hours worked; she also attached to her email the requested draft job description providing more detail for ERSRI review. (Respond exh 3)

On December 22, 2022, the HR Director sent an email to Mr. Karpinski providing him with another copy of the November 29, 2022 opinion from the City Solicitor, as well as a copy of a December 21, 2022 email from Dylan Zelazo addressed to members of the Pawtucket City Council (and others, including City Solicitor Milos and HR Director Sara Miranda). His email stated, in part, the "Administration" (executive branch) was not responsible for tracking judges' hours, or their job description. He indicated that those issues might be considered by the City Council by ordinance or otherwise. (Respond exh 7)

Despite the stance articulated in the December 21, 2022, email from Dylan Zelazo regarding

not tracking hours worked, and despite the legal opinions cited by the Pawtucket City Solicitor and by Attorney Ragosta, on March 17 and 20, 2023, the HR Director continued to exchange emails with ERSRI deputy counsel, Gayle Mambro-Martin, in which the HR Director repeated that the Pawtucket Municipal judges “did not work a 20+ hour week,” and “Donna Nesselbush – Judge – does not work 20+ hrs week.” (Respond exh 1, and Respond exh 8) There was no further detail. No other documentation specifically addressing or further expanding the HR Director’s factual conclusions was introduced as an exhibit for consideration. It is also unknown whether there were any follow-up contacts between these parties as neither testified at the hearing.

On May 2, 2023, Pawtucket City Council President Mercer wrote Mr. Karpinski supporting the contents of the letter from City Council President Pro Tem Moran and also stated: “I believe everyone involved over the last couple decades earnestly understood that the Municipal Court and probate judges were indistinguishable from all other part-time employees in city government, and accordingly, on a proper MERS pension tract.” (Pet exh 5)

On May 12, 2023, Petitioner’s counsel (Attorney John Harwood) sent Mr. Karpinski a letter wherein he referenced the contents of the letters from City Council President Pro Tem Moran (December 8, 2022) and current City Council President Mercer (May 2, 2023). He also noted the job description had been sent to all branches of Pawtucket City government, that is, to the executive branch by way of the Mayor’s Office and to the City Solicitor, as well as to the legislative branch by way of the two City Council Presidents. (Respond exh 9) He attached another copy of the job-description that Petitioner had previously sent to ERSRI with her email of December 12, 2022. (Respond exh 3)

Mr. Karpinski sent a rejoinder letter to Petitioner’s counsel dated July 3, 2023, approving and restoring Petitioner’s membership in MERS, and he stated in part:

“At the time of our original inquiry, we were unable to secure a job description and any documented hours required for the position other than noting when the applicable municipal courts were in session. Consequently, that prompted our decision to notify Judges Nesselbush and Gannon of their ineligibility for membership in MERS consistent with RIGL 45-21-2(7). However, since the Pawtucket City Solicitor, Frank J. Milos, indicated in his letter of November 29, 2022 that the Municipal Court Judges are controlled by Section 2-501 of the City Charter whereby the Judges are elected solely by the City Council, and since the information you obtained from City Council President David P. Moran and current City Council President Terrence E. Mercer includes a job description with the requisite 20 minimum hours, we will consider Judges Nesselbush and Gannon’s job requirements to be in line with the requirements set forth in RIGL 45-21-2(7) and have them remain members of the Municipal Employees System (MERS). We are interpreting your letter to indicate that the City Council members are confirming that the Pawtucket Municipal and Probate Court Judges have always worked and continue to work a minimum of 20 hours per week 52 weeks per year...We will begin the process of restoring the retirement contributions and service credit for Judge Nesselbush.” (Pet exh 3)

(**NOTE** - any pension issues or eligibility issues relating to any individual or individuals, other than Petitioner, as stated in the July 3, 2023 letter, or elsewhere, are not for consideration before this Hearing Officer)

At this point, Petitioner continued to be a member in good-standing with MERS, but her status was short-lived. On October 11, 2023, and despite the fact that Attorney Ragosta had earlier opined to the Mayor’s Office that the executive branch had no jurisdiction or oversight regarding the municipal court judges, he sent a letter to Mr. Karpinski representing himself as “outside labor and employment counsel to the City of Pawtucket. In that capacity I write to inquire of the status of an ineligibility determination.” (Respond exh 10) Copies of his email were notably limited to the Mayor, the City Solicitor and to Sara Miranda. The record reflects no ERSRI response to the email.

It bears noting at this juncture that Petitioner alleges that the Pawtucket Mayor was enmeshed in long-standing and very elevated personal, political and legal disputes with

Petitioner's eventual successor, who now sits on the Pawtucket Municipal Courts (Chief Judge John Gannon), as well as marked disagreements with some members of the Pawtucket City Council, regarding her successor's nomination, confirmation by the Pawtucket City Council and eventual elevation to the bench as Chief Judge. (Tr. 14, Pet exh 1, pre-memorandum at 12,13) Petitioner represented that she had a positive working relationship with the Mayor, but that he had strongly advocated for a different Chief Judge, and she had supported the nomination of Chief Judge Gannon to the City Council. (Pet exh 1, pre-memorandum at 6, 8, 12-13, 42-43, 49-55)

Petitioner alleges that as lead person involving Chief Judge's pensions, to the extent that she was denied MERS membership, her successor could be similarly impacted and potentially ineligible and that this was some of the motivation fueling the ongoing engagement from the Mayor's Office seeking her pension denial. (Tr.14) (Pet exh 1, pre-memorandum at 49-55) Mr. Karpinski testified at the hearing that ERSRI had some intuitive understanding that there was an on-going internal dispute and power struggle in Pawtucket City Hall which drew broadened interest from Pawtucket's executive branch beyond the merits of Petitioner's individual retirement application. (Tr. 255-256)

In further support of Petitioner's assertion of selective and discriminatory denial, she listed names of previous Pawtucket Municipal Court Judges who had over many years qualified for membership in MERS, where pension contributions were made by both the judges and the City of Pawtucket during their tenure, and with issuance of pension payments, all without issue. (Pet exh 1, pre-memorandum at 2, 3, 15, 44-45) She further highlighted the fact that previous mayors and previous city councils have also never challenged prior MERS eligibility for other municipal

judges. (Pet exh 1, pre-memorandum at 6)

Continuing forward, the record shows that ERSRI never spoke to or otherwise communicated with Attorney Ragosta, even with his continued intervention. (Tr. 244-246) Instead of contacting Attorney Ragosta for clarification, ERSRI sent a letter to Pawtucket City Council President Mercer on November 8, 2023, seeking information about the Pawtucket City Council's role pertaining to the job description, and his perception of the general duties of judges sitting in the Pawtucket Municipal Courts. (Respond exh 11)

By letter dated November 17, 2023, Council President Mercer replied: "to the best of my knowledge, after 11 years on the Council, the city's legislative body **does not** determine the conditions, duties, weekly workload or weekly hours worked. The expectation is that the workload is self-dictating (by charter, statute and/or ordinance and matters advanced by Zoning and Code enforcement) and is accomplished in whatever time is necessary." ... "the City Council **does not** establish ...job descriptions." (emphasis in the original) (Respond exh 12)

In the same letter, Council President Mercer made himself available to ERSRI should the agency seek further clarification. The record shows that at one point the Executive Director had a phone call with Council President Mercer prior to the letter, but no communication after receiving the letter. (Respond exh 12) (Tr. 167-168)

Parenthetically, ERSRI contends in its argument that Council President Mercer's November 17, 2023, letter reveals that the City Council could not vouch for the hours Petitioner worked. When the letter is read in conjunction with the totality of the written evidence, however, and juxtaposed with the probative testimony, discussed in more detail later in the section entitled "Testimony-Substantial Evidence," it better illustrates the City Council's recognition of the

courts' self-rule and that it would not overcontrol the functions of the judiciary. The letter provides evidence, along with other reliable attestation, that supports a finding that once the Chief Judge was appointed by the Pawtucket City Council, it did not, by operation of law and by practice, exercise any administrative or supervisory control over the courts, and it considered the operations of the judiciary to be in the hands of the Chief Judge, as a coordinate branch of government.

On February 19, 2024, Mr. Karpinski received a communication from City Solicitor Frank Milos indicating that "the City is represented by Attorney Ragosta on this matter." (Respond exh 13) At the hearing he testified that he had no reason to challenge the representation that Attorney Ragosta represented the "city as a whole," but later acknowledged that he represented the Mayor. (Tr. 229-231, 243) The witness said: "if we would not have heard from the town or the City we would have stopped at the June 20th...July 23rd (sic) letter." (Tr. 245-246) (referring to July 3, 2023) (Pet exh 3) As to this particular reference, even more testimony is detailed later in this Decision.

The very next day, on February 20, 2024, Attorney Ragosta continued his effort. He sent an email to Gayle Mambro-Martin (Respond exh 14; Pet exh 1, pre-memorandum subexh 32). He indicated he had not gotten a response to his October 11, 2023 email regarding the "ineligibility determination for membership of the City's municipal court judges in MERS," and reiterated that he served as "outside labor and employment counsel to the city." There was no other new information in his email other than repeating the HR Director's previous claim that the judges do not work twenty (20) hours or more weekly:

"I am told there is no reliable or credible evidence to support the notion that the judges, all of whom are engaged in busy private law practices, work 20 hours or more weekly (nor are they present in City Hall for such hours)." (emphasis added)

He asserted that any purported job description(s) ought not be deemed authenticated or official records of ERSRI... as “the City’s Law Department advises that there has been no legislative action adopting them” He further said:

“any notations in such description(s) referencing the quantum of hours worked (or to be worked) by the judges are likewise ultra vires, and hence unreliable.”

“I trust this may be useful to any factual and legal determinations to be made by ERSRI if it were to consider reversal of Director Karpinski’s assiduous ineligibility determination. Hopefully that will not be the case.”

Lastly, Attorney Ragosta stated in the email that there was also no compliance with RIGL 28-12-12, which requires the making or keeping of records of hours worked by employees each workday and each workweek. It is entitled the “Rhode Island Minimum Wage Act;” but it does not support his contention. It is designed to apply to minimum wage workers, it is not intended for judges or other professionals. RIGL 28-12-4.3 exempts any employee in a bona fide executive, administrative or professional capacity compensated on a salary of not less than two hundred dollars per week. Notably, ERSRI’s August 1, 2022, letter to Petitioner had recognized that “judges earn \$16,000 annually (salary is the same regardless of the hours).” (Respond exh 4) (emphasis added) The record does not show any direct response from ERSRI to Attorney Ragosta’s latest effort.

But the situation still continued. ERSRI’s stance regarding Petitioner’s pension status took a complete pivot. By letter dated March 11, 2024, ERSRI reversed any prior approval and provided Petitioner official notification of an administrative denial, advising her of her right to appeal. (Pet exh 4). Three reasons were cited for ERSRI’s reversal: (1) the March 2023, communications from Sara Miranda stating that Petitioner had not worked the requisite

minimum twenty (20) hours per week; (2) the February 20, 2024, communication from Attorney Ragosta, representing himself as outside labor and employment counsel to the city, asserting and “confirming that there was no reliable or credible evidence to support a claim that municipal court judges work in excess of twenty (20) hours per week;” and (3) the same February 20, 2024, email in which he replicated the assertion that “any purported municipal court judge “job description” provided to ERSRI should not be deemed authenticated ... and should be considered by ERSRI to be ultra vires and unreliable to the extent it purported to reference any quantum of hours worked.”

ERSRI’s denial letter stated that “based upon this information received from the City of Pawtucket, we have determined as Pawtucket municipal court judge, you do not work a minimum of twenty (20) hours per week and, therefore, you do not meet the threshold criteria for membership in MERS...Our position therefore remains the same as originally set forth in our letter to your attention dated August 1, 2022.” Id

On May 7, 2024, Petitioner submitted a formal Notice of Appeal. (Pet exh 6) This Hearing Officer was appointed to hear the case by letter dated August 13, 2024.

The hearing on the merits took place on October 30, 2024. On November 14, 2024, two weeks after the hearing, Attorney Ragosta sent an email to this Hearing Officer, copied to the parties, indicating that he represented the “City of Pawtucket” and requested the opportunity to submit a post-hearing memorandum in order “to ensure that truthful and reliable evidence is furnished as to work history.” Petitioner objected as to his legal standing. ERSRI did not object. Petitioner and ERSRI agreed to a briefing schedule and submitted legal memoranda addressing their respective positions on the issue of legal standing.

As earlier stated, the October 30, 2024, hearing was very extensive, in terms of time, testimony, submission of pre-hearing memoranda of law, as well as submission of other written evidence and a plethora of exhibits, all of which was subject to very robust examination and challenge by both sides, and all of which required considerable legal research and analysis. Moreover, the parties had also agreed to a briefing schedule for submission of post-hearing memoranda of law on the substantive merits of the case.

After review of the record, as well as the memoranda of law, an Interim Ruling, dated December 29, 2024, was issued by this Hearing Officer declining Attorney Ragosta's request, finding, inter alia, that the fairness of the hearing process requires reasonable adherence to the Superior Court rules of evidence for everyone, as mandated in the ERSRI Rules of Practice and Procedure for Hearings in Contested Cases (including Rule 1.4). In its post-hearing memoranda ERSRI appears to suggest that the principle of "separation of powers" was relied upon as the sole basis for the denial in the Interim Ruling and how that principle, in its purest sense, is arguably inapplicable to municipal operations. The matter of Moreau v. Flanders, 15 A. 3d 565 (RI 2011), which is the cornerstone or seminal case relied upon by ERSRI, contains more than simply the phrase that "the separation of powers doctrine is a concept foreign to municipal governance." The case does remain good law, but it also offers additional guidance and distinction; the case, and other law, is explained in greater detail hereinafter, in the Conclusion and Order segment of this Decision.

A fair and full reading of the Interim Ruling shows a more detailed analysis was made. While the notion of "separation of powers" was noted, other ingrained principles of law were also presented. Whether one refers to the principle of separation of powers, or one refers to a division

of function involving coordinate municipal branches (granted to the Pawtucket Judiciary from the Pawtucket City Council, pursuant to its statutory authorizing-enabling powers, and by virtue of the City Charter and ordinances), the Interim Ruling concluded, based on the evidence and the law, that the executive branch of the City of Pawtucket sought legally unsustainable intrusion into distinct judiciary operations via a written memorandum of law and by other means. Logically and legally speaking, that attempted infringement can also be seen as affecting legislative functions, as the Pawtucket City Council is statutorily recognized by the General Assembly as the only appointing authority pursuant to RIGL 42-2-13.

The Interim Ruling was amply supported by the facts and other salient aspects of the law, to wit: the failure by the City of Pawtucket (executive branch) to adhere to the well-established rules of evidence, the attempt by its counsel to offer hearsay or opinion by way of legal memorandum, the post-hearing effort to introduce or repeat purported evidence of another third party (Pawtucket's HR Director) that lacked foundation or clarity in its own right, the absence of any witnesses or other representatives from the City of Pawtucket (executive branch) at the hearing (after two plus years of involvement) to better articulate any previous but incomplete assertions of Petitioner's ineligibility, or to be available for questioning, which was necessary and vital due to Petitioner's hours-long rebuttal testimony, along with her many exhibits.

It is consequential that Attorney Ragosta's own confidential memorandum to the Mayor, as well as the internal letter from City Solicitor Milos to Dylan Zelazo (copied to the Mayor), and the email from Dylan Zelazo to the Pawtucket City Council (copied to City Solicitor Milos and HR Director Sara Miranda), all emphasized that Pawtucket's executive branch had no jurisdiction or legal basis over the operations of the Pawtucket judiciary. This made continuing

efforts by the executive branch seeking to encroach by way of a post-hearing legal memorandum even more problematic. The substantial evidence from the hearing, in the form of exhibits and credible testimony - from both parties - still supports the December 29, 2024 Interim Ruling and it is made a part of this record.

FINDINGS OF FACT

1. Petitioner was appointed Associate Judge in 2004 and Chief Judge in 2012 for the Pawtucket Municipal Traffic Court and the Pawtucket Housing Court.
2. On or about October 26, 2006, Petitioner applied for membership in MERS in conjunction with the cooperation of the HR Department of the City of Pawtucket.
3. Petitioner retired in February 2024.
4. During the twenty (20) years in question Petitioner and the City of Pawtucket made contributions to MERS on her behalf.
5. In 2022, Petitioner made preliminary enquiries with the HR Department of the City of Pawtucket and with MERS-ERSRI regarding her pension and retirement entitlement.
6. In June/July 2022, the Pawtucket HR Director informed MERS-ERSRI that the Pawtucket municipal court judges do not work twenty (20) hours weekly.
7. By letter dated August 1, 2022, ERSRI informed Petitioner that she was not eligible for MERS membership and stated that it relied on information from the Pawtucket HR Director, as well as information posted on the Pawtucket Municipal Courts website, and also recognized that the judges are appointed and approved by the City Council.
8. Petitioner contacted the ERSRI Executive Director by telephone and informed him that the information received from the HR Director was inaccurate and incomplete in that the HR Director had the days and hours confused, that her search was limited to the website and that she failed to take into account the considerable time judges expended off the bench.
9. On September 10, 2022, Petitioner advised ERSRI that she intended to take an appeal if the matter was not resolved.
10. On or about October 24, 2022, ERSRI sent Petitioner another letter repeating that it had taken information from the municipal court website, and from the Pawtucket HR Director and that its position would not change unless and until Petitioner provided a job description approved by the Mayor and the City Council.

11. In response Petitioner called the ERSRI Executive Director, repeated that the information ERSRI relied upon was incomplete, inaccurate, did not take into account hours worked off the bench, that there had never been a job description for the courts, and she agreed to provide a job description.
12. On or about November 18, 2022, Petitioner provided a copy of the job description to the Pawtucket Director of Administration and to the City Solicitor (executive branch), as well as to Pawtucket City Council President Mercer (legislative branch), asking all parties to review, as a collegial request.
13. On or about November 29, 2022, the Pawtucket City Solicitor wrote to the Pawtucket Director of Administration that, under the separation of powers principle, and per Section 2-501 of the Charter, the mayor/executive branch has no authority or jurisdiction over the judiciary, including the appointment of judges, the hours worked, the job description or general court operations, and per Section 2-600 of the Charter the judges shall have all the powers and duties vested in the municipal court by the laws of the state and ordinances enacted by the City Council.
14. The Mayor sought a second opinion and by confidential memorandum dated December 8, 2022, outside Attorney Ragosta provided him and the Director of Administration with the same core conclusions offered by the City Solicitor, further stating that the Mayor of the City of Pawtucket (“city”) does not have operational authority over the city’s municipal court, yet also stated that the city’s HR Department had advised ERSRI that there was no evidence that the judges work twenty (20) hours per week.
15. On or about December 8, 2022, City Council President Pro Tem Moran sent a letter to Petitioner stating that the protocol job description she had prepared appeared to be reasonable and accurate to the best of his knowledge, and that the duties of the judges involved more than just hours on the bench.
16. On or about December 12, 2022, Petitioner sent the ERSRI Executive Director an email repeating the deficiencies of the information he had received from the HR Director and also provided a draft judge’s job description for review.
17. On or about December 22, 2022, the HR Director provided the ERSRI Executive Director with another copy of the November 29, 2022, opinion from the City Solicitor and a copy of a December 21, 2022, email from the Director of Administration to members of the City Council, which indicated therein that the Administration-executive branch was not responsible for tracking the judges’ hours or their job description.
18. On or about March 17 and 20, 2023, the ERSRI Deputy Counsel exchanged emails with the Pawtucket HR Director who repeated to ERSRI that the Pawtucket Municipal Judges, and Chief Judge Nesselbush, do not work twenty (20) plus hours per week.

19. On or about May 2, 2023, Pawtucket City Council President Mercer wrote a letter to the ERSRI Executive Director stating that he believed that the Pawtucket Municipal Court Judges were indistinguishable from all other part-time employees of the city, and were on a MERS pension track.
20. On or about May 12, 2023, Petitioner's attorney sent a letter to the ERSRI Executive Director advising him of the letters of support from Pawtucket City Council President Pro Tem Moran and President Mercer, and that the job description had been sent to all the governmental branches of the city, including the Mayor and the Presidents of the City Council, and provided ERSRI with another copy of the job description.
21. By letter dated July 3, 2023, the ERSRI Executive Director advised Petitioner's counsel that based on the information now provided in the May 12, 2023, correspondence, Petitioner's retirement contributions were restored and she was once again deemed to be MERS eligible.
22. On or about October 11, 2023, Attorney Ragosta sent an email to ERSRI, representing himself as "outside labor and employment counsel to the city of Pawtucket," and enquiring about Petitioner's ineligibility determination.
23. Exhibits (Pet exh 1) presented at the administrative hearing indicate previous Pawtucket Municipal Court Judges qualified for and received MERS pensions.
24. On or about November 8, 2023, ERSRI sent a letter to City Council President Mercer asking him about general duties of the municipal judges, and also specifically addressing the job description.
25. On or about November 17, 2023, City Council President Mercer responded to ERSRI and advised that the Pawtucket City Council did not determine the functions or hours of the judiciary, that the expectation was that the workload was self-dictating by Charter, statute, and/or ordinance, and accomplished in whatever time is necessary, and also the Pawtucket City Council did not establish job descriptions.
26. On or about February 19, 2024, ERSRI received an email from City Solicitor Milos stating that "the City is represented by Attorney Ragosta on this matter."
27. On or about February 20, 2024, Attorney Ragosta sent an email to ERSRI repeating that he served as "outside labor and employment counsel to the city," and stated that he was told there was no reliable evidence that the judges worked twenty (20) hours, that the job description prepared by Petitioner was ultra vires, and there was no compliance with RIGL 28-12-12, the Rhode Island Minimum Wage Act.
28. By letter dated March 11, 2024, ERSRI reversed approval of Petitioner's MERS eligibility, issued a formal Administrative Denial and indicated that denial was based upon: (1) the March 2023, communications from the Pawtucket HR Director;

(2) the February 20, 2024, email from Attorney Ragosta claiming there was no credible evidence showing that the judges worked twenty (20) hours a week; and
(3) the February 20, 2024, email from Attorney Ragosta claiming the job description prepared by Petitioner was ultra vires.

29. On May 7, 2024, Petitioner submitted a formal Notice of Appeal.
30. The hearing on the merits was conducted and concluded on October 30, 2024.
31. On or about November 14, 2024, Attorney Ragosta sent an email to this Hearing Officer asking approval to submit a post-hearing memorandum to provide evidence as to Petitioner's work history.
32. On or about December 29, 2024, and after reviewing the evidence, as well as the memoranda of law on standing submitted by Petitioner and ERSRI, this Hearing Officer issued an Interim Ruling denying Attorney Ragosta's request-motion,
33. Petitioner's job duties and hours were self-dictating per testimony and exhibits presented.
34. The Pawtucket HR Director never communicated with Petitioner regarding her duties on or off the bench.
35. Attorney Ragosta never spoke with Petitioner regarding her duties on or off the bench.
36. Petitioner's hours, both on and off the bench, amounted to a minimum of twenty (20) hours per week during the years in question.
37. The Pawtucket Municipal Courts are considered, by Charter, in session at all times.
38. Petitioner is an employee of the city, and serves at the pleasure of the City Council.
39. The ERSRI Executive Director did not communicate with the Pawtucket HR Director or Attorney Ragosta and testified that Attorney Ragosta worked for the mayor, the executive branch.
40. This Hearing Officer was appointed to hear the appeal by notice dated August 13, 2024.

STANDARD OF REVIEW-APPLICABLE LAW

Rhode Island Supreme Court cases have long recognized firmly established principles pertaining to ERSRI's operations. Under RIGL §36-8-3 the General Assembly has vested the

general administration and responsibility for the proper operation of the Retirement System in the Retirement Board. See, e.g., Perroti v. Solomon, 657 A.2d 1045 (RI 1995); Iselin v. Retirement Board of the Employees Retirement System, 943 A. 2d 1045 (RI 2008).

To that end, ERSRI posits some legal principles regarding the applicable standard for review in ERSRI hearings. For example, ERSRI advances the case of D’Addario v. Employees Retirement System of Rhode Island, April 22, 2019 (Hearing Officer Rusbino) as a dispositive ruling from another ERSRI hearing officer that a municipal judge must work a minimum of twenty (20) business hours per week in order to meet the definition of “employee,” and that by other caselaw, deference is clearly accorded to ERSRI in deciding who is an “employee” under the statute. (Respond post case specific reply memorandum at 2,3)

In D’Addario, ERSRI denied the right of the appealing party to purchase service credit for the time that he served as a probate judge for the Town of Tiverton. The appealing party had argued that he was automatically eligible pursuant to RIGL 45-21-8 (a) which states in part, “Any employee ... shall, under contract of his or her employment, become a member of the retirement system.” As earlier noted, RIGL 45-21-2(7) now defines the term “employee.”

Indeed, D’Addario does reaffirm the basic maxim that ERSRI is accorded deference in interpreting statutes whose administration and enforcement have been entrusted to the agency, so long as the agency construction is not clearly erroneous. Lyman v Employees Retirement System, 693 A 2d 1030, 1031 (R.I. 1997) So within the specific factual framework contained in D’Addario, ERSRI correctly construed the statutes in denying eligibility.

As a consequence, however, ERSRI similarly emphasizes that in the present case its interpretation of “employee” under RIGL 45-21-2(7) was not clearly erroneous and should

therefore be accorded deference to support the denial of Petitioner's MERS application.

(Respond post memorandum case specific reply at 2,3)

However, D'Addario, and alike cases citing deference given in the context of statutory interpretation by ERSRI, are not wholly pertinent to Petitioner's appeal. As stated, those types of cases dealt with pure statutory analysis. In D'Addario, the evidence was not contested - the appealing party openly admitted that he did not work twenty (20) hours a week and there was no dispute regarding his testimony or the evidence that was presented. He sought approval for MERS membership based upon his singular interpretation of statutory construction.

Here, Petitioner's appeal is not one based upon statutory explanation; she is not contesting the definitions within the statute. Petitioner's case is one that really centers on presenting credible substantial evidence, in compliance with the caselaw standards presented below, regarding hours worked to satisfy the definition of "employee," along with some competing interpretations of laws affecting the exercise of authority and jurisdiction by separate branches of municipal government.

Other principles apply to the present case. Established caselaw reinforces the requirement of producing substantial evidence, that is, assembling legally competent evidence – that precondition is the foundation supporting any agency decision. Wayne Distributing Co., v Rhode Island Commission for Human Rights, 484 A. 2d 893, 896 (R.I. 1984) In George T. McLaughlin v. Central Falls Board of Trustees and the Rhode Island Department of Labor and Training, (Superior Court Rescript, December 13, 2016, C.A. PC 2015-2176) the court reiterated that fundamental axiom - an agency's decision must be supported by substantial evidence. Ctr. For Behavioral Health, R.I., v. Barros, 710 A.2d. 680,684 (R.I. 1998). "Substantial evidence is such

relevant evidence that a reasonable mind might accept as adequate to support a conclusion, and means an amount more than a scintilla but less than a preponderance.” Caswell v. George Sherman Sand & Gravel Co., 424 A. 2d. 646 (R.I. 1981) (citing Apostolou v. Genovesi, 120 R.I. 501, 508, 388 A. 2d. 821, 824-825 (1978)); Town of Burrillville v. Rhode Island State Labor Relations Board, 921 A. 2d. 113, 118 (R.I. 2007) (legally competent evidence is also referred to as “substantial evidence.”)

Still more standards specifically affecting the ERSRI hearing process apply in this appeal. In Barry Holland v. Employees Retirement System of Rhode Island, (Superior Court Rescript, January 31, 2011, CA #09-0231), for example, the trial judge restated the time-honored axiom that “ERSRI is the state agency entrusted with broad powers of administration and responsibilities for the regulation of the state retirement system.” Id. p.8. The trial judge best described the process in this fashion:

“The agency utilizes a two-tier review process... This two-step process has been likened to a funnel. Environmental Scientific Corp. v. Durfee, 621 A. 2d 200, 207-08 (RI 1993). The hearing officer, at the first level of review, “sits as if at the mouth of the funnel and analyzes all of the evidence, opinions and issues. Id. The Board stationed as the ‘discharge end’ of the funnel, the second level of review, does not receive the information considered by the hearing officer first hand...the further away from the mouth of the funnel that an administrative official is...the more deference should be owed to the fact finder...”

Id. Albert Turcotte v The Retirement Board of the Employees Retirement System of the State of Rhode Island, Superior Ct, August 1, 2011, C.A. No. PC 10-553; Envtl Scientific Corp v. Durfee, supra. The trial judge went on to make reference to numerous findings of fact made by the hearing officer to support the principle that deference is accorded when there is legally competent evidence in the record. Id. Baker v. Department of Employment & Training Bd. of Review, 637 A. 2d 360 (R.I. 1994); Rossi v. Employees Retirement System of Rhode Island, 895 A. 2d 106 (R.I. 2006).

Stated another way, courts have concluded that they may not substitute their judgement for that of an agency on questions of fact and must affirm the agency decision “unless the agency’s findings in support of its decision are completely bereft of any competent evidentiary support.” Rocha v. State Pub. Utils Comm’n, 694 A. 2d. 722, 725-726 (R.I. 1997) (citing Sartor v. Coastal Res. Mgmt. Council, 542 A. 2d. 1077, 1083 (R.I. 1988)).

Lastly, caselaw has articulated another essential precept - the determinations of witness credibility by the hearing officer should not be disturbed unless they are clearly wrong. Lillian Rivera v. Employees Retirement System of Rhode Island, (Superior Court Rescript, March 16, 2011, CA# 08-4409) (and cases cited therein).

HEARING TESTIMONY

Taking all those legal standards into account, this Hearing Officer relied on all the considerable evidence, including the extended testimony of the two witnesses, with 301 pages of transcript. Some of that testimony has been touched upon in the Travel of the Case, and much more is examined below in greater detail.

1. Petitioner’s Testimony

Petitioner testified first under oath. Some, but not all, of her substantial testimony is highlighted hereinafter. She literally testified for hours in support of her claim that she was pension eligible. Her testimony was deemed reliable, corroborative and probative of the issues. In that respect, this Hearing Officer disagrees with the contention that there was no credible evidence to support a finding that Petitioner worked the requisite hours. She detailed her daily, weekly, monthly and yearly services provided on behalf of the two City of Pawtucket Municipal Courts. Petitioner provided many exhibits that she testified were representative of her time

commitment on and off the bench during her tenure of twenty (20) years.

First, Petitioner testified that when she was hired in 2004, she was directed by the then Chief Judge, the mayor and the city council to arrange with HR for direct deposit, health insurance and pension paperwork as that had been explained to be part and parcel of her employment due to the low yearly salary for the judges. (Tr. 14, 21-23) She made uninterrupted pension contributions for twenty (20) years, as did the City of Pawtucket on her behalf. (Tr. 22-23) She testified that the hours worked by the judges, and recognized by the City Council, are self-dictating. (Tr.156-157) (see, Respond exh 12)

Petitioner stated in her pre-hearing memorandum that her pay stubs indicated thirty-five (35) hours per week because under Pawtucket City Ordinance 26-9 the Municipal Courts were considered to be in session at all times that the Chief Judge shall direct. (Pet exh 1, pre-memorandum at 3, subexh 1, Tr. 24-27, 31) She also stated the judges were salaried positions, requiring no time records or time slips. Id. (Tr. 147)

Petitioner addressed contentions made by the Pawtucket HR Director that she did not work twenty (20) hours per week. She testified the HR Director only looked to the municipal courts' website regarding the hours of operation, and that those efforts were so fragmented that she did not even correctly interpret the days and hours the courts are in session. (Tr 15-16) (Pet post memorandum at 6) Notably, Petitioner had earlier stressed in conversations with the ERSRI Executive Director that identical mistakes were embedded in its letter to her dated August 1, 2022, as ERSRI had relied upon the same erroneous information from the HR Director, and that ERSRI had been taking only limited material from the municipal courts' website. (Respond exh 4) Id.

Of added consequence, Petitioner testified that she never met with Sara Miranda, that the HR Director never approached Petitioner to enquire about her court duties, that she had never ventured into either one of the municipal courts, and that she had never been in her chambers. She said that she had never spoken with the HR Director. (Tr. 15-17.) It is further noted, and administrative notice is taken, that Sara Miranda posted one of her historical profile jobs on the internet (Linkedin) as “HR Director for the City of Pawtucket, November 2018 to January 2024, 5 years and 3 months,” demonstrating that her time in Pawtucket city government was of limited duration.

Similarly, Petitioner testified that Attorney Ragosta, whose own assertions rested solely on the strength or weakness of the statements and efforts made by the HR Director, was not known to her, and that he never spoke with her regarding her duties or hours worked. (Tr. 17)

Additionally, Petitioner testified that the Mayor and members of the City Council never came personally to court, the exception being a situation every so often where a Pawtucket Housing Court issue might develop in the specific district of a council member. (Tr. 145) She stated that due to the principle of separation of powers the courts were treated as a coequal branch, and over the twenty (20) years, the Mayor and the City Council never questioned her hours worked or interfered with its operations, much like those branches of government administered their own respective independent bodies. (Tr. 144-145)

Petitioner repeatedly testified that her duties as Associate Judge and Chief Judge always required that she worked in excess of twenty (20) hours per week. (Tr. 14, 15, 23-24, 40-42, 57, 65, 66, 141-143, 146, 149) There were a myriad of legal and supervisory-administrative issues each and every week, involving both courts, and “absolutely” would exceed twenty (20)

hours. (Tr. 37) The general duties and hours as to both courts were consistent from 2004 when she began as Associate Judge to the time that she was appointed Chief Judge in 2012, and up to the time that she retired in 2024. (Tr. 38-39) She stated that she is the longest serving Pawtucket Municipal Court Judge. (Tr. 100-101)

Petitioner underscored that she created the City of Pawtucket Municipal Court webpage, and how reliance on that site alone “absolutely” does not adequately describe the workload for the judges. (Tr. 17-18) She maintained that the Pawtucket Municipal Court judges have essentially the same powers and responsibilities as the judges in the Rhode Island District and Superior Courts. (Tr. 21) She amplified the fact that the Pawtucket Municipal Courts have one of the busiest caseloads throughout the state, perhaps the second highest. (Tr. 29-30, Pet post-memorandum at 9) She described the typical workload of adjudicating cases, issuing court orders, having supervisory and administrative authority over the two courts, addressing personnel matters, promulgating court rules, setting daily dockets, issuing executing warrants, body attachments, writs, etc. (Tr. 17-19) “We set the hours of operation over the 20 years that I was there.” (Tr. 19) She remarked that as set by Charter the courts were “in session at all times” and that a judge had to be available at all times. (Tr. 24-27, 31)

She emphasized that she had been the Chief Judge of two (2) Pawtucket courts – the Municipal Traffic Court and the Municipal Housing Court, which increased her time commitment since the courts meet several days a week, every week, plus her work effort off the bench. (Tr. 13, 26-32, Pet post-memorandum at 8,9) She stated that at times the courts met four (4) times a week. (Tr. 27) She broke down the daily bench commitments: on Mondays the Housing Court meets for two to three (2-3) hours, and later in the day the Traffic Court meets for

two (2) plus hours; on Thursdays Traffic Court meets late afternoon or early evening at varying hours because thousands of tickets were issued– she testified that the calendar noticeably grew due to the camera enforcement program; on Fridays the morning calendar dealt with arraignments and trials. (Tr. 27-31) Throughout those days she regularly met with attorneys, police, other officials and reviewed files for hearings and conducted legal research, etc. Id.

The witness stated that her hours on the bench for the two (2) courts were, at a minimum, twelve (12) hours per week, and that her time off the bench included a wide range of legal, administrative and supervisory duties, as dictated by the enabling statute, that collectively met the requirement of a minimum of twenty (20) hours per week. (Tr. 143-144)

She stated that with respect to the Municipal Traffic Court the hours changed and the commitment broadened due to such matters as establishing procedures for implementing the safe driver statute. The courtroom was increasingly busy as tickets were issued in the thousands, and often there was no standing room in the courtroom when in session. (Tr. 27-30) In her pre-hearing memorandum of law Petitioner avers in the attached exhibits that Pawtucket is the 4th largest city in Rhode Island and that, in 2023, 6,000 E-citation traffic tickets were issued, along with 2,000 parking tickets and that approximately 75% of those 8,000 matters had to be adjudicated (Pet exh 1, pre-memorandum, subexh 15, 16, Tr. 38). By way of another example, in 2012, over 12,000 tickets were issued. (Tr. 38) She avers that the judges had to perform many additional court-related duties often due to lack of any official clerks. (Pet exh 1, pre memorandum, subexh 20) (Tr. 27-30)

The Pawtucket Housing Court often had to deal with issues like federal preemptive rights affecting railways and Amtrak, chemical spills, utility emergencies, on-site inspections, housing

code compliance cases that frequently went on appeal to the Rhode Island Supreme Court, blighted properties and a myriad of other code enforcement matters to the point that police officers often went to her private office on an emergency basis. (Tr. 25-27, 35-37, 95-99)

She elaborated how the changing diversity, population and demographics of the City of Pawtucket contributed to and increased her commitment to her twenty (20) hours plus weekly workload. (Tr. 51) Because she is tri-lingual - English, Spanish and Portuguese - she often acted as translator for parties appearing before her. (Tr. 52-53) She testified to appearing at various city functions and ceremonies and other matters she deemed integral parts of her official judicial functions and obligations to the city. (Tr. 56-57, 70-80) She testified that her commitment to the City of Pawtucket continually exceeded the twenty (20) hours per week, often without notice, to the point that her private law firm had to hire additional attorneys in order to handle the workload in her extended absence. (Tr. 55-56) She testified this allowed her to devote even more hours in her service to the City of Pawtucket. Id. (Tr. 134-135)

She stated that she had to address jurisdictional conflicts and problems with respect to the courts involving overly-interactive efforts from the police department. “This went on for many months, it took an incredible amount of time, research, to rectify the problem.” (Tr. 82-85) There were additional meetings on police department issues: “lots of work, lots of meetings with the city solicitor,” ... “an incredible amount of time, way more than twenty hours a week.” (Tr. 84-85) She testified she frequently worked with the police department to ensure courtroom security and protocol because the environment and dynamics changed in and outside the courts. (Tr. 58-63)

Additional illustrations of time-consuming commitments were presented - addressing the

legal propriety and implications of having cameras in the courtroom (Tr. 87-88), frequent meetings with the city solicitor (regarding e.g. body attachments, civil v. criminal intent, fines), meetings with the Mayor (Tr. 89-93), attending press conferences (Tr. 94), constant site visits involving the Municipal Housing Court (Tr. 95-96), or meetings with the Mayor and City Council regarding distressed or abandoned properties (Tr. 96-97). She stressed that many of her commitments involved administrative and supervisory duties, above and beyond adjudicating cases, “an incredible amount of time.” (Tr. 89, 141-143)

In sum, she stated under oath: “it’s like stating the obvious to lawyers that judges do a lot more than just the things they do sitting on the bench for those hours” (Tr. 93) She testified that much like the Rhode Island District Court and Superior Court judges she had to devote time on the bench, and considerable time off the bench – she did so in city hall chambers as well as at her private office and at her home, and elsewhere. (Tr. 26, 31-32, 35-36, 38-43). “I’ve dedicated my life as a lawyer and as a judge to justice and in “service to the City of Pawtucket.” (Pet exh 1, pre-memorandum at 29-30) (Tr. 101)

Petitioner gave credible evidence as to considerably more duties and responsibilities than what has been presented, but the point is adequately made.

On cross examination by ERSRI’s attorney Petitioner agreed that she was considered a city employee, that she served at the pleasure of the Pawtucket City Council, that she maintained a private law practice and that all municipal-court judges work part-time. (Tr. 102, 105-108, 110) The witness agreed that the Pawtucket Courts are not a constitutional creation and that she was not considered to be an Article III Judge under the Rhode Island Constitution. (Tr.108) She agreed that the applicable enabling legislation (RIGL 42-2-13), passed by the General Assembly,

enables and directs the Pawtucket City Council and that the creation of the Pawtucket City Courts comes into existence from Pawtucket's legislative body, and is amplified by way of other miscellaneous enactments in the ordinances and the Charter. (Tr. 50-51,109-110) She stated that the City Council approves the budget for the courts (Tr. 261), but she asserted that "the judges are a co-equal branch of government and they run their own courts ... the City Council has stated in writing and in practice that once they make the appointment, they have nothing to do with the court." (Tr. 113-115, 150-152) Petitioner said: "the judges do their job as they deem fit, based on the Charter and the ordinances." (Tr. 121-122)

With respect to the job description she prepared, she refuted ERSRI's contention at the hearing that she made a unilateral decision to write it up so as to qualify for a pension. (Tr. 135-136) Petitioner pointed out that she had already been sitting on the bench for many years, with no job description in place for any of the judges, past and present, and that she was the first one to work with ERSRI's Executive Director to begin the process. (Tr. 112, 119) She testified that she provided copies to both the executive branch and the legislative branch for collegial input, but she was not asking either branch to advocate or to pass any ordinance. She asserted those branches could not legally mandate or impose requirements per se, given the framework and body of enactments presently in place, because she contended those edicts reinforced the notion of separation of powers and a coequal Pawtucket Judiciary. (Tr. 135, 148, 150-155)

The witness steadfastly disagreed with ERSRI's multiple challenges and assertions that many of her tasks off the bench were not mandated by ordinance, or by other means, and could not reasonably be counted as time contributing to her twenty (20) hours per week as they were allegedly highly discretionary in nature. (Tr. 112-119, 120-130,137) She testified earlier, and in

response to the questioning, that the tasks she undertook were part and parcel of her overall responsibility to do what was best for the City of Pawtucket, a job she took seriously. (Tr. 112-119, 120-130,137,141-145)

2.ERSRI-Executive Director's Testimony

Executive Director Frank Karpinski testified next under oath and his testimony was deemed probative and credible. He was first examined by Petitioner's counsel. He testified that it is not unusual for a retirement application not to be questioned or examined by ERSRI until such time that a member's account is validated or the member is ready to retire and paperwork is submitted; it was considered normal practice by the agency. (Tr. 199-200) He agreed that for twenty (20) years ERSRI never received any notice from anyone in city government claiming that Petitioner was not working the twenty (20) hours while contributions were being made to the retirement system on her behalf. (Tr. 173-175)

He testified that the determination of being a twenty (20) hour per week state or municipal employee is often determined by the employer, as ERSRI does not have the resources or skillset to verify the accuracy of the underlying job duties of the many members for whom the system is receiving contributions. (Tr. 162-163,171, 200) He acknowledged that in this case no one had independently explained how the twenty (20) plus hours had evolved. (Tr. 169-70) No one, including Sara Miranda from Pawtucket HR, had first-hand knowledge and that was a reason why producing a job specification had value in making that determination. (Tr. 169-171, 182-183)

The witness admitted that ERSRI had concluded in its July 3, 2023, letter that Petitioner qualified for MERS membership; that approval was based on the information and job description

received from Petitioner and counsel. (Pet. exh 3) As an aside, ERSRI's approval letter recited the November 29, 2022, letter from Pawtucket City Solicitor Frank Milos which stated "the Municipal Court Judge positions are controlled by Section 2-501 of the City Charter whereby the Judges are elected solely by the City Council ..." (Pet exh 3) The witness also noted the corroborating correspondence he received from City Council Presidents Moran and Mercer, which spoke to the self-determining function of the judiciary. (Tr. 173-178)

The witness averred that nonetheless the agency was grappling with obtaining information from trusted sources. (Tr. 188-189, 203-204) He agreed that ERSRI relied on claims made by outside parties (Tr. 186-187), and he often acknowledged that the Pawtucket City Council, not the Pawtucket Mayor, was the hiring authority. (Tr. 184-185, 205-207)

Under continued direct examination the witness addressed the contents of the official March 11, 2024, denial letter. (Pet. exh 4) Despite previously accepting the fact that the City Council was the hiring authority, he noted that ERSRI's reversal still accepted the statements from HR Director Sara Miranda (Tr. as well as 177), comments from Attorney Ragosta (Tr. 178-79). The Executive Director stated that he interpreted the February 20, 2024, email from Attorney Ragosta as meaning "the city" was pulling back support for Petitioner. (Tr. 181-182, 184, 187-189) He acknowledged again that Attorney Ragosta had no known authority from the City Council, had done no investigation as far as he knew, and had provided no factual basis to ERSRI to support his contention that there was no reliable or credible evidence regarding the twenty (20) hours worked weekly by Petitioner. (Tr. 190, 194-195)

The questioning continued. He testified that Attorney Ragosta's allegation that the preparation of the job description from Petitioner was self-serving and ultra vires, caused

confusion for ERSRI as Attorney Ragosta had failed to differentiate which branch of government he represented and merely said the “city.” (Tr. 217)

The Executive Director acknowledged that he personally never communicated with the Pawtucket HR Director, and that she was never asked if she visited the judges working on or off the bench, “we don’t know whether or not she had any personal information.” (Tr. 180-81, 246) Similarly, he also agreed that ERSRI never followed up with Attorney Ragosta in any manner. (Tr. 244-246)

The witness stressed that ERSRI is very much a “mechanical operation,” and it does not have the resources to verify the accuracy of the underlying job duties of the thousands of members for whom the system is receiving contributions. (Tr. 200, 223, 227-228) He said overall the system has 65,000 members. He indicated that ERSRI was attempting to determine who was in control of assessing Petitioner’s work-hours because not every community has a municipal court (Tr. 204-06); it was “not something that we generally had come across to us.” (Tr. 193) He agreed earlier in his testimony that the agency had also relied upon the Pawtucket Municipal Court website and “based on this information” Petitioner was deemed ineligible. (Tr. 179-180)

Some of the questions and answers at the hearing may have appeared to be repetitive, but they still served a purpose. The witness agreed that at the time Petitioner’s application (Respond exh 4) was denied ERSRI had in its possession the letters from City Solicitor Frank Milos and Attorney Ragosta (stating that the executive branch had no authority over the judiciary, and that the judges are hired by the City Council), as well as letters from Council Presidents Moran and Mercer (indicating that once the Chief Judge is appointed judicial functions are self-dictating). (Tr. 239-244) He said that the last email from Attorney Ragosta, who represented the executive

branch, presented a persistent challenge as to the job description and hours worked, and for which he felt ERSRI was not equipped to resolve and for which it could not be the arbiter.

(Tr. 245-247)

The questioning, and the answers, often came back full circle. For example, the witness testified that, faced with a steady push from Attorney Ragosta, ERSRI interpreted that he represented the city as the hiring party, (Tr. 231-233). But he reaffirmed earlier testimony by admitting that more reliable information showed that Attorney Ragosta was only representing the Pawtucket Mayor. (Tr. 176, 187-188, 190, 242-243) Again, he agreed that earlier in the review process, the City Council had been properly identified, and accepted, as the only hiring authority for the judges (Tr. 170, 205, 244), but that the email from Attorney Ragosta caused a re-determination, and it served as a foundational basis for issuance of a formal denial letter, rather than as a basis for initiating further investigation or communication. (Tr. 247-251)

This was the sum total of the testimony presented at the hearing by both witnesses. While it may not be deemed to be picture-perfect in every sense, as will be discussed below, this Hearing Officer found it to be substantial, credible and reasonable in support of Petitioner's prayer for relief, as required by caselaw.

CONCLUSION AND ORDER

Separation of Powers, Job Description and Substantial Evidence Compliance

1. Separation of Powers.

As earlier discussed, ERSRI relies principally on the case of Moreau v. Flanders, supra, for the proposition that the principle of separation of powers is recognized as a concept foreign to municipal governance, and that the Pawtucket Municipal Courts effectively lack the power to initiate independent governance as a judicial body, affecting a number of functions pertinent to

this case, including verification of hours worked, and preparation of the job description. The Moreau case is also cited in Attorney Ragosta’s confidential memorandum to the Pawtucket Mayor.

Moreau is factually distinguishable from the present matter as that former case involved disputes between a reviewing state agency and a city’s legislative branch. They were not considered coordinate branches of government because the city was a creature of the state. The Rhode Island Supreme Court recognized “that when a legislature has authorized a grant of power at the municipal level, it alone may interfere with that grant, Id., citing, State v. Holton, 997 A 2d 828, 845, (Md. Ct. Spec.App, 20) (holding that “when the Legislature confers legislative power on a municipal body, a judicial or executive body may not interfere with that power, except as the Legislature authorizes.”) Id. (See, Town of East Greenwich v. O’Neil, 617 A. 2d 104 (R.I. 1992) (involving the State PUC and the Town – separation of powers prohibits usurpation of power of one branch of government by a coordinate branch of government).

In Quattrucci v. Lombardi, R.I. Supreme Ct. 2017-0248, 2017-0249, June 30, 2020, a case involving the City of Providence and Superior Court consent judgments, the state Supreme Court observed that in Moreau it had held “that the separation of powers doctrine is a concept foreign to municipal government ...However, our holding in that case applied only to a branch of municipal government interfering with another co-equal branch of municipal government. Therefore, Moreau is inapplicable to the case at bar.”

Also, cases in footnote 16 in Moreau provides additional insight. The Rhode Island Supreme Court cited other jurisdictions where municipal government might not look to separation of

powers theory based on pure textbook or strict constitutional grounds, but which still support divisible municipal functions “governed by charters and other statutes enacted by the legislature.” Ghent v. Zoning Comm, 200 Conn.584, 600 A. 2d 1010 (1991); Graziano v. Mayor and Township, 162 N.J. Super 552 (1978); Ball v. Fitzpatrick, 602 So 2d 873 (Miss 1992).

Those cases emphasized that enactments approved by the state and/or a municipality can legally recognize and confer jurisdiction upon coordinate governmental bodies and result in an analogous and legally acceptable separation of operational authority and function. See, Poynter v. Walling, 177 A. 2d 641, 645 (Del. Super. Ct. 1962) (municipalities are governed by charters and other statutes enacted by the legislature)

ERSRI concludes, albeit based upon extraneous legal authority, that because the Pawtucket Municipal Court is not a constitutionally created body, it cannot be viewed as a separate and coequal branch of the city’s government, as it is “created by the City Council and...funded by the City.” (Respond post-memorandum at 15) ERSRI also averred that it is a “red herring to focus on the City Council vs the Mayor vs. the Judiciary...as the “case does not implicate separation of powers issues... and there is simply no need to delve into intra-City political issues or divergences even assuming (without acknowledging) that they exist.” (Respond post-memorandum at 17). Petitioner disputes ERSRI arguments.

Taking that political path is not necessary. To be clear, any review of the present appeal is based upon the evidence, the facts, and the law. Any scrutiny of purported political motivations is of little moment. The present case rightly involves how branches of municipal government jurisdictionally operate and what credible and substantial evidence was presented affecting the issues that are on appeal.

It has been observed in at least one legal study that separation of governmental function and

authority on the municipal level is often reflected in a state's enabling legislation and local charters are specifically written to apply to a particular locality. Fordham Law Review, Volume 84, Issue 2, Article 14 (2015), "History, Governmental Structure, and Politics: Defining the Scope of Local Board of Health Power."

Here, RIGL 42-2-13 establishes the foundational linkage between the Pawtucket City Council, as the legislative branch and the appointing authority, and the Pawtucket Municipal Courts, the judicial branch. RIGL 42-2-13(a) provides that the Pawtucket City Council may establish a municipal court and "confer upon the court original jurisdiction ... involving the violation of any ordinance." Similarly, RIGL 42-2-13(b) confers original jurisdiction upon the Pawtucket Housing Court, and to hear a wide range of violations including zoning ordinances, various building, plumbing, electrical and mechanical codes and regulations. Section (d) authorizes and empowers the Pawtucket City Council to appoint a Chief Judge, and to enact ordinances governing the personnel, operation and procedure and to otherwise provide for the operation and management of the court. One thing is certain, by virtue of this broad legislative enactment from the General Assembly, the Pawtucket Mayor's office, the executive branch, is purposely omitted, and it has no operational jurisdiction over the Pawtucket Municipal Courts, or over the Pawtucket City Council.

The Pawtucket City Council puts that enabling statute into motion by virtue of multiple directives. Under Section 2-301 of the City Charter, the City Council is the body charged with adopting annual budget appropriations after the Mayor submits the annual operating budget message. Section 2-309, entitled "Pension and Retirement System," provides that the "Mayor has budgetary input, and he shall submit to the council his proposal for a comprehensive,

fair and actuarially sound pension and retirement system covering officers and employees of the city and the council shall promptly consider it and act upon the setting up of such a system.”

In sum, it is the Pawtucket City Council that appropriates funds, it has the power of the purse.

This power is similar to budgetary operations on the state level with the General Assembly.

Petitioner points to numerous Pawtucket City Council enactments to support her contention that the Chief Judge was invested with vast supervisory and administrative authority over the Traffic and Housing Courts. She maintains that the City Council “delegated all adjudicatory, administrative, and supervisory authority over the court to the Chief Judge in a broad grant of statutory power contained in City ordinance Chapter 26, Articles I & II.” (Pet post-memorandum at 11) Section 2-501 of the Pawtucket City Charter indicates that the City Council is the appointing body for the judges. Section 2-600 provides that the judges shall have all the powers and duties of the state and ordinances enacted by the City Council. Under 26-10, the Municipal Court shall have original jurisdiction to hear and determine causes involving all violations. Chapter 26-9 of the Pawtucket Ordinances provides that the Municipal Court shall be considered in session at all times and in such place or places in the city as the court or the justice holding the same shall direct. Id.

Also, City ordinance Chapter 26-18 B & C establishes a Housing Court wherein the Chief Judge of the Housing Court shall also serve as Chief Judge of the Municipal Court. Section 22B indicates that the Chief Judge shall have supervision over staff and court stenographers and Chapter 26-22 states that the Chief Judge of the Housing Court shall have supervision and control of the calendar – “shall be the administrative judge of said court, and shall be the head of said Court and shall have supervision and control of the

calendars and the assignments of his or her Associate Judge.” Section 22C provides that the Judge “shall also be charged with the general responsibility for any recommendations that may be important for the work of the court.”

Article II Section 26-19 (C) provides that “The ... Judge shall also be charged with the general responsibility for any recommendations that may be important to the work of said Court.” Additional ordinances are cited by Petitioner for the proposition that the Chief Judge is sufficiently and legally authorized by grant from the Pawtucket City Council to deal with all aspects of the supervision and control of the Pawtucket Judiciary.

(See, also, Section 26 generally, 28-18B & H, Article II Section 28-19, Article II Section 28-20, Article II Section 28-22, Article II Section 28-22C and Article II Section 28-23) (Pet exh 1, pre-memorandum at 18-19).

Consistent with the above, it is significant that the Presidents of the Pawtucket City Council, who served considerable amounts of time in that capacity, advised ERSRI that as a matter of historical legal practice, the Pawtucket City Council had always treated the judiciary as a self-dictating governmental body. More important, they indicated that the City Council stance was not one based upon a singular or specific decree or ordinance, but rather based upon the enabling statute from the Rhode Island General Assembly, along with a collective set of ordinances and other enactments that followed, allowing that broad delegation.

ERSRI argues that because the Pawtucket Municipal Courts draw their authority exclusively from the Pawtucket City Council, it is not possible to be considered a separate coequal branch of government, and thus it reasons, on that basis, the absence of a singular ordinance pertaining to a job description approved by the City Council is fatal to Petitioner’s MERS

eligibility.

This Hearing Officer reaches a different conclusion on that narrow issue, based on the law and the legislative activity just reviewed, as well as the long-standing acquiescence by the City Council. Just because the Pawtucket Municipal Courts are not constitutionally created does make them forever devoid of power. As stated, there exists a plethora of enactments of one kind or another, starting with the enabling statute from the General Assembly, continuing with the multiple enactments from the Pawtucket City Council, providing the Pawtucket Courts with substantial oversight and actual, not theoretical, independence. Petitioner's stance regarding the powers of the Chief Judge is reasonably and strongly supportable to the effect that the Chief Judge has been granted a wide range of authority such that the judiciary is effectively a coordinate branch of government. (Tr. 115-117) In short, Petitioner's argument is found to be legally sustainable on this issue.

2.Job Description.

Among other things, ERSRI claims that the job specification prepared by Petitioner was unilateral and self-serving and would lead to any municipal judge creating a pension eligible position. Again, ancillary to that argument is ERSRI's allegation that the Pawtucket Municipal Courts cannot be considered a separate and coequal branch of the city's government, and therefore, Petitioner lacked the authority to single-handedly write her job description that would make her pension eligible. Accordingly, ERSRI stated there was no "evidence demonstrating that the City of Pawtucket has adopted or ratified the form or contents of the purported job description presented by Judge Nesselbush ... and that MERS properly relied upon the representations made by the City ..." (Respond Post-memorandum, at 15-17, emphasis added)

As agreed, the record does not show any singular ordinance passed by the Pawtucket City Council approving the job description. However, as also shown, Petitioner points to a vast amount of authority that was vested in the Chief Judge from the Pawtucket City Council by a wide range of enactments, such that the City Council could not in fact legally create a job description. (Tr. 114-118) She testified that once the Chief Judge was appointed by the Pawtucket City Council, under the body of multiple enactments in effect, only the Chief Judge possessed that authority. (Tr. 151-155)

As Chief Judge, Petitioner would of course have a professional interest in the final form of the job description, but the record shows that she did not produce it unilaterally or in a vacuum as has been asserted. She testified that after discussion with ERSRI “Mr. Karpinski and I agreed that I would create one.” (Tr. 112, 119) The form she prepared was based upon her considerable years on the bench, and it was presented to all pertinent governmental units – the draft ended up in the hands of the Mayor, the City Solicitor, the Director of Administration, Attorney Ragosta, the two presidents of the Pawtucket City Council, as well as with ERISA, and probably others.

Each governmental body reacted to the document in different ways. Petitioner pointed out that City Solicitor Milos and Attorney Ragosta provided legal opinions that the Mayor’s Office, as the executive branch, had no jurisdiction over the functions of the courts or preparation of the job description. (Tr 135). The email from Dylan Zelazo to the City Council, with copies sent to personnel of the executive branch, reinforced that conclusion.

Petitioner asserted that while the Pawtucket City Council cannot legally promulgate a job description, again with the present laws in effect, the two City Council Presidents reaffirmed that the description she prepared represented a “true and accurate” portrayal of her duties in the

letters they sent to ERSRI. (Tr. 135) Their letters informed ERSRI that the City Council does not prepare job descriptions as a duty of that body. The same correspondence indicated that the vast and overall operations of the Municipal Courts, inclusive of the preparation of the job description, were considered to be self-dictating once the judges were appointed by the City Council and it had no need to exercise overt overcontrol over the judiciary. (See also Tr. 135) There is reasonable factual and legal support for Petitioner's assertion that, as Chief Judge, the judiciary acted appropriately as a coordinate branch, capable of governing all phases of the Pawtucket courts, including writing up the job description, and monitoring the hours worked.

At the risk of over-stressing the point, it is noteworthy that at one juncture ERSRI had accepted Petitioner's preparation of the job description. ERSRI's official denial letter, as well as the testimony at the hearing, indicated the situation turned from approval to denial based in large part on opinion proffered by Attorney Ragosta. Reliance upon the hearsay assertions from an outside third party employed by the executive branch - that the preparation of the job description by Petitioner was ultra vires - is legally unsustainable: it is not evidence. The record shows, not surprisingly, there were no competing job descriptions offered for consideration from any other third party. (Tr. 249)

It can also be observed that Attorney Ragosta's assertions that Petitioner's preparation of the job description was ultra vires seems, in and of itself, ultra vires and outside the jurisdictional prerogative of the executive branch, lacking any legal import over the judiciary branch, and even negating ERSRI's reliance on that as a basis for its denial.

3. Substantial Evidence Compliance.

Given the complex trail of events, it seems necessary to re-emphasize some basic legal

principles for analyzing administrative proceedings. A court “may not substitute its judgment for that of the agency and must affirm the decision of the agency unless its findings are clearly erroneous.” Guarino v Department of Social Welfare, 122 R.I. 583, 588, 410 A.2d 425, 428 (1980) (citing RIGL § 42-35-15(g)(5)). A court may not “weigh the evidence [or] pass upon the credibility of witnesses [or] substitute its findings of fact for those made at the administrative level.” E. Grossman & Sons, Inc. v. Rocha, 118 R.I. 276, 285, 373 A.2d 496, 501 (1977). Rather, RIGL § 42-35-15(g) limits the examination of the record in order to ascertain whether the agency’s decision is supported by legally competent evidence. Center for Behavioral Health, Rhode Island v. Barros, *supra*. Legally competent evidence, also referred to as “substantial evidence,” is “relevant evidence that a reasonable mind might accept as adequate to support a conclusion [and] means an amount more than a scintilla but less than a preponderance.” Town of Burrillville v. Rhode Island State Labor Relations Board, *supra*.

The ERSRI hearing process allows for a fair opportunity for competing sides to gather and present additional up-to-date and credible evidence in the form of testimony, documentation or any other reliable sources of information and, equally important, having it available for vigorous examination by both sides in order to get closer to the truth of an issue. This is consistent with Rule 1.4 of the Rules of Practice and Procedure for Hearings in Contested Cases which provides that the record in contested cases shall include, *inter alia*: (1)(a) “all pleadings, motions and intermediate rulings;” and (1)(b) “evidence received or considered”.

Here, the hearing itself added valuable context to the timing and the exchange of the historical information, as to why ERSRI, for example, first sought and relied upon input from the HR Department, as it was perceived to be the conventional employer which ERSRI normally relied

upon. The Executive Director testified that there was confusion that generated a conflict and “we need to push this back to the City to reconcile this.” (Tr. 259) However, at the hearing it was revealed and repeatedly accepted, that the City Council, not the Mayor’s Office, is the initial employer. The evidence also showed that the City Council, by way of the enabling statute, the Charter and ordinances, concluded that the functions of the judiciary were self-dictating.

At this point, it is also important to stress that the analysis of evidence is not a pure static exercise; it does not simply stop dead in the water at some convenient point in time to support a preferred argument or conclusion. The hearing involved many hours of testimony, from both witnesses, along with the hundreds of pages of exhibits, that added clarity to the travel of the case. Thus, all the evidence must be considered, not just some. That requirement is noted throughout this Decision. Averments can get entwined and can appear to be well grounded if limited to a fixed point in time or limited to a piecemeal factual and legal analysis. If there was any level of initial reliance by ERSRI regarding incomplete information from the Pawtucket HR Director, along with an opinion from the Mayor’s outside counsel, or who he claimed to represent, it has to give way to the caselaw requirement of presenting substantial evidence on the whole record, including evidence from the hearing itself.

The administrative hearing itself was very lengthy, and the written record was massive and challenging. The plethora of legal memoranda, transcript and exhibits border on 1,000 pages and that took considerable time to review. But it is not by accident or inadvertence that certain additional arguments advanced in the vast legal memoranda are not fully addressed here by this Hearing Officer. Despite the twists and turns, and somewhat tangled web of legal rationalizations that have been asserted, it is the evidence, including the probative testimony of

the two witnesses who appeared, that is most persuasive and controlling.

Even assuming, but without deciding, that the Pawtucket Mayor's office (the executive branch), could assert some level of undefined oversight into Pawtucket judicial operations (or even tangentially over legislative functions of the Pawtucket City Council), no officials from the executive branch of Pawtucket government came forward at the hearing to present evidence to either: (1) support previous but imprecise factual assertions made by the HR Director regarding Petitioner's ineligibility; or (2) advocate for the factual, jurisdictional and other legal arguments made by Attorney Ragosta; or (3) refute Petitioner's extensive testimony; or (4) verify Attorney Ragosta's extended representation; or (5) be available for examination. The bare assertion from Pawtucket HR that the judges do not work twenty (20) hours per week, relied upon by ERSRI, stands out. It is the very genesis of ERSRI's denial. It begs for some additional evidentiary input, some explanation or some other credible evidence from reputable sources to aide in the decision-making process; however, more hard, ascertainable facts to support the denial of Petitioner's claim were just not forthcoming.

ERSRI's Executive Director repeated that Attorney Ragosta's emails caused confusion, because he did not differentiate which branch of government he represented and merely said the "city." (Tr. 217) But upon further questioning from Petitioner's counsel the witness agreed that only the Pawtucket City Council had the authority to hire. (Tr. 243-244) He assented to Petitioner's counsel's description of pertinent events – that is, despite having knowledge of the internal legal opinions from both Attorney Ragosta and City Solicitor Frank Milos to the Mayor, both indicating that the executive branch had no role to play, the subsequent and contrary information received from Attorney Ragosta, still caused ERSRI to step back. (Tr. 244, 247-

248) Yet, at one point Petitioner's counsel posited to the witness: "we all agree that he (Vincent Ragosta) was representing the mayor's office." The witness answered: "yes." (Tr. 241-244)

ERSRI's claim in its memoranda that Attorney Ragosta's representing the "city" meant he represented all branches of the "city," while vigorously protesting Petitioner's application, can only be translated to mean that he not only spoke for the Mayor (the executive branch that actually hired him), but also for the Pawtucket City Council (the legislative branch that allegedly hired him). If that were true, it would have only been the Pawtucket City Council whose "representation" would have importance, as it alone is the appointing authority under the enabling statute. The evidence shows that two presidents of the Pawtucket City Council fully supported Petitioner's MERS application, as well as her preparation of the job description, and more broadly, with their assertion that the judiciary was considered a self-dictating operation. And there was no evidence of them ever reversing their position. If there was any doubt, question or confusion as to any purported change of heart on the part of the Pawtucket City Council, or who was the hiring authority, the record does not show any follow-up communications to it from ERSRI after receiving Attorney Ragosta's last email. ERSRI even questioned why Attorney Ragosta was even sending communications to the Executive Director. (Tr.244) Still, Attorney Ragosta was never contacted or questioned about his actions. (Tr.246-247) And still further, the record shows that it was still relied upon for the MERS denial. (Tr. 178-179) (Pet. exh 4)

Continuing in that vein, ERSRI argues for a finding that the Executive Director could reasonably rely upon the representations from the HR Director and Attorney Ragosta to support the agency denial. Among other things, and irrespective of the basic jurisdictional shortcomings of that stance, that assertion must embrace the notion that the information from the HR Director, and repeated by Attorney Ragosta, had been at least reasonably investigated and confirmed, that

is, that it reached at least the barest levels of legally sufficient evidence as required by caselaw. Such a proposed finding would not comport with the totality of the record that was developed.

Caselaw certainly emphasizes that substantial and legally competent evidence is the underpinning for supporting an agency action. Much has been argued in this appeal, but there is a world of difference between legal argument and substantial evidence. Much of the salient evidence was repeatedly consistent. It bears restating: ERSRI's letter approving Petitioner's MERS eligibility pointedly recognized that the Pawtucket City Council was the appointing authority, not the Office of Mayor; the two advisors to the Mayor (Frank Milos and Attorney Ragosta) both indicated, very early on, that the executive branch had no authority over judicial duties and function in any way; the email from Dylan Zelazo reaffirmed; letters from the presidents of the City Council to ERSRI supported the job description that was prepared by Petitioner. Even more fundamentally important, those latter communications emphasized that once the judges were appointed by the Pawtucket City Council, the Chief Judge controlled all aspects of the court calendars, the hours worked, and that the overall court operations were expected to be self-directed and self-dictated.

With regard to the importance and interplay of the employer-employee relationship of individuals working for the City of Pawtucket, the ERSRI Executive Director explained that the agency was seeking to identify an employer or other means to vouch for the hours worked by a city employee seeking MERS membership. That's a very fair quest, especially given the fact that ERSRI is charged with the oversight of more than 65,000 members. He stated: "I sit in a fiduciary capacity, so I'm overly conscious about what is best for the Retirement System." (Tr. 195)

To that end, Petitioner readily agreed that as Chief Judge she was in fact an employee of the City of Pawtucket. With that in mind, ERSRI posits in its memoranda that a kind of merger existed whereby Pawtucket City government blended separate branches of authority with formal job duties and work conditions of city employees in one place, meaning that Petitioner, simultaneously as Chief Judge and as a city employee, somehow needed to obtain “City” (both executive branch and legislative branch) verification and as to her hours worked, even though the City Council President clearly said that the Chief Judge was solely in charge.

Thus, ERSRI averred, “the City speaks with “one voice: that of the City of Pawtucket...The Executive Director was therefore entirely justified in relying on the representations of the City’s attorney and its HR Director...The sole issue ... is whether or not the Executive Director’s decision to deny membership to Judge Nesselbush was justified, and it unequivocally was.”

(Respond post reply-memorandum at 8)

Query, who is the “voice” that is relied upon? Is it the contractor Attorney Ragosta or the HR Director, both of whom were employed by the executive branch and both of whom contested Petitioner’s MERS application? Is it another individual? Any vague assertion serves only to portray Attorney Ragosta as also somehow representing the City Council. Repeating, there was no reasonable evidence to support a finding that he represented that body. There was clear evidence from the City Council stating the Pawtucket Courts were self-dictating and supporting Petitioner.

Despite any possible assertions to the contrary, the executive branch still lacked a legal basis to encroach upon the authority of the Pawtucket Municipal Courts and, by extension, the Pawtucket City Council. To accept a claim that select employees of the executive branch (allegedly with the joint approval of the City Council) could exercise oversight over functions of

the judges, while other (and sometimes even the same) executive branch officials simultaneously recognized that the City Council alone had the enabling power to do so, presents a clearly contradictory evidentiary and jurisdictional problem. It would be a usurpation of the authority of both the City Council and the Pawtucket Courts, even accepting the proposition that the Chief Judge is considered an employee of the city, allowing for some level of undefined or vague outside oversight by the executive branch, and by using added “representation” of the Pawtucket City Council as a pretext.

It seems, given the arduous travel of the case, and distracting arguments, that it would have been more productive to ask candid questions of Attorney Ragosta, rather than to just rely on his opinion, which by the way is not evidence, as a core basis for issuing a formal denial. As noted, no one contacted Attorney Ragosta asking him to identify who he claimed to represent, or to ask about the assertions that he, and the HR Director made, that even remotely justified involvement from the executive branch. Despite argument to the contrary, there really was no good evidence presented at that hearing, or in the exhibits, to reasonably conclude that Attorney Ragosta represented the entire “City” – a simple phone call to him, or even to the President of the City Council, would have dispelled any possible uncertainty. And equally notably, no one from the executive branch even attended the hearing.

Attorney Ragosta’s confidential memorandum to the Pawtucket Mayor has recurring evidentiary weight and importance in this appeal, for it recognized that the executive branch lacked jurisdiction to oversee judicial functions. Opinions from the Pawtucket City Solicitor and the Pawtucket Director of Administration restated that position. It is difficult to justify a claim of reasonable reliance when there is a failure to ask any questions of Attorney

Ragosta, compounded by the fact that the author of the supposedly valued claim lacks the legal jurisdiction to get involved by virtue of his own confidential memorandum to the Pawtucket Mayor. One cannot realistically expect to prevail based on those findings in the record.

Lastly, the job titles of the individuals employed by the City of Pawtucket challenging Petitioner's application have limited value in the context of claimed agency reliance, as titles probably have secondary importance to the actual evidence presented from the individuals holding those job titles. This is another example of the importance of considering the entirety of the evidence that has been previously stressed in this Decision. The totality of the record suggested an overdependence on very incomplete and flawed information from the HR Director, coupled with persistent opinion statements from Attorney Ragosta, who claimed to be representing the "City." As demonstrated earlier, this does not rise to the level of substantial evidence as required by caselaw, and by itself, also does not successfully counter the breadth and depth of Petitioner's considerable testimony and exhibits.

The lack of repudiating evidence, compared to the aggregate and substantial evidence supporting Petitioner's claim, was evident. The disparity presented a clear obstacle to ERSRI's contention that it could reasonably rely upon information from the executive branch to justify the denial of Petitioner's MERS eligibility. It is noteworthy that no one at the agency knew if the HR Director had direct or personal knowledge to support her claims and no one spoke with Attorney Ragosta. This made conspicuous the lack of legally competent evidence to challenge Petitioner's application.

This case is somewhat unique in that not every city or town in Rhode Island has a municipal court. A reading of the total record still supports a justifiable finding that the City of Pawtucket Chief Judge is placed in charge of all appropriate court functions. The law,

along with the evidence, and some common sense, says the courts need to be empowered to adjudicate cases and to allow its expertise and experience to best formulate the manner in which the Chief Judge conducts its business to achieve those goals, without undue outside interference from other branches of government. It is admittedly the prerogative of the Pawtucket City Council, pursuant to the enabling statute and the City Charter (as was readily noted by Petitioner at the hearing), to amend the grant of powers to the Pawtucket Courts and to make other changes should it decide to do so, but for purposes of this appeal, given the present construct of the various laws, and the many years of practice and procedure followed in the courts, along with the years of tacit approval of the Pawtucket City Council, legal authority is aligned with the Pawtucket Chief Judge.

To be sure, much was presented in this case. Petitioner provided hours of credible testimony refuting the claims made by representatives of the Pawtucket Mayor's office. Despite assertions to the contrary, she described a wide range of judicial duties dedicated to her commitment of working twenty (20) hours per week, and she gave credible evidence regarding the background of the preparation of the job description, and how she reached out to the executive and the legislative branches of Pawtucket City government.

In the final analysis, the weight of the evidence presented by Petitioner was persuasive. Her testimony was thorough, with hundreds of pages of exhibits introduced. It was substantial evidence that was probative, credible and convincing, to the point that a reasonable mind can accept and support a finding that Petitioner worked twenty (20) hours per week for the years in question, in compliance with the requirements of RIGL 45-21-7(a), and other pertinent caselaw.

It is emphasized here that this Decision and Order does not diminish ERSRI's general authority and statutory charge, to determine who qualifies as an "employee" pursuant to RIGL 45-21-2(7), and who is eligible for a pension, based upon substantial evidence.

In conclusion, this Hearing Officer finds reversible error: ERSRI's decision denying Petitioner's MERS pension application was clearly erroneous in view of the reliable, probative and substantial evidence on the whole record. McAninch v. State of R.I. Department of Labor and Training, 64 A2d 84,87 (RI 2013)

Petitioner prevails and her appeal is sustained, the agency denial is reversed and overturned, and Petitioner's application for MERS benefits is approved and reinstated.

It is so Ordered.

Date: July 11, 2025

By: /S/ Charles M. Koutsogiane
Charles M. Koutsogiane, Esq.
Hearing Officer
One Grove Avenue
East Providence, RI 02903

CERTIFICATION OF SERVICE

I hereby certify that on the 11th day of July, 2025, a true copy of the within Decision was mailed and/or emailed to the following individuals: Frank Karpinski, Executive Director, Employees Retirement System of Rhode Island, 50 Service Avenue, Warwick, RI, 02886; John Harwood, Esq., 9 Thurber Blvd, St. D, Smithfield, RI 02917; and Michael Robinson, Esq., Savage Law Partners, LLP, 564 South Water Street, Providence, RI 02903.

/S/ Charles M. Koutsogiane

Charles M. Koutsogiane, Esq.



6. Approval of the October 2025 Pensions as Presented by ERSRI

For Vote

OCTOBER 2025 NEW RETIREE REPORT

Name Of Member	Rtmt Type	RtmtOptn	Retirement Date	Plan Code	Plan	Employer	AgeMember	InitialCheckTotal	YrlyPensionTotal	Participation Service
Column1	Column2	Column3	Column4	Column5	Column6	Column7	Column8	Column9	Column10	Column11
DESOUSA ROSA, SERGIO	Service	Option1	08/30/25	ERS	Correctional Officer	DOC	59	\$9,344.43	\$112,133.16	35.15
MARSZALKOWSKI, JOHN	Service	SRAP	08/09/25	ERS	Correctional Officer	DOC	57	\$7,570.82	\$90,849.84	34.99
VIEIRA, KEITH	Service	SRA	08/30/25	ERS	Correctional Officer	DOC	60	\$5,747.08	\$68,964.96	35.12
BUSSELL, DONNA	Service	Option2	06/29/25	ERS	Nurse	BHDDH--RICLAS	62	\$5,722.14	\$68,665.68	35.20
BOUCHARD, GORDON	Service	Option2	08/30/25	ERS	State Employee	DHS	59	\$8,217.24	\$98,606.88	34.98
CARUSO, LORI	Service	SRA	08/30/25	ERS	State Employee	DHS	61	\$4,050.99	\$48,611.88	35.21
COUNTS, LAUREN	Service	SRA	09/01/25	ERS	State Employee	DCYF	68	\$4,767.95	\$57,215.40	47.50
CROTTY, THOMAS	Service	Option1	08/30/25	ERS	State Employee	PUBLIC SAFETY	67	\$5,286.69	\$63,440.28	32.23
CURRERI, MICHELLE	Service	SRA	10/01/25	ERS	State Employee	URI	60	\$11,995.33	\$143,943.96	39.50
DIPAOLLO, EMILIO	Service	Option2	08/30/25	ERS	State Employee	RIDOT	70	\$5,372.69	\$64,472.28	39.13
DONNELLY, MARY	Service	SRA	09/27/25	ERS	State Employee	OHHS	69	\$3,164.84	\$37,978.08	26.24
DUCHARME, RONNIE	Service	SRA	10/01/25	ERS	State Employee	RIDOT	67	\$382.03	\$4,584.36	7.41
FALLS JR, DANIEL	Service	Option1	07/31/25	ERS	State Employee	PUBLIC SAFETY	59	\$3,698.98	\$44,387.76	36.75
GOODNESS, MARY	Service	SRA	09/01/25	ERS	State Employee	BHDDH	66	\$629.52	\$7,554.24	13.17
KENYON, RODNEY	Service	SRA	09/01/25	ERS	State Employee	BHDDH	66	\$965.97	\$11,591.64	16.99
LONSDALE, KAREN	Service	SRA	10/05/25	ERS	State Employee	DOR	66	\$1,382.12	\$16,585.44	20.92
LYNCH, JOHN	Disability	SRA	07/13/25	ERS	State Employee	DCYF	53	\$1,678.48	\$20,141.76	22.23
MCCAFFREY, MARY	Service	SRA	08/30/25	ERS	State Employee	DHS	70	\$639.80	\$7,677.60	11.24
MILLERICK, ROBERT	Service	SRA	10/18/25	ERS	State Employee	LEGISLASTURE	64	\$2,778.85	\$33,346.20	17.19
MOLLOY, ANN-MARIE	Service	SRA	08/01/25	ERS	State Employee	PUBLIC SAFETY	66	\$1,115.05	\$13,380.60	20.14
MUNIR, KIM	Service	Option2	08/30/25	ERS	State Employee	DMV	68	\$1,805.13	\$21,661.56	26.41
O'DONNELL, WILLIAM	Service	Option1	09/06/25	ERS	State Employee	DHS	61	\$5,709.95	\$68,519.40	33.31
OLINK, SHERRY	Service	SRA	08/30/25	ERS	State Employee	DHS	59	\$4,263.80	\$51,165.60	36.35
ONEILL, LISA	Disability	Option1	06/29/25	ERS	State Employee	URI	57	\$1,376.41	\$16,516.92	25.50
PAINE, MARYANNE	Service	Option2	09/01/25	ERS	State Employee	DOA	62	\$550.16	\$6,601.92	14.79
PLANTE, PAUL	Disability	Option1	09/28/25	ERS	State Employee	CCRI	61	\$813.47	\$9,761.64	17.04
PLAUSKY, ELLEN	Service	SRA	08/30/25	ERS	State Employee	DLT	67	\$869.28	\$10,431.36	15.26
Shea, Mark	Service	SRA	06/21/25	ERS	State Employee	VETERANS HOME	69	\$879.95	\$10,559.42	16.59
TANCRELL, LINDA	Service	SRA	08/01/25	ERS	State Employee	JUDICIARY	66	\$3,008.80	\$36,105.60	29.34
TEDESCHI, MARIE	Service	SRA	08/30/25	ERS	State Employee	URI	63	\$2,693.98	\$32,327.76	36.74
Vieira, Lisa	Service	Option1	08/30/25	ERS	State Employee	RIDE	62	\$1,622.37	\$19,468.44	24.94
VINCENT, DOUGLAS	Disability	SRA	10/06/24	ERS	State Employee	BHDDH	54	\$3,046.61	\$36,559.32	12.89
VOLLARO, ANNA	Service	SRA	08/30/25	ERS	State Employee	DHS	61	\$5,448.92	\$65,387.04	40.56
WAROT, IWONA	Service	Option1	08/02/25	ERS	State Employee	DOH	66	\$1,878.24	\$22,538.88	22.01
WATERMAN, DONNA	Service	SRA	09/01/25	ERS	State Employee	URI	67	\$2,718.05	\$32,616.60	34.26
WEINREICH, TAMMY	Service	Option1	10/01/25	ERS	State Employee	URI	66	\$3,379.53	\$40,554.36	37.89
YOON, JAE	Service	SRA	09/01/25	ERS	State Employee	URI	70	\$2,843.67	\$34,124.04	27.12
HARVEY, JAMES	Service	Option1	08/01/25	ERS	State Safety Professionals	MILITARY STAFF	55	\$2,625.21	\$31,502.52	28.55
BREEDE, KATHLEEN	Service	Option1	08/30/25	ERS	Teacher	Newport School Dept.	60	\$5,231.60	\$62,779.20	37.00
BRUNO, LORRIE	Service	SRA	10/14/25	ERS	Teacher	Glocester School Dist.	59	\$4,922.89	\$59,074.68	33.62
CREEL, NEVIN	Disability	Option2	04/01/25	ERS	Teacher	Providence School Dept.	56	\$3,592.15	\$43,105.80	31.87
CROOK, ROBIN	Service	SRA	07/01/25	ERS	Teacher	Providence School Dept.	66	\$2,937.92	\$35,255.04	27.97
CUTLER, KELLY	Service	SRAP	09/21/25	ERS	Teacher	Cranston School Dept.	60	\$6,912.68	\$82,952.16	33.75
FISHBURN, CAROL	Service	Option1	09/30/25	ERS	Teacher	Lincoln School Dept.	65	\$2,981.31	\$35,775.72	28.00
Gilligan, Lisa	Service	Option2	08/02/25	ERS	Teacher	Central Falls Collaborative	65	\$5,915.18	\$70,982.16	39.20
GUENTHER, ROBIN	Service	SRA	07/05/25	ERS	Teacher	Cumberland School Dept.	62	\$692.88	\$8,314.56	10.00
Hicks, Michelle	Service	SRA	07/01/25	ERS	Teacher	Coventry Public Schools	66	\$1,469.27	\$17,631.24	14.83
MESSORE III, MICHAEL	Service	Option2	09/09/25	ERS	Teacher	Barrington Public Schools	66	\$4,843.51	\$58,122.12	25.00
PARADIS, FRANCINE	Service	SRA	08/08/25	ERS	Teacher	Pawtucket School Dept.	66	\$2,588.11	\$31,057.32	25.50

OCTOBER 2025 NEW RETIREE REPORT

Name Of Member	Rtmt Type	RtmtOptn	Retirement Date	Plan Code	Plan	Employer	AgeMember	InitialCheckTotal	YrlyPensionTotal	Participation Service
PARE, PENELOPE	Service	SRA	09/01/25	ERS	Teacher	PROVIDENCE 12 MONTH BI-WEEKLY	68	\$4,338.57	\$52,062.84	30.75
RIDER, CHARLES	Service	SRA	07/01/25	ERS	Teacher	Providence School Dept.	68	\$357.64	\$4,291.68	5.46
RINN, MICHELE	Service	Option1	10/26/25	ERS	Teacher	East Greenwich School Dept.	66	\$1,656.47	\$19,877.64	20.00
Stambaugh, Carolyn	Service	Option1	09/29/25	ERS	Teacher	Cumberland School Dept.	65	\$1,569.02	\$18,828.24	17.99
STRINGFELLOW, KRISTEN	Service	SRA	10/21/25	ERS	Teacher	South Kingstown School Dept.	59	\$7,062.75	\$84,753.00	29.00
Travis, Lauri	Service	Option2	10/28/25	ERS	Teacher	Chariho Regional School Dist.	59	\$5,762.28	\$61,244.76	35.50
VARGAS-SINAPI, LISA	Service	Option2	07/01/25	ERS	Teacher	PROVIDENCE 12 MONTH BI-WEEKLY	59	\$7,124.67	\$85,496.04	36.00
VERRECCHIA, PETER	Service	Option1	08/29/25	ERS	Teacher	Providence School Dept.	65	\$3,497.06	\$41,964.72	31.25
YOUNG, PAUL	Service	Option2	07/01/25	ERS	Teacher	Providence School Dept.	64	\$4,692.81	\$56,313.72	34.46
NUGENT, STEPHEN	Service	SRA	10/01/25	JRBT	Judge	Superior Court	77	\$19,179.54	\$230,154.48	25.34
THUNBERG, MELANIE	Service	SRA	10/01/25	JRBT	Judge	Superior Court	74	\$20,556.67	\$246,680.04	38.59
BARSKE, JUDITH	Service	Option1	08/30/25	MERS	General Municipal	North Kingstown School Dept. (NC)	72	\$2,751.39	\$33,016.68	44.43
BELMORE, ROGER	Service	SRA	08/16/25	MERS	General Municipal	Town of Bristol EE Highway	60	\$3,416.66	\$40,999.96	33.44
BLACKMAN, ERIN	Disability	SRA	03/01/25	MERS	General Municipal	EAST GREENWICH-COLA	54	\$407.51	\$4,890.12	9.29
BRUNEAU, BERNADETTE	Service	Option1	08/30/25	MERS	General Municipal	Exeter/West Greenwich Reg. Schools (NC)	66	\$1,465.44	\$17,585.28	29.63
CALDWELL, SCOTT	Service	Option1	08/08/25	MERS	General Municipal	Town of Cumberland	66	\$2,639.59	\$31,675.08	33.74
CASEY, LYNN	Service	Option2	08/27/25	MERS	General Municipal	Cranston School Dept. (NC)	63	\$461.50	\$5,538.00	18.14
CECERI, MARIE	Disability	SRA	12/28/24	MERS	General Municipal	City of Cranston	61	\$3,378.36	\$40,540.32	16.87
CHARTIER, NANCY	Service	Option2	09/01/25	MERS	General Municipal	Pawtucket School Dept. (NC)	67	\$678.14	\$8,137.68	19.61
FISHER, CATHERINE	Service	Option1	07/01/25	MERS	General Municipal	Glocester School Dist. (NC)	67	\$516.83	\$6,201.96	16.85
FORTIN, JEANNINE	Service	Option2	08/23/25	MERS	General Municipal	Smithfield School Dept. (NC)	69	\$1,100.97	\$13,211.64	24.19
GAGNON, ANN	Service	SRA	08/01/25	MERS	General Municipal	Smithfield School Dept. (NC)	68	\$371.89	\$4,462.68	11.62
GREENLEAF, STEPHEN	Service	Option1	08/30/25	MERS	General Municipal	Town of Bristol	69	\$288.37	\$3,460.44	5.04
HILL, RUSSELL	Service	SRA	09/23/25	MERS	General Municipal	South Kingstown School Dept. (NC)	62	\$1,840.59	\$22,087.08	18.31
Kendig, Susan	Service	SRA	08/09/25	MERS	General Municipal	West Warwick School NC (Legacy)	64	\$1,829.73	\$21,956.76	19.99
KENNEDY, JOSHUA	Service	SRA	09/02/25	MERS	General Municipal	West Warwick Police Dept (Legacy)	47	\$4,314.39	\$51,772.68	21.00
PLOUFF JR, ROBERT	Service	Option1	09/01/25	MERS	General Municipal	Pawtucket Housing Auth.	62	\$1,120.78	\$13,449.36	13.60
ROQUE, JOSEPH	Service	Option1	08/15/25	MERS	General Municipal	City of Newport	60	\$4,718.26	\$56,619.12	34.18
SWINSKI, GRACE	Service	Option1	08/02/25	MERS	General Municipal	Cranston School Dept. (NC)	67	\$884.52	\$10,614.24	21.40
BATZINGER, JOHN	Service	SRA	09/07/25	MERS	Police and Fire	North Kingstown Fire Dept.	62	\$4,982.43	\$59,789.19	27.58
DYBALA, THOMAS	Service	Option1	09/20/25	MERS	Police and Fire	North Smithfield Fire & Rescue Services	65	\$5,068.32	\$60,819.84	42.26
POLACEK, JOHN	Service	SRA	08/21/25	MERS	Police and Fire	Woonsocket Fire Dept.	59	\$5,520.54	\$66,246.48	36.16
CHABOT, PETER	Service	SRA	09/06/25	SPRBT	State Police	State Police	56	\$11,039.38	\$132,472.56	28.25



7. Legal Counsel Report

For Report

**EMPLOYEES' RETIREMENT SYSTEM OF THE STATE OF RHODE ISLAND
REPORT AS OF NOVEMBER 2025
ON LITIGATED MATTERS FILED BY OR AGAINST ERSRI**

I. MATTERS WITH PROCEDURAL OR SUBSTANTIVE CHANGES

**Patricia Dubois v. Employee's Retirement System of Rhode Island
Providence County Superior Court; C.A. No. PC-2024-00731**

Plaintiff, a retired Superintendent of the Glocester School Department, appeals the Retirement Board's decision which found that her retirement benefit was appropriately suspended for time that she engaged in post-retirement employment as a superintendent. ERSRI has answered the Complaint and filed the Designation of Record of Administrative Appeal. Both parties' memoranda have been filed and the matter is in the process of being assigned to a justice of the superior court for decision. The matter was assigned to Judge Lanphear for decision. **On October 27, 2025, Judge Lanphear issued a written decision upholding and affirming the decision of the Retirement Board. This matter will be removed from future reports.**

**Serena Swartz v. Employees' Retirement System of Rhode Island
Providence County Superior Court; C.A. No. PC-2024-5591**

Plaintiff, an employee of the Providence School Department, challenges the Retirement Board's determination that she untimely filed her application for an accidental disability pension and denial thereof. An Answer has been filed on behalf of ERSRI. The Designation of Administrative Record was filed on January 14, 2025. A Consent Order was filed on June 30, 2025 setting forth the following briefing schedule: **Briefing has been completed and a Motion to Assign for Decision has been filed.**

**David Wills v. Employees Retirement System of RI
Newport County Superior Court; C.A. NC-2025-0111**

Plaintiff, a Firefighter/Dispatcher for the Town of Portsmouth, appeals the denial of his application for an Accidental Disability Retirement. Plaintiff alleges that he is entitled to an Accidental Disability Retirement, in part, based upon the PTSD presumption included in Rhode Island General Laws Section 45-19-1. The Retirement Board was served with the Complaint on March 18, 2025. ERSRI filed an Answer and Designation of Record on April 3, 2025. A Consent Order was filed on June 30, 2025 setting forth the following briefing schedule: **Briefing has been completed and a Motion to Assign for Decision has been filed.**

**The Retirement Board of the Employees' Retirement System of the State of Rhode Island
v. Paul LaFrance
Providence County Superior Court; C.A. No. PC-2016-1524**

This is an action to revoke or reduce Mr. LaFrance's pension pursuant to the Public Employee Pension Revocation and Reduction Act. Mr. LaFrance, a former teacher for the Warwick School Department, pled *nolo contendere* to felony charges related to third degree sexual assault of a student. An Answer to the Complaint has been filed, and the parties are engaged in discovery. The depositions of Mr. LaFrance and his wife, who is asserting a claim to some or all of his pension benefits as an innocent spouse, were conducted on November 16, 2023. On May 1, 2024, a hearing was conducted pursuant to R.I.G.L. § 9-8-5. ERSRI advised the Court that this matter is being actively pursued and the matter was ordered to remain open. ERSRI has requested supplemental documentation from Mr. LaFrance and Mrs. LaFrance in support of their innocent spouse claim. **This matter was assigned to Judge Raspallo. The parties are engaged in discussions regarding a limited scope hearing/discussion related to the innocent spouse issue.**

**Michael Cabral v. Employees' Retirement System of Rhode Island
Workers' Compensation Court; 202506580**

Petitioner, a City of Cranston firefighter, appeals the denial of his application for an Accidental Disability Retirement pursuant to R.I.G.L. § 45-21.2-9. ERSRI filed its Designation of Administrative Record. On November 4, 2025, the parties appeared before Judge Reynolds, who denied the claim and Plaintiff subsequently filed a Claim for Trial. The Court asked for briefing on the timeliness issue before proceeding with the remainder of the claim. An Initial Hearing is scheduled for January 7, 2026.

II. MATTERS WITH NO PROCEDURAL OR SUBSTANTIVE CHANGES

**Raymond Lamont v. Municipal Employees' Retirement System
Workers' Compensation Court; 202306589**

Petitioner, a South Kingstown police officer, appeals the denial of his application for an Accidental Disability Retirement pursuant to R.I.G.L. § 45-21.2-9. MERS filed its Designation of Administrative Record. MERS filed a Motion to Dismiss on February 12, 2024, asserting that the application for an accidental disability pension was not timely filed, and Mr. Lamont filed an objection on March 19, 2024. A pre-trial conference was conducted on April 17, 2024 and the Court denied the petition. Plaintiff subsequently filed a Claim for Trial. Oral argument on the Motion to Dismiss took place on July 12, 2024, and the motion was denied. The matter proceeded to trial on May 9, 2025, with testimony from the Petitioner being heard by the Court. Post-trial briefs were submitted by both parties. On August 21, 2025, the Court ordered that both sides rested. The matter is now pending for decision.

**The Retirement Board of the Employee's Retirement System of the State of Rhode Island v.
Charles Pearson
Providence County Superior Court; C.A. No. PC-2024-00941; SU-2025-0256-A**

This is an action to revoke or reduce Defendant's pension pursuant to the Public Employee Pension Revocation and Reduction Act. Defendant, a former teacher employed by the State of Rhode Island Department of Children, Youth, and Families Training School and the Cranston School District, pled *nolo contendere* to several felony charges related to second-degree sexual assault of students at Cranston High School West. ERSRI filed a Motion for a Show Cause Order seeking to compel Defendant to show cause as to why any retirement or other benefit to which he is otherwise entitled should not be withheld pending adjudication of this action. Mr. Pearson answered the Complaint, and a Consent Order was entered on March 25, 2024, in which he agreed to the suspension of his retirement and other benefits pending adjudication of the action. Mr. Pearson served a subpoena on the Cranston School Department seeking his personnel file and the records have been produced. Mr. Pearson filed a motion for summary judgment as to the applicability of PEPRRA to the charges that he pled *nolo contendere*. ERSRI filed its objection to the motion on February 28, 2025. Oral argument on the motion for summary judgment took place on April 9, 2025. The parties also filed supplemental briefs after the hearing. On April 30, 2025, Judge Christopher Smith determined that the language of PEPRRA was ambiguous, and applying rules of statutory construction to arrive at the intent of the General Assembly, determined that PEPRRA was not intended to capture felonies such as second degree sexual assault. As of the drafting of this update, an Order has not yet entered on Judge Smith's decision. On July 24, 2025, ERSRI filed an appeal to the Rhode Island Supreme Court. The appeal has been docketed. ERSRI's Rule 12A Statement is due October 9, 2025. The matter was also terminated from the Supreme Court's Mediation Program, as the Mediation Program determined it was not a case amenable to mediation.

**West Warwick Public Employees' Retiree Coalition, Donna M. Sousa, and Suzanne G. Sousa v. Municipal Employees' Retirement System of the State of Rhode Island et al.
Providence County Superior Court; C.A. No. PC-2024-4229**

Plaintiffs, a retiree coalition and two widows of former employees of the Town of West Warwick, filed this Declaratory Judgment action seeking interpretation and enforcement of a Final and Consent Judgment entered in the matter of *Peter A. Appolonio, et al. v. Town of West Warwick, et al.*, KC-2012-1000 (the "Appolonio Judgment"). The *Appolonio Judgment* was entered on July 16, 2014. Plaintiffs allege that the widows' pension benefits have been reduced in violation of the *Appolonio Judgment*. Though the Retirement System was not a party to the *Appolonio Judgment*, the Plaintiffs allege that the Retirement System is now legally required to enforce the terms of the *Appolonio Judgment*. Plaintiffs have issued discovery requests; MERS is in the process of responding to said requests and has obtained the necessary extension from Plaintiffs to respond.

**Richard Patenaude v. Employees' Retirement System of Rhode Island
Providence County Superior Court; C.A. No. PC-2023-02971**

Plaintiff, an employee of the State of Rhode Island serving as a Correctional Officer with the Department of Corrections, challenges the Retirement Board's denial of his application for an accidental disability pension. The Designation of Administrative Record and an Answer have

been filed with the court. The matter has been fully briefed and the parties have stipulated that the matter may be assigned for judicial decision.

The Retirement Board of the Employees' Retirement System of the State of Rhode Island v. Shanice In
Providence County Superior Court; C.A. No. PC-2020-07704

This is an action to revoke or reduce Defendant, Shanice In's pension pursuant to the Public Employee Pension Revocation and Reduction Act. Ms. In, a former Clerk for the Bureau of Criminal Identification Department for the State of Rhode Island, pled *nolo contendere* to felony charges related to illegally tampering with records at the Attorney General's BCI Office for the purpose of fraudulently clearing the criminal records of other individuals. Ms. In was served on July 14, 2021. The Court granted ERSRI's application for default for Ms. In's failure to answer the Complaint.

Retirement Board v. Ambulai Sheku
Providence County Superior Court; C.A. No. PC-2017-3146

This is an action to revoke or reduce Mr. Sheku's pension pursuant to the Public Employee Pension Revocation and Reduction Act. Mr. Sheku, a former employee of the Rhode Island Department of Labor and Training, pled guilty to charges of conspiracy to commit mail fraud, theft of government funds, and accessing a protected computer to commit fraud, all in connection with his public employment. Mr. Sheku has been defaulted for failure to respond to the Complaint. On May 1, 2024, a hearing was conducted pursuant to R.I.G.L. § 9-8-5. ERSRI advised the Court that this matter is being actively pursued and the matter was ordered to remain open.

Retirement Board v. Rachel Arruda
Providence County Superior Court; C.A. No. PC-2014-6174

This is an action to revoke or reduce Ms. Arruda's pension pursuant to the Public Employee Pension Revocation and Reduction Act. Ms. Arruda, a former employee of the City of Woonsocket, pled *nolo contendere* to a felony charge related to conversion of funds in connection with her municipal employment. At a hearing on January 29, 2015, Arruda stipulated to the suspension of her pension pending adjudication of the action. On May 1, 2024, a hearing was conducted pursuant to R.I.G.L. § 9-8-5. ERSRI advised the Court that this matter is being actively pursued and the matter was ordered to remain open.

Richard P. D'Addario v. Employees' Retirement System of Rhode Island and Rhode Island State Employees' Retirement Board
Providence Superior Court; C.A. No. PC-2019-10351

Plaintiff, a probate judge in the Town of Tiverton, appeals from the Retirement Board's determination that he is not eligible for membership in the Retirement System. The Designation of Record and Answer have been filed with the Court.

Employees' Retirement System of Rhode Island v. Thomas McSoley, Marlene A. Palumbo, and Michael E. McSoley.

Providence Superior Court; C.A. No. PC-2016-1144

ERSRI brought suit to recover monies overpaid to a direct deposit account of Thomas McSoley, following his death in 2011. The defendants are believed to be joint account holders with the decedent. ERSRI effectuated service of process, and sought an injunction preventing the defendants from accessing or withdrawing the funds. On March 18, 2016, the parties entered into a Consent Order that restrains the defendants from accessing, withdrawing, encumbering, or otherwise spending or disposing of the funds on account until further order of the Court. ERSRI filed an Application for Entry of Default against Defendants Michael McSoley and Marlene Palumbo, and default was entered as to Michael McSoley on March 14, 2024.

**EMPLOYEES' RETIREMENT SYSTEM OF THE STATE OF RHODE ISLAND
REPORT AS OF NOVEMBER 2025
ON LITIGATED MATTERS FILED BY OR AGAINST ERSRI**

I. MATTERS BEING HANDLED BY SAVAGE LAW PARTNERS, LLP

Sean O'Connell v. Retirement Board, Employees' Retirement System of the State of Rhode Island; Frank J. Karpinski, Executive Director, Employees' Retirement System of the State of Rhode Island; James A. Diossa, Chairman of the Retirement Board, Employees' Retirement System of the State of Rhode Island

Providence County Superior Court; PC-2023-03076

Sean O'Connell v. Employees' Retirement System of Rhode Island

Workers' Compensation Court; 202303812

Change. Plaintiff, a Deputy Sheriff with the Rhode Island Department of Public Safety, Division of Sheriffs, appeals ERSRI's denial of his Application for Accidental Retirement pursuant to R.I. Gen. Laws § 36-10-14. An appeal was filed in both the Superior Court and the Workers' Compensation Court. A pre-trial conference was conducted in the Workers' Compensation Court on September 14, 2023 and the Court entered a briefing schedule. ERSRI filed a Motion to Dismiss for lack of subject matter jurisdiction and Plaintiff filed an Opposition. On January 22, 2024, the Motion to Dismiss was heard and denied, and a Pre-Trial Conference was conducted. Plaintiff's petition was denied at the pre-trial stage, and Plaintiff claimed a trial. An Initial Hearing was conducted on March 25, 2024. On August 1, 2024, ERSRI filed a Petition for Certiorari with the Rhode Island Supreme Court seeking review of the Workers' Compensation Court's denial of ERSRI's Motion to Dismiss for lack of subject matter jurisdiction. The Supreme Court granted ERSRI's petition for certiorari and indicated that it will expedite its review of this matter. A Rule 12A conference was conducted with a duty justice of the Supreme Court on April 21, 2025, and the Court assigned the matter to the full-briefing calendar. **The matter has been scheduled for oral argument before the Rhode Island Supreme Court on December 9, 2025.**



8. Committee Reports



8.1. Disability Committee

For Vote



8.1.1. November 7, 2025 Disability Committee Recommendations For Vote

**Disability Committee
Recommendations**

November 7, 2025

Accidental

1. Marcel Girard	Custodian, Woonsocket School Department (estimated service credits, 2 years 8 months 3 days) (66 2/3%) Approved VOTE: 4-0	Council 94 Local 1137
2. Louis Asermely	Bridge Maintenance Worker, Department of Transportation (estimated service credits, 1 year 0 months 6 days) (66 2/3% or 50%) Approved at 50% VOTE: 4-0	LIUNA Local 808

Ordinary

3. Kevin Bartels	Teacher, Providence School Department (estimated service credits 29 years 10 months 18 days) Approved VOTE: 4-0	PTU
4. Sherri Morin	Special Educator, Pawtucket School Department (estimated service credits, 24 years 10 months 10 days) Approved VOTE: 4-0	AFT Local 930
5. Janice Loffredo	Housekeeper, URI (estimated service credits 15 years 1 month 21 days) Approved VOTE: 4-0	Council 94

Consideration and Approval of Decisions

Approved
VOTE: 4-0

6. Jennifer Milette	Court Reporter, Rhode Island Judiciary (estimated service credits 6 years 7 months 12 days) (66 2/3% or 50%) Accidental Denied VOTE: 4-0	RICRA
7. James Dunn	Building Maintenance Worker, Town of West Warwick (estimated service credits, 15 years 6 months 15 days) (66 2/3%) Accidental Denied VOTE: 4-0	Council 94

RESTRICTED PAGE



9. Adjournment

For Vote



10. Appendix



10.1. Post Retirement Employment - November 2025

For Reference

ERSRI Memorandum

ERSRI BOARD:

James A. Diossa
General Treasurer Chair

Jean Rondeau
Vice Chair

Mark A. Carruolo

Michael J. Cicerone, Jr

Joseph Codega, Jr.

Matthew K. Howard

Yan Li

Brenna McCabe

William S. Murray

Claire M. Newell

Andrew E. Nota

Alan G Palazzo

Sandra M Paquette

Laura Shawhughes

Michael J. Twohey

Andrew Roos
Executive Director

Date: November 5, 2025

To: Retirement Board

From: Heidi Halbur, Acting Executive Director

Subject: Post Retirement Employment Reports

Enclosed are the listings of reported retirees working under the various post-retirement employment statutes.

For the K-12 schools, registered nurses and municipalities, the column *Number of Days* lists the up-to-date totals of working days provided by the agency(ies) to ERSRI.

A retired member who returned to work as a substitute teacher is indicated by a *Title/Function* column as *PRSB*.

A retired member who returned to work as an administrator, guidance counselor, or other certified position in a school department, and is working in a vacant position is labeled in the *Title/Function* column as *PRAM*. Certification letters (good faith letters) need to be provided by the agency and forwarded to ERSRI consistent with RIGL §16-16-24.

A retired member who retired from service as a registered nurse may be employed for the purpose of providing professional nursing care and/or services at a state-operated facility in Rhode Island, including employment as a faculty member of a nursing program at a state-operated college or university. That is indicated by a *Title/Function* column as *PRNR*.

Municipal retirees returning to work in a school system are indicated in the *Title/Function* column as *PRMS*. Municipal retirees returning to work for a participating city/town are indicated by a *Title/Function* column as *PRME*.

For the state colleges/universities (recently included Driver's Education Report, (the column *Earnings* (gross) lists the up-to-date dollar earnings.

If a retired member is returning to work for the purpose of providing classroom instruction, academic advising of students and/or coaching, that is labeled in *Title/Function* column as *PRIS*.

If a retired member is returning to work for the purpose of providing classroom instruction in driver education courses and/or motorcycle driver education courses, that is labeled in *Title/Function* as *PRDE*.

TEACHER RETIREES AND NON-CERTIFIED RETIREES WORKING 2025-2026 SCHOOL YEAR
PRSB--SUBSTITUTE AND IN A STATE SCHOOL SUB; PRAM--VACANCY; PRMS--MUNICIPAL IN A SCHOOL REPORT DTD 11-03-2025

First Name	Middle Initial	Last Name	Employer Code	Employer	Title/Function	Number of Days	Footnote
MICHAEL	C	TRAFICANTE	1113	Cranston School Dept. (NC)	PRMS	42.00	
ARTHUR	A	CORSINI	1471	Smithfield School Dept.	PRSB	35.00	
RICHARD		KERSHAW	1201	Foster/Glocester Reg. School Dist.	PRSB	33.00	
LAURIE	G	SULLIVAN	1571	Warwick School Dept.	PRAM	30.00	
DONNA	A	GRECO	1283	Johnston School Dept. (NC)	PRMS	27.50	
SANDRA		KERSHAW	1201	Foster/Glocester Reg. School Dist.	PRSB	27.00	
PAMALA	M	PAULO	1613	West Warwick School Dept (NC)	PRMS	27.00	
RICHARD		ZAGRODNY	1471	Smithfield School Dept.	PRSB	27.00	
ANTHONY		FERRUCCI	1491	South Kingstown School Dept.	PRAM	25.00	
GEORGIA		FORTUNATO	1281	Johnston School Dept.	PRSB	24.50	
GERARD	S	ZANNELLA	1071	Chariho Regional School Dist.	PRSB	24.00	
WILLIAM		WEBB	1281	Johnston School Dept.	PRSB	22.50	
MARGARET	M	LESSA	1281	Johnston School Dept.	PRSB	22.00	
CONNIE		OSWALD	1001	Barrington Public Schools	PRSB	22.00	
LESLIE	R	WALTON	1441	Providence School Dept.	PRSB	21.00	
HELAINE	F	HAGER	1441	Providence School Dept.	PRSB	21.00	
SANDRA	G	LEWIS	1441	Providence School Dept.	PRSB	21.00	
CHARLES	M	MOREAU	1007	Barrington COLA NonCertifieds	PRMS	20.00	
GERALD	F	LUONGO	1441	Providence School Dept.	PRSB	20.00	
RAFAEL	E	LUNA	1441	Providence School Dept.	PRSB	20.00	
CAROLYN	J	ROSEMAN	1281	Johnston School Dept.	PRSB	20.00	
BEVERLY		BERNIER	1113	Cranston School Dept. (NC)	PRMS	20.00	
LOUIS		TORO	1441	Providence School Dept.	PRSB	19.00	
DIANE	C	ROLAND	1111	Cranston School Dept.	PRSB	19.00	
JUAN	A	RODRIGUEZ	1441	Providence School Dept.	PRSB	18.00	
THOMAS		MCGHEE	1441	Providence School Dept.	PRSB	18.00	
SALLY		GARABEDIAN	1441	Providence School Dept.	PRSB	18.00	
C	T	BONZAGNI	1441	Providence School Dept.	PRSB	18.00	
BARBARA		RIOS	1441	Providence School Dept.	PRSB	17.50	
FRANK	C	PICCIRILLI	1441	Providence School Dept.	PRSB	17.00	
PATRICIA		AMORE	1613	West Warwick School Dept (NC)	PRMS	16.00	
LISA	D	MACCHIONI	1441	Providence School Dept.	PRSB	16.00	
TERRENCE	J	MERKEL	1371	North Kingstown School Dept.	PRSB	16.00	
BARBARA	C	MORSE	1371	North Kingstown School Dept.	PRSB	16.00	
RALPH	A	MONTELLA	1911	Times2 Academy	PRAM	15.00	

TEACHER RETIREES AND NON-CERTIFIED RETIREES WORKING 2025-2026 SCHOOL YEAR
PRSB--SUBSTITUTE AND IN A STATE SCHOOL SUB; PRAM--VACANCY; PRMS--MUNICIPAL IN A SCHOOL REPORT DTD 11-03-2025

First Name	Middle Initial	Last Name	Employer Code	Employer	Title/Function	Number of Days	Footnote
SALLY	A.	MITCHELL	1461	Scituate School Dept.	PRAM	15.00	
PAMELA	M	MERCURIO	1151	East Greenwich School Dept.	PRAM	15.00	
LOUISE	A	DENHAM	1281	Johnston School Dept.	PRSB	15.00	
CATHERINE	M	SWANTON	1471	Smithfield School Dept.	PRSB	15.00	
KATHLEEN	A	CONNELL	1471	Smithfield School Dept.	PRSB	14.00	
JAMES	E	MURANO	1371	North Kingstown School Dept.	PRSB	14.00	
ROSE	M	CACCHIOTTI	1441	Providence School Dept.	PRSB	14.00	
REGINA		DUFRESNE	1061	Central Falls Collaborative	PRSB	14.00	
BERNADETTE	A	BOWEN	1111	Cranston School Dept.	PRSB	13.00	
LORY	I	FITZGERALD	1441	Providence School Dept.	PRSB	13.00	
BOLANLE	I	AWOSIKA	1441	Providence School Dept.	PRSB	13.00	
STEVEN	B	KENNY	1091	Coventry Public Schools	PRSB	13.00	
MAUREEN	A	PINKSAW	1441	Providence School Dept.	PRSB	13.00	
DONNA	A	DILANNA-MOORE	1441	Providence School Dept.	PRSB	13.00	
SHELLEY	L	TRAGAR	1281	Johnston School Dept.	PRSB	13.00	
NELLIE	E	CHOMKA	1471	Smithfield School Dept.	PRSB	12.50	
CINDY	A	NORMAND	1341	New Shoreham School Dist.	PRAM	12.50	
GLADYS		OLAGBEGI-FAKUNLE	1441	Providence School Dept.	PRSB	12.50	
GINA	M	VECCHIO	1061	Central Falls Collaborative	PRAM	12.50	
DAVID	M	VALEDOFSKY	1441	Providence School Dept.	PRSB	12.00	
PAULA	M	CHIODO	1441	Providence School Dept.	PRSB	11.00	
CYNTHIA	L	AZZA	1151	East Greenwich School Dept.	PRSB	11.00	
THERESA	A	HAWKINS	1373	North Kingstown School Dept. (NC)	PRMS	10.50	
CLAUDIA		ROULEAU	1091	Coventry Public Schools	PRSB	10.00	
JOSEPH	R	PIRRAGLIA	1281	Johnston School Dept.	PRSB	10.00	
MAUREEN	E	FARRELL	1441	Providence School Dept.	PRSB	10.00	
PATRICIA	A	DIPOLLINO	1071	Chariho Regional School Dist.	PRSB	10.00	
WILLIAM	J	PARE	1441	Providence School Dept.	PRSB	9.00	
SHIRLEY	A	MCBRIDE	1441	Providence School Dept.	PRSB	9.00	
ROSE MARY		TEIXEIRA	1123	Cumberland School Dept. (NC)	PRMS	9.00	
LEONARDA	A	URENA	1441	Providence School Dept.	PRSB	9.00	
CATHY	A	FALES	1001	Barrington Public Schools	PRSB	9.00	
MARIAN	F	VARONE	1123	Cumberland School Dept. (NC)	PRMS	8.50	
LINDA	M	LOMAX	1411	Pawtucket School Dept.	PRAM	8.50	
ANN	C	CAMPBELL	1123	Cumberland School Dept. (NC)	PRMS	8.00	

TEACHER RETIREES AND NON-CERTIFIED RETIREES WORKING 2025-2026 SCHOOL YEAR
PRSB--SUBSTITUTE AND IN A STATE SCHOOL SUB; PRAM--VACANCY; PRMS--MUNICIPAL IN A SCHOOL REPORT DTD 11-03-2025

First Name	Middle Initial	Last Name	Employer Code	Employer	Title/Function	Number of Days	Footnote
PHYLLIS	R	OELBAUM	1441	Providence School Dept.	PRSB	8.00	
FRANCESCA		ORSINI	1441	Providence School Dept.	PRSB	8.00	
MICHELE	B	BILODEAU-SEELEY	1441	Providence School Dept.	PRSB	8.00	
RUSSELL	E	SPENCER	1153	East Greenwich School Dist. (NC)	PRMS	8.00	
BARBARA		RIX	1001	Barrington Public Schools	PRSB	8.00	
REBECCA	A	FLORI	1441	Providence School Dept.	PRSB	8.00	
DEBRA	L	MORIARTY	1781	South Side Elementary Charter School	PRAM	8.00	
ERIC	S	PETTINE	1621	Westerly School Dept.	PRSB	8.00	
ANN-MARIE		D AMBROSIO	1441	Providence School Dept.	PRSB	8.00	
DONNA	M	FERRUCCI	1151	East Greenwich School Dept.	PRSB	8.00	
ROY	F	CLEMENTS	1441	Providence School Dept.	PRSB	8.00	
FRANCIA		POLANCO	1441	Providence School Dept.	PRSB	8.00	
PATRICIA	T	RENNER	1073	Chariho Regional School Dist. (NC)	PRMS	8.00	
KATHLEEN	M	MCAULIFFE	1111	Cranston School Dept.	PRSB	7.50	
JOHN	A	ABBATE	1033	Burrillville School Dept. (NC)	PRMS	7.50	
DENISE	T	ZAVOTA	1471	Smithfield School Dept.	PRSB	7.50	
THOMAS	V	STEPKA	1791	Charette Charter School	PRAM	7.05	
SHIRLEY-ANN		HALL	1091	Coventry Public Schools	PRSB	7.00	
SHEILA		MORGAN	1091	Coventry Public Schools	PRSB	7.00	
ELIZABETH	A	HURLEY	1441	Providence School Dept.	PRSB	7.00	
NANCY		PESANTE	1331	Narragansett School Dept.	PRSB	7.00	
FRANCIS	H	CAPASSO	1331	Narragansett School Dept.	PRSB	7.00	
CHRISTINE		GARVEY	1411	Pawtucket School Dept.	PRSB	7.00	
DIANE	C	CICCARONE	1441	Providence School Dept.	PRSB	7.00	
CYNTHIA	A	JANNERELLI	1473	Smithfield School Dept. (NC)	PRMS	7.00	
NADINE		DISTEFANO	1441	Providence School Dept.	PRSB	7.00	
CYNTHIA		O BRIEN	1371	North Kingstown School Dept.	PRSB	7.00	
PAMELA	L	LAW	1071	Chariho Regional School Dist.	PRSB	7.00	
PETER	M	BASILIERE	1071	Chariho Regional School Dist.	PRSB	7.00	
AUDREY	J	HIRSCH	1331	Narragansett School Dept.	PRSB	7.00	
JAMES	C	WILDE	1441	Providence School Dept.	PRSB	7.00	
ROBERT	J	LECHMAN	1473	Smithfield School Dept. (NC)	PRMS	6.00	
JOHN		CANNADY	1441	Providence School Dept.	PRSB	6.00	
BETSY		MCNEIL	1441	Providence School Dept.	PRSB	6.00	
ANN		HORGAN	1091	Coventry Public Schools	PRSB	6.00	

TEACHER RETIREES AND NON-CERTIFIED RETIREES WORKING 2025-2026 SCHOOL YEAR
PRSB--SUBSTITUTE AND IN A STATE SCHOOL SUB; PRAM--VACANCY; PRMS--MUNICIPAL IN A SCHOOL REPORT DTD 11-03-2025

First Name	Middle Initial	Last Name	Employer Code	Employer	Title/Function	Number of Days	Footnote
RICHARD	E	SCHUTTE	1441	Providence School Dept.	PRSB	6.00	
MAUREEN	H	AVENO	1121	Cumberland School Dept.	PRSB	6.00	
LINDA	C	GLORIA	1441	Providence School Dept.	PRSB	6.00	
MARYELLEN		PIERCE	1373	North Kingstown School Dept. (NC)	PRMS	6.00	
MARIO	E	PAPITTO	1063	Central Falls School Dist. (NC)	PRMS	6.00	
DONNA		LOMBARDI	1441	Providence School Dept.	PRSB	6.00	
PAULA	G	FUSCO	1621	Westerly School Dept.	PRSB	5.50	
CAROL		LAVIN	1491	South Kingstown School Dept.	PRSB	5.00	
DEBORAH	A	LOCKWOOD	1441	Providence School Dept.	PRSB	5.00	
LISA		WALSH	1491	South Kingstown School Dept.	PRSB	5.00	
LISA	M	VARGAS-SINAPI	1441	Providence School Dept.	PRSB	5.00	
JOHN		RAO JR	1153	East Greenwich School Dist. (NC)	PRMS	5.00	
PEARL		HOLLOWAY	1441	Providence School Dept.	PRSB	5.00	
PATRICIA	L	GIARRUSSO	1491	South Kingstown School Dept.	PRSB	5.00	
ANN		BARRY	1411	Pawtucket School Dept.	PRSB	5.00	
ANTHONY	J	TUTALO	1441	Providence School Dept.	PRSB	5.00	
ROUAIDA	J	AGHIA	1441	Providence School Dept.	PRSB	5.00	
MONIQUE		JACOB	1411	Pawtucket School Dept.	PRSB	5.00	
ELIZABETH	L	ANDERSEN	1441	Providence School Dept.	PRSB	5.00	
LORI		DESIMONE	1381	North Providence School Dept.	PRAM	4.50	
ELIZABETH	E	MORRIS	1441	Providence School Dept.	PRSB	4.00	
VIOLETTE		FALK	1441	Providence School Dept.	PRSB	4.00	
LORRAINE	S	MOSCHELLA	1381	North Providence School Dept.	PRAM	4.00	
JANICE	M	TALBOT	1091	Coventry Public Schools	PRSB	4.00	
KRISTINE		BELL	1073	Chariho Regional School Dist. (NC)	PRMS	4.00	
KIMBERLY	R	ALVES	1441	Providence School Dept.	PRSB	4.00	
KATHLEEN	S	GARRIOTT	1441	Providence School Dept.	PRSB	4.00	
FRANCIS	A	PALAZZI	1441	Providence School Dept.	PRSB	4.00	
PAMELA	M	ARDIZZONE	1441	Providence School Dept.	PRSB	4.00	
MARGARET	M	LEVEILLE	1441	Providence School Dept.	PRSB	4.00	
CHRISTINE	F	EGAN	1571	Warwick School Dept.	PRSB	4.00	
DONNA	A	GATTINELLA	1061	Central Falls Collaborative	PRSB	4.00	
DONNA	E	READ	1571	Warwick School Dept.	PRSB	4.00	
DEBORAH		STELLMACH	1441	Providence School Dept.	PRSB	4.00	
SUSAN	A	MARTIN	1151	East Greenwich School Dept.	PRAM	4.00	

TEACHER RETIREES AND NON-CERTIFIED RETIREES WORKING 2025-2026 SCHOOL YEAR
PRSB--SUBSTITUTE AND IN A STATE SCHOOL SUB; PRAM--VACANCY; PRMS--MUNICIPAL IN A SCHOOL REPORT DTD 11-03-2025

First Name	Middle Initial	Last Name	Employer Code	Employer	Title/Function	Number of Days	Footnote
LINDA	A	TERRANOVA	1621	Westerly School Dept.	PRSB	4.00	
JAMES	J	KILEY	1091	Coventry Public Schools	PRSB	4.00	
EILEEN	A	MULLANEY	1441	Providence School Dept.	PRSB	4.00	
ROSEMARY		STEIN	1471	Smithfield School Dept.	PRSB	4.00	
NANCY	P	MCGOVERN	1111	Cranston School Dept.	PRSB	3.50	
ELIZABETH	S	STONER	1001	Barrington Public Schools	PRSB	3.50	
ZITA		BUTLER	1411	Pawtucket School Dept.	PRSB	3.00	
SARA		MELIN	1441	Providence School Dept.	PRSB	3.00	
ANTHONY	A	SEOANE	1411	Pawtucket School Dept.	PRSB	3.00	
DAIL	A	BIENKIEWICZ	1001	Barrington Public Schools	PRSB	3.00	
DIANE	B	HENAULT	1371	North Kingstown School Dept.	PRSB	3.00	
GAIL	M	PALUMBO	1473	Smithfield School Dept. (NC)	PRMS	3.00	
CARMEN	M	ROBICHAUD	1441	Providence School Dept.	PRSB	3.00	
MICHAEL		TOPAZIO	1001	Barrington Public Schools	PRSB	3.00	
GIANNA		ZANNINI	1441	Providence School Dept.	PRSB	3.00	
DANIEL		LILLEY	1441	Providence School Dept.	PRSB	3.00	
DEBRA	L	MORIARTY	1123	Cumberland School Dept. (NC)	PRMS	3.00	
CYNTHIA		AUBIN	1441	Providence School Dept.	PRSB	3.00	
ELIZABETH	Y	ENTWISTLE	1441	Providence School Dept.	PRSB	3.00	
FRANCES	D	BEAUPRE	1621	Westerly School Dept.	PRSB	2.50	
LAWRENCE	A	OLIVIERI	1441	Providence School Dept.	PRSB	2.00	
KATHLEEN	M	PERRY	1111	Cranston School Dept.	PRSB	2.00	
TIMOTHY		MURPHY	1203	Foster/Glocester Reg. School Dist. (NC)	PRMS	2.00	
EDWARD	J	FERRARIO	1371	North Kingstown School Dept.	PRSB	2.00	
ANNE	M	DIAMOND	1441	Providence School Dept.	PRSB	2.00	
DONNA	M	HEROUX-EVERSON	1441	Providence School Dept.	PRSB	2.00	
KATHLEEN	M	MCAULIFFE	1331	Narragansett School Dept.	PRSB	2.00	
CHERYL	C	BLUMENBAUM	1331	Narragansett School Dept.	PRSB	2.00	
FRANCES	E	TAFT	1001	Barrington Public Schools	PRSB	2.00	
PETER	J	BULLOCK	1441	Providence School Dept.	PRSB	2.00	
KAREN	T	MUIR	1441	Providence School Dept.	PRSB	2.00	
MARY		PALUMBO	1491	South Kingstown School Dept.	PRSB	2.00	
REGINE		TARDIEU	1441	Providence School Dept.	PRSB	2.00	
CLAUDE	M	WATSKY	1331	Narragansett School Dept.	PRSB	2.00	
SARAH	S	GOLDBERG	1123	Cumberland School Dept. (NC)	PRMS	2.00	

TEACHER RETIREES AND NON-CERTIFIED RETIREES WORKING 2025-2026 SCHOOL YEAR
PRSB--SUBSTITUTE AND IN A STATE SCHOOL SUB; PRAM--VACANCY; PRMS--MUNICIPAL IN A SCHOOL REPORT DTD 11-03-2025

First Name	Middle Initial	Last Name	Employer Code	Employer	Title/Function	Number of Days	Footnote
CAROL		LANOIE	1631	Woonsocket School Dept.	PRSB	2.00	
PATRICIA	E	GENTILE	1621	Westerly School Dept.	PRSB	2.00	
LAUREN		GABRILOWITZ	1331	Narragansett School Dept.	PRSB	2.00	
MARY KATE		CORRY	1413	Pawtucket School Dept. (NC)	PRMS	1.50	
LINDA	D	ACTON	1371	North Kingstown School Dept.	PRSB	1.50	
FRANCIS		LALIBERTE	1411	Pawtucket School Dept.	PRAM	1.50	
MARY SUE		FRISHMAN	1621	Westerly School Dept.	PRSB	1.50	
ANN	M	LIGUORI	1621	Westerly School Dept.	PRSB	1.50	
SANDRA		LENORE	1471	Smithfield School Dept.	PRSB	1.50	
ELIZABETH	A	FLYNN	1411	Pawtucket School Dept.	PRSB	1.50	
MARIA		MARQUIS	1441	Providence School Dept.	PRSB	1.00	
HELEN		SISCO	1471	Smithfield School Dept.	PRSB	1.00	
DEBBI	A	MICELI	1071	Chariho Regional School Dist.	PRSB	1.00	
NANCY	K	SACCOIA	1471	Smithfield School Dept.	PRSB	1.00	
KATHLEEN		CUSHING	1441	Providence School Dept.	PRSB	1.00	
BARBARA		KELLY	1411	Pawtucket School Dept.	PRSB	1.00	
SUSAN	E	HACKETT	1091	Coventry Public Schools	PRSB	1.00	
LAURE	H	FLYNN	1441	Providence School Dept.	PRSB	1.00	
MARIE	F	LUPINO	1111	Cranston School Dept.	PRSB	1.00	
JOAN	D	OSTER	1631	Woonsocket School Dept.	PRSB	1.00	
LINDA	M	LEFEBVRE	1441	Providence School Dept.	PRSB	1.00	
MAUREEN	T	BRACEWELL	1441	Providence School Dept.	PRSB	1.00	
CLAUDE	M	WATSKY	1491	South Kingstown School Dept.	PRSB	1.00	
JOSE		DAJER	1441	Providence School Dept.	PRSB	1.00	
PAMELA	A	ALLEN	1371	North Kingstown School Dept.	PRSB	1.00	
SANDY		MENKE	1331	Narragansett School Dept.	PRSB	1.00	
RITA	A	TASCA	1441	Providence School Dept.	PRSB	1.00	
DONNA		LANGTON	1411	Pawtucket School Dept.	PRSB	1.00	
DONNA	M	CABRAL MEIZOSO	1471	Smithfield School Dept.	PRSB	1.00	
EMILY	M	ELLIS	1441	Providence School Dept.	PRSB	1.00	
RUSSELL	D	NOBLE	1001	Barrington Public Schools	PRSB	0.50	
LILLIAN		RODRIGUEZ	1413	Pawtucket School Dept. (NC)	PRMS	0.50	
MARGARET		MCCABE	1413	Pawtucket School Dept. (NC)	PRMS	0.50	
MICHAEL	T	CAHILL	1413	Pawtucket School Dept. (NC)	PRMS	0.50	
STEVEN	A	ENRIGHT	1371	North Kingstown School Dept.	PRSB	0.50	

TEACHER RETIREES AND NON-CERTIFIED RETIREES WORKING 2025-2026 SCHOOL YEAR
PRSB--SUBSTITUTE AND IN A STATE SCHOOL SUB; PRAM--VACANCY; PRMS--MUNICIPAL IN A SCHOOL REPORT DTD 11-03-2025

First Name	Middle Initial	Last Name	Employer Code	Employer	Title/Function	Number of Days	Footnote
CAROL	J	WELESKO	1371	North Kingstown School Dept.	PRSB	0.50	
STEVEN	W	COOPER	1411	Pawtucket School Dept.	PRAM	0.50	

PRME--RETIREES WORKING MUNICIPALITIES IN 2025 CALENDAR YEAR--REPORT DTD 11-03-2025

First Name	Middle Initial	Last Name	Employer Code	Employer	Title/Function	Number of Days	Footnote
MICHAEL	A	DEMELLO	1015	Bristol Fire Dept.	PRME	136.00	Suspended Pension
ERNEST		DE PARI	1112	City of Cranston	PRME	98.50	to recoup overage
EUGENE		CABRAL	1394	North Smithfield Police Dept.	PRME	90.50	to recoup overage
SCOTT		GOODWIN	1392	Town of North Smithfield	PRME	76.00	employer verifying
FRANK		CORRAO III	1112	City of Cranston	PRME	75.00	Suspended Pension
KENDRA		ROY	1632	City of Woonsocket	PRME	70.50	Close to limit
DAVID		MONFILS	1478	Town of Smithfield (COLA)	PRME	68.00	Close to limit
BRUCE	R	SENECAL	1394	North Smithfield Police Dept.	PRME	65.50	Close to limit
THEODORE	J	PRZYBYLA	1462	Town of Scituate	PRME	60.00	
GLORIA	J	RADO	1412	City of Pawtucket	PRME	59.00	
CHERYL	A	MCGURN	1382	Town of North Providence	PRME	58.00	
GAIL		TOPAKIAN	1112	City of Cranston	PRME	58.00	
CATHY	A	KEIGHLEY	1016	Bristol Housing Authority	PRME	57.00	
STEPHANIE		SUSI	1282	Town of Johnston	PRME	57.00	
LOUIS	A	LANNI	1382	Town of North Providence	PRME	56.50	
ARNOLD		VECCHIONE	1286	Johnston Housing Auth.	PRME	52.50	
ANNA	E	MARINO	1112	City of Cranston	PRME	51.50	
LAURIE	S	SIMPSON	1412	City of Pawtucket	PRME	51.00	
ROBERTA	A	TURCHETTA	1112	City of Cranston	PRME	50.00	
DONNA		PINTO	1412	City of Pawtucket	PRME	49.50	
EDWARD	R	FRATELLI	1478	Town of Smithfield (COLA)	PRME	48.50	
JEANNE	L	HODGE	1412	City of Pawtucket	PRME	48.00	
JESSICA		DESROCHERS	1632	City of Woonsocket	PRME	48.00	
ROSEMARY		DRISCOLL	1112	City of Cranston	PRME	47.00	
BRENDA	C	PANNONE	1382	Town of North Providence	PRME	45.50	
PAULINE	S	PAYEUR	1632	City of Woonsocket	PRME	45.00	
KATHLEEN		SAWKA	1412	City of Pawtucket	PRME	44.00	
MICHAEL		WILDENHAIN	1412	City of Pawtucket	PRME	44.00	
MICHAEL	J	DELYI	1272	Town of Jamestown	PRME	44.00	
CHARLENE	R	GAGNON	1412	City of Pawtucket	PRME	43.50	
CAROL		MONFILS	1474	Smithfield Police Dept.	PRME	43.00	
LOUIS	M	PRATA	1282	Town of Johnston	PRME	43.00	
LYNN	L	BURKHARDT	1009	Barrington COLA Group	PRME	43.00	

PRME--RETIREES WORKING MUNICIPALITIES IN 2025 CALENDAR YEAR--REPORT DTD 11-03-2025

First Name	Middle Initial	Last Name	Employer Code	Employer	Title/Function	Number of Days	Footnote
NORA		HAWKINS	1116	Cranston Housing Auth.	PRME	43.00	
KAREN		KINCH	1412	City of Pawtucket	PRME	42.50	
MICHAEL	D	CASSIDY	1412	City of Pawtucket	PRME	42.00	
JOHN	J	TOOLAN	1009	Barrington COLA Group	PRME	40.50	
JOANNE		TOLCHINSKY	1116	Cranston Housing Auth.	PRME	39.50	
EDWARD	A	DAVIDSON	1282	Town of Johnston	PRME	39.00	
FRANK	E	JUDGE	1082	Town of Charlestown	PRME	39.00	
RUSSELL		AMATO	1394	North Smithfield Police Dept.	PRME	38.50	
JOHN N	N	BUCCI	1112	City of Cranston	PRME	34.50	
CHERYL	A	FERNSTROM	1112	City of Cranston	PRME	34.00	
DAVID		ARUSSO	1286	Johnston Housing Auth.	PRME	33.00	
DEBRA	A	MCDOLE	1412	City of Pawtucket	PRME	32.50	
KAREN	M	ASSELIN	1412	City of Pawtucket	PRME	32.50	
KIMBERLEY	A	JONES	1372	Town of North Kingstown	PRME	32.00	
PRUDENCE	M	FALLON	1532	Town of Tiverton	PRME	32.00	
THOMAS	E	DUQUETTE	1602	Town of West Greenwich	PRME	31.50	
DIANE	M	WALSH	1112	City of Cranston	PRME	31.00	
GEORGE	T	CRANSTON	1372	Town of North Kingstown	PRME	30.00	
JEFFREY	T	PACIA	1382	Town of North Providence	PRME	30.00	
STEVEN	M	IACOBUCCI	1112	City of Cranston	PRME	30.00	
LINDA	M	DIPRETE	1112	City of Cranston	PRME	29.50	
PAUL		FAGAN	1352	City of Newport	PRME	29.00	
RICHARD		ARPIN JR	1122	Town of Cumberland	PRME	29.00	
WILLIAM	A	HANLEY II	1352	City of Newport	PRME	28.50	
PHILIPPE	P	BERGERON	1372	Town of North Kingstown	PRME	28.00	
DAVID	M	BEAUCHEMIN	1034	Burrillville Police Dept.	PRME	27.50	
ERNEST	R	HUTTON	1412	City of Pawtucket	PRME	26.00	
LAURA	A	SILVIA	1009	Barrington COLA Group	PRME	25.00	
KENNETH	R	MASON	1112	City of Cranston	PRME	24.50	
BENNY	F	HAMMOND	1372	Town of North Kingstown	PRME	23.00	
EMERSON	J	MARVEL	1162	City of East Providence	PRME	23.00	
MICHAEL	E	GINGELL	1032	Town of Burrillville	PRME	22.00	
DONNA		CONWAY	1476	Smithfield Housing Auth.	PRME	21.00	

PRME--RETIREES WORKING MUNICIPALITIES IN 2025 CALENDAR YEAR--REPORT DTD 11-03-2025

First Name	Middle Initial	Last Name	Employer Code	Employer	Title/Function	Number of Days	Footnote
HELEN		DETHOMAS	1632	City of Woonsocket	PRME	20.00	
JAMES		VIEIRA	1015	Bristol Fire Dept.	PRME	19.00	
JOEL		ROCHA	1372	Town of North Kingstown	PRME	19.00	
DAVID	W	WORDELL	1412	City of Pawtucket	PRME	18.00	
JON	R	SCHOCK	1152	Town of East Greenwich	PRME	18.00	
LINDA	M	CASEY	1112	City of Cranston	PRME	17.00	
DENNIS	J	PAUL	1474	Smithfield Police Dept.	PRME	16.50	
DAVID		ARUSSO	1282	Town of Johnston	PRME	15.50	
HARRY	N	MCCRAY	1372	Town of North Kingstown	PRME	15.00	
KENNETH	A	BROWN JR	1474	Smithfield Police Dept.	PRME	14.00	
ALAN	R	CONNORS	1032	Town of Burrillville	PRME	12.50	
LORRAINE	A	DEROIS	1012	Town of Bristol	PRME	12.50	
MICHAEL	A	PHILLIPS	1478	Town of Smithfield (COLA)	PRME	12.50	
ROBERT		CIOE	1009	Barrington COLA Group	PRME	11.50	
DONNA	M	OUELLETTE	1302	Town of Lincoln	PRME	11.00	
KAREN	J	AITCHISON	1286	Johnston Housing Auth.	PRME	11.00	
RENEY		MONDOUX	1632	City of Woonsocket	PRME	11.00	
CHRISTOPHER		RAFFERTY	1154	East Greenwich Police Dept.	PRME	10.50	
GAIL	G	DIPIERRO	1009	Barrington COLA Group	PRME	10.50	
WARREN	L	STEERE	1032	Town of Burrillville	PRME	10.00	
PAMELA	J	GOULD	1322	Town of Middletown	PRME	9.00	
ROMANA	H	RAMOS	1412	City of Pawtucket	PRME	9.00	
WAYNE		BARNES	1162	City of East Providence	PRME	8.00	
CHRISTOPER		CREIGHTON	1392	Town of North Smithfield	PRME	7.50	
LINDA	C	ARCHETTO	1112	City of Cranston	PRME	7.50	
ROBERT	E	MARTIN	1462	Town of Scituate	PRME	7.50	
JANET	C	RICHARDSON	1009	Barrington COLA Group	PRME	7.00	
LARETO	P	GUGLIETTA	1032	Town of Burrillville	PRME	6.00	
LYNN	L	BURKHARDT	1004	Barrington Police Dept.	PRME	6.00	
TORRE	A	BENSON	1154	East Greenwich Police Dept.	PRME	6.00	
JOHN	J	NAPPI	1014	Bristol Police	PRME	4.50	
KEVIN		CROKE	1162	City of East Providence	PRME	4.00	
LAURA	A	SILVIA	1004	Barrington Police Dept.	PRME	4.00	

PRME--RETIREEES WORKING MUNICIPALITIES IN 2025 CALENDAR YEAR--REPORT DTD 11-03-2025

First Name	Middle Initial	Last Name	Employer Code	Employer	Title/Function	Number of Days	Footnote
RONALD	P	KOMIEGA	1562	Town of Warren	PRME	4.00	
WILLIAM	S	HIGGINS	1154	East Greenwich Police Dept.	PRME	3.50	
BRYAN	J	MCMANUS	1154	East Greenwich Police Dept.	PRME	3.00	
DAVID	E	DESJARLAIS	1154	East Greenwich Police Dept.	PRME	3.00	
LARETO	P	GUGLIETTA	1034	Burrillville Police Dept.	PRME	3.00	
JOHN	M	CARTER	1154	East Greenwich Police Dept.	PRME	2.00	
LOUIS	J	CHARELLO	1705	Lincoln Fire Dept	PRME	2.00	
RICHARD	J	DENICE	1154	East Greenwich Police Dept.	PRME	2.00	
RUSSELL	P	SOUZA	1372	Town of North Kingstown	PRME	2.00	
PATRICIA	A	WESTALL	1272	Town of Jamestown	PRME	1.50	
ROBERT	G	ROSE	1112	City of Cranston	PRME	1.50	
DONNA		CONWAY	1016	Bristol Housing Authority	PRME	1.00	
JOHN	T	OHARA	1154	East Greenwich Police Dept.	PRME	1.00	
MARK	G	MAGUIRE	1374	North Kingstown Police Dept.	PRME	1.00	
ROBERT	J	LEMOI	1154	East Greenwich Police Dept.	PRME	1.00	

RETIREES WORKING UNDER \$25K AT STATE COLLEGES/UNIVERSITIES
PRIS--State colleges/univs/--Instructor at a state school - Calendar Year 2025--Report dtd --11-03-2025

First Name	Middle Initial	Last Name	Employer Code	Employer	Title/Function	Earnings	Footnote
ANDRES	R	ZUNIGA	2000	RIC	PRIS	\$ 31,744.04	Suspended Pension
MICHELLE		BROUSSEAU	2000	CCRI	PRIS	\$ 16,070.67	
BRUNA	M	BOYLE	2000	URI	PRIS	\$ 15,434.99	
ROBERT	N	MASSE	2000	CCRI	PRIS	\$ 15,018.50	
GAIL	S	O'ROURKE	2000	CCRI	PRIS	\$ 13,647.28	
CAROL	A	SPAZIANO	2000	CCRI	PRIS	\$ 12,872.56	
ANDREW	A	BONNER	2000	CCRI	PRIS	\$ 12,027.16	
MICHAEL	J	PAUL	2000	RIC	PRIS	\$ 9,327.81	
VANESSA	G	DELGIUDICE	2000	RIC	PRIS	\$ 7,855.00	
DONNA M		PATCH	2000	CCRI	PRIS	\$ 7,762.50	
ANDREW		EGAN	2000	CCRI	PRIS	\$ 7,468.72	
THOMAS	H	MITCHELL	2000	CCRI	PRIS	\$ 6,895.54	
JOHN ALAN	A	LONGIARU	2000	CCRI	PRIS	\$ 6,367.50	
ALFRED	R	CRUDALE	2000	URI	PRIS	\$ 6,049.96	
NORMAN	P	FORTIN	2000	URI	PRIS	\$ 6,000.00	
ROSE MARY		GRANT	2000	RIC	PRIS	\$ 5,891.25	
SUSAN	L	HAWKSLEY	2000	CCRI	PRIS	\$ 5,485.89	
MARIE	H	BAGUCHINSKY	2000	URI	PRIS	\$ 5,075.00	
GERALD		SILBERMAN	2000	CCRI	PRIS	\$ 4,585.89	
PATRICIA	A	ROSE	2000	CCRI	PRIS	\$ 4,537.76	
NANCY		MURPHY	2000	RIC	PRIS	\$ 3,926.50	
GARY	C	COMUNALE	2000	URI	PRIS	\$ 3,737.46	
DAVID		NEVES	2000	URI	PRIS	\$ 3,514.91	
BONNIE	B	RIPSTEIN	2000	RIC	PRIS	\$ 3,142.00	
ALFRED	L	PERROTTI	2000	CCRI	PRIS	\$ 2,992.00	
GREGG		NOURY	2000	CCRI	PRIS	\$ 2,790.00	
KARIN	E	LUKOWICZ	2000	CCRI	PRIS	\$ 2,728.00	
PAUL	C	MELARAGNO	2000	CCRI	PRIS	\$ 2,280.00	
WILLIAM	H	GREEN	2000	CCRI	PRIS	\$ 2,260.38	
KIRK		LAMBOY	2000	CCRI	PRIS	\$ 2,152.50	
THOMAS	A	CONBOY	2000	CCRI	PRIS	\$ 1,885.38	
LORRAINE	E	BELLO	2000	CCRI	PRIS	\$ 1,821.40	
JAMES	E	GUARINO	2000	CCRI	PRIS	\$ 1,820.61	
JO-ANN		PHILLIPS	2000	CCRI	PRIS	\$ 1,727.68	
DAYUS		METTS	2000	CCRI	PRIS	\$ 1,446.72	
HUGO	J	DEASCENTIS JR	2000	CCRI	PRIS	\$ 1,080.00	
PETER	J	PETRONE	2000	CCRI	PRIS	\$ 942.69	

RETIREEES WORKING UNDER \$25K AT STATE COLLEGES/UNIVERSITIES
PRIS--State colleges/univs/--Instructor at a state school - Calendar Year 2025--Report dtd --11-03-2025

First Name	Middle Initial	Last Name	Employer Code	Employer	Title/Function		Earnings	Footnote
MARLYCE	L	ADAMS	2000	RIC	PRIS	\$	785.50	
WILLIAM	T	BEHREND JR	2000	URI	PRIS	\$	387.00	

RETIREES WORKING UNDER \$15K DRIVER'S EDUCATION INSTRUCTION and/or MOTORCYCLE DRIVER EDUCATION COURSES

PRDE--State colleges/univs/ - Calendar Year 2025--Report dtd 11-03-2025

First Name	Middle Initial	Last Name	Employer Code	Employer	Title/Function	Earnings	Footnote
KATHLEEN	D	HUDSON	2000	CCRI	PRDE	\$ 12,982.35	Close to limit
PETER	V	RIVELLI	2000	CCRI	PRDE	\$ 12,286.84	Close to limit
PATRICIA	L	DIONNE	2000	CCRI	PRDE	\$ 4,340.16	
KATHLEEN		CRESCENZO	2000	CCRI	PRDE	\$ 4,318.24	
LORENZO		TETREULT	2000	CCRI	PRDE	\$ 2,658.03	
BRIAND	E	LACROIX	2000	CCRI	PRDE	\$ 2,151.63	
DAYUS		METTS	2000	CCRI	PRDE	\$ 1,446.72	

**RETIRED REGISTERED NURSES WORKING AT A STATE-OPERATED FACILITY IN RI INCLUDING EMPLOYMENT AS A FACULTY MEMBER OF A NURSING
PROGRAM AT A STATE-OPERATED COLLEGE OR UNIVERSITY--CALENDAR YEAR 2025 --REPORT DTD 11-03-2025**

First Name	Middle Initial	Last Name	Employer Code	Employer	Title/Function	Number of Days	Footnote
LINDA		MASSE	2000	BHDDH--ZAMBARANO	PRNR	54	



10.2. Report of Contributions

For Reference

		Employees' Retirement System of Rhode Island			
		Report of Received Contributions			
		Period Ending: 10/31/25			
	Organization	Frequency	Received Employer/Employee Contributions	Delinquent Contributions	Delinquent Loss/Earnings Calculation
1001	Barrington Public Schools	BIWK	\$250,249.59		
1003	Barrington Public Schools (NC)	BIWK	\$0.00		
1007	Barrington COLA Non-Certified	BIWK	\$28,577.23		
1009	Barrington COLA Group	BIWK	\$26,057.67		
1012	Town of Bristol	BIWK	\$14,532.52		
1014	Bristol Police Department	BIWK	\$16,224.20		
1016	Bristol Housing Authority	WKLY	\$3,470.75		
1019	Town of Bristol EE Highway	BIWK	\$12,094.90		
1021	Bristol Warren Reg. School District	BIWK	\$281,965.39		
1023	Bristol Warren Reg. School District (NC)	BIWK	\$42,864.88		
1031	Burrillville School Department	BIWK	\$195,178.87		
1032	Town of Burrillville	BIWK	\$20,645.91		
1033	Burrillville School Department (NC)	BIWK	\$21,673.62		
1036	Burrillville Housing Authority	WKLY	\$1,295.52		
1052	City of Central Falls	BIWK	\$13,106.20		
1054	Central Falls Police	BIWK	\$9,873.04		
1056	Central Falls Housing Authority	WKLY	\$4,218.54		
1061	Central Falls Collaborative	BIWK	\$174,271.55 ^		\$7,046.38
1063	Central Falls School District (NC)	BIWK	\$33,271.46 ^		\$3,592.61
1071	Chariho Regional School District	BIWK	\$214,287.87		
1073	Chariho Regional School District (NC)	BIWK	\$45,674.99		
1082	Town of Charlestown	BIWK	\$21,994.30		
1091	Coventry Public Schools	BIWK	\$292,731.54		
1095	Coventry Fire District	BIWK	\$6,689.68		
1096	Coventry Housing Authority	BIWK	\$3,858.70		
1098	Coventry Lighting District	BIWK	\$408.30		
1111	Cranston School Department	BIWK	\$819,467.87		
1112	City of Cranston	BIWK	\$40,904.31		
1113	Cranston School Department (NC)	BIWK	\$79,547.97		
1114	Cranston Police Department	BIWK	\$61,920.42	*	
1115	Cranston Fire Department	BIWK	\$83,770.38	*	
1116	Cranston Housing Authority	BIWK	\$5,957.14		
1121	Cumberland School Department	BIWK	\$316,272.09		
1122	Town of Cumberland	BIWK	\$50,916.22		
1123	Cumberland School Department (NC)	BIWK	\$35,537.15		
1126	Cumberland Housing Authority	WKLY	\$3,385.98		
1135	Cumberland Hill Fire District	WKLY	\$0.00		
1151	East Greenwich School Department	BIWK	\$173,468.88		
1152	Town of East Greenwich	WKLY	\$8,615.27		
1153	East Greenwich School District (NC)	BIWK	\$2,330.66		
1156	East Greenwich Housing Authority	BIWK	\$2,831.94		
1157	East Greenwich - COLA	WKLY	\$14,272.94		
1158	East Greenwich - COLA - NC	BIWK	\$18,437.99		
1159	East Greenwich Fire District (NC)	WKLY	\$253.28		
1161	East Providence School Department	BIWK	\$341,110.15		
1162	City of East Providence	BIWK	\$126,884.39		
1163	East Providence School Department (NC)	BIWK	\$44,650.18		
1166	East Providence Housing Authority	WKLY	\$5,481.87		

		Employees' Retirement System of Rhode Island				
		Report of Received Contributions				
		Period Ending: 10/31/25				
Organization		Frequency	Received Employer/Employee Contributions	Delinquent Contributions	Delinquent Loss/Earnings Calculation	
1181	Exeter/West Greenwich Reg. School Department	BIWK	\$68,406.17			

		Employees' Retirement System of Rhode Island			
		Report of Received Contributions			
		Period Ending: 10/31/25			
	Organization	Frequency	Received Employer/Employee Contributions	Delinquent Contributions	Delinquent Loss/Earnings Calculation
1183	Exeter/West Greenwich Reg. School Department (NC)	BIWK	\$19,172.39		
1191	Foster School District	BIWK	\$31,427.94		
1192	Town of Foster	WKLY	\$5,213.12		
1193	Foster School District (NC)	BIWK	\$5,025.81		
1201	Foster/Glocester Reg. School District	BIWK	\$140,759.33		
1203	Foster/Glocester Reg. School District (NC)	BIWK	\$23,958.03		
1211	Glocester School District	BIWK	\$49,130.44		
1212	Town of Glocester	BIWK	\$17,314.61		
1213	Glocester School District (NC)	BIWK	\$7,566.68		
1227	Greenville Water District	WKLY	\$2,955.35		
1242	Hope Valley-Wyoming Fire District	BIWK	\$1,696.08		
1255	Hopkins Hill Fire Department	BIWK	\$4,553.30		
1262	Town of Hopkinton	BIWK	\$9,917.36		
1271	Jamestown School Department	BIWK	\$33,728.52		
1272	Town of Jamestown	BIWK	\$22,486.30		
1273	Jamestown School Department (NC)	BIWK	\$12,065.58		
1281	Johnston School Department	BIWK	\$213,701.46		
1282	Town of Johnston	BIWK	\$35,762.36		
1283	Johnston School Department (NC)	BIWK	\$21,825.38		
1286	Johnston Housing Authority	WKLY	\$2,519.05		
1293	Limerock Adm. Services	WKLY	\$390.90		
1301	Lincoln School Department	BIWK	\$346,702.61		
1302	Town of Lincoln	BIWK	\$2,552.58		
1303	Lincoln School Department (NC)	BIWK	\$1,733.13		
1306	Lincoln Housing Authority	BIWK	\$3,840.30		
1311	Little Compton School Department	BIWK	\$38,667.79		
1321	Middletown Public Schools	BIWK	\$205,389.76		
1322	Town of Middletown	BIWK	\$16,554.93		
1323	Middletown Public School Department (NC)	BIWK	\$23,126.65		
1331	Narragansett School Department	BIWK	\$64,231.96		
1336	Narragansett Housing Authority	MNLY	\$1,161.79		
1341	New Shoreham School District	BIWK	\$12,771.38		
1342	Town of New Shoreham	BIWK	\$6,816.63		
1343	New Shoreham School District (NC)	BIWK	\$3,161.45		
1351	Newport School Department	BIWK	\$174,202.74		
1352	City of Newport	BIWK	\$59,494.63		
1353	Newport School Department (NC)	BIWK	\$27,512.36		
1354	City of Newport - Monthly	MNLY	\$10.83		
1356	Newport Housing Authority	WKLY	\$13,176.12		
1364	Newport Police Department	BIWK	\$15,771.96		
1371	North Kingstown School Department	BIWK	\$173,987.15		
1372	Town of North Kingstown	BIWK	\$58,132.67		
1373	North Kingstown School Department (NC)	BIWK	\$40,467.35		
1381	North Providence School Department	BIWK	\$133,426.27		
1382	Town of North Providence	BIWK	\$31,474.96		
1383	North Providence School Department (NC)	BIWK	\$22,774.77		
1386	North Providence Housing Authority	BIWK	\$2,140.18		

		Employees' Retirement System of Rhode Island			
		Report of Received Contributions			
		Period Ending: 10/31/25			
Organization		Frequency	Received Employer/Employee Contributions	Delinquent Contributions	Delinquent Loss/Earnings Calculation
1391	North Smithfield School Department	BIWK	\$110,179.04		
1392	Town of North Smithfield	BIWK	\$12,220.22		
1393	North Smithfield School Department (NC)	BIWK	\$14,216.74		
1401	Northern Rhode Island Collaborative	BIWK	\$0.00		
1411	Pawtucket School Department	BIWK	\$585,337.17		
1412	City of Pawtucket	WKLY	\$92,607.64		
1413	Pawtucket School Department (NC)	BIWK	\$89,135.87		
1416	Pawtucket Housing Authority	WKLY	\$18,413.16		
1421	Portsmouth School Department	BIWK	\$246,281.36		
1441	Providence School Department	BIWK	\$691,060.18		
1447	Providence School Department Long Term Subs	WKLY	\$2,826.70		

		Employees' Retirement System of Rhode Island			
		Report of Received Contributions			
		Period Ending: 10/31/25			
	Organization	Frequency	Received Employer/Employee Contributions	Delinquent Contributions	Delinquent Loss/Earnings Calculation
1448	Providence School Department - 12 Month Bi-Weekly	BIWK	\$130,049.48		
1452	Town of Richmond	BIWK	\$7,170.37		
1461	Scituate School Department	BIWK	\$137,075.62		
1462	Town of Scituate	BIWK	\$15,929.85		
1463	Scituate School Department (NC)	BIWK	\$15,258.20		
1471	Smithfield School Department	BIWK	\$165,082.43		
1473	Smithfield School Department (NC)	BIWK	\$20,606.94		
1476	Smithfield Housing Authority	BIWK	\$2,334.54		
1478	Town of Smithfield (COLA)	WKLY	\$30,832.61		
1491	South Kingstown School Department	BIWK	\$120,182.49		
1492	Town of South Kingstown	BIWK	\$46,433.89		
1493	South Kingstown School Department (NC)	BIWK	\$23,406.28		
1496	South Kingstown Housing Authority	WKLY	\$1,243.28		
1515	Union Fire District	BIWK	\$3,219.81		
1531	Tiverton School Department	BIWK	\$54,685.50		
1532	Town of Tiverton	BIWK	\$12,335.29		
1533	Tiverton School Department (NC)	BIWK	\$108,906.34		
1538	Tiverton Local 2670A	BIWK	\$8,907.20		
1541	Urban Collaborative Schools	BIWK	\$7,749.14		
1562	Town of Warren	BIWK	\$11,023.93		
1566	Warren Housing Authority	BIWK	\$2,237.80		
1571	Warwick School Department	BIWK	\$390,058.06		
1591	West Bay Collaborative	BIWK	\$9,036.12		
1602	Town of West Greenwich	WKLY	\$7,741.11		
1611	West Warwick School Department	BIWK	\$160,241.32		
1612	Town of West Warwick	WKLY	\$10,499.99		
1613	West Warwick School Department (NC)	BIWK	\$16,408.09		
1616	West Warwick Housing Authority	BIWK	\$4,259.56		
1621	Westerly School Department	BIWK	\$185,696.46		
1631	Woonsocket School Department	BIWK	\$351,827.34		
1632	City of Woonsocket	BIWK	\$48,704.62		
1633	Woonsocket School Department (NC)	BIWK	\$59,014.06		
1634	Woonsocket Police Department	WKLY	\$47,688.78		
1635	Woonsocket Fire Department	BIWK	\$51,879.35		
1641	Highlander Charter School	SMON	\$16,769.43		
1651	Paul Cuffee School	BIWK	\$33,051.77		
1661	Kingston Hill Academy School	BIWK	\$7,689.94		
1671	International Charter School	BIWK	\$11,982.98		
1681	The Compass School	SMON	\$9,833.48		
1691	Blackstone Academy Charter School, Inc.	SMON	\$12,899.12		
1701	Beacon Charter School of Woonsocket	SMON	\$13,873.84		
1702	Albion Fire District - Municipal	BIWK	\$0.00		
1711	The Learning Community Charter School	BIWK	\$29,377.47		
1712	Harrisville Fire District - Municipal	WKLY	\$762.60		
1721	Segue Institute of Learning	BIWK	\$14,390.07		
1731	The Greene School	BIWK	\$7,722.18		
1741	Trinity Academy	SMON	\$13,818.75		

		Employees' Retirement System of Rhode Island			
		Report of Received Contributions			
		Period Ending: 10/31/25			
Organization		Frequency	Received Employer/Employee Contributions	Delinquent Contributions	Delinquent Loss/Earnings Calculation
1751	RI Nurses Institute	SMON	\$7,888.09		
1761	The Village Green Virtual Charter School	SMON	\$5,324.18		
1771	Nowell Leadership Academy	BIWK	\$13,241.60		
1781	South Side Elementary Charter School	BIWK	\$4,833.44		
1791	Charette Charter School	SMON	\$4,865.27		
1802	Pascoag Fire District - Administration	WKLY	\$312.00		
1901	Providence Preparatory Charter School	WKLY	\$16,752.80		
1911	Times 2 Academy	WKLY	\$1,825.34		
1921	Nuestro Mundo Charter School	BIWK	\$10,582.44		
1931	RISE Prep Mayoral Academy	BIWK	\$24,676.92		
2000	State	BIWK	\$3,691,124.72		
2300	Narragansett Bay Commission	BIWK	\$30,209.27		
			\$14,293,905.04		
	Column Definitions:				
	Frequency = BIWK = Bi-Weekly; WKLY = Weekly; SMON = Semi-Monthly				
	Received Employer/Employee contributions = Contributions received during the reporting period				

		Employees' Retirement System of Rhode Island			
		Report of Received Contributions			
		Period Ending: 10/31/25			
Organization		Frequency	Received Employer/Employee Contributions	Delinquent Contributions	Delinquent Loss/Earnings Calculation
* Cranston Police and Fire have not withheld DC plan contributions on holiday and longevity payments for its MERS police officers and holiday payments for its firefighters. The City may be liable for loss earnings to employees for delayed contributions. Amounts due are currently under analysis.					



Employees' Retirement System of Rhode Island

Employer Aging
Period Ending: 10/15/25

Account	Organization	Employer	Balance as of 10/15/2025	0 - 30 days	30 - 60 days	60 - 90 days	90 + days	Comments
1008	Barrington Fire Department (25 Year Plan)	MERS	\$ 615.21	\$ 27.61	\$ 587.61	\$ -	\$ (0.01)	Emailed 10/30/2025
1351	Newport School Department	ERS	\$ 15,408.35	\$ -	\$ -	\$ -	\$ 15,408.35	Emailed 11/7/2025 requesting immediate payment. Adjustments made in November
1391	North Smithfield School Department	ERS	\$ 19.43	\$ -	\$ -	\$ -	\$ 19.43	Emailed 11/7/2025
1671	International Charter School	ERS	\$ 17,849.79	\$ -	\$ -	\$ (183.17)	\$ -	Paid in Full
Grand total			\$33,892.78	\$27.61	\$587.61	-\$183.17	\$15,427.77	
			100.00%	0.08%	1.73%	-0.54%	45.52%	



10.3. State Investment Commission

State of Rhode Island

As of September 30, 2025

Performance Update

SIC MEETING AGENDA AND MINUTES

**RHODE ISLAND STATE INVESTMENT COMMISSION
MEETING NOTICE**

The next meeting of the Rhode Island State Investment Commission has been scheduled for Friday, October 22nd, 2025, at 9:00 a.m. **in the Executive Conference Room, Department of Administration, 1 Capitol Hill, Providence; and streamed via Zoom Webinar [dial-in: +1 312 626 6799; Webinar ID: (856 0695 6352); link: [(bit.ly/4mQTiKh)].**

AGENDA

- Chairperson Call to Order
- Membership Roll Call
- Approval of Draft Meeting Minutes ¹
 - State Investment Commission Meeting held August 22nd, 2025
- Lenox Park Diversity, Equity, and Inclusion Review
 - Ashley Klimczyk, Investment Staff
 - Jason Lamin and Andy Cronin, Lenox Park
- Meketa Risk/Implementation Survey & 2026 Workplan Overview
 - Colin Bebee and Steve Voss, Meketa
- Legal Counsel Report
- Chief Investment Officer Report
- Treasurer's General Comments

¹ Commission members may be asked to vote on this item.

POSTED ON OCTOBER 17, 2025

Anyone wishing to attend this meeting who may have special needs for access or services such as an interpreter, please contact Dana Fatuda at (401) 574-9144 twenty-four hours in advance of the scheduled meeting.



**State Investment Commission
Monthly Meeting Minutes
Friday, August 22, 2025
9:00 a.m.**

Executive Conference Room, Department of Administration

[dial-in: +1 312 626 6799; Webinar ID: (879 2537 3617); link: [(https://bit.ly/3UVAvlc)].

A Monthly Meeting of the State Investment Commission (“SIC”) was called to order at 9:07 AM, Friday, August 22, 2025, in the Executive Conference Room, Department of Administration.

I. Roll Call of Members

The following members were present: Ms. Heidi Halbur, Mr. Paul Dion, Ms. Karen Hammond, Ms. Karen Hazard, Mr. Thomas Fay, and Treasurer James A. Diossa.

Also in attendance: Mr. Malcolm Little, Arlington; Mr. Colin Bebee and Mr. LaRoy Brantley, Meketa; Mr. Michael Elio, StepStone; Mr. Taylor Famiglietti, State Street; Ms. Alisa Hoover, Pannone Lopes Devereaux & O’Gara, legal counsel; Mr. Justin Maistrow, Chief Investment Officer; and other members of the Treasurer’s Staff.

Treasurer Diossa called the meeting to order at 9:07 AM.

II. Approval of Minutes

On a motion by Mr. Thomas Fay and seconded by Ms. Karen Hammond, it was unanimously **VOTED: to approve the draft meeting minutes of the July 30, 2025 meeting of the State Investment Commission.**

III. Private Equity Recommendation, Arlington Capital Partners VII

Mr. Peter Coleman, Investment Officer, introduced the proposed recommendations for the Rhode Island Employees’ Retirement Systems Pooled Trust and the Rhode Island OPEB System Trust to make commitments to Arlington Capital Partners VII. Mr. Coleman gave some background on the firm and briefly described the strategy. Mr. Coleman highlighted the fund’s focus on aerospace defense, government services, tech, and healthcare buyouts. Mr. Coleman pointed out that Arlington is located in the DC area. Mr. Coleman explained that the firm has been executing this strategy for many years and has produced outsized returns. Mr. Coleman concluded by reviewing fees and highlighting the 3% GP commit.

Mr. Malcolm Little, Arlington, introduced himself and described the overall strategy of the fund. Mr. Little pointed out the three differentiators of Arlington listing the firm’s singular focus, stable team, and attractive risk-adjusted returns. Mr. Little explained that the firm is not interested in having exposure to all things government regulated. Mr. Little elaborated by stating that the firm identifies long-term apolitical trends that will benefit regardless of the administration. Mr. Little then described a chart outlining the firm’s investment themes, highlighting the consistency of these

August 22, 2025

themes across funds. Lastly, Mr. Little reviewed the investments within Arlington Capital Partners Fund VI to further describe the firm's investment thesis.

Mr. George Bumeder, Cliffwater, explained that there are not many peers in this space. Mr. Bumeder elaborated that several of these peers have scaled, which is a possibility. Mr. Bumeder pointed out that the firm operates in a large addressable market. Mr. Bumeder highlighted the firm's strong performance and high degree of consistency in their target sectors. Mr. Bumeder stated that Arlington has been successful at identifying themes that are removed from the short-term swings in government spending and priorities. Mr. Bumeder pointed out that the firm has been successful over several different administrations. Mr. Bumeder concluded by explaining that the firm has been successful at acquisitions and at building highly specialized manufacturing and R&D facilities, which has allowed them to build scaled firms.

The Board asked questions.

On a motion by Ms. Karen Hammond and seconded by Mr. Thomas Fay, the Board unanimously **VOTED that (A) the Rhode Island Employees' Retirement Systems Pooled Trust make a commitment of up to \$30 million to Arlington Capital Partners VII; and (B) that the Rhode Island OPEB System Trust make a commitment of up to \$2 million to Arlington Capital Partners VII; in each of the foregoing cases (A) and (B), subject to legal and investment staff review.**

IV. Legal Counsel Report

There was no legal counsel report.

V. Chief Investment Officer Report

Mr. Justin Maistrow, Chief Investment Officer, discussed the SIC off-site and briefly described the agenda. Mr. Maistrow reminded the board that an investment associate will be joining the team next month. Mr. Maistrow then described the performance of the fund compared to the peer universe. Mr. Maistrow explained that while the short-term performance has been low relative to peers, long-term performance still remains in the top quartile.

The Board asked questions.

VI. Treasurer's General Comments

Treasurer Diossa asked if there were any further comments or questions and thanked the Board and Staff.

The meeting was adjourned at 10:00 AM.

Respectfully submitted,

**James A. Diossa,
General Treasurer**

August 22, 2025

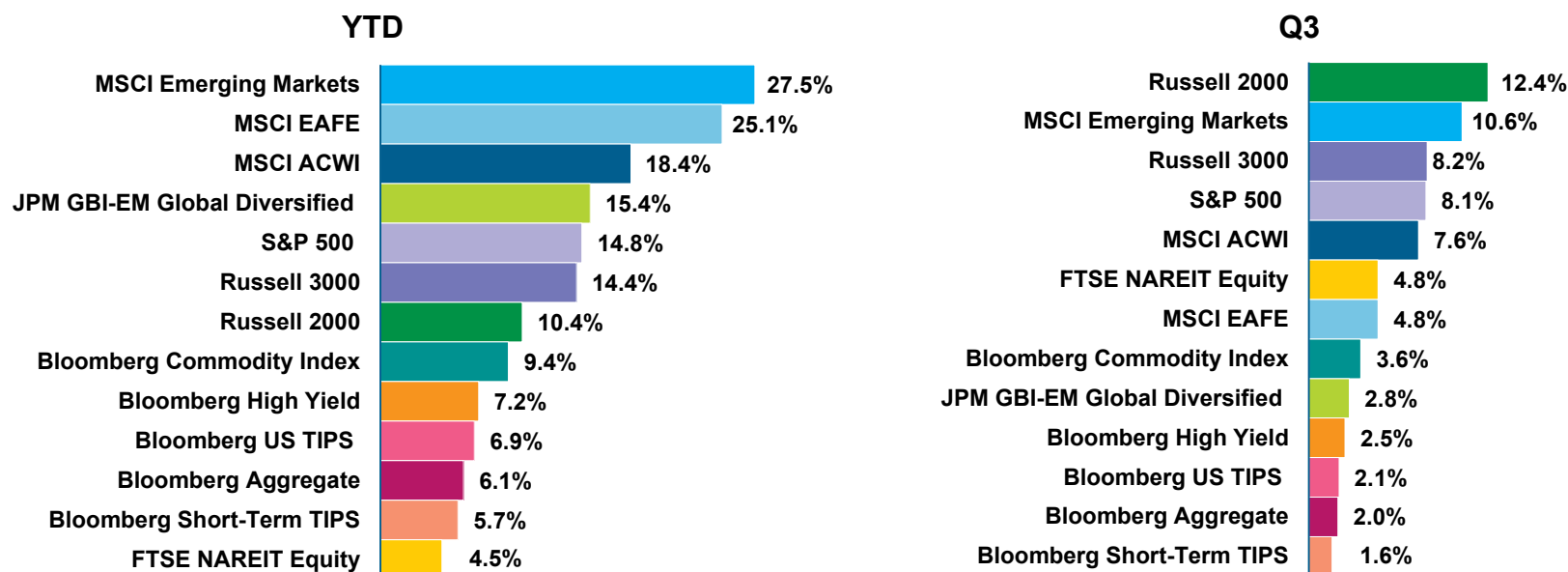
ECONOMIC AND MARKET UPDATE

Commentary

In the third quarter, most stock and bond markets delivered positive returns, benefiting from renewed interest rate cuts from the Federal Reserve, continued strong artificial intelligence demand and investment, and overall solid corporate earnings.

- US stocks enjoyed a broad rally in the third quarter with the Russell 3000 gaining 8.2%. Large cap stocks trailed small cap stocks in a reversal of the prior trend with mixed results across market capitalizations for growth and value.
- Non-US developed market stocks lagged US stocks in the third quarter (MSCI EAFE +4.8%) with value outperforming growth.
- Emerging market stocks beat developed market stocks in the third quarter with the MSCI emerging market index gaining +10.6% and up a leading 27.5% year-to-date; Chinese stocks drove the emerging market index higher with the MSCI China index returning 20.7% in the quarter and 41.6% year-to-date.
- In general, bond markets performed well in the third quarter supported by softer labor data and largely dovish central banks, with high yield bonds and long-dated Treasuries both returning 2.5% for the quarter, slightly outperforming the broad US bond market (+2.0%) and TIPS (+2.1%).
- Chair Powell's comments from Jackson Hole buoyed market expectations for more rate cuts this year. In addition to continued public pressure on Chair Powell, the Administration also signaled that it would investigate Federal Open Market Committee (FOMC) member Lisa Cook adding to market concerns about future Fed independence.
- Key questions going forward include how the Fed will manage interest rates given competing pressures on its dual mandate of inflation and employment, will tariff pressures eventually show up in inflation, can earnings growth remain resilient in the US, will the recent rotation into small cap stocks continue, and how will China's economy and relations with the US track.

Index Returns¹



- There were broad gains across asset classes in the third quarter given the Fed's rate cut in September with more expected, resilient corporate earnings, and ongoing AI enthusiasm. Small cap US stocks led the way particularly benefiting from lower rate expectations as well as a resilient US economy and lower valuations relative to large cap technology companies.
- For the year-to-date through September, international markets experienced the best results with +40% gains in China helping emerging market stocks and a weakening US dollar particularly benefiting developed international stocks (MSCI EAFE).

¹ Source: Bloomberg. Data is as of September 30, 2025.

Domestic Equity Returns¹

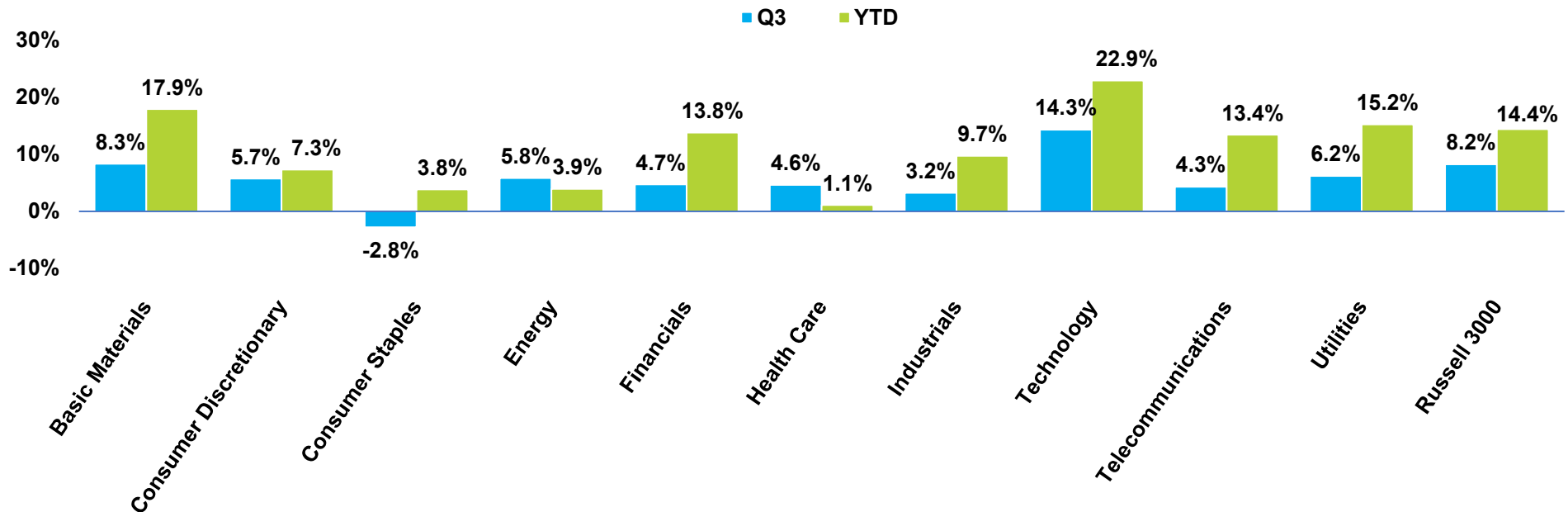
Domestic Equity	September (%)	Q3 (%)	YTD (%)	1 YR (%)	3 YR (%)	5 YR (%)	10 YR (%)
S&P 500	3.6	8.1	14.8	17.6	24.9	16.4	15.3
Russell 3000	3.5	8.2	14.4	17.4	24.1	15.7	14.7
Russell 1000	3.5	8.0	14.6	17.7	24.6	16.0	15.0
Russell 1000 Growth	5.3	10.5	17.2	25.5	31.6	17.6	18.8
Russell 1000 Value	1.5	5.3	11.7	9.4	16.9	13.9	10.7
Russell MidCap	0.9	5.3	10.4	11.1	17.7	12.6	11.4
Russell MidCap Growth	-0.3	2.8	12.8	22.0	22.8	11.2	13.4
Russell MidCap Value	1.3	6.2	9.5	7.6	15.5	13.6	10.0
Russell 2000	3.1	12.4	10.4	10.8	15.2	11.5	9.8
Russell 2000 Growth	4.2	12.2	11.7	13.6	16.7	8.4	9.9
Russell 2000 Value	2.0	12.6	9.0	7.9	13.5	14.6	9.2

US Equities: The Russell 3000 index returned 8.2% in the third quarter and 14.4% year-to-date.

- US stocks increased sharply during the third quarter as the Federal Reserve lowered interest rates, corporate earnings largely came in above expectations, and economic growth surprised to the upside. The enthusiasm surrounding AI helped push the indices higher, as well.
- Small cap stocks, represented by the Russell 2000 Index, outperformed both mid and large cap stocks during the quarter. The small cap index's higher weighting to biopharma stocks contributed to the outperformance as well as the overall strength of the economy and expectations for lower rates given their generally higher leverage.
- Value stocks outperformed growth stocks during the quarter (except in the large cap space). The outperformance of large technology and consumer discretionary stocks drove this dynamic.

¹ Source: Bloomberg. Data is as of September 30, 2025.

Russell 3000 Sector Returns¹



- During the third quarter, technology stocks led all sectors, with Apple and NVIDIA being the largest contributors in the Russell 3000 Index, as AI enthusiasm continued.
- The traditionally defensive consumer staples sector was the only area to decline in the risk-on environment of the third quarter. Many of these companies, like Philip Morris, Costco, and Coca-Cola, continue to be challenged by tariffs and consumers' changing preferences given higher expected prices.
- For the year through September, all sectors posted gains with technology, again, leading the way and defensive sectors, like healthcare and consumer staples, producing the smallest gains.

¹ Source: Bloomberg. Data is as of September 30, 2025.

Foreign Equity Returns¹

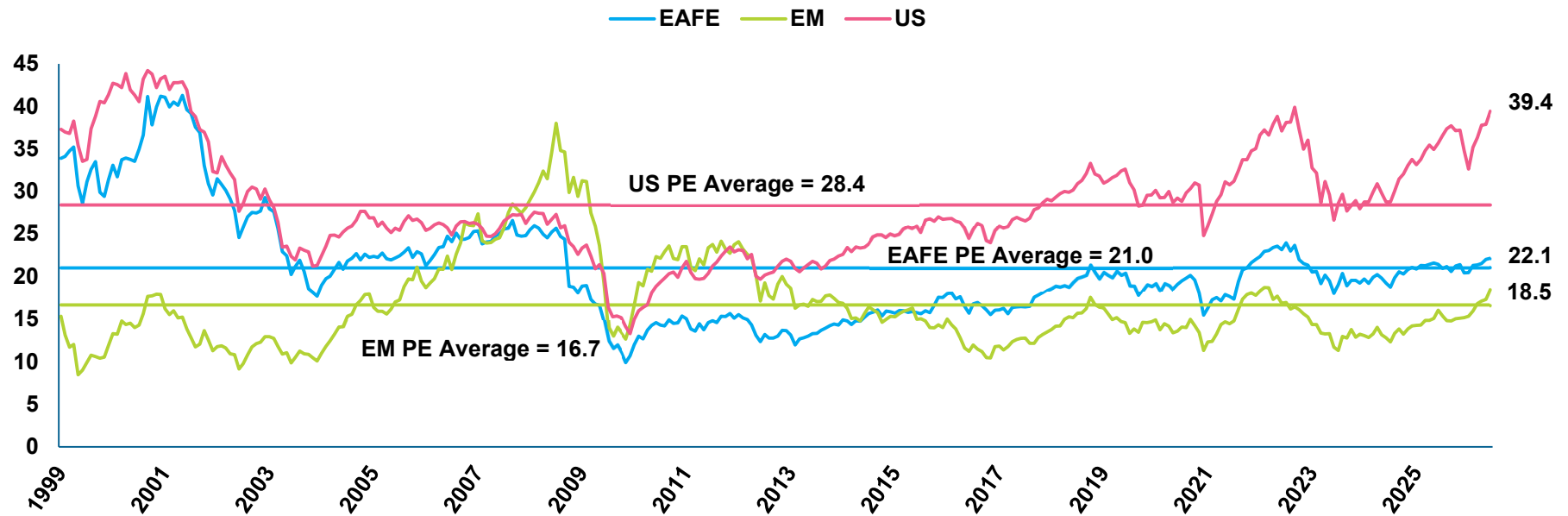
Foreign Equity	September (%)	Q3 (%)	YTD (%)	1 YR (%)	3 YR (%)	5 YR (%)	10 YR (%)
MSCI ACWI Ex US	3.6	6.9	26.0	16.4	20.7	10.2	8.2
MSCI EAFE	1.9	4.8	25.1	15.0	21.7	11.1	8.2
MSCI EAFE (Local Currency)	1.8	5.4	13.6	12.9	16.9	12.5	8.6
MSCI EAFE Small Cap	1.6	6.2	28.4	17.7	19.6	8.5	7.9
MSCI Emerging Markets	7.2	10.6	27.5	17.3	18.2	7.0	8.0
MSCI Emerging Markets (Local Currency)	7.1	12.2	24.3	18.8	18.1	8.6	9.1
MSCI EM ex China	6.0	6.6	22.1	12.2	17.9	11.1	8.8
MSCI China	9.8	20.7	41.6	30.8	19.4	0.4	6.8

Foreign Equity: Developed international equities (MSCI EAFE) returned 6.9% in the third quarter and 26.0% year-to-date, and the emerging markets index rose 10.6% in the third quarter and 27.5% year-to-date.

- Developed markets posted solid gains in the third quarter, driven by easing monetary policy, strong corporate earnings, and AI-related enthusiasm. Eurozone equities, while positive, were the laggards of the quarter, with losses in Germany and political instability in France somewhat balanced by strong performance by financials and stable inflation. The UK saw solid performance supported by strong bank earnings and resilient consumer demand despite rising debt. Japan was a top performer, benefiting from a weaker yen, strong tech exports, and favorable political shifts.
- Emerging markets outperformed developed peers in the third quarter, aided by easing trade tensions and strong tech performance. China led the way with a significant 20.7% return for the quarter, benefitting from domestic chipmaker support, accelerating AI spending, and optimism surrounding policies to reduce unproductive competition. Tech enthusiasm benefited other Asian markets, particularly Taiwan and Korea. Brazil lagged, due largely to political uncertainty. India saw losses, with the recent imposition of very punitive tariffs by the US weighing heavily on performance.

¹ Source: Bloomberg. Data is as of September 30, 2025.

Equity Cyclically Adjusted P/E Ratios¹



- US stock valuations increased in the third quarter, finishing September with a cyclically adjusted P/E ratio of 39.4. This level is well above their long-run average of 28.4.
- Given strong results this year in non-US developed stocks, valuations have moved slightly above their long-run P/E ratio (22.1 versus 21.0).
- As emerging market stocks lead the way in 2025 their valuations are now also trading at levels above their long-run average (18.5 versus 16.7).

¹ US Equity Cyclically Adjusted P/E on S&P 500 Index. Source: Robert Shiller, Yale University, and Meketa Investment Group. Developed and Emerging Market Equity (MSCI EAFE and EM Index) Cyclically Adjusted P/E Source: Bloomberg. Earnings figures represent the average of monthly "as reported" earnings over the previous ten years. Data is as of September 2025. The average line is the long-term average of the US, EM, and EAFE PE values from April 1998 to the recent month-end, respectively.

Fixed Income Returns¹

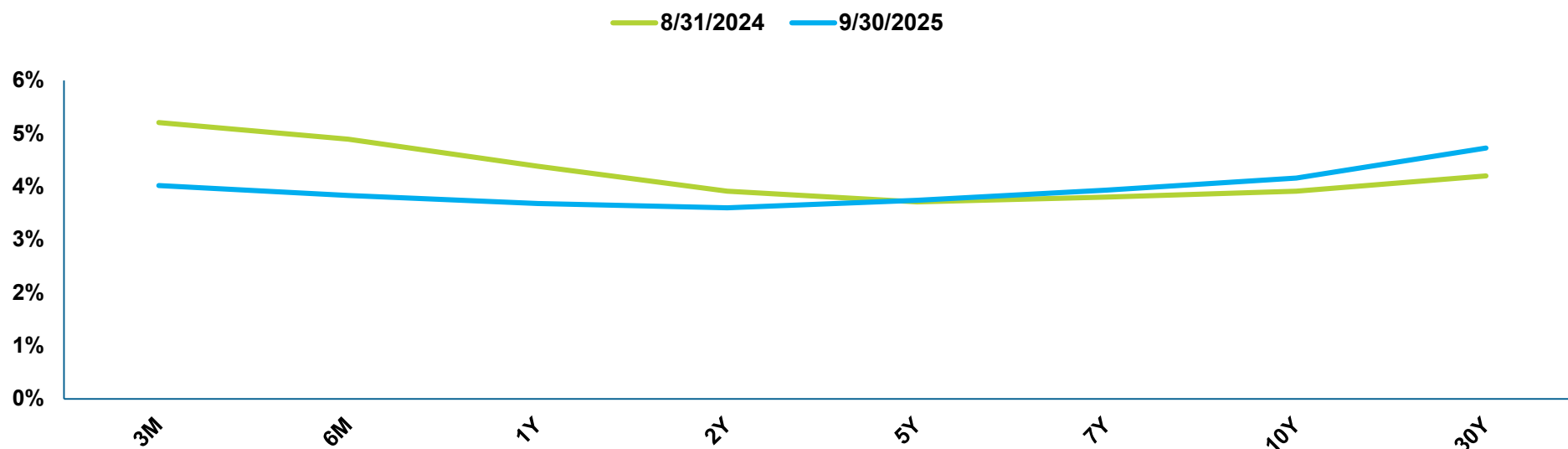
Fixed Income	September (%)	Q3 (%)	YTD (%)	1 YR (%)	3 YR (%)	5 YR (%)	10 YR (%)	Current Yield (%)	Duration (Years)
Bloomberg Universal	1.1	2.1	6.3	3.4	5.6	0.1	2.3	4.6	5.9
Bloomberg Aggregate	1.1	2.0	6.1	2.9	4.9	-0.4	1.8	4.4	6.1
Bloomberg US TIPS	0.4	2.1	6.9	3.8	4.9	1.4	3.0	4.1	6.6
Bloomberg Short-term TIPS	0.0	1.6	5.7	5.5	5.4	3.7	3.1	3.8	2.4
Bloomberg US Long Treasury	3.1	2.5	5.6	-3.5	0.4	-7.8	-0.1	4.7	14.7
Bloomberg High Yield	0.8	2.5	7.2	7.4	11.1	5.5	6.2	6.7	3.1
JPM GBI-EM Global Diversified (USD)	1.4	2.8	15.4	7.4	11.3	2.3	3.5	--	--

Fixed Income: The Bloomberg Universal index rose 2.1% in the third quarter, returning 6.3% year-to-date.

- The US yield curve shifted lower on expected monetary policy easing in the coming quarters and strong risk appetite by investors provided positive performance for credit indexes.
- In this environment, the broad US bond market (Bloomberg Aggregate) returned 2.0% with longer dated US Treasuries performing slightly better (2.5%). Longer and short-dated TIPS gained 2.1% and 1.6%, respectively, as inflation risks remained elevated.
- Positive risk sentiment supported emerging market debt (+2.8%) and high yield (+2.5%). Year-to-date performance in emerging markets solidly exceeded other fixed income indices, and the broad US stock market.

¹ Source: Bloomberg. Data is as of September 30, 2025. The yield and duration data from Bloomberg is defined as the index's yield to worst and modified duration, respectively. JPM GBI-EM data is from J.P. Morgan. Current yield and duration data is not available.

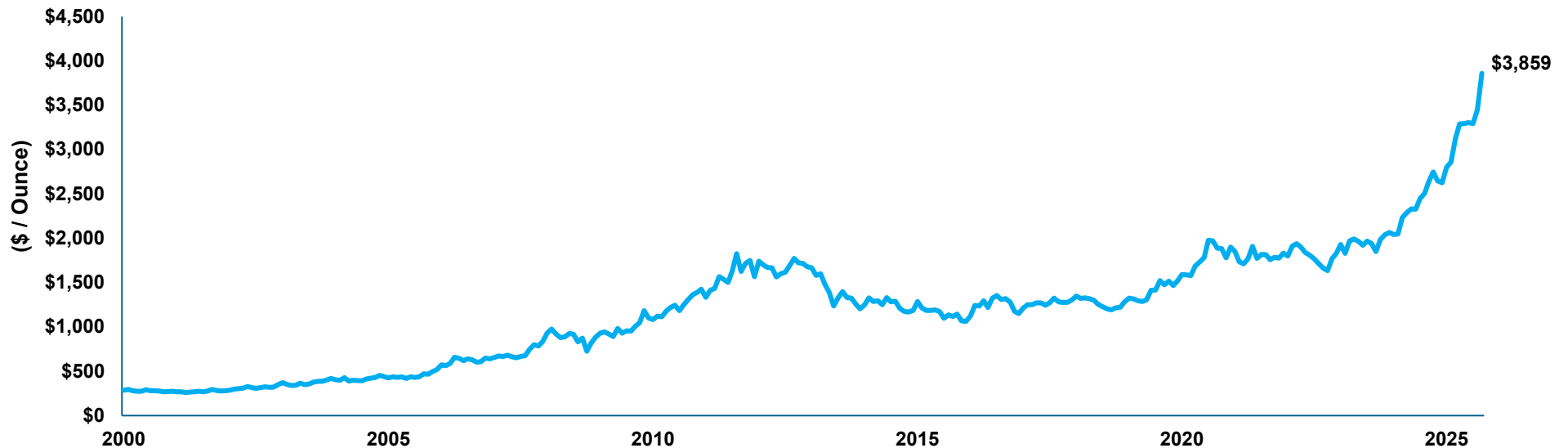
US Yield Curve¹



- A rate cut by the Fed, with more expected weakness in the labor market, and no signs yet of tariffs significantly influencing inflation drove rates lower across the yield curve in the third quarter.
- The policy sensitive 2-year nominal Treasury yield was volatile during the quarter but overall fell from 3.72% to 3.61% given the anticipation of additional interest rate cuts by the Fed.
- The 10-year nominal Treasury yield was also volatile and declined from 4.23% to 4.15% for the quarter, while the 30-year nominal Treasury yield fell slightly from 4.78% to 4.73%.

¹ Source: Bloomberg. Data is as of September 30, 2025. The August 2024 Treasury yields are shown as a reference before the first interest rate cut.

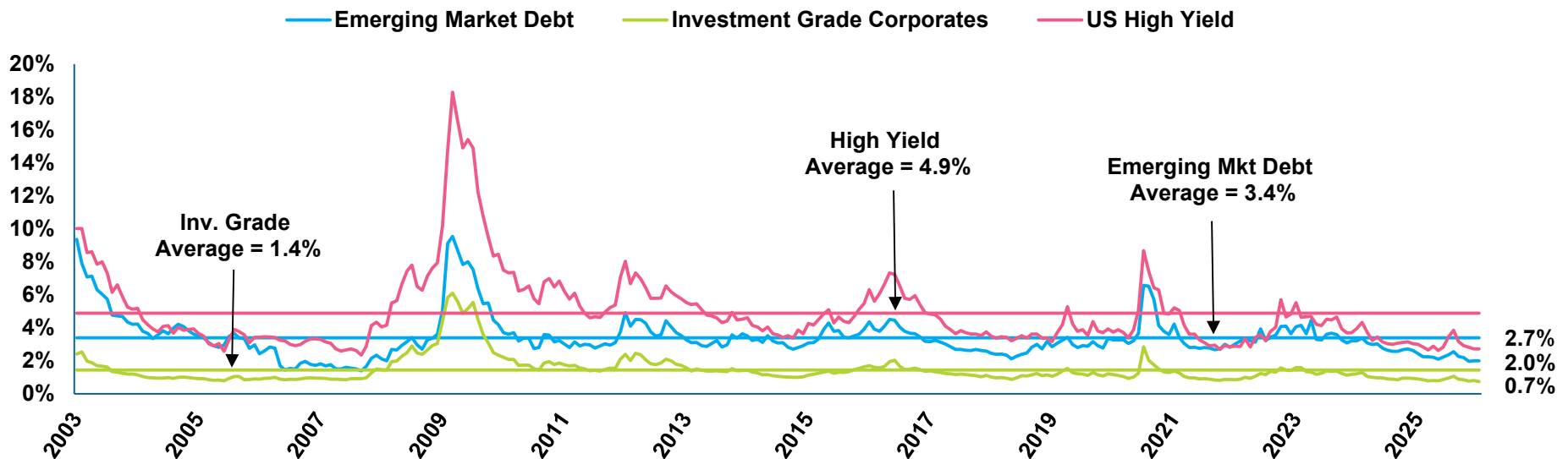
Gold¹



- In a period where risk assets have done particularly well, gold, which is usually perceived as a safe haven, has done even better, gaining over 47% year-to-date through September.
- Key drivers of gold's strong year include central bank demand, a weak US dollar, inflation concerns, and expectations for lower rates.

¹ Source: Bloomberg as of September 30, 2025. Gold Spot Price is quoted as US Dollars per Troy Ounce.

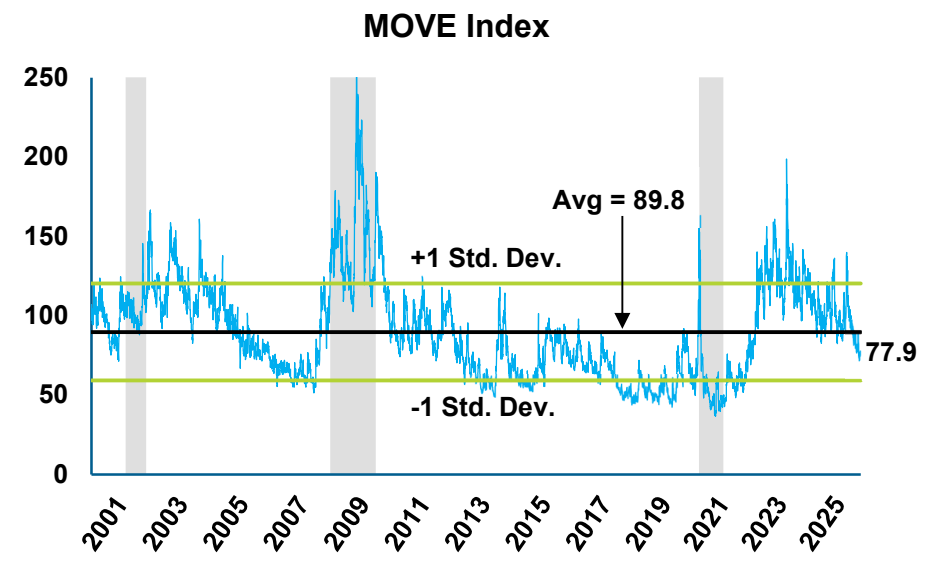
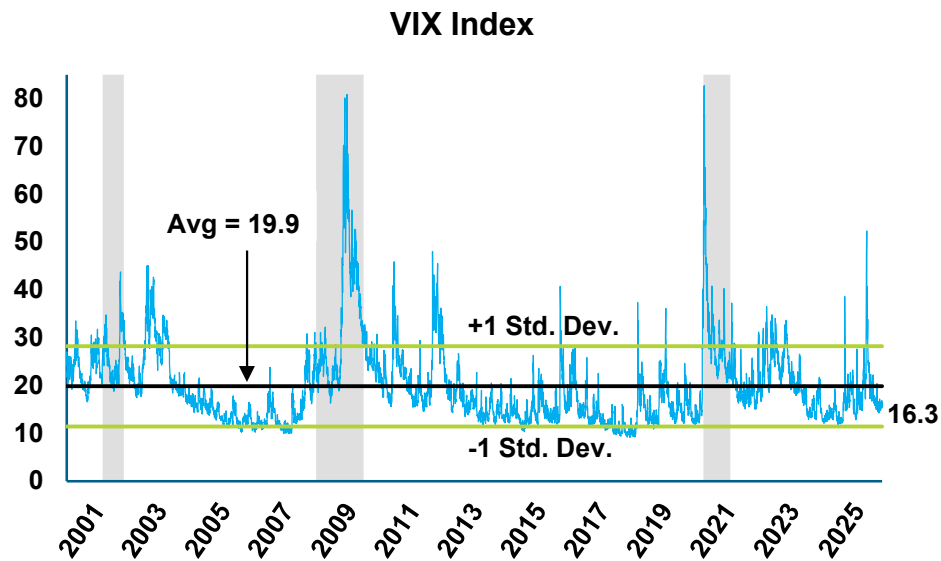
Credit Spreads vs. US Treasury Bonds¹



- During the third quarter, despite already being historically tight, credit spreads continued to grind lower given the resilient US economy, strong corporate balance sheets/low default rates, and investor demand for yield.
- Investment grade spreads (the difference in yield from a comparable Treasury) moved further below 1.0% during the quarter (0.8% to 0.7%).
- High yield spreads fell from 2.9% to 2.7% in the third quarter, while emerging market spreads dropped from 2.2% to 2.0%.
- All yield spreads remained below their respective long-run averages, especially high yield (2.7% versus 4.9%).

¹ Source: Bloomberg. Data is as of September 30, 2025. Average lines denote the average of the investment grade, high yield, and emerging market spread values from September 2002 to the recent month-end, respectively.

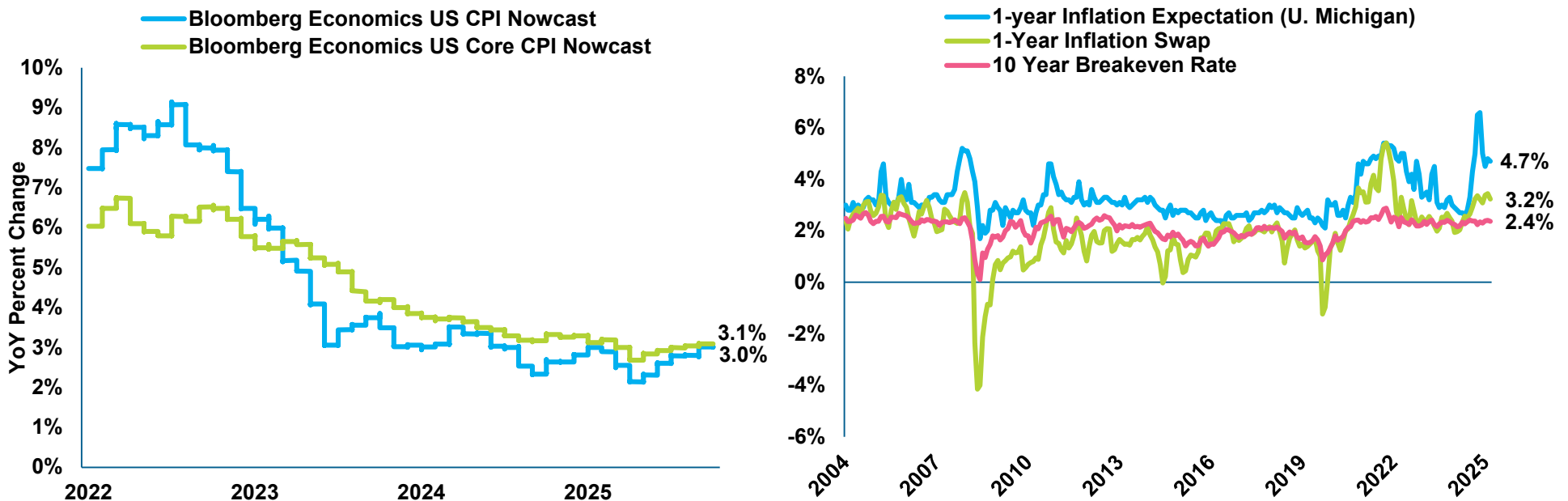
Equity and Fixed Income Volatility¹



- Volatility spiked in April after the “Liberation Day” tariff announcement but has since declined to below long-run averages.
- Resilient earnings data, despite tariffs and expectations for the Fed to continue to cut rates, has kept equity market volatility (VIX) relatively low.
- Despite fiscal policy uncertainty and debt concerns, the MOVE index has largely declined as confidence has increased in the Fed cutting rates.

¹ Equity Volatility – Source: FRED. Fixed Income Volatility – Source: Bloomberg. Implied volatility as measured using VIX Index for equity markets and the MOVE Index to measure interest rate volatility for fixed income markets. Data is as of September 30, 2025. The average line indicated is the average of the VIX and MOVE values between January 2005 and September 2025.

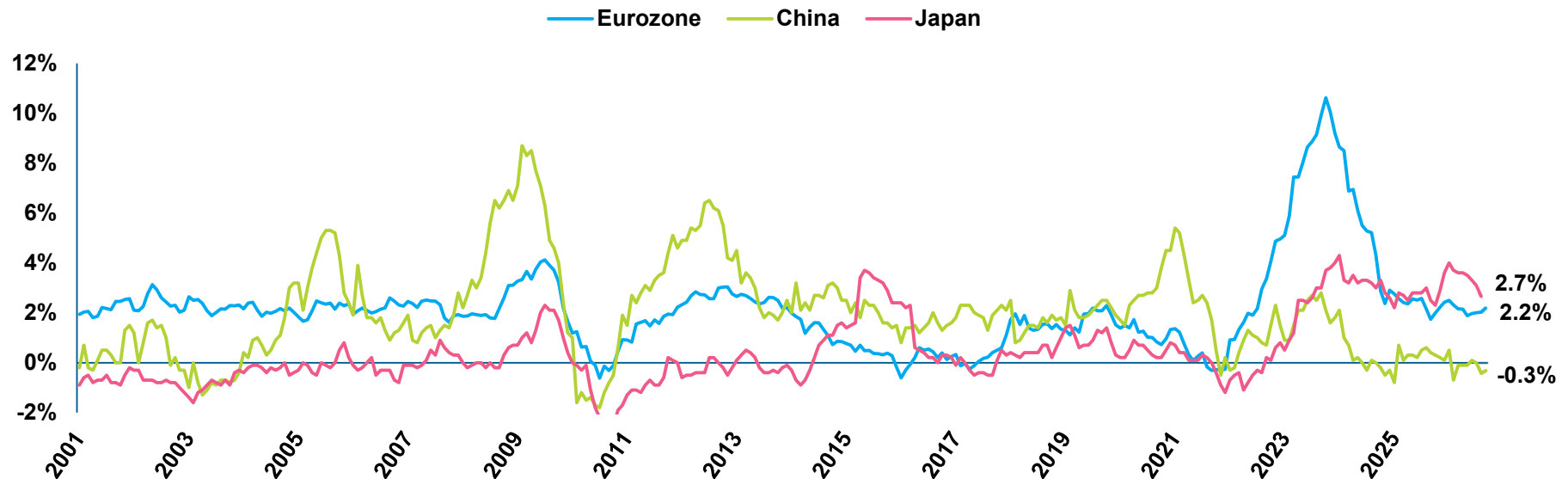
US Inflation¹



- The recent government shutdown has caused a delay in the release of government economic reports like CPI from the Bureau of Labor Statistics. This has led to investors increasing use of other models and private data to assess the economy.
- Bloomberg's real-time inflation models have recently trended up to levels still above the Fed's average target of 2.0%.
- Market and survey-based measures of inflation show a divergence between short-term (higher) and long-term (lower) expectations for how inflation will track. This dynamic is likely driven by the anticipation that tariff related price increases have still not shown up in the numbers.

¹ Source: Bloomberg and University of Michigan. Data is as of September 30, 2025, except the Nowcast models which are as of October 15, 2025.

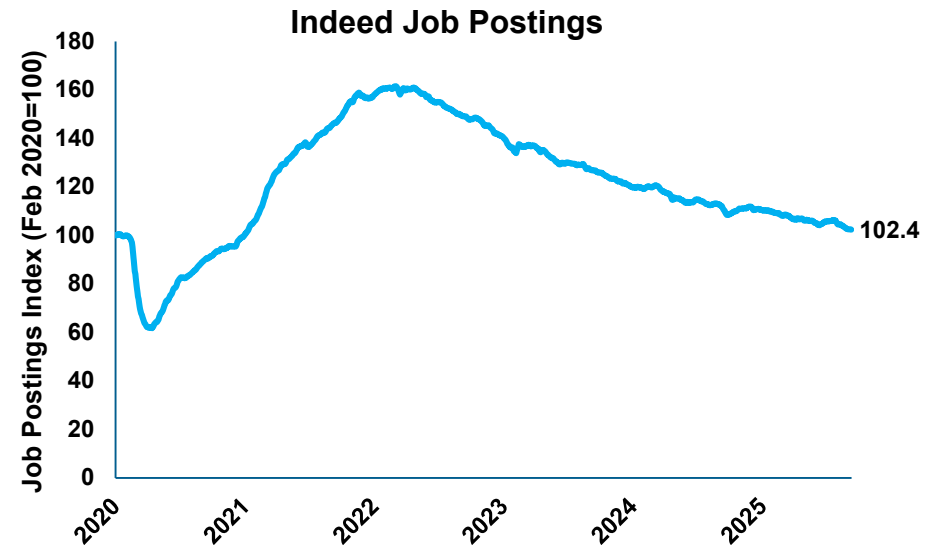
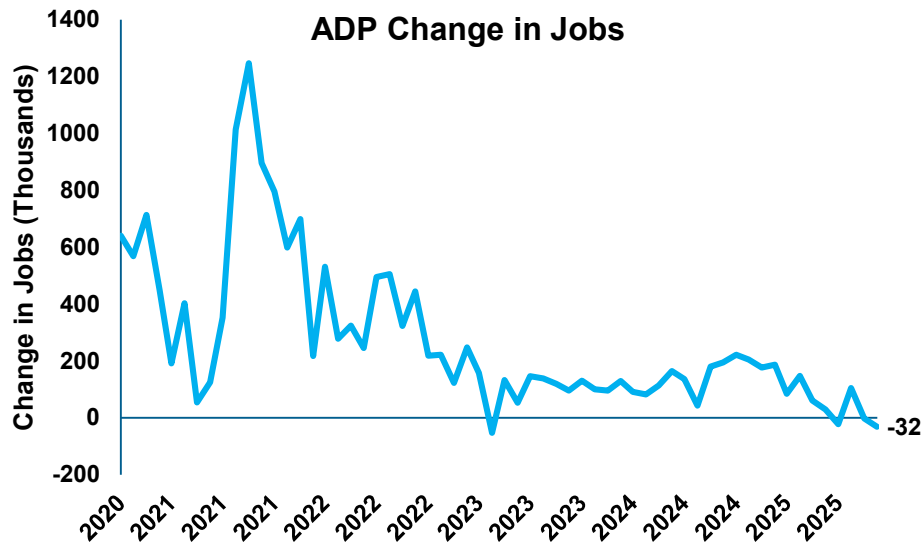
Global Inflation (CPI Trailing Twelve Months)¹



- Inflation in the eurozone reaccelerated slightly over the quarter from 2.0% to 2.2%, a level just above the ECB's 2.0% target, driven by a rise in service costs; the ECB held rates steady at 2.0% in early September with markets largely expecting no additional rate cuts given rising prices.
- In Japan, inflation declined from 3.3% at the end of June to 2.7% at the end of August given a decline in electricity prices due to government subsidies and a drop in gas prices. Despite the recent decline, inflation remains above the 2.0% target, making it likely the Bank of Japan will hold rates steady for now.
- In China, despite considerable policy stimulus, deflation returned in two of the three months during the quarter. A sharp fall in food prices was a key cause of the deflationary pressures.

¹ Source: Bloomberg. Data is as of September 2025, except Japan which is as of August 2025.

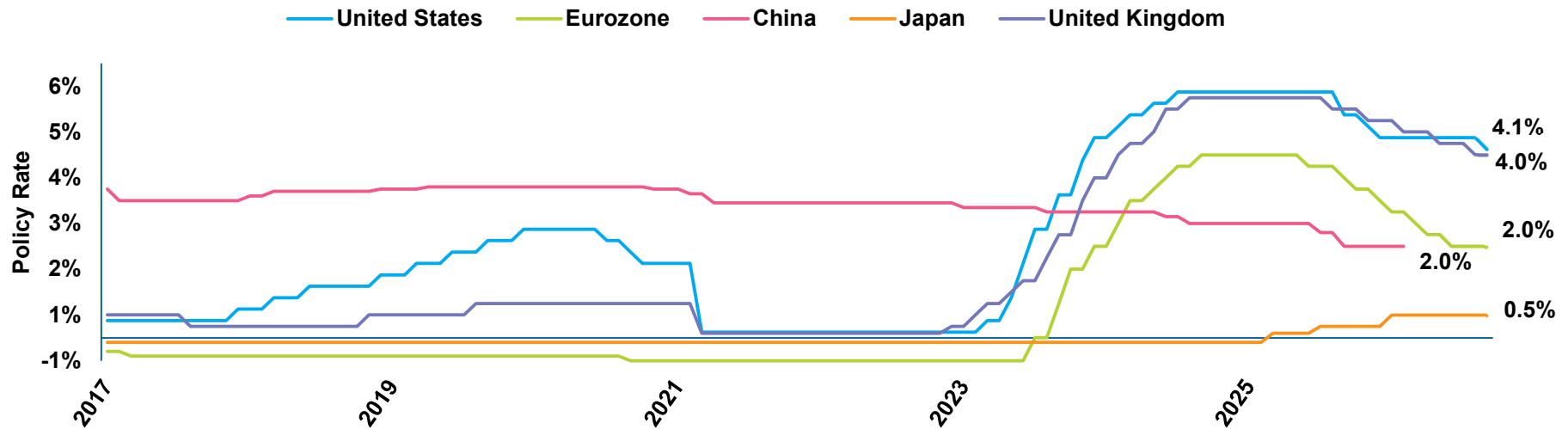
US Unemployment¹



- Like inflation, the government shutdown means that current official employment data is also not available, however other private indicators support growing concerns regarding a softening labor market in the US.
- Government layoffs, a declining number of jobs created (ADP), and a falling number of job postings (Indeed) are also pointing to a deteriorating jobs market.

¹ Source: ADP and Indeed. Data is as of September 30, 2025.

Global Policy Rates¹



- The Fed started cutting interest rates again, but other central banks have generally paused. Futures markets are predicting the Fed to cut rates two more times to ~3.6% by year-end and three more times in 2026 as unemployment revisions indicate a weaker than previously thought labor market.
- The ECB held rates steady in the third quarter after four cuts earlier in the year, while the Bank of England cut rates in August and held them steady in September. After cutting rates in May of last year, China's central bank has held rates steady, although disinflationary pressures continue to be a concern.
- Japan kept rates at current levels in the face of uncertain inflationary and trade pressures but voted to slow its purchase of Japanese sovereign debt in a continuing retreat from quantitative easing.

¹ Source: Bloomberg. Data is as of September 30, 2025, except China which is as of February 28, 2025. United States rate is the mid-point of the Federal Funds Target Rate range. Eurozone rate is the ECB Deposit Facility Announcement Rate. Japan rate is the Bank of Japan Unsecured Overnight Call Rate Expected. China rate is the China Central Bank 1-Year Medium Term Interest Rate. UK rate is the UK Bank of England Official Bank Rate.

US Dollar vs. Broad Currencies¹



- The US dollar hit near-historic highs in January of 2025 but since then its value has declined by ~11%.
- The US dollar stabilized in the third quarter on the easing of trade war concerns.
- Typically, higher interest rates support the US dollar but recent concerns over changing US administration policies and slowing growth have weighed on the value of the US dollar.

¹ Source: Bloomberg. Data as of September 30, 2025.

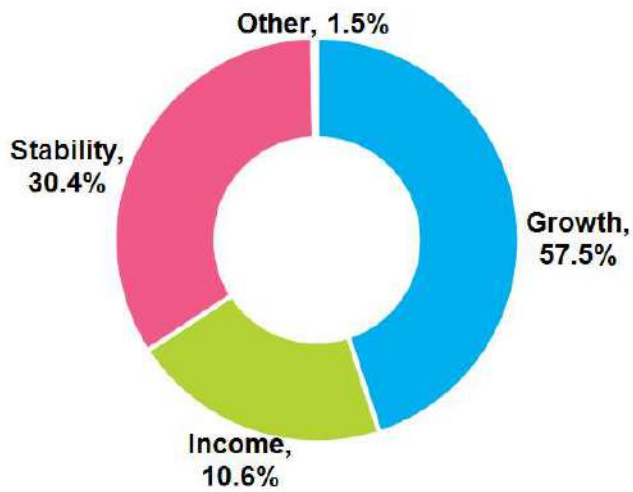
Key Trends

- According to the International Monetary Fund's (IMF) October's World Economic Outlook, the global economy will decelerate from 3.2% in 2025 to 3.1% in 2026. The US is expected to modestly accelerate economic growth in 2026 to 2.1% from 2.0% in 2025. The euro area will slow slightly from 1.2% in 2025 to 1.1% in 2026. China's economy is expected to slow from 4.8% in 2025 to just 4.2% in 2026.
- Despite the recent pause in negotiations related to tariffs, many questions remain including how they will ultimately impact inflation. Overall, higher tariff levels and continued uncertainty could weigh on growth while increasing prices. Inflation levels and potential developments with tariffs combined with a weakening labor market will complicate the Fed's rate cutting path. A lengthy government shutdown and a lack of official economic reports could create further complications for the Fed and others to assess the health of the economy.
- Some signs of stress have started to emerge on the US consumer, with growing weakness in the jobs market and sentiment weakening since the start of the year. Consumers are particularly concerned about losing their jobs and the potential for higher prices. Overall, risk to economic growth and to inflation from tariffs, as well as elevated borrowing costs, could put further pressure on consumers and lead to an even weaker job market. The recent resumption of collecting and reporting delinquent student loans could be a further headwind to consumption.
- US equities have fully recovered from substantial losses experienced during the first week of April and have reached new highs. A relatively strong second quarter earnings season, renewed AI optimism, and prospects of future rate cuts from the Fed all helped drive stocks higher. How earnings track from here, particularly for the large AI related companies that make up a significant portion of indexes, will be key going forward.
- Trade tensions between the US and China will remain an important focus as well as the overall health of China's economy. With the recent flare up in rhetoric, China has deepened its restrictions on exporting rare earth and critical minerals required in the manufacturing of many high-tech items. In response the US threatened across the board tariffs up to 100 % on Chinese goods. Upcoming negotiations between the two sides will be important to watch. How China manages its slowing economy, and deflationary pressures will also be important.

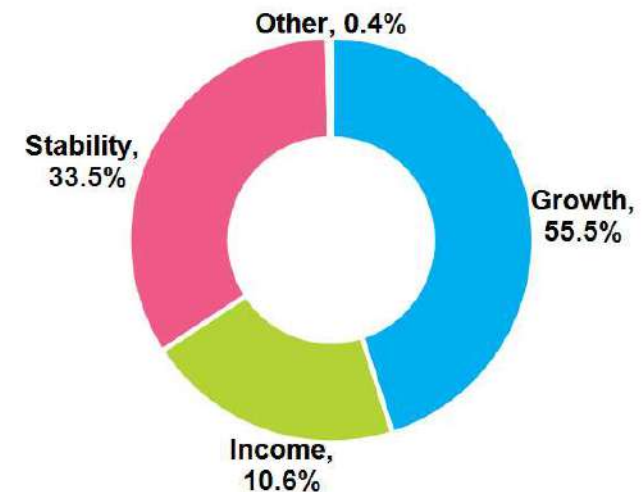
TOTAL FUND OVERVIEW

Asset Allocation vs. Target and Policy							
		Current Balance	Current Allocation	Current Allocation (w/ Overlay)	Strategic Benchmark Allocation	Difference	Difference (w/Overlay)
	Growth	\$ 7,218,059,069	57.5%	55.5%	55.0%	2.5%	0.5%
	Income	\$ 1,325,256,074	10.6%	10.6%	12.0%	-1.4%	-1.4%
	Stability	\$ 3,814,862,301	30.4%	33.5%	33.0%	-2.6%	0.5%
	Other	\$ 187,451,560	1.5%	0.4%	0.0%	1.5%	0.4%

Current Asset Allocation



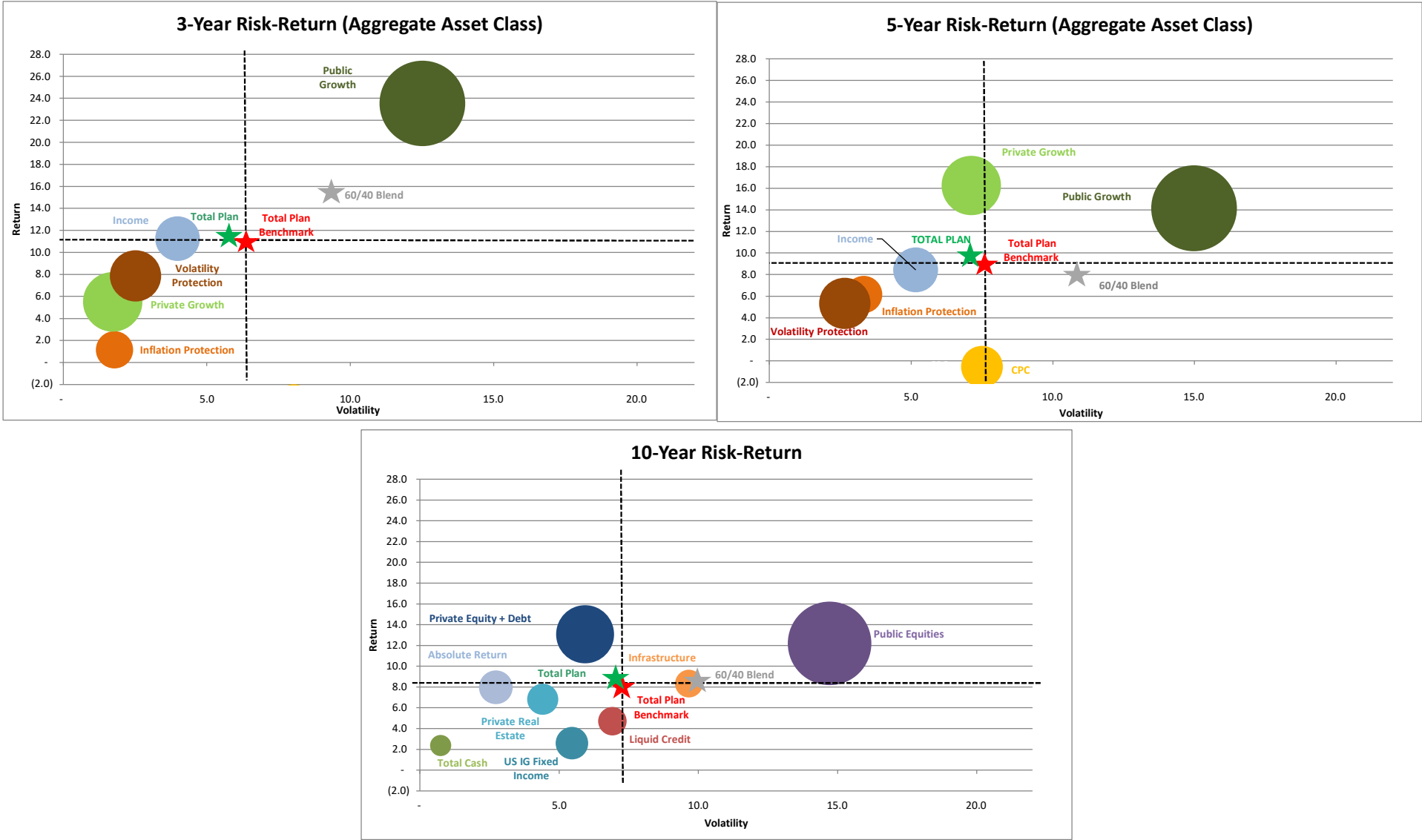
Current Asset Allocation (w/ Overlay)



Total Plan Attribution | As of September 30, 2025

Attribution Summary - 1 Year								
	Actual Weight (%)	Index Weight (%)	Wtd. Actual Return (%)	Wtd. Index Return (%)	Selection Effect (%)	Allocation Effect (%)	Interaction Effect (%)	Total Effect (%)
Global Equity	37.98	40.00	18.17	17.27	0.34	-0.23	-0.02	0.09
Private Growth	19.34	15.00	5.12	6.09	-0.16	-0.14	-0.04	-0.34
Income	11.11	12.00	9.46	9.02	0.05	0.02	-0.01	0.06
Crisis Protection	8.78	10.00	-8.99	-11.46	0.25	0.23	-0.02	0.47
Inflation Protection	7.36	8.00	4.60	4.64	-0.01	0.00	0.00	0.00
Volatility Protection	13.94	15.00	7.51	6.06	0.23	0.03	-0.02	0.25
Other	1.48	0.00	-8.83	4.35	0.00	-0.35	0.00	-0.35
State of Rhode Island Total Plan	100.00	100.00	9.08	8.90	0.70	-0.43	-0.10	0.17

Weighted Index Return takes the target weight of each asset class and the asset class benchmark to calculate each return. As a result, the Total Plan Weighted Index Return may differ from the Strategic Benchmark Allocation Return



Asset Class Performance | As of September 30, 2025

Net Asset Class Performance Summary													
	Market Value (\$)	% of Portfolio	Strategic Benchmark Allocation (%)	1 Mo (%)	FYTD (%)	YTD (%)	1 Yr (%)	3 Yrs (%)	5 Yrs (%)	10 Yrs (%)	15 Yrs (%)	Inception (%)	Inception Date
State of Rhode Island Total Plan	12,545,629,004	100.00	100.00	1.90	4.36	9.54	9.08	11.57	9.97	8.93	8.31	6.17	Jul-00
Strategic Benchmark Allocation				2.30	4.52	9.16	8.91	11.18	9.21	8.30	7.93	--	
60% MSCI ACWI / 40% Bloomberg Aggregate				2.61	5.36	13.48	11.42	15.64	7.91	8.01	7.18	5.73	
Global Equity	4,871,226,326	38.83	40.00	3.54	7.80	19.07	18.17	23.55	14.15	12.19	10.86	6.77	Jul-00
MSCI AC World Index (Net)				3.62	7.62	18.44	17.27	23.12	13.54	11.91	10.19	6.39	
Private Growth	2,346,832,743	18.71	15.00	0.16	1.63	4.08	5.12	5.51	16.27	--	--	14.79	Jul-17
Private Growth Allocation				0.16	1.64	3.93	6.45	3.58	11.89	--	--	11.01	
Private Growth Custom Benchmark				0.20	1.54	3.70	6.09	3.19	11.32	--	--	10.69	
Income	1,325,256,074	10.56	12.00	0.86	4.12	7.14	9.46	11.26	8.44	--	--	5.46	Jul-17
Income Allocation Index				1.75	3.22	6.08	9.06	12.60	9.59	--	--	5.56	
Income Custom Benchmark				1.81	3.40	6.62	9.02	12.82	9.45	--	--	6.15	
Crisis Protection	1,151,413,939	9.18	10.00	4.06	4.73	-2.08	-8.99	-3.88	-0.54	--	--	1.75	Jun-17
CPC Custom Benchmark				3.94	3.27	-6.04	-11.46	-8.68	-1.99	--	--	-0.41	
Inflation Protection	918,061,715	7.32	8.00	0.23	1.06	3.33	4.60	1.16	6.15	--	--	6.14	Jul-17
Inflation Protection Allocation				0.15	1.11	3.50	6.05	2.53	6.59	--	--	5.98	
Inflation Protection Custom Benchmark				0.17	0.85	2.68	4.64	0.83	5.93	--	--	5.49	
Volatility Protection	1,745,386,647	13.91	15.00	0.86	2.04	6.65	7.51	7.87	5.32	--	--	5.43	Jul-17
Volatility Protection Custom Benchmark				1.32	2.97	6.36	6.06	6.78	3.11	--	--	3.39	

MANAGER PERFORMANCE

Trailing Net Performance | As of September 30, 2025

Trailing Net Performance													
	Market Value (\$)	% of Portfolio	Strategic Benchmark Allocation (%)	1 Mo (%)	FYTD (%)	YTD (%)	1 Yr (%)	3 Yrs (%)	5 Yrs (%)	10 Yrs (%)	15 Yrs (%)	Inception (%)	Inception Date
State of Rhode Island Total Plan	12,545,629,004	100.00	100.00	1.90	4.36	9.54	9.08	11.57	9.97	8.93	8.31	6.17	Jul-00
Strategic Benchmark Allocation				2.30	4.52	9.16	8.91	11.18	9.21	8.30	7.93	--	
60% MSCI ACWI / 40% Bloomberg Aggregate				2.61	5.36	13.48	11.42	15.64	7.91	8.01	7.18	5.73	
Growth	7,218,059,069	57.53	55.00	2.43	5.74	13.85	13.66	17.19	14.30	--	--	12.07	Jul-17
Growth Allocation index				2.45	5.68	13.25	13.50	16.11	12.52	--	--	10.87	
Growth Composite Benchmark				2.69	5.94	14.32	14.25	17.54	13.24	--	--	11.57	
Global Equity	4,871,226,326	38.83	40.00	3.54	7.80	19.07	18.17	23.55	14.15	12.19	10.86	6.77	Jul-00
MSCI AC World Index (Net)				3.62	7.62	18.44	17.27	23.12	13.54	11.91	10.19	6.39	
SSIM Russell 3000 Index	1,980,205,990	15.78		3.42	8.19	14.38	17.43	23.99	15.75	14.76	--	14.50	Nov-12
Russell 3000 Index				3.45	8.18	14.40	17.41	24.12	15.74	14.71	--	14.45	
SSIM MSCI EAFE Index	606,759,300	4.84		1.95	4.84	25.60	15.45	22.01	11.50	8.52	--	8.10	Sep-12
MSCI EAFE (Net)				1.91	4.77	25.14	14.99	21.70	11.15	8.17	--	7.77	
SSIM MSCI Canada Index	82,062,071	0.65		3.78	9.89	27.31	25.18	21.60	16.29	11.42	--	7.86	Sep-12
MSCI Canada (Net)				3.72	9.74	26.72	24.42	20.70	15.40	10.61	--	7.09	
SSIM Emerging Market Index	525,544,164	4.19		7.08	10.86	27.62	17.89	17.87	6.78	7.78	--	5.01	Sep-12
MSCI Emerging Markets (Net)				7.15	10.64	27.53	17.32	18.21	7.02	7.99	--	5.21	
SSIM QVM	1,676,644,350	13.36		3.18	7.44	19.47	19.42	25.31	15.82	12.96	--	12.96	Oct-15
MSCI World Index (Net)				3.21	7.27	17.43	17.25	23.72	14.41	12.43	--	12.43	
Private Growth	2,346,832,743	18.71	15.00	0.16	1.63	4.08	5.12	5.51	16.27	--	--	14.79	Jul-17
Private Growth Allocation				0.16	1.64	3.93	6.45	3.58	11.89	--	--	11.01	
Private Growth Custom Benchmark				0.20	1.54	3.70	6.09	3.19	11.32	--	--	10.69	
Private Equity	2,057,176,979	16.40	12.50	0.06	1.94	4.78	5.91	6.63	17.68	14.67	13.89	10.74	Feb-89
Private Equity Custom Benchmark				0.06	1.94	4.64	7.52	4.63	14.14	13.30	14.27	15.00	
Non-Core Real Estate	289,655,764	2.31	2.50	0.88	-0.46	-0.49	-0.02	-2.12	9.90	--	--	9.70	Jul-17
Non-Core Real Estate Custom Benchmark				0.88	-0.46	-0.93	-0.87	-3.85	4.09	--	--	5.72	

Trailing Net Performance | As of September 30, 2025

	Market Value (\$)	% of Portfolio	Strategic Benchmark Allocation (%)	1 Mo (%)	FYTD (%)	YTD (%)	1 Yr (%)	3 Yrs (%)	5 Yrs (%)	10 Yrs (%)	15 Yrs (%)	Inception (%)	Inception Date
Income	1,325,256,074	10.56	12.00	0.86	4.12	7.14	9.46	11.26	8.44	--	--	5.46	Jul-17
Income Allocation Index				1.75	3.22	6.08	9.06	12.60	9.59	--	--	5.56	
Income Custom Benchmark				1.81	3.40	6.62	9.02	12.82	9.45	--	--	6.15	
Equity Options	223,683,137	1.78	2.00	1.91	5.16	7.45	10.06	11.67	9.84	--	--	8.55	Feb-20
Cboe S&P 500 PutWrite Index				1.89	4.56	4.15	8.26	14.46	11.25	--	--	9.00	
Neuberger Berman US Equity Index Putwrite Fund LLC	223,683,137	1.78		1.91	5.16	7.45	10.06	11.67	9.84	--	--	8.55	Feb-20
Liquid Credit	569,457,424	4.54	5.00	0.77	3.74	8.81	9.81	11.17	5.14	4.72	--	4.10	May-13
ICE BofAML US High Yield TR*				0.77	2.42	7.12	7.31	11.06	5.28	4.89	--	4.50	
PIMCO	227,671,958	1.81		0.84	2.36	6.98	6.98	11.13	5.11	4.66	--	4.19	May-13
Loomis Sayles	225,544,473	1.80		-0.88	2.79	6.96	7.25	10.49	4.81	--	--	4.38	Nov-18
Advent US Balanced	116,240,959	0.93		3.84	7.80	15.96	20.83	13.65	--	--	--	12.27	Jul-22
CLO Mezz/Equity	232,795,119	1.86	2.00	0.56	2.66	2.45	7.11	13.77	--	--	--	9.87	Aug-21
JP Morgan CLOIE BB Index				0.99	3.43	7.99	12.64	19.47	--	--	--	11.64	
Neuberger CLO Equity Mezzanine	90,445,117	0.72		1.45	1.75	2.73	8.47	17.87	--	--	--	11.14	Aug-21
Sycamore Tree CLO Fund	142,350,001	1.13		0.00	3.26	2.73	6.53	10.31	--	--	--	8.48	Aug-21
Private Credit	299,316,651	2.39	3.00	0.49	5.09	7.86	9.93	8.67	9.45	--	--	6.25	Jul-17
Private Credit Custom Benchmark				4.20	4.20	6.35	9.74	9.42	8.97	--	--	8.92	

Trailing Net Performance | As of September 30, 2025

	Market Value (\$)	% of Portfolio	Strategic Benchmark Allocation (%)	1 Mo (%)	FYTD (%)	YTD (%)	1 Yr (%)	3 Yrs (%)	5 Yrs (%)	10 Yrs (%)	15 Yrs (%)	Inception (%)	Inception Date
Stability	3,814,862,301	30.41	33.00	1.63	2.59	3.23	1.69	2.66	3.74	--	--	4.52	Jul-17
<i>Stability Custom Benchmark</i>				1.84	2.56	1.74	0.29	0.55	2.33	--	--	2.97	
<i>Stability Allocation Index</i>				1.83	2.64	2.09	0.86	0.96	2.53	--	--	3.11	
Crisis Protection	1,151,413,939	9.18	10.00	4.06	4.73	-2.08	-8.99	-3.88	-0.54	--	--	1.75	Jun-17
<i>CPC Custom Benchmark</i>				3.94	3.27	-6.04	-11.46	-8.68	-1.99	--	--	-0.41	
Treasury Duration	568,285,039	4.53	5.00	2.96	2.26	5.46	-3.69	0.13	-8.11	--	--	-1.12	Jun-17
<i>Blmbg. U.S. Treasury: Long</i>				3.09	2.49	5.64	-3.47	0.43	-7.79	--	--	-0.71	
Systematic Trend	583,128,900	4.65	5.00	5.17	7.25	-9.11	-13.99	-8.42	6.24	--	--	3.62	Jun-17
<i>Credit Suisse Liquid Alt Beta</i>				4.80	4.04	-17.56	-20.18	-18.24	2.05	--	--	-1.48	
Aspect Capital	196,885,876	1.57		5.12	7.58	-7.51	-12.66	-1.36	8.16	--	--	4.02	Nov-17
Credit Suisse	189,095,745	1.51		5.01	4.93	-15.69	-18.22	-15.97	4.77	--	--	1.42	Jun-17
Crabel Capital	197,147,279	1.57		5.36	9.39	-3.28	-10.53	-7.69	5.54	--	--	4.75	Jun-17
Inflation Protection	918,061,715	7.32	8.00	0.23	1.06	3.33	4.60	1.16	6.15	--	--	6.14	Jul-17
<i>Inflation Protection Allocation</i>				0.15	1.11	3.50	6.05	2.53	6.59	--	--	5.98	
<i>Inflation Protection Custom Benchmark</i>				0.17	0.85	2.68	4.64	0.83	5.93	--	--	5.49	
Core Real Estate	384,040,490	3.06	4.00	1.21	1.34	2.96	3.18	-3.51	4.83	--	--	4.70	Jul-17
<i>NFI-ODCE BM</i>				0.81	0.81	2.65	2.67	-6.21	2.54	--	--	3.43	
Private Real Assets (ex-Real Estate)	534,021,226	4.26	4.00	-0.47	0.89	3.64	5.73	5.41	9.60	11.04	--	9.86	Mar-15
<i>Private Real Assets (ex-Real Estate) Custom BM</i>				-0.47	0.88	2.69	6.59	8.13	11.10	10.38	--	10.19	

Trailing Net Performance | As of September 30, 2025

	Market Value (\$)	% of Portfolio	Strategic Benchmark Allocation (%)	1 Mo (%)	FYTD (%)	YTD (%)	1 Yr (%)	3 Yrs (%)	5 Yrs (%)	10 Yrs (%)	15 Yrs (%)	Inception (%)	Inception Date
Volatility Protection	1,745,386,647	13.91	15.00	0.86	2.04	6.65	7.51	7.87	5.32	--	--	5.43	Jul-17
<i>Volatility Protection Custom Benchmark</i>				<i>1.32</i>	<i>2.97</i>	<i>6.36</i>	<i>6.06</i>	<i>6.78</i>	<i>3.11</i>	--	--	<i>3.39</i>	
Investment Grade Fixed Income (ex-Treasuries)	738,895,274	5.89	6.50	1.37	2.54	7.16	4.51	6.82	0.78	--	--	1.31	Jun-20
<i>IG Fixed Income (ex-Treas) BM</i>				<i>1.33</i>	<i>2.49</i>	<i>6.79</i>	<i>3.56</i>	<i>6.08</i>	<i>0.16</i>	--	--	<i>0.50</i>	
Fidelity Corporate Bonds	375,614,267	2.99		1.51	2.65	7.43	4.29	7.73	0.69	--	--	1.50	Jun-20
Loomis Securitized Bond	363,281,007	2.90		1.24	2.46	6.88	4.64	5.89	0.85	--	--	1.09	Jun-20
Absolute Return	792,769,571	6.32	6.50	0.53	1.83	7.02	10.75	9.32	10.10	--	--	8.98	Jul-17
<i>HFRI Fund of Funds Composite Index</i>				<i>1.91</i>	<i>4.30</i>	<i>7.23</i>	<i>9.45</i>	<i>8.09</i>	<i>6.18</i>	--	--	<i>5.07</i>	
Cash	213,708,961	1.70	2.00	0.42	1.15	3.48	4.52	5.24	3.09	--	--	2.62	Feb-17
<i>ICE BofA 0-1 Yr. U.S. Treasury Notes & Bonds</i>				<i>0.38</i>	<i>1.15</i>	<i>3.24</i>	<i>4.35</i>	<i>4.78</i>	<i>2.83</i>	--	--	<i>2.36</i>	
Other	187,451,560	1.49	0.00	-4.94	-8.57	0.00	-8.83	-1.52	-9.71	1.01	--	0.96	Nov-12
Shott Capital	44,776,993	0.36	0.00	-7.98	-7.83	2.12	2.21	20.76	13.00	14.66	13.69	1.21	Jul-00
Short-Term Cash	98,475,637	0.78	0.00	0.32	0.95	3.08	4.19	4.97	3.17	--	--	2.86	Jul-17
<i>90 Day U.S. Treasury Bill</i>				<i>0.33</i>	<i>1.08</i>	<i>3.17</i>	<i>4.38</i>	<i>4.77</i>	<i>2.98</i>	--	--	<i>2.45</i>	
Russell Overlay Fund	44,198,929	0.35	0.00	-0.07	-0.16	-0.11	-0.24	-0.20	-0.27	-0.08	--	-0.04	Nov-12

ASSET ALLOCATION



State of Rhode Island
Office of the General Treasurer

James Diosa
General Treasurer

State Investment Commission
State of Rhode Island, State House
Providence, Rhode Island

This is to certify that the amounts so listed on this page belong to the credit of the Employees' Retirement, Municipal Employees', State Police and Judicial Retirement Systems of the State of Rhode Island at the close of business on September 30th, 2025.

* Cash & Short-Term Investments, as shown, also includes amounts available within specific active-manager mandates, and thus as aggregated will not tie directly to separate cash allocations as reported elsewhere.

** Alternative Investments – comprising the five components as indicated – have varying degrees of liquidity and may not have readily determinable market values. As such, they may be based on appraisals only.

Employees' Retirement System of Rhode Island
Composite Reporting Investment Valuation
September 30, 2025

Asset Class	
Grand Total	12,542,703,566
CASH EQUIVALENT*	468,951,922
GLOBAL PUBLIC EQUITY	4,860,238,883
EQUITY OPTIONS	223,676,654
CREDIT	426,740,504
INFLATION-LINKED BDS	0
PRIVATE EQUITY**	2,356,493,630
REAL ESTATE**	673,696,254
HEDGE FUNDS**	792,767,083
INFRASTRUCTURE**	534,021,226
US TRADITIONAL FIXED	716,259,940
CPC PROGRAM	583,128,900

Plan Allocations	%	Base Market Value
Grand Total	100.00%	12,542,703,565
STATE EMP RET PLAN	72.22%	9,058,308,060
MUNI EMP RET PLAN	20.48%	2,568,662,138
TEACHER'S SURVIVOR BENEFIT	3.97%	498,168,897
STATE POLICE RET PL	2.03%	254,145,057
JUDICIAL RET PLAN	1.01%	127,138,492
NON-CONT ST POL RET	0.28%	35,192,885
NON-CONTRIB JUD RET	0.01%	1,088,036

ERSRI Asset Allocation Tracking as of 09/30/2025

Functional Bucket	Aggregate Asset Class	Aggregate Allocation Weight	Asset Class	(a) Strategic Benchmark Weight/Target Allocation	(b) Actual exposure as of 09/30/25	(b) - (a)
GROWTH	Global Equity	40.0%	US Equity	25.9%	25.1%	-0.8%
			International Developed Equity	9.8%	9.6%	-0.3%
			EM Equity	4.3%	4.2%	-0.1%
	Private Growth	15.0%	Private Equity	12.5%	16.4%	3.9%
			Non-Core Real Estate	2.5%	2.3%	-0.2%
	INCOME	Income	12.0%	Equity Options	2.0%	1.8%
Liquid Credit				5.0%	4.5%	-0.5%
Private Credit				3.0%	2.4%	-0.6%
CLOs				2.0%	1.9%	-0.1%
STABILITY	CPC	10.0%	Treasury Duration	5.0%	4.5%	-0.5%
			Systematic Trend	5.0%	4.6%	-0.4%
	Inflation Protection	8.0%	Core Real Estate	4.0%	3.1%	-0.9%
			Private Real Assets (ex-Real Estate)	4.0%	4.3%	0.3%
	Volatility Protection	15.0%	Investment Grade Fixed Income (ex-Treasuries)	6.5%	5.9%	-0.6%
			Absolute Return	6.5%	6.3%	-0.2%
			Strategic Cash	2.0%	1.7%	-0.3%
OTHER	Short-term Tactical	-	Short-Term Cash	-	0.8%	0.8%
			Russell Overlay	-	0.4%	0.4%
			Distribution Management	-	0.4%	0.4%
TOTAL	Total	100.0%		100.0%	100.0%	0.0%

PRIVATE EQUITY & PRIVATE CREDIT

Portfolio Summary

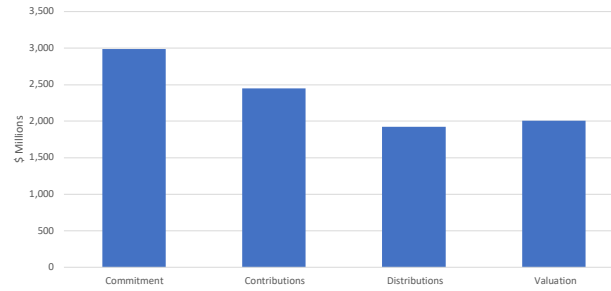
3/31/2025

All Investments

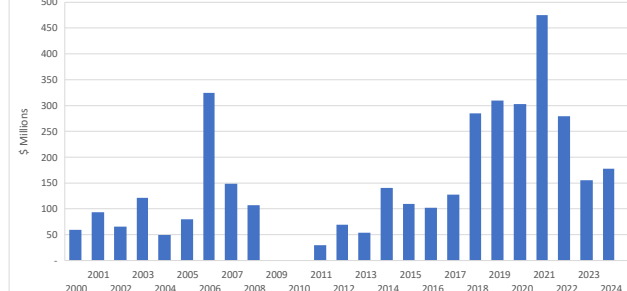
Performance Summary

Asset Class	Investment Type	Number of Investments	Commitment	Contributions	Distributions	Valuation	Multiple of Cost	IRR
Private Equity	Buyout	80	2,176,385,751	1,900,212,989	1,583,319,064	1,500,296,089	1.60	15.47%
	Venture Capital	22	330,032,361	231,337,724	142,373,368	237,599,673	1.49	7.26%
	Growth Equity	11	232,500,000	153,297,583	68,348,995	166,299,263	1.54	15.15%
	Opportunistic Credit	8	250,000,000	164,717,274	129,855,165	104,956,182	1.44	10.41%
Total: Private Equity Funds		121	2,988,918,112	2,449,565,569	1,923,896,592	2,009,151,207	1.57	13.73%

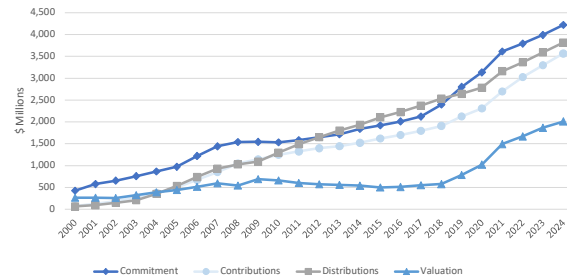
Cash Flow and Valuation Summary



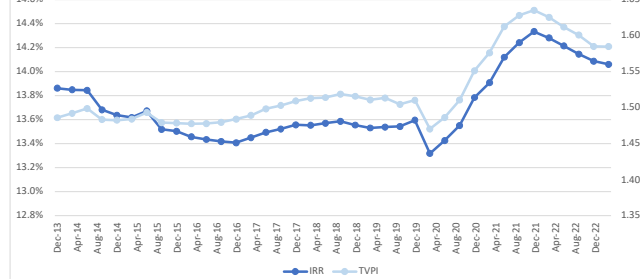
Commitment by Vintage Year



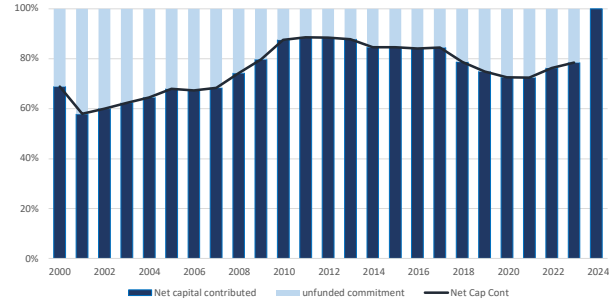
Historical Cash Flows and Valuation



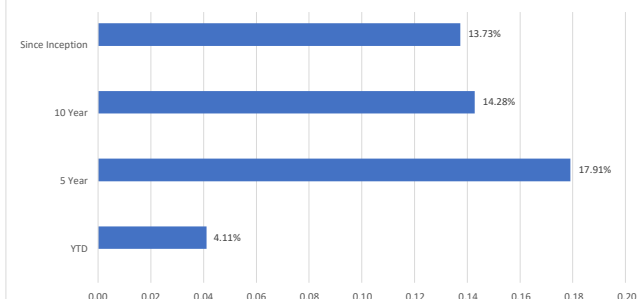
Historical Performance



Historical Percent Funded



Period IRRs



Employees' Retirement System of Rhode Island Private Equity Performance - Active Portfolio
3/31/2025
(Sorted by Type and Vintage Year)

Current Partnerships	Vintage Year/ Initial Investment	Type	Amount Committed (in \$ unless otherwise noted)	Cumulative Cash Flows (\$)			Cumulative Performance *		
				Amount Drawn	Amount Distributed	Amount Unfunded (\$)	Valuation (\$)	Net IRR (%)	Net Multiple of Investment
Nautic Partners V LP	2000	Buyout	20,000,000	19,387,425	40,401,676	628,121	4,221	17.04%	2.08
CVC EURO EQUITY PTNRS III LP	2001	Buyout	20,000,000	31,839,855	67,947,564	297,277	1,332,944	41.02%	2.18
TPG Partners IV, L.P.	2003	Buyout	15,000,000	16,785,990	31,942,404	64,421	22,816	15.35%	1.90
CVC European Equity Partners IV	2005	Buyout	€ 16,500,000	18,021,805	33,507,788	2,068,959	26,605	16.63%	1.86
Nordic Capital Fund VI	2006	Buyout	€ 15,000,000	16,450,185	28,491,941	-	-	8.70%	1.73
Green Equity Investors V	2007	Buyout	20,000,000	22,476,030	49,880,984	983,376	33,157	18.14%	2.22
Nautic Partners VI, L.P.	2007	Buyout	20,000,000	21,326,251	50,669,830	511,470	21,793	16.82%	2.38
Providence Equity Partners VI	2007	Buyout	25,000,000	34,761,014	48,590,860	974,706	96,156	6.53%	1.40
Trilantic Capital Partners IV L.P.	2007	Buyout	11,098,351	13,620,609	19,926,491	1,807,687	638,375	13.20%	1.51
Bain Capital Fund X, L.P.	2008	Buyout	25,000,000	24,538,955	37,092,041	498,858	2,213,932	8.81%	1.60
CVC European Equity Partners V	2008	Buyout	€ 20,000,000	23,269,215	50,588,975	314,628	619,936	20.18%	2.20
TPG Fund VI	2008	Buyout	10,000,000	14,461,165	19,189,858	182,706	109,652	7.85%	1.33
Oaktree European Principal Fund III	2011	Buyout	20,000,000	17,686,000	19,768,019	5,247,415	4,060,842	5.12%	1.35
Advent International GPE VII-C, L.P.	2012	Buyout	20,000,000	19,200,000	32,579,034	800,000	2,097,321	13.15%	1.81
Providence Equity Partners VII	2012	Buyout	25,000,000	39,122,486	70,569,289	1,652,825	7,068,328	20.94%	1.98
EnCap Energy Capital Fund IX, L.P.	2013	Buyout	18,000,000	20,997,837	27,242,076	700,210	4,268,702	10.52%	1.50
Nordic Capital Fund VIII	2013	Buyout	€ 15,000,000	19,201,305	25,015,671	1,055,999	5,929,905	12.86%	1.59
Riverside Capital Appreciation Fund VI	2013	Buyout	20,000,000	22,362,915	27,648,924	1,669,872	5,210,698	10.48%	1.47
Carlyle Asia Partners IV, LP	2014	Buyout	30,000,000	37,382,318	59,991,841	1,587,617	3,859,424	13.00%	1.71
CVC Capital Partners Fund VI	2014	Buyout	€ 15,000,000	20,082,280	24,380,710	766,084	12,260,381	13.18%	1.78
Nautic Partners VII, L.P.	2014	Buyout	20,000,000	20,660,231	44,181,662	1,339,770	4,064,382	42.73%	2.34
Riverside Micro-Cap Fund III	2014	Buyout	20,000,000	23,108,756	104,918,388	2,411,698	16,260,798	34.96%	5.24
Baring Asia Private Equity Fund VI, LP	2015	Buyout	15,000,000	18,248,263	24,596,940	1,058,873	6,280,330	12.60%	1.69
Centerbridge Capital Partners III, L.P.	2015	Buyout	25,000,000	34,005,459	34,747,047	1,768,870	17,521,427	13.21%	1.54
EnCap Energy Capital Fund X, L.P.	2015	Buyout	25,000,000	26,903,112	43,134,592	967,410	12,527,334	16.31%	2.07
Paine Schwartz Food Chain Fund IV, L.P.	2015	Buyout	30,000,000	29,262,536	14,772,727	4,656,854	25,039,101	6.16%	1.36
Advent International GPE VIII	2016	Buyout	20,000,000	20,000,000	25,365,768	-	15,390,618	15.53%	2.04
Nautic Partners VIII	2016	Buyout	20,000,000	21,643,759	26,362,631	1,999,797	11,256,888	35.89%	1.74
Southwest Fund VII, L.P.	2016	Buyout	37,500,000	31,878,247	27,120,134	5,621,753	33,318,257	16.85%	1.90
Tenex Capital Partners II	2016	Buyout	25,000,000	29,277,371	45,228,401	3,065,737	18,256,409	22.42%	2.17
CVC Capital Partners Fund VII, L.P.	2017	Buyout	€ 35,000,000	37,325,392	32,284,588	5,554,077	49,784,461	20.76%	2.10
EnCap Energy Capital Fund XI, L.P.	2017	Buyout	50,000,000	47,923,793	58,228,119	5,512,923	38,871,786	22.58%	2.03
RLH IV	2017	Buyout	40,000,000	45,835,545	18,081,280	3,991,350	55,597,274	15.82%	1.61
Altaris Constellation Partners IV	2018	Buyout	6,000,000	6,094,927	4,264,044	336,219	8,888,844	22.25%	2.16
Altaris Health Partners IV	2018	Buyout	24,000,000	23,814,575	24,433,172	1,907,562	23,969,881	24.22%	2.03
Baring Asia Private Equity Fund VII, LP	2018	Buyout	50,000,000	48,994,463	36,405,588	18,863,517	46,247,737	20.04%	1.69
Carlyle Asia Partners V	2018	Buyout	50,000,000	58,710,935	19,565,307	8,923,084	48,780,826	6.81%	1.16
German Equity Partners V (ECM GEP V)	2018	Buyout	€ 21,500,000	17,125,215	10,805,257	7,090,700	17,123,881	15.72%	1.56
Siris Partners IV, L.P.	2018	Buyout	50,000,000	56,878,319	19,935,175	3,547,537	54,704,619	8.32%	1.31
Advent International GPE IX	2019	Buyout	30,000,000	28,649,968	8,334,248	1,350,032	36,649,082	13.90%	1.57
Eureka III	2019	Buyout	25,000,000	19,762,704	42,338,952	7,657,415	538,814	35.26%	2.17
Eureka IV	2019	Buyout	20,000,000	16,154,037	2,156,112	4,162,920	14,349,615	0.89%	1.02
Hastings Equity IV, L.P.	2019	Buyout	25,000,000	22,988,423	11,951,744	2,011,577	38,086,044	24.47%	2.18
Nautic Partners IX, L.P.	2019	Buyout	25,000,000	24,853,606	15,810,981	3,217,784	27,139,044	22.55%	1.73
Paine Schwartz Food Chain Fund V	2019	Buyout	50,000,000	46,520,670	21,030,655	8,268,974	48,847,811	16.05%	1.50
Riverside Micro-Cap Fund V, L.P.	2019	Buyout	25,000,000	26,486,885	7,865,580	475,438	30,886,700	11.66%	1.46
Vinci Capital Partners III	2019	Buyout	30,000,000	29,188,981	948,000	1,537,802	39,124,094	9.59%	1.37
Endeavour Capital Fund VIII, L.P.	2020	Buyout	50,000,000	32,143,721	3,881,261	17,856,279	35,879,981	10.31%	1.24
Odyssey Investment Partners Fund VI, LP	2020	Buyout	50,000,000	44,290,590	9,355,513	13,527,199	62,467,113	16.18%	1.62
Parthenon Investors VI, L.P.	2020	Buyout	45,000,000	33,166,848	-	11,833,152	55,995,878	22.05%	1.69
Pollen Street Capital IV, L.P.	2020	Buyout	€ 40,000,000	37,102,824	13,476,959	9,595,505	42,008,531	17.85%	1.41
Riverside Micro Cap Fund IV B, L.P.	2020	Buyout	20,000,000	19,230,927	16,825,866	769,073	10,099,940	8.32%	1.40
Wynnchurch Capital Partners V	2020	Buyout	40,000,000	37,161,377	2,165,709	4,129,801	44,876,100	9.67%	1.27
Charlesbank Capital X	2021	Buyout	25,000,000	23,929,900	5,352,734	3,730,726	25,556,844	15.12%	1.29
Charlesbank Capital X Overage	2021	Buyout	10,000,000	11,055,646	7,888,363	2,795,911	8,037,486	18.74%	1.44
CVC Capital Partners Fund VIII, L.P.	2021	Buyout	€ 40,000,000	38,556,422	561,717	1,766,749	46,396,843	6.11%	1.13
Hastings Equity Co-Investment	2021	Buyout	7,500,000	4,234,172	293,920	3,265,828	4,143,128	1.32%	1.05

Employees' Retirement System of Rhode Island Private Equity Performance - Active Portfolio
3/31/2025
(Sorted by Type and Vintage Year)

Current Partnerships	Vintage Year/ Initial Investment	Type	Amount Committed (in \$ unless otherwise noted)	Cumulative Cash Flows (\$)			Cumulative Performance *		
				Amount Drawn	Amount Distributed	Amount Unfunded (\$)	Valuation (\$)	Net IRR (%)	Net Multiple of Investment
Nautic Partners X, L.P.	2021	Buyout	50,000,000	37,785,819	967,066	13,182,420	47,084,319	15.05%	1.27
Paine Schwartz V Co-Investment	2021	Buyout	15,000,000	147,019	-	14,852,981	(2,736)	0.00%	-0.02
Riverside Micro-Cap Fund VI, L.P.	2021	Buyout	50,000,000	27,047,024	-	22,952,976	27,869,731	2.09%	1.03
Tenex Capital Partners III	2021	Buyout	30,000,000	32,502,426	20,061,653	(19,565)	33,400,826	65.81%	1.64
Thoma Bravo Discover Fund III, L.P.	2021	Buyout	30,000,000	30,204,714	1,373,750	1,169,036	42,575,123	11.97%	1.46
Thoma Bravo Fund XIV, L.P.	2021	Buyout	20,000,000	21,649,411	4,961,797	3,312,386	22,151,061	7.43%	1.25
Advent International GPE X	2022	Buyout	45,000,000	23,292,260	-	21,707,740	27,959,597	13.24%	1.20
Baring Asia Private Equity Fund VIII, L.P.	2022	Buyout	50,000,000	48,366,976	579,588	2,212,586	52,498,379	N/M	N/M
Havencrest Healthcare Partners Fund II, L.P.	2022	Buyout	40,000,000	17,307,127	263,853	22,830,389	15,441,824	-6.01%	0.91
Paine Schwartz Food Chain Fund VI	2022	Buyout	30,000,000	22,218,242	6,907,817	13,273,969	17,472,550	8.50%	1.10
Thoma Bravo Discover IV LP	2022	Buyout	35,000,000	27,136,741	3,388,987	11,252,246	32,074,953	19.57%	1.31
Thoma Bravo XV LP	2022	Buyout	25,000,000	19,991,312	-	5,008,688	27,214,985	15.21%	1.36
GCM Grosvenor Advance Fund, L.P.	2022	Fund of Funds	10,000,000	7,986,017	1,162,309	2,713,415	8,486,288	9.22%	1.21
Sorenson Capital Partners III, L.P.	2014	Growth Equity	30,000,000	40,953,691	42,226,951	1,699,952	26,297,230	11.81%	1.67
Level Equity Growth Partners IV, L.P.	2018	Growth Equity	17,500,000	18,627,064	15,138,448	235,990	29,708,433	32.08%	2.41
Level Equity Opportunities Fund 2018	2018	Growth Equity	15,000,000	14,257,706	10,631,748	1,943,033	22,428,225	35.70%	2.32
Level Equity Growth Partners V LP	2021	Growth Equity	30,000,000	21,383,805	-	8,616,195	25,628,326	9.66%	1.20
Level Equity Opportunities Fund 2021	2021	Growth Equity	20,000,000	11,613,809	-	8,386,191	14,576,358	14.42%	1.26
Shamrock Capital Growth Fund V	2021	Growth Equity	30,000,000	27,304,401	351,848	3,047,447	29,678,707	5.39%	1.10
Virgo Specialty Finance I, L.P.	2021	Growth Equity	20,000,000	19,767,803	-	212,034	20,690,048	1.78%	1.05
MHR Institutional Partners III LP	2006	Opportunistic Credit	20,000,000	21,217,143	26,024,953	3,478,626	3,389,146	5.46%	1.39
Centerbridge Special Credit Partners II, L.P.	2012	Opportunistic Credit	25,000,000	22,500,000	23,687,857	2,500,000	54,689	1.29%	1.06
Davidson Kempner Long-Term Distressed Opportunities Fund IV LP	2018	Opportunistic Credit	50,000,000	47,425,008	60,789,547	3,428,402	25,829,270	15.41%	1.83
Clearlake Opportunities Partners II, L.P.	2019	Opportunistic Credit	30,000,000	24,629,294	11,612,509	10,017,763	18,451,193	8.55%	1.22
Davidson Kempner Long-Term Distressed Opportunities Fund V LP	2020	Opportunistic Credit	35,000,000	32,285,046	6,572,696	3,597,413	39,832,718	10.50%	1.44
Clearlake Flagship Plus Partners, L.P.	2021	Opportunistic Credit	10,000,000	9,762,539	3,326,370	2,714,929	8,327,601	7.44%	1.19
Clearlake Opportunities Partners III LP	2022	Opportunistic Credit	30,000,000	6,898,244	92,978	23,101,893	7,455,179	4.93%	1.09
Point 406 Ventures I, L.P.	2006	Venture Capital	10,000,000	11,567,208	15,720,501	-	2,358,704	6.40%	1.56
Paladin III, L.P.	2008	Venture Capital	10,000,000	15,574,371	30,023,065	1,375,257	1,499,211	12.36%	2.02
Industry Ventures Partnership Holdings III	2014	Venture Capital	25,000,000	23,339,743	42,354,095	1,722,958	28,041,900	20.09%	3.02
Industry Ventures Partnership Holdings III-C	2015	Venture Capital	15,000,000	13,952,381	12,574,207	1,047,619	17,997,063	15.96%	2.19
Industry Ventures Partnership Holdings IV - Secondary	2019	Venture Capital	10,000,000	9,100,000	3,910,748	900,000	15,698,768	14.84%	2.15
Industry Ventures Partnership Holdings V	2019	Venture Capital	30,000,000	28,650,000	752,319	1,350,000	47,304,925	13.27%	1.68
DCVC Bio II, L.P.	2020	Venture Capital	20,000,000	16,250,000	3,670,221	3,750,000	13,893,115	4.38%	1.08
GGV Capital Plus VIII	2021	Venture Capital	4,500,000	3,195,000	-	1,305,000	3,407,250	2.79%	1.07
GGV Capital VIII	2021	Venture Capital	18,000,000	14,130,000	-	3,870,000	14,795,255	1.76%	1.05
GGV Discovery III	2021	Venture Capital	7,500,000	5,025,000	513,247	2,475,000	5,638,463	7.81%	1.22
Industry Ventures Partnership Holdings VI	2021	Venture Capital	30,000,000	19,962,443	1,653,291	9,763,831	20,935,807	6.43%	1.13
TCG Crossover Fund	2021	Venture Capital	25,000,000	23,375,000	16,649,002	13,617,752	15,943,203	16.48%	1.39
The Column Group Fund Opportunity Fund III	2022	Venture Capital	12,500,000	7,113,824	2,452,981	5,386,176	4,758,770	1.01%	1.01
The Column Group Fund V	2022	Venture Capital	12,500,000	4,502,037	-	7,997,963	3,305,108	-21.27%	0.73
Other Funds in Aggregate**			25,000,000	23,040,117	5,015,558	6,920,736	13,876,644		
Total (in USD)			3,051,646,312	2,494,512,951	1,973,691,464	898,417,526	2,024,102,537		

*IRR refers to the fund's Internal Rate of Return, or the annualized compounded yield on an investment. This calculation is typically applied in private equity where there are multiple points at which capital is invested (capital called) and at which it is distributed. A positive IRR means that the fund's current value plus any cash distributions are greater than the cash value contributed and management fees paid. Typically a fund will have a negative IRR during the first few years of its life, a period referred to as the "J-Curve", because cash is invested upfront and it takes time to generate value. It is important to consider a fund's start date (vintage year) when assessing IRRs. Multiple of investment is another indicator of returns, and is calculated by dividing the fund's cumulative distributions and current value, after fees, by the amount of capital paid in. Please note that performance calculations are specific to the ERSRI investment, and were not prepared, reviewed or approved by the General Partners.

**Other funds in aggregate are the total commitments to and amounts drawn and distributed by funds whose confidentiality provisions do not permit the disclosure of their performance data. These funds include Braemar Energy Ventures III, Constellation Ventures III, Thomas, Mc Nerney & Partners and Thomas Mc Nerney & Partners II.

Employees' Retirement System of Rhode Island Private Equity Performance - Active Portfolio
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(Sorted by Type and Partnership Name)

Current Partnerships	Vintage Year/ Initial Investment	Type	Amount Committed (in \$ unless otherwise noted)	Cumulative Cash Flows (\$)			Valuation (\$)	Net IRR (%)	Net Multiple of Investment
				Amount Drawn	Amount Distributed	Amount Unfunded (\$)			
Advent International GPE IX	2019	Buyout	30,000,000	28,649,968	8,334,248	1,350,032	36,649,082	13.90%	1.57
Advent International GPE VII-C, L.P.	2012	Buyout	20,000,000	19,200,000	32,579,034	800,000	2,097,321	13.15%	1.81
Advent International GPE VIII	2016	Buyout	20,000,000	20,000,000	25,365,768	-	15,390,618	15.53%	2.04
Advent International GPE X	2022	Buyout	45,000,000	23,292,260	-	21,707,740	27,959,597	13.24%	1.20
Altaris Constellation Partners IV	2018	Buyout	6,000,000	6,094,927	4,264,044	336,219	8,888,844	22.25%	2.16
Altaris Health Partners IV	2018	Buyout	24,000,000	23,814,575	24,433,172	1,907,562	23,969,881	24.22%	2.03
Bain Capital Fund X, L.P.	2008	Buyout	25,000,000	24,538,955	37,092,041	498,858	2,213,932	8.81%	1.60
Baring Asia Private Equity Fund VI, LP	2015	Buyout	15,000,000	18,248,263	24,596,940	1,058,873	6,280,330	12.60%	1.69
Baring Asia Private Equity Fund VII, LP	2018	Buyout	50,000,000	48,994,463	36,405,588	18,863,517	46,247,737	20.04%	1.69
Baring Asia Private Equity Fund VIII, L.P.	2022	Buyout	50,000,000	48,366,976	579,588	2,212,586	52,498,379	14.22%	1.10
Carlyle Asia Partners IV, LP	2014	Buyout	30,000,000	37,382,318	59,991,841	1,587,617	3,859,424	13.00%	1.71
Carlyle Asia Partners V	2018	Buyout	50,000,000	58,710,935	19,565,307	8,923,084	48,780,826	6.81%	1.16
Centerbridge Capital Partners III, L.P.	2015	Buyout	25,000,000	34,005,459	34,747,047	1,768,870	17,521,427	13.21%	1.54
Charlesbank Capital X	2021	Buyout	25,000,000	23,929,900	5,352,734	3,730,726	25,556,844	15.12%	1.29
Charlesbank Capital X Overage	2021	Buyout	10,000,000	11,055,646	7,888,363	2,795,911	8,037,486	18.74%	1.44
CVC Capital Partners Fund VI	2014	Buyout	€ 15,000,000	20,082,280	24,380,710	708,222	12,260,381	13.18%	1.78
CVC Capital Partners Fund VII, L.P.	2017	Buyout	€ 35,000,000	37,325,392	32,284,588	5,134,582	49,784,461	20.76%	2.10
CVC Capital Partners Fund VIII, L.P.	2021	Buyout	€ 40,000,000	38,556,422	561,717	1,633,308	46,396,843	6.11%	1.13
CVC EURO EQUITY PTNRS III LP	2001	Buyout	20,000,000	31,839,855	67,947,564	297,277	1,332,944	41.02%	2.18
CVC European Equity Partners IV	2005	Buyout	€ 16,500,000	18,021,805	33,507,788	1,912,692	26,605	16.63%	1.86
CVC European Equity Partners V	2008	Buyout	€ 20,000,000	23,269,215	50,588,975	290,864	619,936	20.18%	2.20
EnCap Energy Capital Fund IX, L.P.	2013	Buyout	18,000,000	20,997,837	27,242,076	700,210	4,268,702	10.52%	1.50
EnCap Energy Capital Fund X, L.P.	2015	Buyout	25,000,000	26,903,112	43,134,592	967,410	12,527,334	16.31%	2.07
EnCap Energy Capital Fund XI, L.P.	2017	Buyout	50,000,000	47,923,793	58,228,119	5,512,923	38,871,786	22.58%	2.03
Endeavour Capital Fund VIII, L.P.	2020	Buyout	50,000,000	32,143,721	3,881,261	17,856,279	35,879,981	10.31%	1.24
Eureka III	2019	Buyout	25,000,000	19,762,704	42,338,952	7,657,415	538,814	35.26%	2.17
Eureka IV	2019	Buyout	20,000,000	16,154,037	2,156,112	4,162,920	14,349,615	0.89%	1.02
German Equity Partners V (ECM GEP V)	2018	Buyout	€ 21,500,000	17,125,215	10,805,257	6,555,145	17,123,881	15.72%	1.56
Green Equity Investors V	2007	Buyout	20,000,000	22,476,030	49,880,984	983,376	33,157	18.14%	2.22
Hastings Equity Co-Investment	2021	Buyout	7,500,000	4,234,172	293,920	3,265,828	4,143,128	1.32%	1.05
Hastings Equity IV, L.P.	2019	Buyout	25,000,000	22,988,423	11,951,744	2,011,577	38,086,044	24.47%	2.18
Havencrest Healthcare Partners Fund II, L.P	2022	Buyout	40,000,000	17,307,127	263,853	22,830,389	15,441,824	-6.01%	0.91
Nautic Partners IX, L.P.	2019	Buyout	25,000,000	24,853,606	15,810,981	3,217,784	27,139,044	22.55%	1.73
Nautic Partners V LP	2000	Buyout	20,000,000	19,387,425	40,401,676	628,121	4,221	17.04%	2.08
Nautic Partners VI, L.P.	2007	Buyout	20,000,000	21,326,251	50,669,830	511,470	21,793	16.82%	2.38
Nautic Partners VII, L.P.	2014	Buyout	20,000,000	20,660,231	44,181,662	1,339,770	4,064,382	42.73%	2.34
Nautic Partners VIII	2016	Buyout	20,000,000	21,643,759	26,362,631	1,999,797	11,256,888	35.89%	1.74
Nautic Partners X, L.P.	2021	Buyout	50,000,000	37,785,819	967,066	13,182,420	47,084,319	15.05%	1.27
Nordic Capital Fund VI	2006	Buyout	€ 15,000,000	16,450,185	28,491,941	-	-	8.70%	1.73
Nordic Capital Fund VIII	2013	Buyout	€ 15,000,000	19,201,305	25,015,671	1,055,999	5,929,905	12.86%	1.59
Oaktree European Principal Fund III	2011	Buyout	20,000,000	17,686,000	19,768,019	5,247,415	4,060,842	5.12%	1.35
Odyssey Investment Partners Fund VI, LP	2020	Buyout	50,000,000	44,290,590	9,355,513	13,527,199	62,467,113	16.18%	1.62
Paine Schwartz Food Chain Fund IV, L.P.	2015	Buyout	30,000,000	29,262,536	14,772,727	4,656,854	25,039,101	6.16%	1.36
Paine Schwartz Food Chain Fund V	2019	Buyout	50,000,000	46,520,670	21,030,655	8,268,974	48,847,811	16.05%	1.50
Paine Schwartz Food Chain Fund VI	2022	Buyout	30,000,000	22,218,242	6,907,817	13,273,969	17,472,550	8.50%	1.10
Paine Schwartz V Co-Investment	2021	Buyout	15,000,000	147,019	-	14,852,981	(2,736)	0.00%	-0.02
Parthenon Investors VI, L.P.	2020	Buyout	45,000,000	33,166,848	-	11,833,152	55,995,878	22.05%	1.69
Pollen Street Capital IV, L.P	2020	Buyout	€ 40,000,000	37,102,824	13,476,959	9,595,505	42,008,531	17.85%	1.41
Providence Equity Partners VI	2007	Buyout	25,000,000	34,761,014	48,590,860	974,706	96,156	6.53%	1.40
Providence Equity Partners VII	2012	Buyout	25,000,000	39,122,486	70,569,289	1,652,825	7,068,328	20.94%	1.98
Riverside Capital Appreciation Fund VI	2013	Buyout	20,000,000	22,362,915	27,648,924	1,669,872	5,210,698	10.48%	1.47
Riverside Micro Cap Fund IV B, L.P.	2020	Buyout	20,000,000	19,230,927	16,825,866	769,073	10,099,940	8.32%	1.40
Riverside Micro-Cap Fund III	2014	Buyout	20,000,000	23,108,756	104,918,388	2,411,698	16,260,798	34.96%	5.24
Riverside Micro-Cap Fund V, L.P.	2019	Buyout	25,000,000	26,486,885	7,865,580	475,438	30,886,700	11.66%	1.46
Riverside Micro-Cap Fund VI, LP	2021	Buyout	50,000,000	27,047,024	-	22,952,976	27,869,731	2.09%	1.03
RLH IV	2017	Buyout	40,000,000	45,835,545	18,081,280	3,991,350	55,597,274	15.82%	1.61
Siris Partners IV, L.P.	2018	Buyout	50,000,000	56,878,319	19,935,175	3,547,537	54,704,619	8.32%	1.31

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Current Partnerships	Vintage Year/ Initial Investment	Type	Amount Committed (in \$ unless otherwise noted)	Cumulative Cash Flows (\$)			Valuation (\$)	Cumulative Performance *	Net Multiple of Investment
				Amount Drawn	Amount Distributed	Amount Unfunded (\$)			
Southwest Fund VII, L.P.	2016	Buyout	37,500,000	31,878,247	27,120,134	5,621,753	33,318,257	16.85%	1.90
Tenex Capital Partners II	2016	Buyout	25,000,000	29,277,371	45,228,401	3,065,737	18,256,409	22.42%	2.17
Tenex Capital Partners III	2021	Buyout	30,000,000	32,502,426	20,061,653	(19,565)	33,400,826	65.81%	1.64
Thoma Bravo Discover Fund III, L.P.	2021	Buyout	30,000,000	30,204,714	1,373,750	1,169,036	42,575,123	11.97%	1.46
Thoma Bravo Discover IV LP	2022	Buyout	35,000,000	27,136,741	3,388,987	11,252,246	32,074,953	19.57%	1.31
Thoma Bravo Fund XIV, L.P.	2021	Buyout	20,000,000	21,649,411	4,961,797	3,312,386	22,151,061	7.43%	1.25
Thoma Bravo XV LP	2022	Buyout	25,000,000	19,991,312	-	5,008,688	27,214,985	15.21%	1.36
TPG Fund VI	2008	Buyout	10,000,000	14,461,165	19,189,858	182,706	109,652	7.85%	1.33
TPG Partners IV, L.P.	2003	Buyout	15,000,000	16,785,990	31,942,404	64,421	22,816	15.35%	1.90
Trilantic Capital Partners IV L.P.	2007	Buyout	11,098,351	13,620,609	19,926,491	1,807,687	638,375	13.20%	1.51
Vinci Capital Partners III	2019	Buyout	30,000,000	29,188,981	948,000	1,537,802	39,124,094	9.59%	1.37
Wynnchurch Capital Partners V	2020	Buyout	40,000,000	37,161,377	2,165,709	4,129,801	44,876,100	9.67%	1.27
GCM Grosvenor Advance Fund, L.P	2022	Fund of Funds	10,000,000	7,986,017	1,162,309	2,713,415	8,486,288	9.22%	1.21
Level Equity Growth Partners IV, L.P.	2018	Growth Equity	17,500,000	18,627,064	15,138,448	235,990	29,708,433	32.08%	2.41
Level Equity Growth Partners V LP	2021	Growth Equity	30,000,000	21,383,805	-	8,616,195	25,628,326	9.66%	1.20
Level Equity Opportunities Fund 2018	2018	Growth Equity	15,000,000	14,257,706	10,631,748	1,943,033	22,428,225	35.70%	2.32
Level Equity Opportunities Fund 2021	2021	Growth Equity	20,000,000	11,613,809	-	8,386,191	14,576,358	14.42%	1.26
Shamrock Capital Growth Fund V	2021	Growth Equity	30,000,000	27,304,401	351,848	3,047,447	29,678,707	5.39%	1.10
Sorenson Capital Partners III, L.P.	2014	Growth Equity	30,000,000	40,953,691	42,226,951	1,699,952	26,297,230	11.81%	1.67
Virgo Specialty Finance I, L.P.	2021	Growth Equity	20,000,000	19,767,803	-	212,034	20,690,048	1.78%	1.05
Centerbridge Special Credit Partners II, L.P.	2012	Opportunistic Credit	25,000,000	22,500,000	23,687,857	2,500,000	54,689	1.29%	1.06
Clearlake Flagship Plus Partners, L.P.	2021	Opportunistic Credit	10,000,000	9,762,539	3,326,370	2,714,929	8,327,601	7.44%	1.19
Clearlake Opportunities Partners II, L.P.	2019	Opportunistic Credit	30,000,000	24,629,294	11,612,509	10,017,763	18,451,193	8.55%	1.22
Clearlake Opportunities Partners III LP	2022	Opportunistic Credit	30,000,000	6,898,244	92,978	23,101,893	7,455,179	4.93%	1.09
Davidson Kempner Long-Term Distressed Opportunities Fund IV LP	2018	Opportunistic Credit	50,000,000	47,425,008	60,789,547	3,428,402	25,829,270	15.41%	1.83
Davidson Kempner Long-Term Distressed Opportunities Fund V LP	2020	Opportunistic Credit	35,000,000	32,285,046	6,572,696	3,597,413	39,832,718	10.50%	1.44
MHR Institutional Partners III LP	2006	Opportunistic Credit	20,000,000	21,217,143	26,024,953	3,478,626	3,389,146	5.46%	1.39
Braemar Energy Ventures III	2011	Venture Capital	10,000,000	12,390,117	5,015,558	2,570,736	4,891,645	-3.17%	0.80
DCVC Bio II, L.P.	2020	Venture Capital	20,000,000	16,250,000	3,670,221	3,750,000	13,893,115	4.38%	1.08
GGV Capital Plus VIII	2021	Venture Capital	4,500,000	3,195,000	-	1,305,000	3,407,250	2.79%	1.07
GGV Capital VIII	2021	Venture Capital	18,000,000	14,130,000	-	3,870,000	14,795,255	1.76%	1.05
GGV Discovery III	2021	Venture Capital	7,500,000	5,025,000	513,247	2,475,000	5,638,463	7.81%	1.22
Industry Ventures Partnership Holdings III	2014	Venture Capital	25,000,000	23,339,743	42,354,095	1,722,958	28,041,900	20.09%	3.02
Industry Ventures Partnership Holdings III-C	2015	Venture Capital	15,000,000	13,952,381	12,574,207	1,047,619	17,997,063	15.96%	2.19
Industry Ventures Partnership Holdings IV - Secondary	2019	Venture Capital	10,000,000	9,100,000	3,910,748	900,000	15,698,768	14.84%	2.15
Industry Ventures Partnership Holdings V	2019	Venture Capital	30,000,000	28,650,000	752,319	1,350,000	47,304,925	13.27%	1.68
Industry Ventures Partnership Holdings VI	2021	Venture Capital	30,000,000	19,962,443	1,653,291	9,763,831	20,935,807	6.43%	1.13
Paladin III, L.P.	2008	Venture Capital	10,000,000	15,574,371	30,023,065	1,375,257	1,499,211	12.36%	2.02
Point 406 Ventures I, L.P.	2006	Venture Capital	10,000,000	11,567,208	15,720,501	-	2,358,704	6.40%	1.56
TCG Crossover Fund	2021	Venture Capital	25,000,000	23,375,000	16,649,002	13,617,752	15,943,203	16.48%	1.39
The Column Group Fund Opportunity Fund III	2022	Venture Capital	12,500,000	7,113,824	2,452,981	5,386,176	4,758,770	1.01%	1.01
The Column Group Fund V	2022	Venture Capital	12,500,000	4,502,037	-	7,997,963	3,305,108	-21.27%	0.73
Other Funds in Aggregate**			-	-	-	-	-		
Total (in USD)			3,051,646,312	2,494,512,951	1,973,691,464	898,417,526	2,024,102,537		

*IRR refers to the fund's Internal Rate of Return, or the annualized compounded yield on an investment. This calculation is typically applied in private equity where there are multiple points at which capital is invested (capital called) and at which it is distributed. A positive IRR means that the fund's current value plus any cash distributions are greater than the cash value contributed and management fees paid. Typically a fund will have a negative IRR during the first few years of its life, a period referred to as the "J-Curve", because cash is invested upfront and it takes time to generate value. It is important to consider a fund's start date (vintage year) when assessing IRRs. Multiple of investment is another indicator of returns, and is calculated by dividing the fund's cumulative distributions and current value, after fees, by the amount of capital paid in. Please note that performance calculations are specific to the ERSRI investment, and were not prepared, reviewed or approved by the General Partners.

**Other funds in aggregate are the total commitments to and amounts drawn and distributed by funds whose confidentiality provisions do not permit the disclosure of their performance data. These funds include Braemar Energy Ventures III, Constellation Ventures III, Thomas, Mc Nerney & Partners and Thomas Mc Nerney & Partners II.

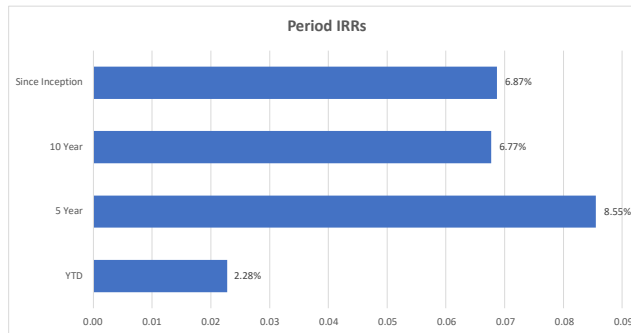
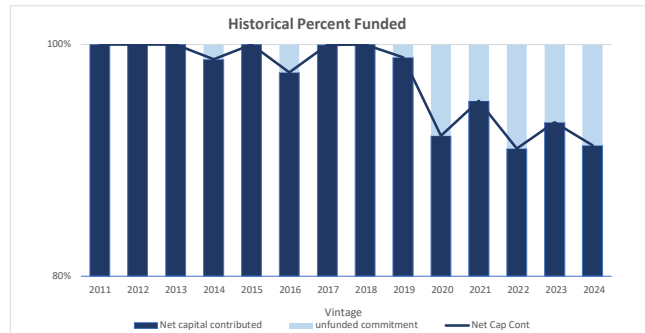
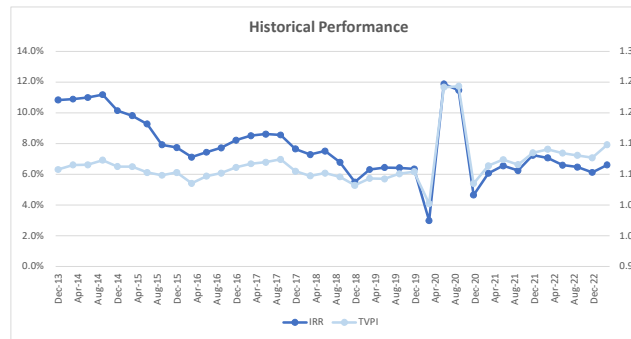
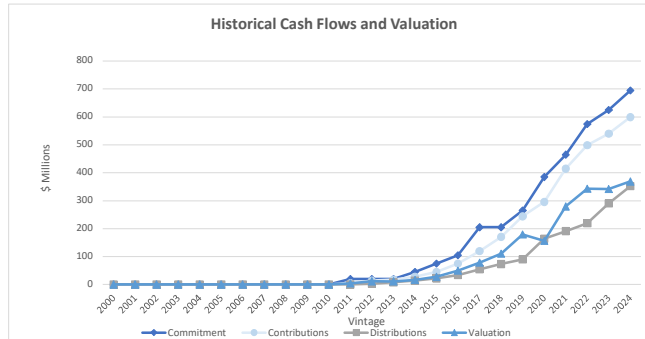
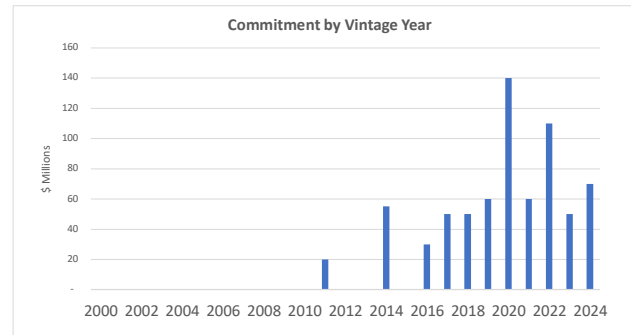
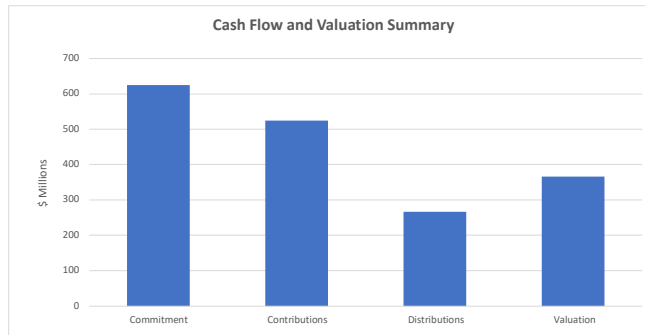
Portfolio Summary

3/31/2025

All investments

Performance Summary

Asset Class	Investment Type	Number of Investments	Commitment	Contributions	Distributions	Valuation	Multiple of Cost	IRR
Private Credit	Direct Lending	11	365,000,001	292,224,653	143,704,805	222,579,995	1.22	0.09
	Specialty Finance/ Other	9	260,000,000	231,861,550	122,993,434	143,438,581	1.17	0.05
Total: Private Credit Funds		20	625,000,001	524,086,202	266,698,239	366,018,576	1.20	0.07



Employees' Retirement System of Rhode Island Private Credit Performance - Active Portfolio
3/31/2025
(Sorted by Type and Vintage Year)

Current Partnerships	Vintage Year/ Initial Investment	Type	Amount Committed (in \$ unless otherwise noted)	Cumulative Cash Flows (\$)			Cumulative Performance *		
				Amount Drawn	Amount Distributed	Amount Unfunded (\$)	Valuation (\$)	Net IRR (%)	Net Multiple of Investment
Summit Partners Credit Fund II, L.P.	2014	Direct Lending	25,000,000	37,171,502	34,751,615	360,106	4,854,891	2.38%	1.07
CapitalSpring Investment Partners V	2016	Direct Lending	30,000,000	49,049,045	48,487,401	1,844,607	25,094,599	13.92%	1.50
Benefit Street Senior Secured Opportunities Fund II	2019	Direct Lending	40,000,000	50,301,586	23,046,820	2,413,767	37,476,491	9.80%	1.20
Blue Owl Capital Corporation III	2020	Direct Lending	50,000,000	50,165,034	64,758,089	-	-	8.15%	1.29
Owl Rock Diversified Holdings	2020	Direct Lending	1	1,570,149	780,116	1	-	-61.15%	0.37
CapitalSpring Investment Partners VI, LP	2020	Direct Lending	40,000,000	33,081,542	5,333,924	11,418,148	33,284,025	7.99%	1.17
HPS Specialty Loan Fund V, L.P.	2021	Direct Lending	50,000,000	40,014,052	14,876,638	15,710,490	36,115,130	10.53%	1.27
Deerpath Capital Management, LP	2022	Direct Lending	30,000,000	27,980,572	3,251,724	4,500,000	31,659,297	13.80%	1.25
HPS Specialty Loan Fund VI-L, L.P.	2023	Direct Lending	50,000,000	11,250,000	-	38,750,000	12,366,455	N/M	N/M
Antares Capital Senior Loan Fund III	2024	Direct Lending	50,000,000	2,500,000	-	47,500,000	2,396,331	N/M	N/M
Garrison Opportunity Fund IV	2014	Specialty Finance/ Other	30,000,000	28,428,486	25,662,551	-	1,533,365	-1.10%	0.96
Virgo Societas Partnership IV	2017	Specialty Finance/ Other	50,000,000	59,581,434	30,141,952	12,444	36,682,964	2.39%	1.12
Zephyrus Aviation Partners I, L.P.	2019	Specialty Finance/ Other	20,000,000	21,468,949	5,584,164	292,617	20,160,392	3.74%	1.20
Blue Owl Asset Income Fund V	2020	Specialty Finance/ Other	30,000,000	29,594,226	27,547,901	3,598,329	10,771,886	10.02%	1.29
Shamrock Capital Content Fund II, L.P.	2020	Specialty Finance/ Other	20,000,000	17,402,348	7,633,984	10,231,630	16,528,061	14.40%	1.39
Shamrock CCF II Co-Invest I-A, L.P.	2021	Specialty Finance/ Other	10,000,000	4,498,904	3,005,546	5,501,097	4,621,469	17.17%	1.70
Blue Owl Asset Income Fund Evergreen	2022	Specialty Finance/ Other	50,000,000	56,023,097	31,504,896	24,125,163	34,769,732	11.96%	1.18
Shamrock Capital Content Fund III, L.P.	2022	Specialty Finance/ Other	30,000,000	9,574,511	204,062	20,629,551	8,274,569	-14.36%	0.89
CHORUS CAPITAL CREDIT FUND V USD SCSp	2024	Specialty Finance/ Other	20,000,000	10,449,864	1,933,313	9,719,497	10,096,143	N/M	N/M
Other Funds in Aggregate**			-	-	-	-	-		
Total (in USD)			625,000,001	540,105,301	328,504,696	196,607,447	326,494,160		

*IRR refers to the fund's Internal Rate of Return, or the annualized compounded yield on an investment. This calculation is typically applied in private equity where there are multiple points at which capital is invested (capital called) and at which it is distributed. A positive IRR means that the fund's current value plus any cash distributions are greater than the cash value contributed and management fees paid. Typically a fund will have a negative IRR during the first few years of its life, a period referred to as the "J-Curve", because cash is invested upfront and it takes time to generate value. It is important to consider a fund's start date (vintage year) when assessing IRRs. Multiple of investment is another indicator of returns, and is calculated by dividing the fund's cumulative distributions and current value, after fees, by the amount of capital paid in. Please note that performance calculations are specific to the ERSRI investment, and were not prepared, reviewed or approved by the General Partners.

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Employees' Retirement System of Rhode Island Private Credit Performance - Active Portfolio
3/31/2025
(Sorted by Type and Partnership Name)

Current Partnerships	Vintage Year/ Initial Investment	Type	Amount Committed (in \$ unless otherwise noted)	Cumulative Cash Flows (\$)			Cumulative Performance *		
				Amount Drawn	Amount Distributed	Amount Unfunded (\$)	Valuation (\$)	Net IRR (%)	Net Multiple of Investment
Antares Capital Senior Loan Fund III	2024	Direct Lending	50,000,000	2,500,000	-	47,500,000	2,396,331	N/M	N/M
Benefit Street Senior Secured Opportunities Fund II	2019	Direct Lending	40,000,000	50,301,586	23,046,820	2,413,767	37,476,491	9.80%	1.20
Blue Owl Capital Corporation III	2020	Direct Lending	50,000,000	50,165,034	64,758,089	-		8.15%	1.29
CapitalSpring Investment Partners V	2016	Direct Lending	30,000,000	49,049,045	48,487,401	1,844,607	25,094,599	13.92%	1.50
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CHORUS CAPITAL CREDIT FUND V USD SCSp	2024	Specialty Finance/ Other	20,000,000	10,449,864	1,933,313	9,719,497	10,096,143	N/M	N/M
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Total (in USD)			625,000,001	540,105,301	328,504,696	196,607,447	326,494,160		

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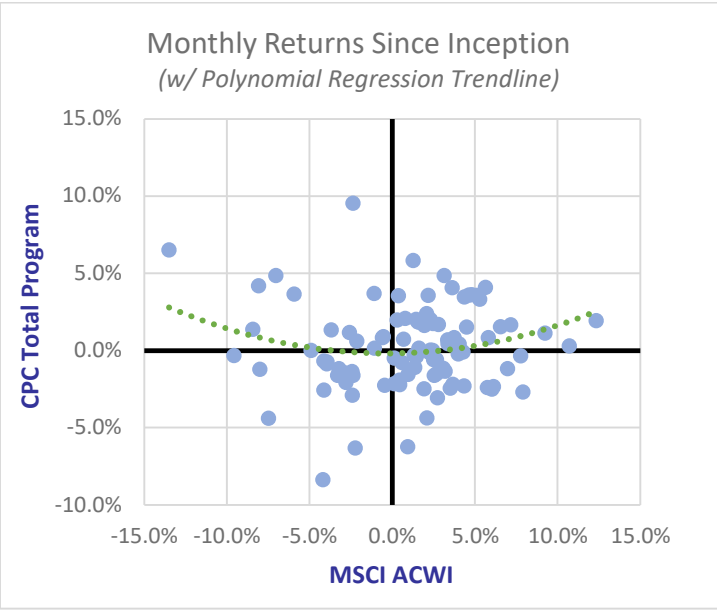
CRISIS PROTECTION CLASS

Employees' Retirement System of Rhode Island - Crisis Protection Class Performance (9/30/2025)

CPC Returns				
CPC Program, September 30, 2025, %				
Account Name	MTD Return	Annualized Return (Since Inception)	Annualized Std. Dev (September '25)	Annualized Std. Dev (Since Inception)
Total CPC Program	4.06	1.74	7.21	9.53
CPC Trend	5.17	3.62	7.16	14.64
CPC Long Duration	2.96	-1.12	10.08	14.24

Return Correlation (Since Inception)					
	Total CPC Program	CPC Trend	CPC Long Duration	Total Plan Benchmark	60/40 Blend
Total CPC Program	1.00	0.72	0.57	0.14	0.09
CPC Trend		1.00	-0.17	-0.03	-0.19
CPC Long Duration			1.00	0.25	0.35
Total Plan Benchmark				1.00	0.96
60/40 Blend					1.00

MSCI ACWI Downside Analysis (Since Inception)					
	Total CPC Program	CPC Trend	CPC Long Duration	Total Plan Benchmark	60/40 Blend
Percent Months Positive when MSCI ACWI is Negative	43.75%	65.63%	34.38%	9.38%	6.25%
Downside Capture	4.20%	-22.29%	31.47%	47.73%	71.75%



REAL ESTATE

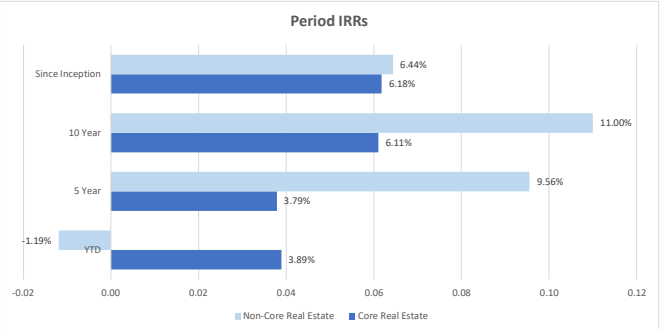
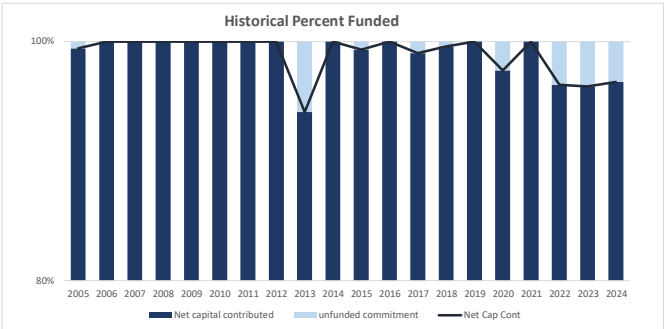
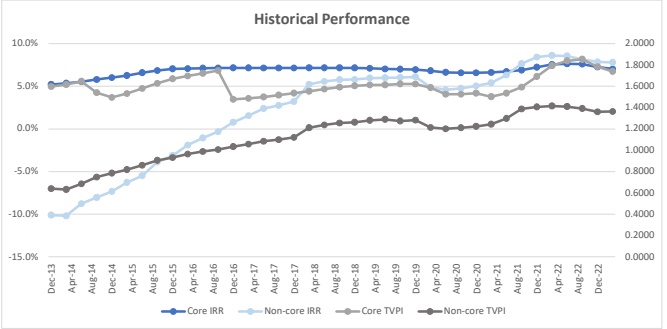
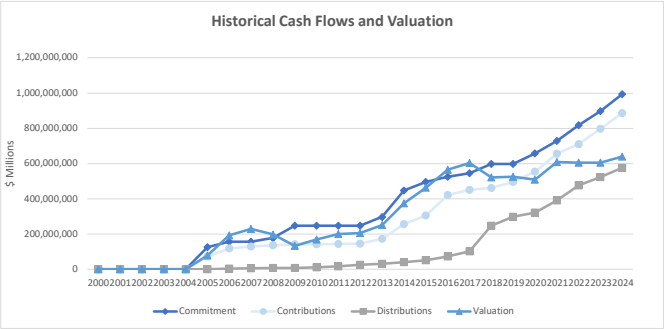
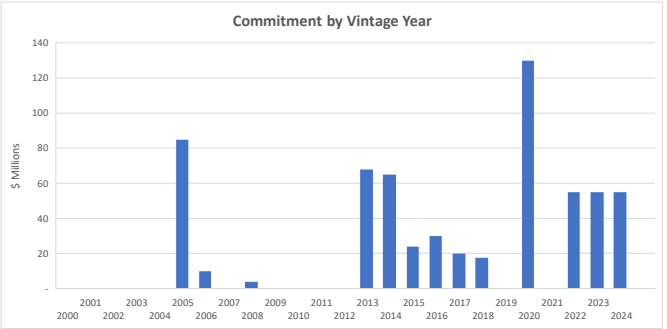
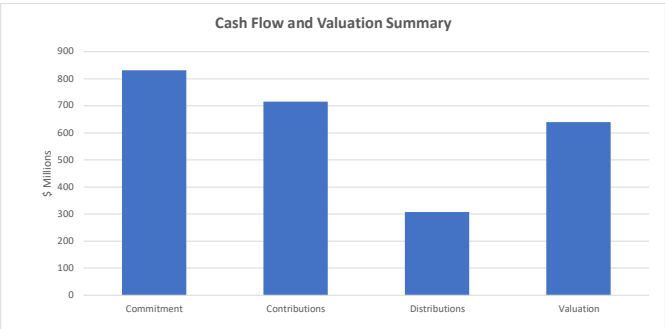
Portfolio Summary

3/31/2025

All investments - Real Estate

Performance Summary

Asset Class	Investment Type	Number of Investments	Commitment	Contributions	Distributions	Valuation	Multiple of Cost	IRR
Real Estate								
	Core Real Estate	7	290,573,660	302,218,719	62,255,103	378,130,313	1.51	0.06
	Value Add Real Estate	21	540,918,464	413,635,145	245,133,880	261,899,795	1.27	0.06
Total: Real Estate Funds		28	831,492,124	715,853,864	307,388,983	640,030,107	#N/A	#N/A



Employees' Retirement System of Rhode Island Real Estate Performance - Active Portfolio
3/31/2025
(Sorted by Type and Vintage Year)

Current Partnerships	Vintage Year/ Initial Investment	Type	Amount Committed (in \$ unless otherwise noted)	Cumulative Cash Flows (\$)			Cumulative Performance *		
				Amount Drawn	Amount Distributed	Amount Unfunded (\$)	Valuation (\$)	Net IRR (%)	Net Multiple of
AEW Essential Housing Fund	2023	Core Plus Real Estate	25,000,000	26,206,063	1,206,063	-	26,494,736	N/M	N/M
Ventas Life Science and Healthcare Real Estate Fund	2023	Core Plus Real Estate	25,000,000	22,822,043	868,182	3,000,000	20,940,991	N/M	N/M
CBRE US Logistics Partners	2024	Core Plus Real Estate	25,000,000	25,000,000	-	-	25,204,539	N/M	N/M
Morgan Stanley Prime Property Fund	2005	Core Real Estate (ex-Core Plus)	60,700,000	60,700,000	13,083,408	-	93,784,088	6.51%	1.76
AEW Core Property Trust	2010	Core Real Estate (ex-Core Plus)	69,873,660	71,830,314	13,397,116	-	105,975,563	7.84%	1.66
Heitman America Real Estate Trust	2014	Core Real Estate (ex-Core Plus)	85,000,000	98,454,496	37,494,215	-	108,334,810	5.63%	1.48
Lone Star Real Estate Fund IV	2015	Opportunistic Real Estate	24,260,817	23,568,502	20,412,799	692,317	6,792,979	6.44%	1.15
Raith Real Estate II	2018	Opportunistic Real Estate	35,000,000	42,824,571	53,016,585	7,721,095	5,911,401	22.10%	1.38
Raith Real Estate III	2022	Opportunistic Real Estate	25,000,000	16,700,798	3,178,663	11,448,001	13,275,534	-2.00%	0.99
TriCon Capital Fund VII	2005	Value Add Real Estate	15,000,000	15,034,496	5,259,770	428,467	105,904	-13.85%	0.36
GEM Realty Fund V	2013	Value Add Real Estate	50,000,000	44,191,137	36,536,634	8,875,677	10,950,354	1.55%	1.07
Waterton Fund XII	2014	Value Add Real Estate	35,000,000	37,119,216	46,074,868	-	11,632,552	10.19%	1.55
Crow Holdings Retail Fund	2015	Value Add Real Estate	24,000,000	22,518,016	35,673,692	2,113,228	344,868	8.65%	1.60
GEM Realty Fund VI	2017	Value Add Real Estate	20,000,000	18,300,000	12,747,425	4,481,204	9,789,940	8.89%	1.23
Linchris Capital Opportunity Fund II	2018	Value Add Real Estate	17,657,647	15,735,360	8,406,754	1,922,287	18,735,301	13.95%	1.72
Blue Owl Digital Infrastructure Fund II	2020	Value Add Real Estate	30,000,000	27,712,255	220,011	2,507,756	36,495,217	11.41%	1.32
Crow Holdings Realty Partners IX, L.P	2020	Value Add Real Estate	40,000,000	38,295,822	13,230,823	2,871,088	29,202,745	4.44%	1.11
Exeter Industrial Value Fund V	2020	Value Add Real Estate	25,000,000	24,615,882	1,280,393	384,118	36,479,960	13.45%	1.53
IC Berkeley Partners V	2020	Value Add Real Estate	35,000,000	29,992,563	10,737,953	8,031,803	27,257,198	9.32%	1.27
Blue Owl Digital Infrastructure Fund III	2022	Value Add Real Estate	15,000,000	6,323,899	1,347,014	9,739,338	6,576,368	N/M	N/M
Crow Holdings Realty Partners X, L.P	2022	Value Add Real Estate	15,000,000	8,692,660	-	6,307,340	7,724,415	N/M	N/M
GEM Realty Fund VII	2022	Value Add Real Estate	25,000,000	14,437,500	804	10,562,500	13,730,722	-4.67%	0.95
Berkeley Partners Value Industrial Fund VI	2023	Value Add Real Estate	20,000,000	4,774,037	769,026	15,931,396	4,176,144	N/M	N/M
Greystar Equity Partners XI, L.P.	2023	Value Add Real Estate	20,000,000	12,669,096	1,362,227	8,958,472	10,406,435	N/M	N/M
SROA IX	2023	Value Add Real Estate	15,000,000	8,708,682	171,769	6,137,147	8,315,922	N/M	N/M
Belveron Partners Fund VII	2024	Value Add Real Estate	20,000,000	9,100,000	1,093,200	10,900,000	8,693,450	N/M	N/M
Elion Industrial Fund II	2024	Value Add Real Estate	20,000,000	11,675,535	2,839,655	11,487,951	7,053,313	N/M	N/M
MCR Hospitality Fund IV	2024	Value Add Real Estate	15,000,000	6,482,306	-	8,517,694	4,348,320	N/M	N/M
Other Funds in Aggregate**			-	-	-	-	-		
Total (in USD)			886,492,124	744,485,250	320,409,049	198,018,880	658,733,769		

*IRR refers to the fund's Internal Rate of Return, or the annualized compounded yield on an investment. This calculation is typically applied in private equity where there are multiple points at which capital is invested (capital called) and at which it is distributed. A positive IRR means that the fund's current value plus any cash distributions are greater than the cash value contributed and management fees paid. Typically a fund will have a negative IRR during the first few years of its life, a period referred to as the "J-Curve", because cash is invested upfront and it takes time to generate value. It is important to consider a fund's start date (vintage year) when assessing IRRs. Multiple of investment is another indicator of returns, and is calculated by dividing the fund's cumulative distributions and current value, after fees, by the amount of capital paid in. Please note that performance calculations are specific to the ERSRI investment, and were not prepared, reviewed or approved by the General Partner.

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Employees' Retirement System of Rhode Island Real Estate Performance - Active Portfolio
3/31/2025
(Sorted by Type and Partnership Name)

Current Partnerships	Vintage Year/ Initial Investment	Type	Amount Committed (in \$ unless otherwise noted)	Cumulative Cash Flows (\$)			Valuation (\$)	Cumulative Performance *	
				Amount Drawn	Amount Distributed	Amount Unfunded (\$)		Net IRR (%)	Net Multiple of Investment
AEW Essential Housing Fund	2023	Core Plus Real Estate	25,000,000	26,206,063	1,206,063	-	26,494,736	N/M	N/M
CBRE US Logistics Partners	2024	Core Plus Real Estate	25,000,000	25,000,000	-	-	25,204,539	N/M	N/M
Ventas Life Science and Healthcare Real Estate Fund	2023	Core Plus Real Estate	25,000,000	22,822,043	868,182	3,000,000	20,940,991	N/M	N/M
AEW Core Property Trust	2010	Core Real Estate (ex-Core Plus)	69,873,660	71,830,314	13,397,116	-	105,975,563	7.84%	1.66
Heitman America Real Estate Trust	2014	Core Real Estate (ex-Core Plus)	85,000,000	98,454,496	37,494,215	-	108,334,810	5.63%	1.48
Morgan Stanley Prime Property Fund	2005	Core Real Estate (ex-Core Plus)	60,700,000	60,700,000	13,083,408	-	93,784,088	6.51%	1.76
Lone Star Real Estate Fund IV	2015	Opportunistic Real Estate	24,260,817	23,568,502	20,412,799	692,317	6,792,979	6.44%	1.15
Raith Real Estate II	2018	Opportunistic Real Estate	35,000,000	42,824,571	53,016,585	7,721,095	5,911,401	22.10%	1.38
Raith Real Estate III	2022	Opportunistic Real Estate	25,000,000	16,700,798	3,178,663	11,448,001	13,275,534	-2.00%	0.99
Belveron Partners Fund VII	2024	Value Add Real Estate	20,000,000	9,100,000	1,093,200	10,900,000	8,693,450	N/M	N/M
Berkeley Partners Value Industrial Fund VI	2023	Value Add Real Estate	20,000,000	4,774,037	769,026	15,931,396	4,176,144	N/M	N/M
Blue Owl Digital Infrastructure Fund II	2020	Value Add Real Estate	30,000,000	27,712,255	220,011	2,507,756	36,495,217	11.41%	1.32
Blue Owl Digital Infrastructure Fund III	2022	Value Add Real Estate	15,000,000	6,323,899	1,347,014	9,739,338	6,576,368	N/M	N/M
Crow Holdings Realty Partners IX, L.P	2020	Value Add Real Estate	40,000,000	38,295,822	13,230,823	2,871,088	29,202,745	4.44%	1.11
Crow Holdings Realty Partners X, L.P	2022	Value Add Real Estate	15,000,000	8,692,660	-	6,307,340	7,724,415	N/M	N/M
Crow Holdings Retail Fund	2015	Value Add Real Estate	24,000,000	22,518,016	35,673,692	2,113,228	344,868	8.65%	1.60
Elion Industrial Fund II	2024	Value Add Real Estate	20,000,000	11,675,535	2,839,655	11,487,951	7,053,313	N/M	N/M
Exeter Industrial Value Fund V	2020	Value Add Real Estate	25,000,000	24,615,882	1,280,393	384,118	36,479,960	13.45%	1.53
GEM Realty Fund V	2013	Value Add Real Estate	50,000,000	44,191,137	36,536,634	8,875,677	10,950,354	1.55%	1.07
GEM Realty Fund VI	2017	Value Add Real Estate	20,000,000	18,300,000	12,747,425	4,481,204	9,789,940	8.89%	1.23
GEM Realty Fund VII	2022	Value Add Real Estate	25,000,000	14,437,500	804	10,562,500	13,730,722	-4.67%	0.95
Greystar Equity Partners XI, L.P.	2023	Value Add Real Estate	20,000,000	12,669,096	1,362,227	8,958,472	10,406,435	N/M	N/M
IC Berkeley Partners V	2020	Value Add Real Estate	35,000,000	29,992,563	10,737,953	8,031,803	27,257,198	9.32%	1.27
Linchris Capital Opportunity Fund II	2018	Value Add Real Estate	17,657,647	15,735,360	8,406,754	1,922,287	18,735,301	13.95%	1.72
MCR Hospitality Fund IV	2024	Value Add Real Estate	15,000,000	6,482,306	-	8,517,694	4,348,320	N/M	N/M
SROA IX	2023	Value Add Real Estate	15,000,000	8,708,682	171,769	6,137,147	8,315,922	N/M	N/M
TriCon Capital Fund VII	2005	Value Add Real Estate	15,000,000	15,034,496	5,259,770	428,467	105,904	-13.85%	0.36
Waterton Fund XII	2014	Value Add Real Estate	35,000,000	37,119,216	46,074,868	-	11,632,552	10.19%	1.55
Other Funds in Aggregate**			-	-	-	-	-		
Total (in USD)			886,492,124	744,485,250	320,409,049	198,018,880	658,733,769		

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PRIVATE REAL ASSETS (EX-REAL ESTATE)

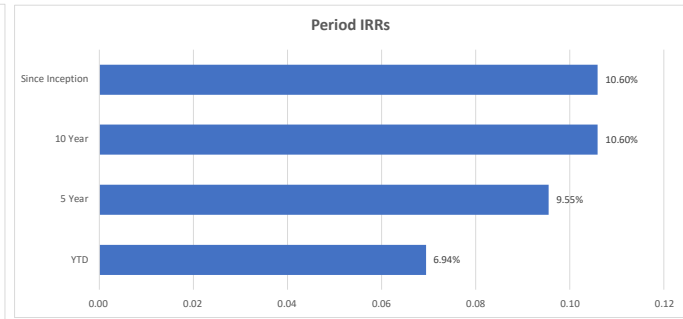
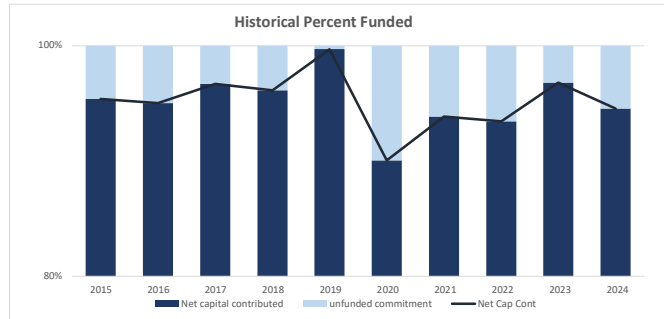
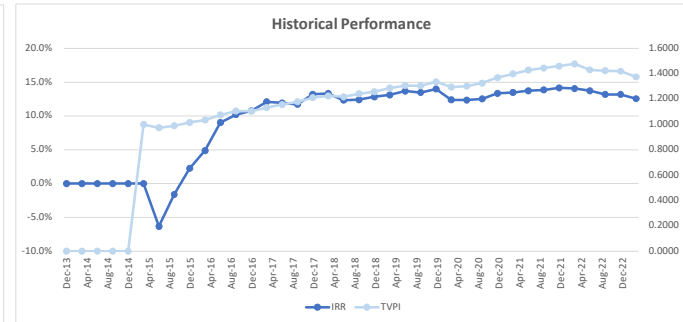
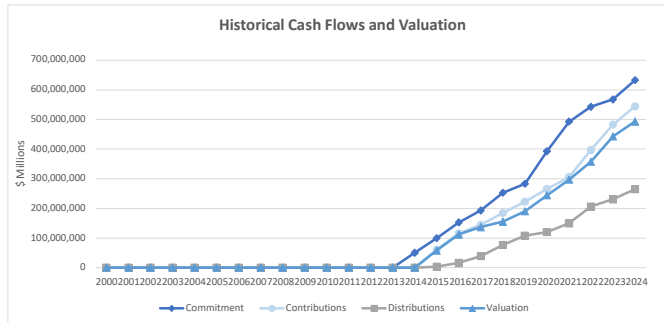
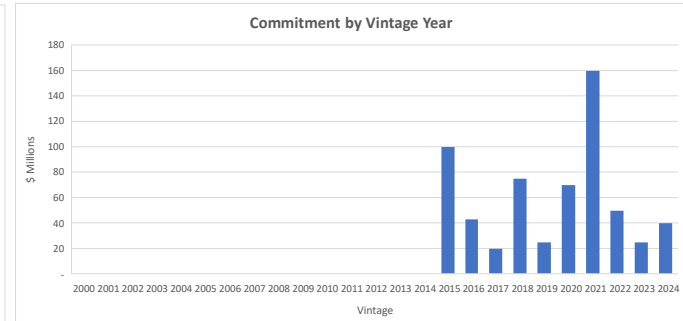
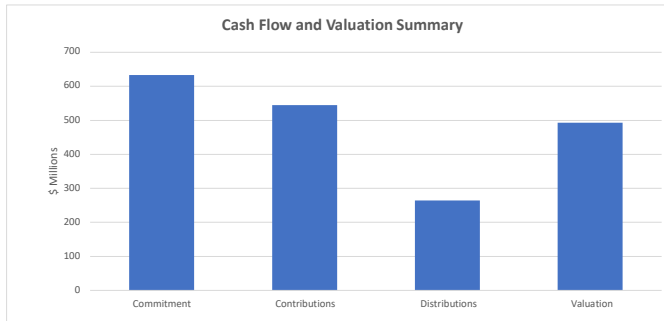
Portfolio Summary

3/31/2025

All investments

Performance Summary

Asset Class	Investment Type	Number of Investments	Commitment	Contributions	Distributions	Valuation	Multiple of Cost	IRR
Private Real Asset (ex real estate)								
	Value Add Infrastructure	9	348,000,000	328,332,124	221,721,711	245,554,713	1.43	0.12
	Core Infrastructure	2	150,032,902	150,032,902	36,252,578	188,761,104	1.51	0.10
	Value Add Farmland	2	75,000,000	46,199,702	4,352,150	44,204,626	1.05	0.03
	PPP Infrastructure	2	60,000,000	19,902,417	2,115,585	14,632,250	0.84	(0.10)
Total: Private Real Asset (ex real estate)		15	633,032,902	544,467,145	264,442,024	493,152,693	1.39	0.11



Employees' Retirement System of Rhode Island Private Infrastructure Performance - Active Portfolio
3/31/2025
(Sorted by Type and Vintage Year)

Current Partnerships	Vintage Year/ Initial Investment	Type	Amount Committed (in \$ unless otherwise noted)	Cumulative Cash Flows (\$)			Cumulative Performance *		
				Amount Drawn	Amount Distributed	Amount Unfunded (\$)	Valuation (\$)	Net IRR (%)	Net Multiple of
IFM Global Infrastructure Fund	2015	Core Infrastructure	50,032,902	50,032,902	27,510,669	-	82,828,974	10.52%	2.21
KKR Diversified Core Infrastructure Fund L.P.	2021	Core Infrastructure	100,000,000	100,000,000	10,129,712	-	108,620,444	7.09%	1.19
Star America Infrastructure Fund II, LP	2020	PPP Infrastructure	20,000,000	11,136,826	2,565,735	10,969,883	6,135,602	-7.51%	0.78
Homestead Capital USA Farmland Fund III, L.P.	2019	Value Add Farmland	25,000,000	25,106,890	2,805,781	639,830	25,595,128	4.28%	1.13
Homestead Capital USA Farmland Fund IV LP	2022	Value Add Farmland	50,000,000	23,651,242	1,546,369	27,894,544	21,071,416	N/M	N/M
ISQ Global Infrastructure Fund I	2015	Value Add Infrastructure	50,000,000	84,787,145	88,824,831	2,921,356	40,301,164	13.16%	1.52
Stonepeak Infrastructure Partners Fund II	2016	Value Add Infrastructure	43,000,000	54,742,507	77,899,498	6,037,381	3,373,302	13.06%	1.48
Stonepeak Infrastructure Partners Fund II - Master Co-Investment Partners LP	2017	Value Add Infrastructure	20,000,000	25,622,712	18,591,456	4,957,339	21,961,922	12.74%	1.58
ISQ Global Infrastructure Fund II	2018	Value Add Infrastructure	40,000,000	50,354,837	26,010,525	3,329,432	50,259,521	12.76%	1.51
Stonepeak Infrastructure Partners Fund III	2018	Value Add Infrastructure	35,000,000	39,315,178	13,458,320	4,051,964	41,211,958	8.95%	1.39
Stonepeak Infrastructure Fund IV LP	2020	Value Add Infrastructure	50,000,000	32,230,687	4,286,067	18,321,162	35,239,771	8.97%	1.23
ISQ Global Infrastructure Fund III	2021	Value Add Infrastructure	50,000,000	35,161,579	515,226	15,353,647	41,915,987	13.71%	1.21
ISQ III Co-Investment	2021	Value Add Infrastructure	10,000,000	5,465,488	59,619	4,594,131	6,539,185	15.79%	1.21
Stonepeak Opportunities Fund LP	2023	Value Add Infrastructure	25,000,000	9,261,460	184,576	15,901,616	9,536,718	N/M	N/M
Other Funds in Aggregate**			-	-	-	-	-		
Total (in USD)			633,032,902	555,635,044	274,388,383	171,206,694	502,531,001		

*IRR refers to the fund's Internal Rate of Return, or the annualized compounded yield on an investment. This calculation is typically applied in private equity where there are multiple points at which capital is invested (capital called) and at which it is distributed. A positive IRR means that the fund's current value plus any cash distributions are greater than the cash value contributed and management fees paid. Typically a fund will have a negative IRR during the first few years of its life, a period referred to as the "J-Curve", because cash is invested upfront and it takes time to generate value. It is important to consider a fund's start date (vintage year) when assessing IRRs. Multiple of investment is another indicator of returns, and is calculated by dividing the fund's cumulative distributions and current value, after fees, by the amount of capital paid in. Please note that performance calculations are specific to the ERSRI investment, and were not prepared, reviewed or approved by the General Partners.

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Employees' Retirement System of Rhode Island Private Infrastructure Performance - Active Portfolio
3/31/2025
(Sorted by Type and Partnership Name)

Current Partnerships	Vintage Year/ Initial Investment	Type	Amount Committed (in \$ unless otherwise noted)	Cumulative Cash Flows (\$)			Cumulative Performance *		
				Amount Drawn	Amount Distributed	Amount Unfunded (\$)	Valuation (\$)	Net IRR (%)	Net Multiple of Investment
IFM Global Infrastructure Fund	2015	Core Infrastructure	50,032,902	50,032,902	27,510,669	-	82,828,974	10.52%	2.21
KKR Diversified Core Infrastructure Fund L.P.	2021	Core Infrastructure	100,000,000	100,000,000	10,129,712	-	108,620,444	7.09%	1.19
Star America Infrastructure Fund II, LP	2020	PPP Infrastructure	20,000,000	11,136,826	2,565,735	10,969,883	6,135,602	-7.51%	0.78
Homestead Capital USA Farmland Fund III, L.P.	2019	Value Add Farmland	25,000,000	25,106,890	2,805,781	639,830	25,595,128	4.28%	1.13
Homestead Capital USA Farmland Fund IV LP	2022	Value Add Farmland	50,000,000	23,651,242	1,546,369	27,894,544	21,071,416	N/M	N/M
ISQ Global Infrastructure Fund I	2015	Value Add Infrastructure	50,000,000	84,787,145	88,824,831	2,921,356	40,301,164	13.16%	1.52
ISQ Global Infrastructure Fund II	2018	Value Add Infrastructure	40,000,000	50,354,837	26,010,525	3,329,432	50,259,521	12.76%	1.51
ISQ Global Infrastructure Fund III	2021	Value Add Infrastructure	50,000,000	35,161,579	515,226	15,353,647	41,915,987	13.71%	1.21
ISQ III Co-Investment	2021	Value Add Infrastructure	10,000,000	5,465,488	59,619	4,594,131	6,539,185	15.79%	1.21
Stonepeak Infrastructure Fund IV LP	2020	Value Add Infrastructure	50,000,000	32,230,687	4,286,067	18,321,162	35,239,771	8.97%	1.23
Stonepeak Infrastructure Partners Fund II	2016	Value Add Infrastructure	43,000,000	54,742,507	77,899,498	6,037,381	3,373,302	13.06%	1.48
Stonepeak Infrastructure Partners Fund II - Master Co-Investment Partners LP	2017	Value Add Infrastructure	20,000,000	25,622,712	18,591,456	4,957,339	21,961,922	12.74%	1.58
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Stonepeak Opportunities Fund LP	2023	Value Add Infrastructure	25,000,000	9,261,460	184,576	15,901,616	9,536,718	N/M	N/M
Other Funds in Aggregate**			-	-	-	-	-		
Total (in USD)			633,032,902	555,635,044	274,388,383	171,206,694	502,531,001		

*IRR refers to the fund's Internal Rate of Return, or the annualized compounded yield on an investment. This calculation is typically applied in private equity where there are multiple points at which capital is invested (capital called) and at which it is distributed. A positive IRR means that the fund's current value plus any cash distributions are greater than the cash value contributed and management fees paid. Typically a fund will have a negative IRR during the first few years of its life, a period referred to as the "J-Curve", because cash is invested upfront and it takes time to generate value. It is important to consider a fund's start date (vintage year) when assessing IRRs. Multiple of investment is another indicator of returns, and is calculated by dividing the fund's cumulative distributions and current value, after fees, by the amount of capital paid in. Please note that performance calculations are specific to the ERSRI investment, and were not prepared, reviewed or approved by the General Partners.

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CASH FLOW

CASH FLOW ANALYSIS - INCOME & EXPENSES

Employees Retirement System

Fiscal Year 2026	Fiscal Year To Date	July 2025	August 2025	September 2025	October 2025	November 2025	December 2025	January 2026	February 2026	March 2026	April 2026	May 2026	June 2026
MEMBER BENEFITS	222,977,208	74,031,156	74,366,289.04	74,579,762.94									
ADMINISTRATIVE EXP**	221,309	106,098.36	115,210.74	***									
INVESTMENT EXP	51,903,268	2,711,620	24,595,823.82	24,595,823.82									
GROSS OUTFLOW	275,101,785	76,848,874	99,077,323.60	99,175,586.76	-	-	-	-	-	-	-	-	-
CONTRIBUTIONS	167,643,031	60,658,188	57,361,125.00	49,623,718.00									
OTHER INCOME*	91,181,575	15,909,291	37,636,141.89	37,636,141.89									
TOTAL INCOME	258,824,606	76,567,479	94,997,266.89	87,259,859.89	-	-	-	-	-	-	-	-	-
NET OUTFLOW (INFLOW)	16,277,179	281,396	4,080,056.71	11,915,726.87	-	-	-	-	-	-	-	-	-

Municipal Employees Retirement System

Fiscal Year 2026	Fiscal Year To Date	July 2025	August 2025	September 2025	October 2025	November 2025	December 2025	January 2026	February 2026	March 2026	April 2026	May 2026	June 2026
MEMBER BENEFITS	38,148,840	12,631,984	12,724,020.34	12,792,836.07									
ADMINISTRATIVE EXP**	59,424	28,489.19	30,934.45	***									
INVESTMENT EXP	13,936,620	728,802	6,603,908.76	6,603,908.76									
GROSS OUTFLOW	52,144,884	13,389,275	19,358,863.55	19,396,744.83	-	-	-	-	-	-	-	-	-
CONTRIBUTIONS	27,316,961	9,020,170	9,416,697.00	8,880,094.00									
OTHER INCOME*	24,486,336	4,275,941	10,105,197.27	10,105,197.27									
TOTAL INCOME	51,803,297	13,296,111	19,521,894.27	18,985,291.27	-	-	-	-	-	-	-	-	-
NET OUTFLOW (INFLOW)	341,587	93,164	(163,030.72)	411,453.56	-	-	-	-	-	-	-	-	-

State Police

Fiscal Year 2026	Fiscal Year To Date	July 2025	August 2025	September 2025	October 2025	November 2025	December 2025	January 2026	February 2026	March 2026	April 2026	May 2026	June 2026
MEMBER BENEFITS	2,564,376	842,747	845,240.25	876,388.60									
ADMINISTRATIVE EXP**	6,719	3,224.83	3,494.11	***									
INVESTMENT EXP	1,577,473	82,738	747,367.60	747,367.60									
GROSS OUTFLOW	4,148,568	928,710	1,596,101.96	1,623,756.20	-	-	-	-	-	-	-	-	-
CONTRIBUTIONS	2,209,262	756,770	478,024.25	974,467.60									
OTHER INCOME*	2,772,653	485,433	1,143,609.96	1,143,609.96									
TOTAL INCOME	4,981,915	1,242,203	1,621,634.21	2,118,077.56	-	-	-	-	-	-	-	-	-
NET OUTFLOW (INFLOW)	(833,347)	(313,493)	(25,532.25)	(494,321.36)	-	-	-	-	-	-	-	-	-

*includes income from Real Estate Investments, Private Equity, and Cash Accounts

** Administrative expenses are reported with a one month lag; July admin expenses will be reported in August.

*** Data unavailable at the time this report was prepared

CASH FLOW ANALYSIS - INCOME & EXPENSES

Judicial

Fiscal Year 2026

	Fiscal Year To Date	July 2025	August 2025	September 2025	October 2025	November 2025	December 2025	January 2026	February 2026	March 2026	April 2026	May 2026	June 2026
MEMBER BENEFITS	1,475,928	479,161	498,228.63	498,538.38									
ADMINISTRATIVE EXP**	2,962	1,419.53	1,542.09	***									
INVESTMENT EXP	694,517	36,330	329,093.39	329,093.39									
GROSS OUTFLOW	2,173,406	516,910	828,864.11	827,631.77	-	-	-	-	-	-	-	-	-
CONTRIBUTIONS	1,312,534	449,605	168,597.63	694,331.38									
OTHER INCOME*	1,220,298	213,152	503,573.05	503,573.05									
TOTAL INCOME	2,532,831	662,756	672,170.68	1,197,904.43	-	-	-	-	-	-	-	-	-
NET OUTFLOW (INFLOW)	(359,425)	(145,846)	156,693.43	(370,272.66)	-	-	-	-	-	-	-	-	-

Retirement Systems Total

Fiscal Year 2026

	Fiscal Year To Date	July 2025	August 2025	September 2025	October 2025	November 2025	December 2025	January 2026	February 2026	March 2026	April 2026	May 2026	June 2026
MEMBER BENEFITS	265,166,352	87,985,048	88,433,778.26	88,747,525.99	-	-	-	-	-	-	-	-	-
ADMINISTRATIVE EXP**	290,413	139,232	151,181.39	-	-	-	-	-	-	-	-	-	-
INVESTMENT EXP	68,111,878	3,559,490	32,276,193.57	32,276,193.57	-	-	-	-	-	-	-	-	-
GROSS OUTFLOW	333,568,643	91,683,770	120,861,153.22	121,023,719.56	-	-	-	-	-	-	-	-	-
CONTRIBUTIONS	198,481,788	70,884,733	67,424,443.88	60,172,610.98	-	-	-	-	-	-	-	-	-
OTHER INCOME*	119,660,861	20,883,817	49,388,522.17	49,388,522.17	-	-	-	-	-	-	-	-	-
TOTAL INCOME	318,142,648	91,768,549	116,812,966.05	109,561,133.15	-	-	-	-	-	-	-	-	-
NET OUTFLOW (INFLOW)	15,425,994	(84,779)	4,048,187.17	11,462,586.41	-	-	-	-	-	-	-	-	-

*includes income from Real Estate Investments, Private Equity, and Cash Accounts

** Administrative expenses are reported with a one month lag; July admin expenses will be reported in August.

*** Data unavailable at the time this report was prepared

FISCAL YEAR 2026 ERSRI Pooled Trust		UNAUDITED INVESTMENT MANAGER FEES, PROFESSIONAL FEES & OPERATING EXPENSES ESTIMATED ACCRUAL BASIS*											
	Jul-2025	Aug-2025	Sep-2025	Oct-2025	Nov-2025	Dec-2025	Jan-2026	Feb-2026	Mar-2026	Apr-2026	May-2026	Jun-2026	FYTD TOTAL
PUBLIC GROWTH													
SSGA Russell 3000	19,618	20,066	20,464	-	-	-	-	-	-	-	-	-	60,147
SSGA QVM Tilt	82,719	82,668	83,637	-	-	-	-	-	-	-	-	-	249,024
SSGA MSCI World Ex USA	11,395	11,240	11,359	-	-	-	-	-	-	-	-	-	33,993
SSGA MSCI EM	29,000	29,507	30,189	-	-	-	-	-	-	-	-	-	88,697
	142,732	143,481	145,648										431,861
PRIVATE GROWTH													
Private Equity**	17,773,009	47,730,490	14,382,051	-	-	-	-	-	-	-	-	-	79,885,551
Private Equity**	15,529,588	45,584,622	14,900,876	-	-	-	-	-	-	-	-	-	76,015,087
Opportunistic Private Credit**	2,243,421	2,145,868	(518,825)	-	-	-	-	-	-	-	-	-	3,870,464
Non-Core Real Estate**	3,499,176	4,078,423	2,055,115	-	-	-	-	-	-	-	-	-	9,632,714
	21,272,185	51,808,914	16,437,166										89,518,265
INCOME													
Loomis Sayles - Liquid Credit	38,668	42,047	46,146	-	-	-	-	-	-	-	-	-	126,860
PIMCO	75,705	81,337	89,168	-	-	-	-	-	-	-	-	-	246,210
Neuberger Berman - Equity Options	62,477	63,466	64,631	-	-	-	-	-	-	-	-	-	190,575
Wellington Management	-	-	-	-	-	-	-	-	-	-	-	-	-
Neuberger Berman - CLOs	37,284	37,339	37,417	-	-	-	-	-	-	-	-	-	112,040
Sycamore Tree CLO Fund**	1,016,296	1,125,838	-	-	-	-	-	-	-	-	-	-	2,142,134
Advent US Convertibles	45,259	46,142	47,538	-	-	-	-	-	-	-	-	-	138,938
Private Credit**	1,608,344	7,736,432	3,859,495	-	-	-	-	-	-	-	-	-	13,204,271
	2,884,033	9,132,602	4,144,394										16,161,029
CRISIS PROTECTION													
Systematic Trend Followers	239,038	307,791	539,958	-	-	-	-	-	-	-	-	-	1,086,787
	239,038	307,791	539,958										1,086,787
INFLATION PROTECTION													
SSGA TIPS	-	-	-	-	-	-	-	-	-	-	-	-	-
Private Infrastructure**	1,766,425	5,832,475	308,538	-	-	-	-	-	-	-	-	-	7,907,439
	3,134,880	6,540,965	2,228,868										11,904,714
STABILITY													
Fidelity	51,973	52,275	54,447	-	-	-	-	-	-	-	-	-	158,695
Loomis - IG Securitized	61,275	61,660	64,380	-	-	-	-	-	-	-	-	-	187,315
Aristeia	681,017	147,911	120,524	-	-	-	-	-	-	-	-	-	949,452
Payden & Rygel	7,411	23	0	-	-	-	-	-	-	-	-	-	7,434
	18,118,119	2,719,713	2,748,393										23,586,225
OTHER													
Hamilton Lane	21,321	21,343	20,033	-	-	-	-	-	-	-	-	-	62,697
Russell Overlay	36,772	36,772	36,772	-	-	-	-	-	-	-	-	-	110,317
	58,093	58,116	56,805										173,014
SUB TOTAL-INV MGMT FEES	45,849,080	70,711,581	26,301,233	-	-	-	-	-	-	-	-	-	142,861,894
PROFESSIONAL FEES													
Legal	20,490	18,615	38,303	-	-	-	-	-	-	-	-	-	77,408
BNY Mellon - Custodial	42,213	42,213	42,213	-	-	-	-	-	-	-	-	-	126,638
Cliffwater	37,500	37,500	37,500	-	-	-	-	-	-	-	-	-	112,500
Meketa General	6,250	6,250	6,250	-	-	-	-	-	-	-	-	-	18,750
Meketa Real Estate	10,781	10,781	10,781	-	-	-	-	-	-	-	-	-	32,344
NEPC	32,917	32,917	32,917	-	-	-	-	-	-	-	-	-	98,750
	150,150	148,275	167,963	-	-	-	-	-	-	-	-	-	466,389
TOTAL:	45,999,230	70,859,856	26,469,196	-	-	-	-	-	-	-	-	-	143,328,283

* Fees and expenses provided as a best-efforts estimate. As such, care should be taken when comparing these figures to data included in audit financial statements.

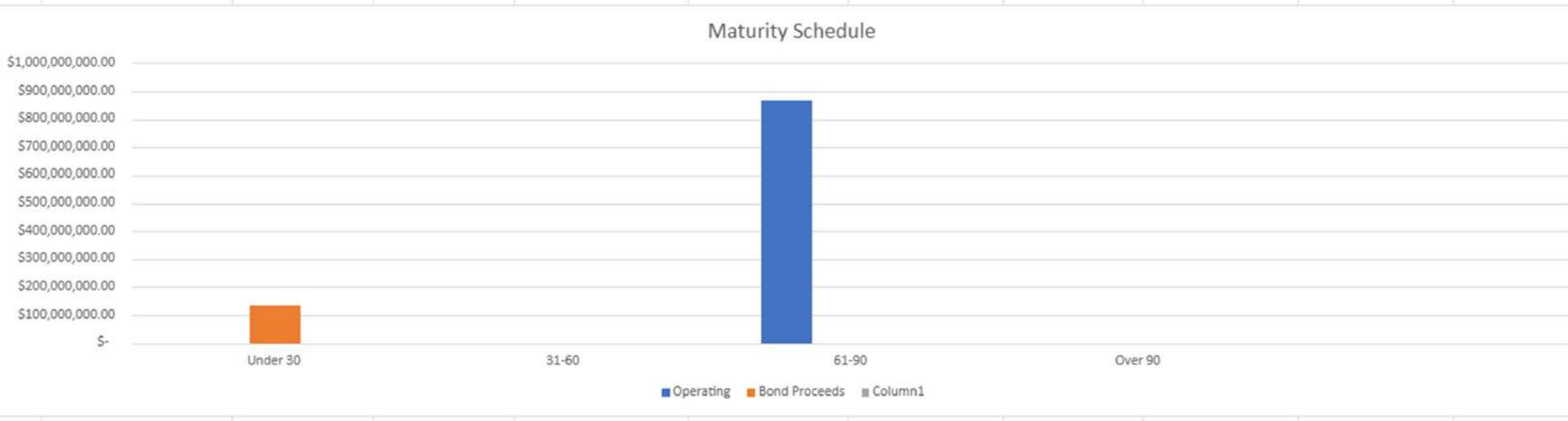
** Fees and expenses provided on an actual (not accrual) basis as paid. Accrual basis fees may include future adjustment. As such, care should be taken when comparing these figures to data included in audit financial statements.

SHORT-TERM INVESTMENTS

State of Rhode Island
Office of the General Treasurer
Short Term Investments

Short-Term Investment Maturity ScheduleRI SIC Guideline Compliance Report
Investments as of:

Investments as of: 09/30/2025



State of Rhode Island
Office of the General Treasurer
Short Term Investments

Short-Term Investment Maturity Schedule RI SIC Guideline Compliance Report
Investments as of: **Tuesday, September 30th 2025**

Post Date

6/30/2025

9/30/2025

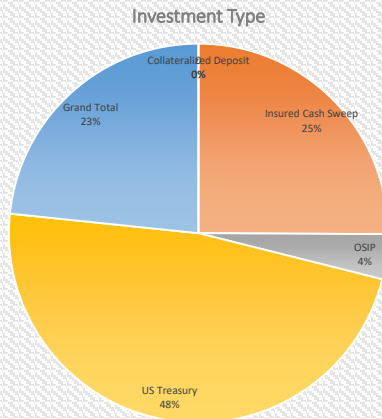
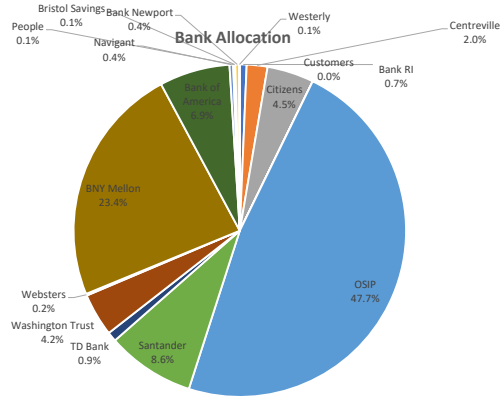


Account Type Fund Group	Collateralized Deposit		Insured Cash Sweep		OSIP		US Treasury		Total	
	Balance	% Total	Balance	% Total	Balance	% Total	Balance	% Total	Balance	% Total
Operating	\$633,332,281.95	25.08%	\$96,721,287.10	3.83%	\$1,071,478,988.48	42.43%	\$589,772,490.53	23.36%	\$2,391,305,048.06	94.70%
Westerly - BankLocal	\$1,494,882.13	0.06%							\$1,494,882.13	0.06%
Websters - FNIR	\$1,770.40	0.00%							\$1,770.40	0.00%
Websters	\$4,274,989.24	0.17%							\$4,274,989.24	0.17%
Washington Trust - FNIR	\$59,590,610.10	2.36%							\$59,590,610.10	2.36%
Washington Trust - BankLocal			\$2,606,845.01	0.10%					\$2,606,845.01	0.10%
Washington Trust			\$43,131,499.81	1.71%					\$43,131,499.81	1.71%
TD Bank	\$23,367,140.50	0.93%							\$23,367,140.50	0.93%
Santander - FNIR	\$215,243,664.22	8.52%							\$215,243,664.22	8.52%
Santander	\$983,751.29	0.04%							\$983,751.29	0.04%
People - BankLocal	\$2,744,220.70	0.11%							\$2,744,220.70	0.11%
OSIP					\$1,071,478,988.48	42.43%			\$1,071,478,988.48	42.43%
Navigant - BankLocal	\$8,893,569.35	0.35%							\$8,893,569.35	0.35%
Customers	\$57,919.80	0.00%							\$57,919.80	0.00%
Citizens	\$114,861,930.31	4.55%							\$114,861,930.31	4.55%
Centreville - BankLocal			\$4,065,049.82	0.16%					\$4,065,049.82	0.16%
Centreville			\$46,917,892.46	1.86%					\$46,917,892.46	1.86%
Bristol Savings - BankLocal	\$2,570,441.68	0.10%							\$2,570,441.68	0.10%
BNY Mellon PAYDEN							\$589,772,490.53	23.36%	\$589,772,490.53	23.36%
Bank RI	\$16,651,248.05	0.66%							\$16,651,248.05	0.66%
Bank of America - FNIR	\$125,973,514.15	4.99%							\$125,973,514.15	4.99%
Bank of America	\$47,265,418.71	1.87%							\$47,265,418.71	1.87%
Bank Newport - BankLocal	\$9,357,211.32	0.37%							\$9,357,211.32	0.37%
Bond Proceeds					\$133,706,575.90	5.30%			\$133,706,575.90	5.30%
OSIP					\$133,706,575.90	5.30%			\$133,706,575.90	5.30%
Total	\$633,332,281.95	25.08%	\$96,721,287.10	3.83%	\$1,205,185,564.38	47.73%	\$589,772,490.53	23.36%	\$2,525,011,623.96	100.00%

State of Rhode Island
Office of the General Treasurer
Short Term Investments

Issuer Credit Rating
September 30, 2025

Issuer	M/E % Portfolio	S-T Debt Rating			L-T Debt Rating		edit Outlo	Rating	Rating/Year
		Moody's	Moody's	S&P	Moody's	S&P			
Bank of America	0.00%	Baa1	P-1	A-1	A2	A-	Stable	GREEN/***	Satisfactory/2012
Bank RI	0.00%	N/R	N/R	N/R	N/R	N/R	N/R	GREEN/***	Satisfactory/2015
BankNewport	0.37%	NR	NR	NR	NR	NR	NR	GREEN/***	
BNY Mellon	23.36%								
Bristol County Sav. Bank	0.10%	N/R	N/R	N/R	N/R	N/R	N/R	GREEN/***	Satisfactory/2012
Centreville Bank	1.86%	N/R	N/R	N/R	N/R	N/R	N/R	GREEN/***	Satisfactory/2014
Citizens Bank	4.55%	Baa1	P-1	A-2	A1	BBB+	Stable	GREEN/***	Satisfactory/2014
Customers Bank	0.00%	N/R	N/R	N/R	N/R	N/R	N/R	GREEN/*	Satisfactory/2016
Fidelity	0.35%								
Home Loan Inv. Bank	0.00%	N/R	N/R	N/R	N/R	N/R	N/R	GREEN/***	Needs Improve/2013
Navigant Credit Union	0.35%	N/R	N/R	N/R	N/R	N/R	N/R	GREEN/***	Satisfactory/2013
Ocean State Inv. Pool	47.73%	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R
People's Credit Union	0.11%	N/R	N/R	N/R	N/R	N/R	N/R	GREEN/***	N/R
Santander Bank	8.56%	A3	P-1	A-1	A2	A	Stable	GREEN/***	N/R
SG Americas	0.00%								Satisfactory/2016
TD Bank	0.93%	Aa2	P-1	A-1+	A2	AA-	Stable	GREEN/***	Satisfactory/2016
Washington Trust	4.17%	N/R	N/R	N/R	N/R	N/R	N/R	GREEN/***	Satisfactory/2014
Webster Bank	0.17%	Baa1	P-2	A-2	A3	BBB+	Stable	GREEN/***	
Westerly Community Credit Union	0.06%	N/R	N/R	N/R	N/R	N/R	N/R	GREEN/***	



Ratings Definitions

Moody's Short-Term Debt Ratings: P-1 - Prime-1 have a superior ability for repayment of sr. S-T debt P-2 - Prime-1 have a strong ability for repayment of sr. S-T debt P-3 - Prime-1 have acceptable ability for repayment of sr. S-T debt NP - Not Prime	S&P Short-Term Credit Ratings: A-1 - Highest rated, strong capacity to meet obligations A-2 - Somewhat more susceptible to adverse effects of changes in fin. conditions; satisfactory A-3 - Exhibits adequate protection parameters B - Significant speculative characteristics, faces major ongoing uncertainties C - Vulnerable to non-payment D - Payment default Modifiers: + or - show relative standing within the category.
Moody's Issuer Rating Symbols: Aaa - Offer exceptional financial security (high-grade) Aa - Offer excellent financial security (high-grade) A - Offer good financial security Baa - Offer adequate financial security Ba - Offer questionable financial security B - Offer poor financial security Caa - Offer very poor financial security Ca - Offer extremely poor financial security C - Lowest rated class, usually in default	S&P Outlook Definitions: Positive - A rating may be raised Negative - A rating may be lowered Stable - A rating is not likely to change Developing - May be raised or lowered NM - Not meaningful
Moody's Long-Term Debt Ratings: Aaa - Best Quality Aa - High Quality A - Possess many favorable investment attributes Baa - Medium-grade obligations Ba - Possess speculative elements B - Generally lack characteristics of desirable investments Caa - Poor standing Ca - Speculative in a high degree C - Lowest rated class of bonds	S&P Long-Term Debt Ratings: AAA - Highest rating, extremely strong AA - Differs slightly from highest rating, very strong A - More susceptible to adverse effects of change in economic condition, strong BBB - Exhibits adequate protection parameters BB, B, - Have significant speculative characteristics. BB least speculative CCC, CC, C - C highest degree D - Payment default Modifiers: + or - show relative standing within the category.
Modifiers: 1 - Higher end of letter rating category 2 - Mid-range of letter rating category 3 - Lower end of letter rating category	VERIBANC Ratings: GREEN - The institution's equity exceeds a modest percentage of its assets and had positive net income during the most recent reporting period. YELLOW - The institution's equity is at a minimal percentage of its assets or it incurred a net loss during the most recent reporting period. RED - The institution's equity is less than a minimal percentage of its assets or it incurred a significant net loss during the most recent reporting period (or both). BB - Blue Ribbon Bank Modifiers: ***-Very Strong, **-Strong, *-Moderate, No Stars-Poor

DEFINED CONTRIBUTION PLAN



State of Rhode Island

401(a) Monthly Performance Summary
Defined Contribution Retirement Plan

Morningstar Ranking/Number of Funds in Category displays the Funds actual rank within its Morningstar Category based on average annual total return and number of funds in that Category. The returns assume reinvestment of dividends and do not reflect any applicable sales charge. Absent expense limitation, total return would be less. Past performance does not guarantee future results. Morningstar Percentile Rankings are the Fund's total return rank relative to all the funds in the same Morningstar category, where 1 is the highest percentile rank and 100 is the lowest percentile rank.

The performance data quoted represents past performance and is no guarantee of future results. Your returns and the principal value of your investments will fluctuate so that your shares or accumulation units, when redeemed, may be worth more or less than their original cost. Current performance may be lower or higher than the performance quoted below.

For performance current to the most recent month-end, visit the TIAA Website at www.tiaa.org, or call 877 518-9161.

401(a) Monthly Performance Summary		As of 9/30/2025										Prospectus					
Defined Contribution Retirement Plan		Ticker/ CUSIP	Year to		Annualized Returns								Since Inception		Gross Exp	Net Exp	
Option Name			1 Mo	3 Mo	Date	1 Yr	%-ile	3 Yr	%-ile	5 Yr	%-ile	10 Yr	%-ile	Inception	Date	Ratio	Ratio
^ TIAA Traditional Retirement Choice Plus ⁵		TIAA#	0.31	0.93	2.81	3.80		3.89		3.55		3.47		3.63	06/01/2006	n/a	n/a
			Current Rate: 4.25% Guaranteed Rate 3.00%														
TIAA Stable Value ¹		TSVX#	0.23	0.71	1.64	2.91		2.82		2.58		2.33		2.22	3/31/2012	n/a	n/a
			Current Rate: 2.80% Guaranteed Rate 2.80														
BH2																	
^ State Street Global All Cap Equity Ex-US Idx Securities II ^{2,3}		85744A687	3.41	6.97	26.66	16.93	37	20.99	58	10.45	57	8.53	31	6.17	5/13/2014	0.05	0.05
MSCI ACWI Ex USA IMI NR USD			3.39	6.86	25.97	16.39		20.50		10.22		8.24					
Foreign Large Blend Median						16.27		21.16		10.51		8.43					
Foreign Large Blend Number of Funds						119		112		97		64					
^ State Street REIT Index Securities Lending Series - Class II ³		85744L600	1.13	5.06	4.42	-1.81	39	10.34	13	9.34	8	5.58	68	5.15	6/29/2007	0.05	0.05
DJ US Select REIT TR USD			1.15	5.09	4.50	-1.70		10.48		9.45		5.65					
Real Estate Median						-2.03		8.74		7.64		5.95					
Real Estate Number of Funds						32		30		27		14					
^ State Street Russell Small Mid Cp Index Securities Series II ^{2,3}		857480552	2.26	9.02	12.22	16.98	1	19.94	1	11.97	57	11.75	2	11.19	3/8/2019	0.02	0.02
Russell Small Cap Complete TR USD			2.23	8.99	12.18	16.97		19.80		11.87		11.69					
Mid-Cap Blend Median						6.11		15.77		12.57		10.83					
Mid-Cap Blend Number of Funds						44		40		34		22					
^ State Street SP 500 Index Securities Lending Series CI II ³		857444624	3.65	8.12	14.82	17.57	29	24.92	23	16.45	23	15.28	24	10.12	5/31/1996	0.01	0.01
S&P 500 TR USD			3.65	8.12	14.83	17.60		24.94		16.47		15.30					
Large Blend Median						17.36		24.55		16.00		15.04					
Large Blend Number of Funds						139		125		106		66					
^ State Street US Bond Index Securities Lending Series XIV ³		85744W226	1.09	2.04	6.15	2.93	65	4.94	74	-0.45	67	1.86	71	2.28	6/30/2011	0.02	0.02
Bloomberg US Agg Bond TR USD			1.09	2.03	6.13	2.88		4.93		-0.45		1.84					
Intermediate Core Bond Median						3.17		5.27		-0.19		2.04					
Intermediate Core Bond Number of Funds						114		102		81		55					
^ State Street US Inflation Protected Bond Index Securities II ³		85744A653	0.44	2.11	6.87	3.77	79	4.85	76	1.40	65	3.05	54	3.74	1/8/2007	0.04	0.04
Bloomberg US Treasury US TIPS TR USD			0.43	2.10	6.87	3.79		4.88		1.42		3.01					
Inflation-Protected Bond Median						3.85		4.94		1.44		3.05					
Inflation-Protected Bond Number of Funds						30		29		27		20					

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401(a) Monthly Performance Summary		As of 9/30/2025											Prospectus				
Defined Contribution Retirement Plan		Ticker/ CUSIP	1 Mo	3 Mo	Year to Date	1 Yr	%-ile	3 Yr	%-ile	5 Yr	%-ile	10 Yr	%-ile	Since Inception	Inception Date	Gross Exp Ratio	Net Exp Ratio
Option Name																	
Vanguard FTSE Social Index Fund Institutional Class Shares		VFTNX	3.94	8.29	14.55	18.68	15	26.00	11	15.66	44	15.60	6	10.83	1/14/2003	0.12	0.07
Morningstar US Large-Mid TR USD			3.64	8.10	14.97	18.10		25.05		16.00		15.10					
Large Blend Median						15.56		23.23		15.37		14.04					
Large Blend Number of Funds						616		543		482		356					

^ Vanguard Cash Rsrv Federal MnyMktAdmiral		VMRXX	0.34	1.06	3.21	4.42	10	4.82		3.01		2.16		3.05	10/3/1989	0.10	0.10
ICE BofA USD 3M Dep OR CM TR USD			0.38	1.15	3.34	4.60		4.92		3.05		2.27					

7-Day Current/ 7-Day Effective Yield 4.13% / 4.13% (As of 10/13/2025)

You could lose money by investing in the Vanguard Cash Reserves Federal Money Market Admiral Fund. Although the Fund seeks to preserve the value of your investment at \$1.00 per share, it cannot guarantee it will do so. The Fund may impose a fee upon sale of your shares or may temporarily suspend your ability to sell shares if the Fund's liquidity falls below required minimums because of market conditions or other factors. An investment in the Fund is not insured or guaranteed by the Federal Deposit Insurance Corporation or any other government agency. The Fund's sponsor has no legal obligation to provide financial support to the Fund, and you should not expect that the sponsor will provide financial support to the Fund at any time.

Yield quotations more closely reflect current earnings of the money market fund than total return quotations. Yields are subject to change. Recent and any future declines in interest rate levels could cause these funds' earnings to fall below the funds' expense ratios, resulting in a negative yield.

^RetirePlus Select Model underlying investment.

RetirePlus Select Model Performance																	
RetirePlus Select Moderate Model (16+ Years to Retirement) ⁴		KL3QC	2.76	6.83	15.59	14.05								23.65	10/31/2023	0.03	0.03
Mesirow 16+ Yrs to Retirement Moderate Index			2.07	6.07	14.80	12.40		18.29		11.55		10.01					
RetirePlus Select Moderate Model (13-15 Years to Retirement) ⁴		5X62C	2.58	6.39	14.54	13.09								22.11	10/31/2023	0.03	0.03
Mesirow 13-15 Yrs to Retirement Moderate Index			1.94	5.68	13.92	11.64		17.17		10.71		9.45					
RetirePlus Select Moderate Model (10-12 Years to Retirement) ⁴		USB9C	2.53	6.23	14.27	12.87								21.59	10/31/2023	0.03	0.03
Mesirow 10-12 Yrs to Retirement Moderate Index			1.91	5.55	13.70	11.51		16.84		10.38		9.22					
RetirePlus Select Moderate Model (7-9 Years to Retirement) ⁴		XD9DC	2.45	6.03	13.73	12.50								20.87	10/31/2023	0.03	0.03
Mesirow 7-9 Yrs to Retirement Moderate Index			1.85	5.38	13.23	11.19		16.23		9.92		8.91					
RetirePlus Select Moderate Model (4-6 Years to Retirement) ⁴		029BC	2.35	5.75	13.23	11.95								19.95	10/31/2023	0.03	0.03
Mesirow 4-6 Yrs to Retirement Moderate Index			1.78	5.13	12.84	10.80		15.64		9.47		8.57					
RetirePlus Select Moderate Model (1-3 Years to Retirement) ⁴		SE5UC	2.20	5.32	12.45	11.19								18.52	10/31/2023	0.03	0.03
Mesirow 1-3 Yrs to Retirement Moderate Index			1.68	4.74	12.23	10.28		14.69		8.71		8.04					
RetirePlus Select Moderate Model (0-2 Years in Retirement) ⁴		EKJXC	2.00	4.89	11.27	10.24								17.04	10/31/2023	0.03	0.03
Mesirow 0-2 Yrs in Retirement Moderate Index			1.55	4.40	11.18	9.49		13.51		7.94		7.46					
RetirePlus Select Moderate Model (3-5 Years in Retirement) ⁴		W1VVC	1.81	4.41	10.02	9.29								15.47	10/31/2023	0.02	0.02
Mesirow 3-5 Yrs in Retirement Moderate Index			1.42	4.02	10.17	8.76		12.39		7.26		6.85					

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Defined Contribution Retirement Plan		Ticker/ CUSIP	Year to		Annualized Returns							Since Inception		Gross Exp	Net Exp		
Option Name			1 Mo	3 Mo	Date	1 Yr	%-ile	3 Yr	%-ile	5 Yr	%-ile	10 Yr	%-ile	Inception	Date	Ratio	Ratio
RetirePlus Select Moderate Model (6-8 Years in Retirement) ⁴		5XUEC	1.61	3.94	9.16	8.62								13.86	10/31/2023	0.03	0.03
Mesirow 6-8 Yrs in Retirement Moderate Index			1.27	3.61	9.40	8.19		11.24		6.39		6.16					
RetirePlus Select Moderate Model (9+ Years in Retirement) ⁴		QORG	1.43	3.40	8.25	7.52								12.20	10/31/2023	0.03	0.03
Mesirow 9+ Yrs in Retirement Moderate Index			1.15	3.14	8.63	7.38		10.08		5.40		5.33					
RetirePlus Select Aggressive Model (16+ Years to Retirement) ⁴		30AYC	2.96	7.36	16.82	15.09								25.50	10/31/2023	0.03	0.03
Mesirow 16+ Yrs to Retirement Aggressive Index			2.21	6.53	15.81	13.13		19.57		12.48		10.67					
RetirePlus Select Aggressive Model (13-15 Years to Retirement)		0L7VC	2.78	6.91	15.58	14.13								23.93	10/31/2023	0.03	0.03
Mesirow 13-15 Yrs to Retirement Aggressive Index			2.09	6.15	14.78	12.41		18.47		11.73		10.15					
RetirePlus Select Aggressive Model (10-12 Years to Retirement)		H4IIC	2.70	6.71	15.12	13.77								23.24	10/31/2023	0.03	0.03
Mesirow 10-12 Yrs to Retirement Aggressive Index			2.05	5.99	14.38	12.17		17.98		11.27		9.84					
RetirePlus Select Aggressive Model (7-9 Years to Retirement) ⁴		KHDMC	2.60	6.48	14.52	13.23								22.40	10/31/2023	0.03	0.03
Mesirow 7-9 Yrs to Retirement Aggressive Index			1.97	5.79	13.87	11.73		17.32		10.83		9.54					
RetirePlus Select Aggressive Model (4-6 Years to Retirement) ⁴		GV8HC	2.50	6.17	14.03	12.73								21.39	10/31/2023	0.03	0.03
Mesirow 4-6 Yrs to Retirement Aggressive Index			1.90	5.51	13.50	11.40		16.67		10.28		9.15					
RetirePlus Select Aggressive Model (1-3 Years to Retirement) ⁴		FZ3FC	2.35	5.74	13.19	11.95								19.92	10/31/2023	0.03	0.03
Mesirow 1-3 Yrs to Retirement Aggressive Index			1.78	5.12	12.81	10.80		15.63		9.47		8.56					
RetirePlus Select Aggressive Model (0-2 Years in Retirement) ⁴		RRSMC	2.18	5.33	12.29	11.21								18.53	10/31/2023	0.03	0.03
Mesirow 0-2 Yrs In Retirement Aggressive Index			1.67	4.77	12.04	10.26		14.64		8.78		8.07					
RetirePlus Select Aggressive Model (3-5 Years in Retirement) ⁴		X02BC	1.97	4.79	11.10	10.12								16.70	10/31/2023	0.03	0.03
Mesirow 3-5 Yrs in Retirement Aggressive Index			1.51	4.30	11.09	9.44		13.38		7.96		7.39					
RetirePlus Select Aggressive Model (6-8 Years in Retirement) ⁴		RUX6C	1.75	4.27	9.89	9.31								14.95	10/31/2023	0.03	0.03
Mesirow 6-8 Yrs in Retirement Aggressive Index			1.37	3.88	10.02	8.78		12.07		7.04		6.69					
RetirePlus Select Aggressive Model (9+ Years in Retirement) ⁴		KGAHC	1.60	3.73	9.15	8.19								13.28	10/31/2023	0.03	0.03
Mesirow 9+ Yrs in Retirement Aggressive Index			1.26	3.37	9.42	7.99		10.95		6.06		5.89					
RetirePlus Select Conservative Model (16+ Years to Retirement)		ULYPC	2.42	6.05	13.65	12.45								20.91	10/31/2023	0.03	0.03
Mesirow 16+ Yrs to Retirement Conservative Index			1.83	5.41	13.14	11.08		16.20		9.99		8.94					

Morningstar Ranking/Number of Funds in Category displays the Funds actual rank within its Morningstar Category based on average annual total return and number of funds in that Category. The returns assume reinvestment of dividends and do not reflect any applicable sales charge. Absent expense limitation, total return would be less. Past performance does not guarantee future results. Morningstar Percentile Rankings are the Fund's total return rank relative to all the funds in the same Morningstar category, where 1 is the highest percentile rank and 100 is the lowest percentile rank.

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For performance current to the most recent month-end, visit the TIAA Website at www.tiaa.org, or call 877 518-9161.

401(a) Monthly Performance Summary		As of 9/30/2025										Prospectus				
Defined Contribution Retirement Plan		Ticker/ CUSIP	Year to		Annualized Returns								Since Inception		Gross Exp	Net Exp
Option Name			1 Mo	3 Mo	Date	1 Yr	%-ile	3 Yr	%-ile	5 Yr	%-ile	10 Yr	%-ile	Inception	Date	Ratio
RetirePlus Select Conservative Model (13-15 Years to Retirement)		O9NBC <i>Mesirow 13-15 Yrs to Retirement Conservative Index</i>	2.31	5.74	12.84	11.77							19.88	10/31/2023	0.03	0.03
			1.76	5.16	12.47	10.59		15.48		9.44		8.55				
RetirePlus Select Conservative Model (10-12 Years to Retirement)		6NOFC <i>Mesirow 10-12 Yrs to Retirement Conservative Index</i>	2.29	5.68	12.79	11.63							19.68	10/31/2023	0.03	0.03
			1.75	5.09	12.44	10.52		15.37		9.34		8.48				
RetirePlus Select Conservative Model (7-9 Years to Retirement)		Y2XZC <i>Mesirow 7-9 Yrs to Retirement Conservative Index</i>	2.24	5.54	12.52	11.61							19.17	10/31/2023	0.03	0.03
			1.71	4.98	12.24	10.54		15.06		9.08		8.31				
RetirePlus Select Conservative Model (4-6 Years to Retirement)		Q5N1C <i>Mesirow 4-6 Yrs to Retirement Conservative Index</i>	2.15	5.27	12.05	11.06							18.30	10/31/2023	0.02	0.02
			1.65	4.74	11.87	10.14		14.47		8.60		7.96				
RetirePlus Select Conservative Model (1-3 Years to Retirement)		10U0C <i>Mesirow 1-3 Yrs to Retirement Conservative Index</i>	2.05	4.98	11.60	10.57							17.32	10/31/2023	0.02	0.02
			1.58	4.47	11.52	9.79		13.81		8.04		7.57				
RetirePlus Select Conservative Model (0-2 Years in Retirement)		NZJOC <i>Mesirow 0-2 Yrs In Retirement Conservative Index</i>	1.88	4.59	10.76	9.75							16.00	10/31/2023	0.03	0.03
			1.45	4.13	10.77	9.08		12.77		7.32		6.98				
RetirePlus Select Conservative Model (3-5 Years in Retirement)		R77WC <i>Mesirow 3-5 Yrs in Retirement Conservative Index</i>	1.66	4.08	9.47	8.86							14.27	10/31/2023	0.02	0.02
			1.29	3.73	9.70	8.35		11.49		6.56		6.33				
RetirePlus Select Conservative Model (6-8 Years in Retirement)		ARBNC <i>Mesirow 6-8 Yrs in Retirement Conservative Index</i>	1.47	3.58	8.53	7.94							12.69	10/31/2023	0.03	0.03
			1.16	3.29	8.91	7.66		10.44		5.80		5.68				
RetirePlus Select Conservative Model (9+ Years in Retirement) [†]		NA3SC <i>Mesirow 9+ Yrs in Retirement Conservative Index</i>	1.31	3.13	7.64	7.26							11.23	10/31/2023	0.03	0.03
			1.06	2.92	8.12	7.15		9.40		4.92		5.03				

Source: TIAA & Morningstar Direct

401(a) Monthly Summary
Defined Contribution Retirement Plan - 405868
STATE OF RHODE ISLAND - 065107
As of 9/30/2025

BH1

<i>Investment Name</i>	<i>Asset Class</i>	<i>Asset Balance</i>	<i>% of Assets</i>
STATE STREET SP 500 IDX SEC II	Equities	\$788,030,716.67	29.9%
STATE STREET CP EQ EXUS IDX II	Equities	\$651,093,906.94	24.7%
STATE STREET SM MID IDX SEC II	Equities	\$397,939,531.18	15.1%
TIAA TRADITIONAL	Guaranteed	\$362,105,602.34	13.8%
STATE STREET REIT SEC LND S II	Equities	\$144,926,995.23	5.5%
STATE STREET US IP BN I SEC II	Fixed Income	\$121,013,933.81	4.6%
STATE STREET US BD IDX SEC XIV	Fixed Income	\$109,474,985.53	4.2%
TIAA STABLE VALUE	Guaranteed	\$31,469,037.14	1.2%
VANGUARD FTSE SOCIAL IDX INSTL	Equities	\$15,387,038.97	0.6%
VANGUARD CASH RSV FED MMKT ADM	Money Market	\$11,613,278.78	0.4%
Defined Contribution Retirement Plan Total		\$2,633,055,026.59	

▲ RetirePlus Select Model underlying investment

Closed to new investments

*Disclosure: Plan totals shown on slides 6 and 7 may not match due to the inclusion of holding account (RCA, Forfeiture etc.) balances on slide 6 and market value difference due to data refresh timings.

TIAA RetirePlus Summary Statistics as of 9/30/2025

STATE OF RHODE ISLAND - 065107

Implementation Team:
Monitoring and Analytics | Default Solutions

*please always select only one client

45,011

Participant accounts subscribed

2,374

Personalizations

1,290

Model changes as a result of personalizations

554

Participant accounts unsubscribed

1.22%

Opt-out rate

RetirePlus Assets, contributions and participants

		RetirePlus Model Assets	YTD Contributions	Participant Account Count
Aggressive	16+ Years to Retirement	\$20,996,418	\$1,242,993	404
	10-12 Years to Retirement	\$7,028,947	\$257,314	61
	13-15 Years to Retirement	\$7,583,507	\$245,080	56
	7-9 Years to Retirement	\$5,280,211	\$167,354	54
	4-6 Years to Retirement	\$4,765,405	\$124,305	49
	0-2 Years in Retirement	\$2,325,174	\$15,435	32
	1-3 Years to Retirement	\$2,345,842	\$77,324	28
	3-5 Years in Retirement	\$229,981	\$0	9
	6-8 Years in Retirement	\$279,959	\$6,881	4
	9+ Years in Retirement	\$0	\$0	1
Conservative	16+ Years to Retirement	\$2,007,071	\$117,518	65
	0-2 Years in Retirement	\$1,565,780	\$34,361	25
	1-3 Years to Retirement	\$2,262,673	\$76,462	22
	4-6 Years to Retirement	\$1,282,023	\$52,315	18
	7-9 Years to Retirement	\$1,203,558	\$30,069	11
	3-5 Years in Retirement	\$991,171	\$757	11
	10-12 Years to Retirement	\$721,318	\$26,544	8
	13-15 Years to Retirement	\$733,884	\$26,835	5
	9+ Years in Retirement	\$251,629	\$4,723	3
	6-8 Years in Retirement	\$72,362	\$0	2
Moderate	16+ Years to Retirement	\$964,726,477	\$58,843,857	21,902
	7-9 Years to Retirement	\$247,221,562	\$9,221,128	3,338
	4-6 Years to Retirement	\$202,215,966	\$7,662,875	3,316
	10-12 Years to Retirement	\$279,336,859	\$11,486,659	3,298
	1-3 Years to Retirement	\$164,401,000	\$6,059,462	2,989
	13-15 Years to Retirement	\$243,796,697	\$10,364,378	2,845
	0-2 Years in Retirement	\$117,702,756	\$3,382,417	2,477
	3-5 Years in Retirement	\$66,877,499	\$1,285,194	1,745
	6-8 Years in Retirement	\$38,904,590	\$532,794	1,147
	9+ Years in Retirement	\$26,583,799	\$416,864	1,124
RetirePlus Totals:		\$2,413,694,118	\$111,761,897	45,011
Total plan		\$2,629,897,691	\$119,269,770	58,112
RP as % of total		92%	94%	77%

*Disclosure: Plan totals shown on slides 6 and 7 may not match due to the inclusion of holding account (RCA, Forfeiture etc.) balances on slide 6 and market value difference due to data refresh timings.

Footnotes

Metric Name	Definition
Model Changes due to personalization	Count of participant personalization transactions completed regardless of channel (Web, Mobile, IFA, Call Center, etc.) that that included a model change.
Opt-Out Rate	$\# \text{ of Participants Unsubscribed} / (\# \text{ of Participants Subscribed} + \# \text{ of Participants Unsubscribed})$
Participant Accounts	Distinct count of participants in each RetirePlus plan.
Participant Count	Distinct count of participant accounts associated with a specific RetirePlus model. Please note: Participant count in table may not match with total Participants Subscribe..
Participants Subscribed	Distinct count of participant accounts subscribed to RetirePlus service and have RetirePlus model assigned as of the select month-end.
Participants Unsubscribed	Distinct count of participant accounts that completely unsubscribed from the RetirePlus service as of the select month-end.
Personalization	Count of participant personalization transactions completed regardless of channel (Web, Mobile, IFA, Call Center, etc.).
RetirePlus Model Assets	Total amount of dollars managed by RetirePlus models held by subscribed participants during the select month-end.
Total Plan Assets	Total amount of Retirement Asset dollars administered under the plan. (Excludes Immediate Annuity assets)
Total Plan Participants	Distinct count of all participants on a RetirePlus plan with assets greater than zero dollars or participants that had previously subscribed and now only hold Immediate Annuity Contracts.
Total Plan YTD Contributions	Total amount of dollars contributed by all participants in a RetirePlus plan during the calendar year.
YTD Contributions	Total amount of dollars contributed to RetirePlus models during the calendar year by subscribed participants during the select month-end.

457 PLANS

State of Rhode Island Total Assets 457 Plans

Plan Provider	12/31/2024	3/31/2025	6/30/2025	9/30/2025
Fidelity	\$ 241,752,959.83	\$ 234,554,455.65	\$ 256,480,838.27	\$ 270,746,787.98
Voya	\$ 249,863,601.25	\$ 241,371,071.54	\$ 253,767,374.70	\$ 261,498,410.37
TIAA	\$ 75,078,690.00	\$ 74,719,790.00	\$ 80,576,521.00	\$ 86,071,142.61
Total	\$ 566,695,251.08	\$ 550,645,317.19	\$ 590,824,733.97	\$ 618,316,340.96

*The final distribution from Valic occurred in Oct'21.



State of Rhode Island

457(b) Monthly Performance Summary
Deferred Compensation Plan

Morningstar Ranking/Number of Funds in Category displays the Funds actual rank within its Morningstar Category based on average annual total return and number of funds in that Category. The returns assume reinvestment of dividends and do not reflect any applicable sales charge. Absent expense limitation, total return would be less. Past performance does not guarantee future results. Morningstar Percentile Rankings are the Fund's total return rank relative to all the funds in the same Morningstar category, where 1 is the highest percentile rank and 100 is the lowest percentile rank.

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For performance current to the most recent month-end, visit the TIAA Website at www.tiaa.org, or call 877 518-9161.

457(b) Monthly Performance Summary		As of 9/30/2025										Prospectus					
Deferred Compensation Plan		Ticker/ CUSIP	Year to		Annualized Returns								Since	Inception	Gross Exp	Net Exp	
Option Name			1 Mo	3 Mo	Date	1 Yr	%-ile	3 Yr	%-ile	5 Yr	%-ile	10 Yr	%-ile	Inception	Date	Ratio	Ratio
^ TIAA Traditional Retirement Choice Plus ⁵			0.31	0.93	2.49	3.80		3.89		3.55		3.47		3.63	6/01/2006	n/a	n/a
BH1			Current Rate: 4.25% Guaranteed Rate 3.00%														
American Funds EuroPacific Growth Fund - R6	RERGX	3.80	6.27	23.48	14.79	22	19.65	35	7.49	37	8.28	45	8.67	5/1/2009	0.47	0.47	
MSCI ACWI Ex USA NR USD		3.60	6.89	26.02	16.45		20.67		10.26		8.23						
Foreign Large Growth Median					10.37		18.46		6.56		8.08						
Foreign Large Growth Number of Funds					117		108		96		73						
PIMCO Total Return Instl	PTTRX	1.28	2.66	7.49	4.36	11	6.06	28	0.18	52	2.44	41	6.25	5/11/1987	0.53	0.51	
Bloomberg US Agg Bond TR USD		1.09	2.03	6.13	2.88		4.93		-0.45		1.84						
Intermediate Core-Plus Bond Median					3.41		5.64		0.23		2.27						
Intermediate Core-Plus Bond Number of Funds					183		164		140		110						
^ State Street Global All Cap Equity Ex-US Idx Securities II ³	85744A687	3.41	6.97	26.66	16.93	37	20.99	58	10.45	57	8.53	31	6.17	5/13/2014	0.045	0.05	
MSCI ACWI Ex USA IMI NR USD		3.39	6.86	25.97	16.39		20.50		10.22		8.24						
Foreign Large Blend Median					16.27		21.16		10.51		8.43						
Foreign Large Blend Number of Funds					119		112		97		64						
^ State Street REIT Index Securities Lending Series - Class II ³	85744L600	1.13	5.06	4.42	-1.81	39	10.34	13	9.34	8	5.58	68	5.15	6/29/2007	0.05	0.05	
DJ US Select REIT TR USD		1.15	5.09	4.50	-1.70		10.48		9.45		5.65						
Real Estate Median					-2.03		8.74		7.64		5.95						
Real Estate Number of Funds					32		30		27		14						
^ State Street Russell Small Mid Cp Index Securities Series II ^{2,3}	857480552	2.26	9.02	12.22	16.98	1	19.94	1	11.97	57	11.75	2	11.19	3/8/2019	0.02	0.02	
Russell Small Cap Complete TR USD		2.23	8.99	12.18	16.97		19.80		11.87		11.69						
Mid-Cap Blend Median					6.11		15.77		12.57		10.83						
Mid-Cap Blend Number of Funds					44		40		34		22						
^ State Street SP 500 Index Securities Lending Series CI II ³	857444624	3.65	8.12	14.82	17.57	29	24.92	23	16.45	23	15.28	24	10.12	5/31/1996	0.01	0.01	
S&P 500 TR USD		3.65	8.12	14.83	17.60		24.94		16.47		15.30						
Large Blend Median					17.36		24.55		16.00		15.04						
Large Blend Number of Funds					139		125		106		66						
^ State Street US Bond Index Securities Lending Series XIV ³	85744W226	1.09	2.04	6.15	2.93	65	4.94	74	-0.45	67	1.86	71	2.28	6/30/2011	0.02	0.02	
Bloomberg US Agg Bond TR USD		1.09	2.03	6.13	2.88		4.93		-0.45		1.84						
Intermediate Core Bond Median					3.17		5.27		-0.19		2.04						
Intermediate Core Bond Number of Funds					114		102		81		55						

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457(b) Monthly Performance Summary		As of 9/30/2025											Prospectus			
Deferred Compensation Plan	Ticker/ CUSIP			Year to			Annualized		Returns				Since	Inception	Gross Exp	Net
Exp Option Name		1 Mo	3 Mo	Date	1 Yr	%-ile	3 Yr	%-ile	5 Yr	%-ile	10 Yr	%-ile	Inception	Date	Ratio	Ratio
^ State Street US Inflation Protected Bond Index Securities II ^B	85744A653	0.44	2.11	6.87	3.77	79	4.85	76	1.40	65	3.05	54	3.74	1/8/2007	0.04	0.04
Bloomberg US Treasury US TIPS TR USD		0.43	2.10	6.87	3.79		4.88		1.42		3.01					
Inflation-Protected Bond Median					3.85		4.94		1.44		3.05					
Inflation-Protected Bond Number of Funds					30		29		27		20					
Vanguard FTSE Social Index Fund Institutional Class Shares	VFTNX	3.94	8.29	14.55	18.68	15	26.00	11	15.66	44	15.60	6	10.83	1/14/2003	0.12	0.12
Morningstar US Large-Mid TR USD		3.64	8.10	14.97	18.10		25.05		16.00		15.10					
Large Blend Median					15.56		23.23		15.37		14.04					
Large Blend Number of Funds					616		543		482		356					
^ Vanguard Cash Rsrv Federal MnyMktAdmiral	VMRXX	0.34	1.06	3.21	4.42	10	4.82		3.01		2.16		3.05	10/3/1989	0.10	0.10
ICE BofA USD 3M Dep OR CM TR USD		0.38	1.15	3.34	4.60		4.92		3.05		2.27					

7-Day Current/ 7-Day Effective Yield 4.13% / 4.13% (As of 10/13/2025)

You could lose money by investing in the Vanguard Cash Reserves Federal Money Market Admiral Fund. Although the Fund seeks to preserve the value of your investment at \$1.00 per share, it cannot guarantee it will do so. The Fund may impose a fee upon sale of your shares or may temporarily suspend your ability to sell shares if the Fund's liquidity falls below required minimums because of market conditions or other factors. An investment in the Fund is not insured or guaranteed by the Federal Deposit Insurance Corporation or any other government agency. The Fund's sponsor has no legal obligation to provide financial support to the Fund, and you should not expect that the sponsor will provide financial support to the Fund at any time.

Yield quotations more closely reflect current earnings of the money market fund than total return quotations. Yields are subject to change. Recent and any future declines in interest rate levels could cause these funds' earnings to fall below the funds' expense ratios, resulting in a negative yield.

^ARetirePlus Select Model underlying investment.

RetirePlus Select Model Performance																	
RetirePlus Select Moderate Model (16+ Yrs to Retirement) ⁴		KL3QC	2.76	6.83	15.59	14.05								23.65	10/31/2023	0.03	0.03
Mesirow 16+ Yrs to Retirement Moderate Index			2.07	6.07	14.80	12.40		18.29		11.55		10.01					
RetirePlus Select Moderate Model (13-15 Years to Retirement) ⁴		5X62C	2.58	6.39	14.54	13.09								22.11	10/31/2023	0.03	0.03
Mesirow 13-15 Yrs to Retirement Moderate Index			1.94	5.68	13.92	11.64		17.17		10.71		9.45					
RetirePlus Select Moderate Model (10-12 Years to Retirement) ⁴		USB9C	2.53	6.23	14.27	12.87								21.59	10/31/2023	0.03	0.03
Mesirow 10-12 Yrs to Retirement Moderate Index			1.91	5.55	13.70	11.51		16.84		10.38		9.22					
RetirePlus Select Moderate Model (7-9 Years to Retirement) ⁴		XD9DC	2.45	6.03	13.73	12.50								20.87	10/31/2023	0.03	0.03
Mesirow 7-9 Yrs to Retirement Moderate Index			1.85	5.38	13.23	11.19		16.23		9.92		8.91					
RetirePlus Select Moderate Model (4-6 Years to Retirement) ⁴		029BC	2.35	5.75	13.23	11.95								19.95	10/31/2023	0.03	0.03
Mesirow 4-6 Yrs to Retirement Moderate Index			1.78	5.13	12.84	10.80		15.64		9.47		8.57					

Morningstar Ranking/Number of Funds in Category displays the Funds actual rank within its Morningstar Category based on average annual total return and number of funds in that Category. The returns assume reinvestment of dividends and do not reflect any applicable sales charge. Absent expense limitation, total return would be less. Past performance does not guarantee future results. Morningstar Percentile Rankings are the Fund's total return rank relative to all the funds in the same Morningstar category, where 1 is the highest percentile rank and 100 is the lowest percentile rank.

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Deferred Compensation Plan		Ticker/ CUSIP	Year to		Annualized Returns								Since	Inception	Gross Exp	Net Exp	
Option Name			1 Mo	3 Mo	Date	1 Yr	%-ile	3 Yr	%-ile	5 Yr	%-ile	10 Yr	%-ile	Inception	Date	Ratio	Ratio
RetirePlus Select Moderate Model (1-3 Years to Retirement) ⁴	SE5UC	2.20	5.32	12.45	11.19									18.52	10/31/2023	0.03	0.03
Mesirow 1-3 Yrs to Retirement Moderate Index		1.68	4.74	12.23	10.28			14.69		8.71		8.04					
			4.89	11.27	10.24									17.04	10/31/2023	0.03	0.03
RetirePlus Select Moderate Model (0-2 Years in Retirement) ⁴	EKJXC	2.00															
Mesirow 0-2 Yrs in Retirement Moderate Index		1.55	4.40	11.18	9.49			13.51		7.94		7.46					
			4.41	10.02	9.29									15.47	10/31/2023	0.02	0.02
RetirePlus Select Moderate Model (3-5 Years in Retirement) ⁴	W1VVC	1.81															
Mesirow 3-5 Yrs in Retirement Moderate Index		1.42	4.02	10.17	8.76			12.39		7.26		6.85					
			3.94	9.16	8.62									13.86			
RetirePlus Select Moderate Model (6-8 Years in Retirement) ⁴	5XUEC	1.61												10/31/2023		0.03	0.03
Mesirow 6-8 Yrs in Retirement Moderate Index		1.27	3.61	9.40	8.19			11.24		6.39		6.16					
			3.40	8.25	7.52									12.20			
RetirePlus Select Moderate Model (9+ Years in Retirement) ⁴	QORGC	1.43												10/31/2023		0.03	0.03
Mesirow 9+ Yrs in Retirement Moderate Index		1.15	3.14	8.63	7.38			10.08		5.40		5.33					
			7.36	16.82	15.09									25.50			
RetirePlus Select Aggressive Model (16+ Years to Retirement) ⁴	30AYC	2.96												10/31/2023		0.03	0.03
Mesirow 16+ Yrs to Retirement Aggressive Index		2.21	6.53	15.81	13.13			19.57		12.48		10.67					
			6.91	15.58	14.13									23.93			
RetirePlus Select Aggressive Model (13-15 Years to Retirement)	0L7VC	2.78												10/31/2023		0.03	0.03
Mesirow 13-15 Yrs to Retirement Aggressive Index		2.09	6.15	14.78	12.41			18.47		11.73		10.15					
			6.71	15.12	13.77									23.24			
RetirePlus Select Aggressive Model (10-12 Years to Retirement)	H4IIC	2.70												10/31/2023		0.03	0.03
Mesirow 10-12 Yrs to Retirement Aggressive Index		2.05	5.99	14.38	12.17			17.98		11.27		9.84					
			6.48	14.52	13.23									22.40			
RetirePlus Select Aggressive Model (7-9 Years to Retirement) ⁴	KHDMC	2.60												10/31/2023		0.03	0.03
Mesirow 7-9 Yrs to Retirement Aggressive Index		1.97	5.79	13.87	11.73			17.32		10.83		9.54					
			6.17	14.03	12.73									21.39			
RetirePlus Select Aggressive Model (4-6 Years to Retirement) ⁴	GV8HC	2.50												10/31/2023		0.03	0.03
Mesirow 4-6 Yrs to Retirement Aggressive Index		1.90	5.51	13.50	11.40			16.67		10.28		9.15					
			5.74	13.19	11.95									19.92			
RetirePlus Select Aggressive Model (1-3 Years to Retirement) ⁴	FZ3FC	2.35												10/31/2023		0.03	0.03
Mesirow 1-3 Yrs to Retirement Aggressive Index		1.78	5.12	12.81	10.80			15.63		9.47		8.56					
			5.33	12.29	11.21									18.53			
RetirePlus Select Aggressive Model (0-2 Years in Retirement) ⁴	RRSMC	2.18												10/31/2023		0.03	0.03
Mesirow 0-2 Yrs In Retirement Aggressive Index		1.67	4.77	12.04	10.26			14.64		8.78		8.07					
			4.79	11.10	10.12									16.70			
RetirePlus Select Aggressive Model (3-5 Years in Retirement) ⁴	X02BC	1.97												10/31/2023		0.03	0.03
Mesirow 3-5 Yrs in Retirement Aggressive Index		1.51	4.30	11.09	9.44			13.38		7.96		7.39					

Morningstar Ranking/Number of Funds in Category displays the Funds actual rank within its Morningstar Category based on average annual total return and number of funds in that Category. The returns assume reinvestment of dividends and do not reflect any applicable sales charge. Absent expense limitation, total return would be less. Past performance does not guarantee future results. Morningstar Percentile Rankings are the Fund's total return rank relative to all the funds in the same Morningstar category, where 1 is the highest percentile rank and 100 is the lowest percentile rank.

The performance data quoted represents past performance and is no guarantee of future results. Your returns and the principal value of your investments will fluctuate so that your shares or accumulation units, when redeemed, may be worth more or less than their original cost. Current performance may be lower or higher than the performance quoted below.

For performance current to the most recent month-end, visit the TIAA Website at www.tiaa.org, or call 877 518-9161.

457(b) Monthly Performance Summary		As of 9/30/2025										Prospectus					
Deferred Compensation Plan		Ticker/ CUSIP	Year to		Annualized Returns						Since	Inception	Gross Exp	Net Exp			
Option Name			1 Mo	3 Mo	Date	1 Yr	%-ile	3 Yr	%-ile	5 Yr	%-ile	10 Yr	%-ile	Inception	Date	Ratio	Ratio
RetirePlus Select Aggressive Model (6-8 Years in Retirement) ⁴	RUX6C		1.75	4.27	9.89	9.31								14.95		0.03	0.03
Mesirow 6-8 Yrs in Retirement Aggressive Index			1.37	3.88	10.02	8.78		12.07		7.04		6.69			10/31/2023		
RetirePlus Select Aggressive Model (9+ Years in Retirement) ⁴	KGAHC		1.60	3.73	9.15	8.19								13.28		0.03	0.03
Mesirow 9+ Yrs in Retirement Aggressive Index			1.26	3.37	9.42	7.99		10.95		6.06		5.89			10/31/2023		
RetirePlus Select Conservative Model (16+ Years to Retirement)	ULYPC		2.42	6.05	13.65	12.45								20.91		0.03	0.03
Mesirow 16+ Yrs to Retirement Conservative Index			1.83	5.41	13.14	11.08		16.20		9.99		8.94			10/31/2023		
RetirePlus Select Conservative Model (13-15 Years to Retireme	O9NBC		2.31	5.74	12.84	11.77								19.88		0.03	0.03
Mesirow 13-15 Yrs to Retirement Conservative Index			1.76	5.16	12.47	10.59		15.48		9.44		8.55			10/31/2023		
RetirePlus Select Conservative Model (10-12 Years to Retireme	6NOFC		2.29	5.68	12.79	11.63								19.68		0.03	0.03
Mesirow 10-12 Yrs to Retirement Conservative Index			1.75	5.09	12.44	10.52		15.37		9.34		8.48			10/31/2023		
RetirePlus Select Conservative Model (7-9 Years to Retirement)	Y2XZC		2.24	5.54	12.52	11.61								19.17		0.03	0.03
Mesirow 7-9 Yrs to Retirement Conservative Index			1.71	4.98	12.24	10.54		15.06		9.08		8.31			10/31/2023		
RetirePlus Select Conservative Model (4-6 Years to Retirement)	Q5N1C		2.15	5.27	12.05	11.06								18.30		0.02	0.02
Mesirow 4-6 Yrs to Retirement Conservative Index			1.65	4.74	11.87	10.14		14.47		8.60		7.96			10/31/2023		
RetirePlus Select Conservative Model (1-3 Years to Retirement)	10U0C		2.05	4.98	11.60	10.57								17.32		0.02	0.02
Mesirow 1-3 Yrs to Retirement Conservative Index			1.58	4.47	11.52	9.79		13.81		8.04		7.57			10/31/2023		
RetirePlus Select Conservative Model (0-2 Years in Retirement)	NZJOC		1.88	4.59	10.76	9.75								16.00		0.03	0.03
Mesirow 0-2 Yrs In Retirement Conservative Index			1.45	4.13	10.77	9.08		12.77		7.32		6.98			10/31/2023		
RetirePlus Select Conservative Model (3-5 Years in Retirement)	R77WC		1.66	4.08	9.47	8.86								14.27		0.02	0.02
Mesirow 3-5 Yrs in Retirement Conservative Index			1.29	3.73	9.70	8.35		11.49		6.56		6.33			10/31/2023		
RetirePlus Select Conservative Model (6-8 Years in Retirement)	ARBNC		1.47	3.58	8.53	7.94								12.69		0.03	0.03
Mesirow 6-8 Yrs in Retirement Conservative Index			1.16	3.29	8.91	7.66		10.44		5.80		5.68			10/31/2023		
RetirePlus Select Conservative Model (9+ Years in Retirement) ⁴	NA3SC		1.31	3.13	7.64	7.26								11.23		0.03	0.03
Mesirow 9+ Yrs in Retirement Conservative Index			1.06	2.92	8.12	7.15		9.40		4.92		5.03			10/31/2023		

Source: TIAA & Morningstar Direct

457(b) Monthly Summary Deferred
 Compensation Plan - 407359
 STATE OF RHODE ISLAND - 065107
 As of 9/30/2025

BH1

<i>Investment Name</i>	<i>Asset Class</i>	<i>Asset Balance</i>	<i>% of Assets</i>
STATE STREET SP 500 IDX SEC II	Equities	\$28,219,270.09	32.8%
TIAA TRADITIONAL	Guaranteed	\$19,288,129.89	22.4%
STATE STREET SM MID IDX SEC II	Equities	\$16,319,291.70	19.0%
STATE STREET CP EQ EXUS IDX II	Equities	\$8,460,332.73	9.8%
AMERICAN FUNDS EUPAC CLASS R-6	Equities	\$3,021,540.02	3.5%
STATE STREET US BD IDX SEC XIV	Fixed Income	\$2,789,265.58	3.2%
STATE STREET US IP BN I SEC II	Fixed Income	\$2,437,052.30	2.8%
VANGUARD FTSE SOCIAL IDX INSTL	Equities	\$2,190,565.68	2.5%
STATE STREET REIT SEC LND S II	Equities	\$1,696,324.45	2.0%
PIMCO TOTAL RETURN INSTL	Fixed Income	\$1,084,454.79	1.3%
VANGUARD CASH RSV FED MMKT ADM	Money Market	\$477,907.17	0.6%
SELF DIRECTED ACCOUNT	Brokerage	\$87,008.21	0.1%
Deferred Compensation Plan Total		\$86,071,142.61	

▲ RetirePlus Select Model underlying investment

Closed to new investments

***Disclosure:** Plan totals shown on slides 14 and 15 may differ due to the inclusion of holding account (RCA, Forfeiture etc.), self-directed brokerage account balances on slide 14 and market value difference due to data refresh timings.

TIAA RetirePlus Summary Statistics as of 9/30/2025

STATE OF RHODE ISLAND - 065107

Implementation Team:
Monitoring and Analytics | Default Solutions

*please always select only one client

1,070

Participant accounts subscribed

81

Personalizations

45

Model changes as a result of personalizations

36

Participant accounts unsubscribed

3.25%

Opt-out rate

RetirePlus Assets, contributions and participants

		RetirePlus Model Assets	YTD Contributions	Participant Account Count
Aggressive	16+ Years to Retirement	\$372,622	\$99,248	43
	7-9 Years to Retirement	\$181,567	\$14,865	7
	13-15 Years to Retirement	\$92,580	\$18,825	7
	4-6 Years to Retirement	\$966	\$800	2
	10-12 Years to Retirement	\$7,639	\$7,450	2
	1-3 Years to Retirement	\$2,793	\$340	1
Conservative	16+ Years to Retirement	\$52,215	\$7,189	7
	4-6 Years to Retirement	\$6,332	\$4,100	2
	7-9 Years to Retirement	\$29,425	\$1,185	1
	3-5 Years in Retirement	\$87,085	\$0	1
	1-3 Years to Retirement	\$1,304	\$0	1
	0-2 Years in Retirement	\$222,378	\$12,750	1
Moderate	16+ Years to Retirement	\$7,232,105	\$1,196,128	487
	4-6 Years to Retirement	\$3,289,544	\$321,968	90
	10-12 Years to Retirement	\$3,040,403	\$269,309	82
	7-9 Years to Retirement	\$2,911,632	\$284,543	80
	1-3 Years to Retirement	\$3,379,023	\$310,613	72
	13-15 Years to Retirement	\$1,307,295	\$169,191	69
	0-2 Years in Retirement	\$3,116,884	\$142,327	60
	3-5 Years in Retirement	\$585,190	\$84,895	28
	9+ Years in Retirement	\$1,067,918	\$14,640	15
	6-8 Years in Retirement	\$871,816	\$31,575	12

RetirePlus Totals:	\$27,858,716	\$2,991,941	1,070
Total plan	\$85,979,690	\$4,876,948	2,133
RP as % of total	32%	61%	50%

*Disclosure: Plan totals shown on slides 14 and 15 may differ due to the inclusion of holding account (RCA, Forfeiture etc.), self-directed brokerage account balances on slide 14 and market value difference due to data refresh timings.

Footnotes

Metric Name	Definition
Model Changes due to personalization	Count of participant personalization transactions completed regardless of channel (Web, Mobile, IFA, Call Center, etc.) that that included a model change.
Opt-Out Rate	$\# \text{ of Participants Unsubscribed} / (\# \text{ of Participants Subscribed} + \# \text{ of Participants Unsubscribed})$
Participant Accounts	Distinct count of participants in each RetirePlus plan.
Participant Count	Distinct count of participant accounts associated with a specific RetirePlus model. Please note: Participant count in table may not match with total Participants Subscribe..
Participants Subscribed	Distinct count of participant accounts subscribed to RetirePlus service and have RetirePlus model assigned as of the select month-end.
Participants Unsubscribed	Distinct count of participant accounts that completely unsubscribed from the RetirePlus service as of the select month-end.
Personalization	Count of participant personalization transactions completed regardless of channel (Web, Mobile, IFA, Call Center, etc.).
RetirePlus Model Assets	Total amount of dollars managed by RetirePlus models held by subscribed participants during the select month-end.
Total Plan Assets	Total amount of Retirement Asset dollars administered under the plan. (Excludes Immediate Annuity assets)
Total Plan Participants	Distinct count of all participants on a RetirePlus plan with assets greater than zero dollars or participants that had previously subscribed and now only hold Immediate Annuity Contracts.
Total Plan YTD Contributions	Total amount of dollars contributed by all participants in a RetirePlus plan during the calendar year.
YTD Contributions	Total amount of dollars contributed to RetirePlus models during the calendar year by subscribed participants during the select month-end.

Monthly Plan Performance Update

STATE OF RHODE ISLAND - STATE OF RI (35835)

Performance data shown represents past performance and is no guarantee of future results. Investment return and principal value will fluctuate, so you may have a gain or loss when shares are sold. Current performance may be higher or lower than that quoted. Visit your Fidelity website for the most recent month-end performance.

Name	Cumulative Total Returns				Average Annual Total Returns				
	As of	1 mo	3 mo	YTD	As of	1 yr	3 yr	5 yr	10 yr
DOW JONES INDUSTRIAL AVERAGE	09/30/2025	2.00	5.67	10.47	09/30/2025	11.50	19.63	12.98	13.50
BLOOMBERG US AGGREGATE BOND INDEX	09/30/2025	1.09	2.03	6.13	09/30/2025	2.88	4.93	-0.45	1.84
NASDAQ COMPOSITE INDEX	09/30/2025	5.68	11.41	17.93	09/30/2025	25.42	29.92	16.07	18.32
RUSSELL 2000 INDEX	09/30/2025	3.11	12.39	10.39	09/30/2025	10.76	15.21	11.56	9.77
S&P 500 INDEX	09/30/2025	3.65	8.12	14.83	09/30/2025	17.60	24.94	16.47	15.30

Investment Name	Cumulative Total Returns				Average Annual Total Returns					Fees			
	As of	1 mo	3 mo	YTD	As of	1 yr	3 yr	5 yr	10 yr	Life	Short Term Trading	Expense Ratio	Inception Date

Stock Investments

Large Cap

FID CONTRAFUND	09/30/2025	2.61	6.13	18.66	09/30/2025	22.89	32.68	16.77	17.26	13.15	--	0.63% on 03/01/2025	05/17/1967
FID LARGE CAP STOCK	09/30/2025	2.78	7.96	21.53	09/30/2025	24.72	28.83	21.19	15.29	10.24	--	0.75% on 06/28/2025	06/22/1995
INVS DIVRS DIVD R5	09/30/2025	1.05	5.24	12.07	09/30/2025	11.37	15.81	13.16	9.28	8.38	--	0.54% on 02/28/2025	12/31/2001
SS S&P 500 INDEX II	09/30/2025	3.65	8.12	14.82	09/30/2025	17.57	24.92	16.45	15.28	10.21	--	0.01% on 12/31/2024	02/28/1996
VAN FTSE SOC IDX ADM	09/30/2025	3.94	8.28	14.52	09/30/2025	18.64	25.98	15.63	15.56	7.65	--	0.13% on 12/20/2024	01/14/2003

Mid-Cap

SS RSL SMMDCP IDX II	09/30/2025	2.26	9.02	12.22	09/30/2025	16.98	19.94	11.97	11.75	9.07	--	0.02% on 06/30/2025	08/31/1997

International

AF EUPAC FUND R6	09/30/2025	3.80	6.27	23.48	09/30/2025	14.79	19.65	7.49	8.28	10.23	--	0.47% on 06/01/2025	04/16/1984
FID LOW PRICED STK	09/30/2025	0.14	5.49	12.92	09/30/2025	8.00	16.42	13.87	10.25	12.87	--	0.87% on 09/29/2025	12/27/1989
SS GACEQ EXUS IDX II	09/30/2025	3.41	6.97	26.66	09/30/2025	16.93	20.99	10.45	8.53	6.29	--	0.06% on 12/31/2024	04/05/2010

Blended Investments*

Others

FID FREEDOM 2010 K	09/30/2025	1.55	3.21	9.74	09/30/2025	6.99	9.84	4.49	5.75	6.12	--	0.42% on 05/30/2025	10/17/1996

Investment Name	Cumulative Total Returns				Average Annual Total Returns					Fees			
	As of	1 mo	3 mo	YTD	As of	1 yr	3 yr	5 yr	10 yr	Life	Short Term Trading	Expense Ratio	Inception Date
FID FREEDOM 2015 K	09/30/2025	1.89	3.76	11.15	09/30/2025	8.14	11.50	5.52	6.61	5.89	--	0.45% on 05/30/2025	11/06/2003
FID FREEDOM 2020 K	09/30/2025	2.20	4.36	12.59	09/30/2025	9.30	13.19	6.53	7.37	6.76	--	0.49% on 05/30/2025	10/17/1996
FID FREEDOM 2025 K	09/30/2025	2.50	4.84	13.92	09/30/2025	10.43	14.59	7.47	8.06	6.78	--	0.52% on 05/30/2025	11/06/2003
FID FREEDOM 2030 K	09/30/2025	2.66	5.18	14.70	09/30/2025	11.40	15.85	8.54	9.06	7.27	--	0.56% on 05/30/2025	10/17/1996
FID FREEDOM 2035 K	09/30/2025	2.90	5.66	15.95	09/30/2025	12.90	18.15	10.39	10.27	7.78	--	0.59% on 05/30/2025	11/06/2003
FID FREEDOM 2040 K	09/30/2025	3.34	6.57	18.14	09/30/2025	15.31	20.89	12.21	11.18	5.99	--	0.63% on 05/30/2025	09/06/2000
FID FREEDOM 2045 K	09/30/2025	3.50	7.03	19.32	09/30/2025	16.50	21.84	12.70	11.41	7.88	--	0.65% on 05/30/2025	06/01/2006
FID FREEDOM 2050 K	09/30/2025	3.58	7.07	19.38	09/30/2025	16.54	21.84	12.72	11.42	7.78	--	0.65% on 05/30/2025	06/01/2006
FID FREEDOM 2055 K	09/30/2025	3.54	7.03	19.36	09/30/2025	16.55	21.86	12.71	11.43	9.72	--	0.65% on 05/30/2025	06/01/2011
FID FREEDOM 2060 K	09/30/2025	3.55	7.03	19.35	09/30/2025	16.48	21.84	12.69	11.41	9.98	--	0.65% on 05/30/2025	08/05/2014
FID FREEDOM 2065 K	09/30/2025	3.55	7.07	19.36	09/30/2025	16.52	21.85	12.71	--	11.93	--	0.65% on 05/30/2025	06/28/2019
FID FREEDOM 2070 K	09/30/2025	3.59	6.98	18.94	09/30/2025	16.28	--	--	--	18.12	--	0.65% on 05/30/2025	06/28/2024
FID FREEDOM RETIRE K	09/30/2025	1.36	2.84	8.90	09/30/2025	6.30	8.31	3.32	4.37	4.60	--	0.42% on 05/30/2025	10/17/1996

Bond Investments

Stable Value

TRP STABLE VALUE A	09/30/2025	0.22	0.70	2.02	09/30/2025	2.74	2.56	2.23	2.11	4.32	--	0.44% on 06/30/2025	09/12/1988

Income

PIM TOTAL RETURN A	09/30/2025	1.25	2.57	7.22	09/30/2025	4.00	5.71	-0.15	2.08	5.83	--	0.87% on 10/01/2025	05/11/1987
SS US BOND INDX XIV	09/30/2025	1.09	2.04	6.15	09/30/2025	2.93	4.94	-0.45	1.86	4.14	--	0.02% on 12/31/2024	10/01/1997

Other Investments

Others

BROKERAGELINK	--	--	--	--	--	--	--	--	--	--	--	--	--

Expense Ratio is the total annual fund operating expense ratio from the fund's most recent prospectus. For non-Fidelity fund of funds listed, the ratio shown may solely reflect the total operating expense ratio of the fund, or may be a combined ratio reflecting both the total operating expense ratio of the fund and the total operating expense ratios of the underlying funds in which it was invested. Please consult the fund's prospectus for more detail on a particular fund's expense ratio.

Total returns are historical and include change in share value and reinvestment of dividends and capital gains, if any. Cumulative total returns are reported as of the period indicated. Life of Fund figures are reported as of the inception date to the period indicated.

The management company may be temporarily reimbursing a portion of the fund's expenses. Absent such reimbursement, returns and yields would have been lower. A fund's expense limitation may be terminated at any time.

For any Government or U.S. Treasury Money Market funds listed: *You could lose money by investing in a money market fund. Although the fund seeks to preserve the value of your investment at \$1.00 per share, it cannot guarantee it will do so. An investment in the fund is not insured or guaranteed by the Federal Deposit Insurance Corporation or any other government agency. The fund's sponsor has no legal obligation to provide financial support to money market funds and you should not expect that the sponsor will provide financial support to the fund at any time.* Fidelity's government and U.S. Treasury money market funds will not impose a fee upon the sale of your shares, nor temporarily suspend your ability to sell shares if the fund's weekly liquid assets fall below 30% of its total assets because of market conditions or other factors.

For any Retail (Non Government or U.S. Treasury) Money Market Funds listed: *You could lose money by investing in a money market fund. Although the fund seeks to preserve the value of your investment at \$1.00 per share, it cannot guarantee it will do so. The Fund may impose a fee upon the sale of your shares or may temporarily suspend your ability to sell shares if the Fund's liquidity falls below required minimums because of market conditions or other factors. An investment in the fund is not insured or guaranteed by the Federal Deposit Insurance Corporation or any other government agency. The fund's sponsor has no legal obligation to provide financial support to money market funds and you should not expect that the sponsor will provide financial support to the fund at any time.*

For any Institutional Money Market Funds listed: *You could lose money by investing in a money market fund. Because the share price of the fund will fluctuate, when you sell your shares they may be worth more or less than what you originally paid for them. The Fund may impose a fee upon the sale of your shares or may temporarily suspend your ability to sell shares if the Fund's liquidity falls below required minimums because of market conditions or other factors. An investment in the fund is not insured or guaranteed by the Federal Deposit Insurance Corporation or any other government agency. The fund's sponsor has no legal obligation to provide financial support to money market funds and you should not expect that the sponsor will provide financial support to the fund at any time.*

A money market fund's current yield reflects the current earnings of the fund, while the total return refers to a specific past holding period.

Performance of an index is not illustrative of any particular investment and an investment cannot be made directly in an index.

Generally, among asset classes stocks are more volatile than bonds or short-term instruments and can decline significantly in response to adverse issuer, political, regulatory, market, or economic developments. Although the bond market is also volatile, lower-quality debt securities including leveraged loans generally offer higher yields compared to investment grade securities, but also involve greater risk of default or price changes. Foreign markets can be more volatile than U.S. markets due to increased risks of adverse issuer, political, market or economic developments, all of which are magnified in emerging markets.

Before investing, consider the funds' investment objectives, risks, charges, and expenses. Contact Fidelity for a prospectus or, if available, a summary prospectus containing this information. Read it carefully.

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STATE OF RHODE ISLAND

Balance by Fund

Data As Of: 09/30/25

DC Plan Number	DC Plan Short Name	Fund Code	Fund Name	Fund Ticker Symbol	Fund Type	Fund Distinct Count By Participant	Market Value	Asset Percentage
35835	STATE OF RI	22	FID CONTRAFUND	FCNTX	DOMESTIC EQUITY	790	\$64,642,522	23.9%
35835	STATE OF RI	316	FID LOW PRICED STK	FLPSX	INTERNATIONAL EQUITY	276	\$10,622,755	3.9%
35835	STATE OF RI	338	FID LARGE CAP STOCK	FLCSX	DOMESTIC EQUITY	266	\$14,540,257	5.4%
35835	STATE OF RI	3019	FID FREEDOM RETIRE K	FNSHX	LIFECYCLE	52	\$2,056,421	0.8%
35835	STATE OF RI	3021	FID FREEDOM 2010 K	FSNKX	LIFECYCLE	48	\$1,927,009	0.7%
35835	STATE OF RI	3022	FID FREEDOM 2015 K	FSNLX	LIFECYCLE	35	\$1,607,682	0.6%
35835	STATE OF RI	3023	FID FREEDOM 2020 K	FSNOX	LIFECYCLE	130	\$10,888,806	4.0%
35835	STATE OF RI	3024	FID FREEDOM 2025 K	FSNPX	LIFECYCLE	115	\$9,260,689	3.4%
35835	STATE OF RI	3025	FID FREEDOM 2030 K	FSNQX	LIFECYCLE	268	\$24,481,160	9.0%
35835	STATE OF RI	3026	FID FREEDOM 2035 K	FSNUX	LIFECYCLE	163	\$9,934,068	3.7%
35835	STATE OF RI	3027	FID FREEDOM 2040 K	FSNVX	LIFECYCLE	118	\$4,929,976	1.8%
35835	STATE OF RI	3028	FID FREEDOM 2045 K	FSNZX	LIFECYCLE	112	\$4,314,419	1.6%
35835	STATE OF RI	3029	FID FREEDOM 2050 K	FNSBX	LIFECYCLE	126	\$2,327,801	0.9%
35835	STATE OF RI	3030	FID FREEDOM 2055 K	FNSDX	LIFECYCLE	132	\$3,895,902	1.4%
35835	STATE OF RI	3031	FID FREEDOM 2060 K	FNSFX	LIFECYCLE	92	\$1,300,296	0.5%
35835	STATE OF RI	3416	FID FREEDOM 2065 K	FFSDX	LIFECYCLE	55	\$389,749	0.1%
35835	STATE OF RI	7640	FID FREEDOM 2070 K	FRBEX	LIFECYCLE	3	\$1,639	0.0%
35835	STATE OF RI	BLNK	BROKERAGELINK		OTHER	124	\$33,488,778	12.4%
35835	STATE OF RI	OE9Q	VAN FTSE SOC IDX ADM	VFTAX	DOMESTIC EQUITY	325	\$3,032,230	1.1%
35835	STATE OF RI	OGMU	TRP STABLE VALUE A		STABLE VALUE	439	\$8,271,333	3.1%
35835	STATE OF RI	OKTK	INVS DIVRS DIVD R5	DDFIX	DOMESTIC EQUITY	324	\$3,240,274	1.2%
35835	STATE OF RI	OLLN	PIM TOTAL RETURN A	PTTAX	BOND	408	\$6,166,572	2.3%
35835	STATE OF RI	OMF4	SS GACEQ EXUS IDX II		INTERNATIONAL EQUITY	356	\$5,089,683	1.9%
35835	STATE OF RI	OMF5	SS RSL SMMDCP IDX II		DOMESTIC EQUITY	407	\$5,160,105	1.9%
35835	STATE OF RI	OMF6	SS S&P 500 INDEX II		DOMESTIC EQUITY	634	\$30,449,894	11.2%
35835	STATE OF RI	OMF7	SS US BOND INDX XIV		BOND	341	\$4,256,508	1.6%
35835	STATE OF RI	OUBE	AF EUPAC FUND R6	RERGX	INTERNATIONAL EQUITY	385	\$4,470,259	1.7%

PERFORMANCE UPDATE

State of RI 664800 Plan Benchmark Report

Average Annual Total Returns as of: 09/30/2025 (shown in percentages)

Variable annuities and mutual funds offered through a retirement plan are intended as long-term investments designed for retirement purposes. Money distributed from a 403(b) plan, 401(a)(k) plan, or a 457 plan will be taxed as ordinary income in the year the money is distributed. Early withdrawals from a 403(b) plan and a 401(a)(k) plan, if taken prior to age 59 1/2, will be subject to the IRS 10% premature distribution penalty tax, unless an exception applies. This IRS premature distribution penalty tax does not apply to 457 plans. Account values fluctuate with market conditions, and when surrendered the principal may be worth more or less than the original amount invested.

The performance data quoted represents past performance. Past performance does not guarantee future results. For month-end performance, which may be lower or higher than the performance data shown, please call 800-584-6001. Investment return and principal value of an investment will fluctuate so that, when sold, an investment may be worth more or less than the original cost.

The returns assume reinvestment of all dividends (ordinary income and capital gains) and are net of management fees and other fund operating expenses.

You should consider the investment objectives, risks and charges, and expenses of the funds carefully before investing. The prospectus contains this and other information. Anyone who wishes to obtain a free copy of the fund prospectuses may call their Voya representative or the number above. Please read the prospectus carefully before investing.

Returns less than one year are not annualized. Fund Inception Date is the date of inception for the underlying fund, and is the date used in calculating the periodic returns. This date may also precede the portfolio's inclusion in the product.

Investment Options	Fund Benchmark ID (BM)	1-Mo Fund	BM	3-Mo Fund	BM	YTD Fund	BM	1-Yr Fund	BM	3-Yr Fund	BM	5-Yr Fund	BM	10-Yr Fund	BM	Incept	Fund Inception Date	Gross Fund Exp %*	Net Fund Exp %*
Stability of Principal																			
<i>Stability of Principal</i>																			
Voya Fixed Account - 457/401 II - 4301 (1)		0.16		0.50		1.49		2.00		1.90		1.68		1.85					
Bonds																			
<i>High Yield Bond</i>																			
PGIM High Yield Fund - Class Z - 2482	BCUSH1IC	0.34	0.82	2.36	2.56	7.73	7.21	7.55	7.40	10.72	11.10	5.42	5.54	6.16	6.10		03/01/1996	0.51	0.51
<i>Inflation-Protected Bond</i>																			
PIMCO Real Return Fund - Class A - 1035	LBUSTIPS	0.37	0.43	2.36	2.10	7.59	6.87	4.41	3.79	5.23	4.88	1.36	1.42	2.87	3.01		01/29/1997	0.90	0.90
<i>Intermediate Core Bond</i>																			
State Street U.S. Bond Index SL Series Fund - Class XIV CIT - C925	LEHM	1.09	1.09	2.04	2.03	6.15	6.13	2.93	2.88	4.94	4.93	-0.45	-0.45	1.86	1.84		06/30/2011	0.02	0.02
<i>Intermediate Core-Plus Bond</i>																			



Investment Options	Fund Benchmark ID (BM)	1-Mo		3-Mo		YTD		1-Yr		3-Yr		5-Yr		10-Yr		Incept	Fund Inception Date	Gross Fund Exp %*	Net Fund Exp %*
		Fund	BM	Fund	BM	Fund	BM	Fund	BM	Fund	BM	Fund	BM	Fund	BM				
Voya Intermediate Bond Fund - Class I - 238 (2)	LEHM	0.95	1.09	2.10	2.03	6.46	6.13	3.48	2.88	6.01	4.93	0.24	-0.45	2.54	1.84		12/15/1998	0.34	0.34
Asset Allocation																			
Lifecycle																			
Voya Solution 2030 Portfolio - Initial Class - 6753 (3)(4)	SPT2030	2.17	2.15	4.67	5.02	12.15	12.55	10.31	10.37	15.17	15.06	8.33	8.74	8.39	8.53		10/03/2011	0.79	0.73
Voya Solution 2035 Portfolio - Initial Class - 761 (3)(5)	SP2035	2.50	2.38	5.26	5.61	13.59	13.91	11.82	11.72	17.21	17.03	9.64	10.16	9.13	9.45		04/29/2005	0.79	0.74
Voya Solution 2040 Portfolio - Initial Class - 6756 (3)(6)	SPT2040	2.80	2.62	5.76	6.19	15.03	15.00	13.42	12.96	19.09	18.74	10.99	11.34	10.02	10.18		10/03/2011	0.89	0.74
Voya Solution 2045 Portfolio - Initial Class - 764 (3)(7)	SP2045	2.87	2.76	6.15	6.57	15.95	16.04	14.47	13.84	20.28	19.90	11.84	12.10	10.35	10.66		04/29/2005	0.85	0.76
Voya Solution 2050 Portfolio - Initial Class - 6759 (3)(8)	SPT2050	2.99	2.84	6.36	6.79	16.27	16.09	14.99	14.15	20.83	20.41	12.07	12.47	10.50	10.93		10/03/2011	0.94	0.77
Voya Solution 2055 Portfolio - Initial Class - 1166 (3)(9)	SPT2055	3.01	2.89	6.44	6.91	16.36	16.50	15.19	14.47	20.94	20.61	12.17	12.63	10.53	11.06		03/08/2010	0.91	0.79
Voya Solution 2060 Portfolio - Initial Class - 3290 (3)(10)	SPT2060	2.98	2.91	6.34	6.95	16.32	16.42	15.11	14.44	20.92	20.66	12.13	12.62	10.53	11.14		02/09/2015	1.01	0.79
Voya Solution 2065 Portfolio - Initial Class - E479 (11)	SPT2065	3.03	2.98	6.35	7.07	16.36	16.65	15.15	14.80	21.02	20.88	12.19	12.80			12.15	07/29/2020	1.06	0.78
Voya Solution 2070 Portfolio - Initial Class - H620		2.96														4.61	08/11/2025		
Voya Solution Income Portfolio - Initial Class - 767 (3)(12)	SPTREIN	1.65	1.61	3.36	3.63	9.45	9.82	7.11	7.53	10.17	10.50	4.70	4.81	5.40	5.26		04/29/2005	0.73	0.68
Balanced																			
Moderate Allocation																			
VY® T. Rowe Price Capital Appreciation Portfolio - Inst - 1257	SPXRE	1.28	3.65	4.16	8.12	10.73	14.83	10.48	17.60	16.12	24.94	11.59	16.47	11.65	15.30		01/24/1989	0.65	0.65
Large Cap Value/Blend																			
Large Blend																			
Vanguard® FTSE Social Index Fund - Admiral™ Shares - D591	FTSE4GUSS	3.94	3.95	8.28	8.32	14.52	14.63	18.64	18.79	25.98	26.13	15.63	15.77	15.56	15.71		05/31/2000	0.13	0.13
Voya Growth and Income Portfolio - Class I - 001	SPXRE	2.90	3.65	6.26	8.12	12.19	14.83	16.15	17.60	24.22	24.94	17.65	16.47	14.69	15.30		12/31/1979	0.67	0.67
Voya U.S. Stock Index Portfolio - Institutional Class - 829	SPXRE	3.63	3.65	8.10	8.12	14.61	14.83	17.29	17.60	24.58	24.94	16.14	16.47	15.00	15.30		05/03/2004	0.27	0.27
Large Value																			
BlackRock Equity Dividend Fund - Institutional Shares - 8518	RS1000V	0.95	1.49	4.87	5.33	15.76	11.65	11.60	9.44	17.05	16.96	14.20	13.88	11.48	10.72		11/29/1988	0.72	0.72
Large Cap Growth																			
Large Growth																			
Voya Large Cap Growth Portfolio - Institutional Class - 742 (13)	RS1000G	5.28	5.31	8.39	10.51	14.29	17.24	23.22	25.53	28.93	31.61	14.76	17.57	16.02	18.83		05/03/2004	0.71	0.67
Small/Mid/Specialty																			
Mid-Cap Blend																			
Boston Trust Walden SMID Cap CIT - CIT - F905	RS2500	-1.14	1.60	1.83	9.00	0.80	9.48	-0.59	10.16	11.94	15.65					8.19	12/16/2020	0.60	0.59
State Street Russell Small Mid Cap Index SL Fund - Class II - QF52	RSMCC	2.26	2.23	9.02	8.99	12.22	12.18	16.98	16.97	19.94	19.80	11.97	11.87	11.75	11.69		08/29/1997	0.02	0.02
Mid-Cap Growth																			
Principal MidCap Fund - Class R-6 - C906	RSMID	-1.44	0.89	0.21	5.33	6.00	10.42	6.25	11.11	20.10	17.69	12.21	12.66	13.45	11.39		12/06/2000	0.59	0.59

See Performance Introduction Page for Important Information

	Fund Benchmark	1-Mo		3-Mo		YTD		1-Yr		3-Yr		5-Yr		10-Yr			Fund Inception	Gross Fund	Net Fund
Investment Options	ID (BM)	Fund	BM	Fund	BM	Fund	BM	Fund	BM	Fund	BM	Fund	BM	Fund	BM	Incept	Date	Exp %*	Exp %*
Global / International																			
Foreign Large Blend																			
State Street Global All Cap Eq Ex-U.S. Ind SL Srs F - II CIT - D937	MSCIAWEI	3.41	3.39	6.97	6.86	26.66	25.97	16.93	16.39	20.99	20.50	10.45	10.22	8.53	8.24		04/30/2010	0.06	0.05
Foreign Large Growth																			
American Funds EUPAC Fund® - Class R-6 - 1723	MSCIXUS	3.80	3.60	6.27	6.89	23.48	26.02	14.79	16.45	19.65	20.67	7.49	10.26	8.28	8.23		04/16/1984	0.47	0.47

The risks of investing in small company stocks may include relatively low trading volumes, a greater degree of change in earnings and greater short-term volatility.

Foreign investing involves special risks such as currency fluctuation and public disclosure, as well as economic and political risks.

Some of the Funds invest in securities guaranteed by the U.S. Government as to the timely payment of principal and interest; however, shares of the Funds are not insured nor guaranteed.

High yielding fixed-income securities generally are subject to greater market fluctuations and risks of loss of income and principal than are investments in lower yielding fixed-income securities.

Sector funds may involve greater-than average risk and are often more volatile than funds holding a diversified portfolio of stocks in many industries. Examples include: banking, biotechnology, chemicals, energy, environmental services, natural resources, precious metals, technology, telecommunications, and utilities.

*The Gross Expense Ratios shown do not reflect temporary fee or expense waivers that may be in effect for a fund. The Net Expense Ratios reflect any applicable temporary fee or expense waivers. The performance of a fund with a temporary fee or expense waiver would have been lower if the gross fund fees/expenses listed had been reflected.

Additional Notes

(1)The current rate for the Voya Fixed Account - 457/401 II MC 902, Fund 4301 is 2.00%, expressed as an annual effective yield. The current rate may change and be higher or lower than the previously identified rate but is guaranteed not to be less than the calendar year floor rate of 1.25%, which will not change through 12/31/2025. In addition, the current rate is guaranteed not to be less than the Guaranteed Minimum Interest Rate of 1.00%. VRIAC will not apply a decrease to the current rate following a rate change initiated solely by us prior to the last day of the three-month period measured from the first day of the month in which such change was effective. Note: The current rate for an initial investment in the fixed account previously identified may be in effect for less than a full three-month period. Guarantees are based on the claims-paying ability of Voya Retirement Insurance and Annuity Company.

(2)Voya Intermediate Bond Fund - Class I has identical investment objectives and policies, the same portfolio manager, and invests in the same holdings as Class A. The performance information above is based upon the Class A performance, excluding sales charges, and has not been adjusted by the fee differences between classes.

(3)There is no guarantee that any investment option will achieve its stated objective. Principal value fluctuates and there is no guarantee of value at any time, including the target date. The "target date" is the approximate date when you plan to start withdrawing your money. When your target date is reached, you may have more or less than the original amount invested. For each target date Portfolio, until the day prior to its Target Date, the Portfolio will seek to provide total returns consistent with an asset allocation targeted for an investor who is retiring in approximately each Portfolio's designation Target Year. Prior to choosing a Target Date Portfolio, investors are strongly encouraged to review and understand the Portfolio's objectives and its composition of stocks and bonds, and how the asset allocation will change over time as the target date nears. No two investors are alike and one should not assume that just because they intend to retire in the year corresponding to the Target Date that that specific Portfolio is appropriate and suitable to their risk tolerance. It is recommended that an investor consider carefully the possibility of capital loss in each of the target date Portfolios, the likelihood and magnitude of which will be dependent upon the Portfolio's asset allocation. On the Target Date, the portfolio will seek to provide a combination of total return and stability of principal.

The Voya Solution / Target Date PortfoliosSM are actively managed and the asset allocation adjusted over time. The portfolios may merge with or change to other portfolios over time. Refer to the prospectus for more information about the specific risks of investing in the various asset classes included in the The Voya Solution / Target Date PortfoliosSM.

Additional Notes

Stocks are more volatile than bonds, and portfolios with a higher concentration of stocks are more likely to experience greater fluctuations in value than portfolios with a higher concentration in bonds. Foreign stocks and small and midcap stocks may be more volatile than large cap stocks. Investing in bonds also entails credit risk and interest rate risk. Generally investors with longer timeframes can consider assuming more risk in their investment portfolio.

(4)Voya Solution 2030 Portfolio - Initial Class: Total Annual Portfolio Operating Expenses may be higher than the Portfolio's ratio of expenses to average net assets shown in the Portfolio's Financial Highlights, which reflects the operating expenses of the Portfolio and does not include Acquired Fund Fees and Expenses. Voya Investments, LLC (the "Investment Adviser") is contractually obligated to limit expenses to 0.79% of Class I shares, through May 1, 2026. This limitation is subject to possible recoupment by the Investment Adviser within 36 months of the waiver or reimbursement. The amount of the recoupment is limited to the lesser of the amounts that would be recoupable under the expense limitation in effect at the time of the waiver or reimbursement or the expense limitation in effect at the time of recoupment. In addition, the Investment Adviser is contractually obligated to further limit expenses to 0.72% Class I shares through May 1, 2026. The limitations do not extend to interest, taxes, investment-related costs, leverage expenses and extraordinary expenses. Termination or modification of these obligations requires approval by the Portfolio's Board of Directors (the "Board").

(5)Voya Solution 2035 Portfolio - Initial Class: Total Annual Portfolio Operating Expenses may be higher than the Portfolio's ratio of expenses to average net assets shown in the Portfolio's Financial Highlights, which reflects the operating expenses of the Portfolio and does not include Acquired Fund Fees and Expenses. Voya Investments, LLC (the "Investment Adviser") is contractually obligated to limit expenses to 0.83%, Class I shares, through May 1, 2026. This limitation is subject to possible recoupment by the Investment Adviser within 36 months of the waiver or reimbursement. The amount of the recoupment is limited to the lesser of the amounts that would be recoupable under the expense limitation in effect at the time of the waiver or reimbursement or the expense limitation in effect at the time of recoupment. In addition, the Investment Adviser is contractually obligated to further limit expenses to 0.73%, Class I shares, through May 1, 2026. The limitations do not extend to interest, taxes, investment-related costs, leverage expenses and extraordinary expenses. Termination or modification of these obligations requires approval by the Portfolio's Board of Directors (the "Board").

(6)Voya Solution 2040 Portfolio - Initial Class: Total Annual Portfolio Operating Expenses may be higher than the Portfolio's ratio of expenses to average net assets shown in the Portfolio's Financial Highlights, which reflects the operating expenses of the Portfolio and does not include Acquired Fund Fees and Expenses. Voya Investments, LLC (the "Investment Adviser") is contractually obligated to limit expenses to 0.83%, Class I shares, through May 1, 2026. This limitation is subject to possible recoupment by the Investment Adviser within 36 months of the waiver or reimbursement. The amount of the recoupment is limited to the lesser of the amounts that would be recoupable under the expense limitation in effect at the time of the waiver or reimbursement or the expense limitation in effect at the time of recoupment. In addition, the Investment Adviser is contractually obligated to further limit expenses to 0.73%, Class I shares, through May 1, 2026. The limitations do not extend to interest, taxes, investment-related costs, leverage expenses and extraordinary expenses. Termination or modification of these obligations requires approval by the Portfolio's Board of Directors (the "Board").

(7)Voya Solution 2045 Portfolio - Initial Class: Total Annual Portfolio Operating Expenses may be higher than the Portfolio's ratio of expenses to average net assets shown in the Portfolio's Financial Highlights, which reflects the operating expenses of the Portfolio and does not include Acquired Fund Fees and Expenses. Voya Investments, LLC (the "Investment Adviser") is contractually obligated to limit expenses to 0.86% Class I shares, through May 1, 2026. This limitation is subject to possible recoupment by the Investment Adviser within 36 months of the waiver or reimbursement. The amount of the recoupment is limited to the lesser of the amounts that would be recoupable under the expense limitation in effect at the time of the waiver or reimbursement or the expense limitation in effect at the time of recoupment. In addition, the Investment Adviser is contractually obligated to further limit expenses to 0.75% of Class I Shares, through May 1, 2026. The limitations do not extend to interest, taxes, investment-related costs, leverage expenses and extraordinary expenses. Termination or modification of these obligations requires approval by the Portfolio's Board of Directors (the "Board").

(8)Voya Solution 2050 Portfolio - Initial Class: Total Annual Portfolio Operating Expenses may be higher than the Portfolio's ratio of expenses to average net assets shown in the Portfolio's Financial Highlights, which reflects the operating expenses of the Portfolio and does not include Acquired Fund Fees and Expenses. Voya Investments, LLC (the "Investment Adviser") is contractually obligated to limit expenses to 0.86%, Class I shares, through May 1, 2026. This limitation is subject to possible recoupment by the Investment Adviser within 36 months of the waiver or reimbursement. The amount of the recoupment is limited to the lesser of the amounts that would be recoupable under the expense limitation in effect at the time of the waiver or reimbursement or the expense limitation in effect at the time of recoupment. In addition, the Investment Adviser is contractually obligated to further limit expenses to 0.76% Class I shares, through May 1, 2026. The limitations do not extend to interest, taxes, investment-related costs, leverage expenses and extraordinary expenses. Termination or modification of these obligations requires approval by the Portfolio's Board of Directors (the "Board").

(9)Voya Solution 2055 Portfolio - Initial Class: Total Annual Portfolio Operating Expenses may be higher than the Portfolio's ratio of expenses to average net assets shown in the Portfolio's Financial Highlights, which reflects the operating expenses of the Portfolio and does not include Acquired Fund Fees and Expenses. Voya Investments, LLC (the "Investment Adviser") is contractually obligated to limit expenses to 0.86% for Class I shares, through May 1, 2026. This limitation is subject to possible recoupment by the Investment Adviser within 36 months of the waiver or

Additional Notes

reimbursement. The amount of the recoupment is limited to the lesser of the amounts that would be recoupable under: (i) the expense limitation in effect at the time of the waiver or reimbursement; or (ii) the expense limitation in effect at the time of recoupment. Termination or modification of these obligations requires approval by the Portfolio's Board of Directors (the "Board").

(10)Voya Solution 2060 Portfolio - Initial Class: Total Annual Portfolio Operating Expenses may be higher than the Portfolio's ratio of expenses to average net assets shown in the Portfolio's Financial Highlights, which reflects the operating expenses of the Portfolio and does not include Acquired Fund Fees and Expenses. Voya Investments, LLC (the "Investment Adviser") is contractually obligated to limit expenses to 0.87% for Class I shares, through May 1, 2026. This limitation is subject to possible recoupment by the Investment Adviser within 36 months of the waiver or reimbursement. The amount of the recoupment is limited to the lesser of the amounts that would be recoupable under: (i) the expense limitation in effect at the time of the waiver or reimbursement; or (ii) the expense limitation in effect at the time of recoupment. Termination or modification of these obligations requires approval by the Portfolio's Board of Directors (the "Board").

(11)Voya Solution 2065 Portfolio - Initial Class: Total Annual Portfolio Operating Expenses may be higher than the Portfolio's ratio of expenses to average net assets shown in the Portfolio's Financial Highlights, which reflects the operating expenses of the Portfolio and does not include Acquired Fund Fees and Expenses. Voya Investments, LLC (the "Investment Adviser") is contractually obligated to limit expenses to 0.87% for Class I shares, through May 1, 2026. This limitation is subject to possible recoupment by the Investment Adviser within 36 months of the waiver or reimbursement. The amount of the recoupment is limited to the lesser of the amounts that would be recoupable under: (i) the expense limitation in effect at the time of the waiver or reimbursement; or (ii) the expense limitation in effect at the time of recoupment. Termination or modification of these obligations requires approval by the Portfolio's Board of Directors (the "Board").

(12)Voya Solution Income Portfolio - Initial Class: Total Annual Portfolio Operating Expenses may be higher than the Portfolio's ratio of expenses to average net assets shown in the Portfolio's Financial Highlights, which reflects the operating expenses of the Portfolio and does not include Acquired Fund Fees and Expenses. Voya Investments, LLC (the "Investment Adviser") is contractually obligated to limit expenses to 0.68% for Class I, through May 1, 2026. The limitation does not extend to interest, taxes, investment-related costs, leverage expenses and extraordinary expenses. This limitation is subject to possible recoupment by the Investment Adviser within 36 months of the waiver or reimbursement. The amount of the recoupment is limited to the lesser of the amounts that would be recoupable under: (i) the expense limitation in effect at the time of the waiver or reimbursement; or (ii) the expense limitation in effect at the time of recoupment. Termination or modification of this obligation requires approval by the Portfolio's Board of Directors (the "Board").

(13)Voya Large Cap Growth Portfolio - Institutional Class: Voya Investments, LLC (the "Investment Adviser") is contractually obligated to limit expenses to 0.67% for Class I shares, through May 1, 2026. The limitation does not extend to interest, taxes, investment-related costs, leverage expenses, extraordinary expenses, and Acquired Fund Fees and Expenses. Termination or modification of this obligation requires approval by the Portfolio's Board of Trustees (the "Board").

Benchmark Id	Benchmark Description
BCUSH1IC	Bloomberg US HY 1% Issuer Cap TR Index - description is not available.
FTSE4GUSS	FTSE US Choice TR measures the performance of companies that meet globally recognized corporate responsibility standards, and to facilitate investment in those companies.
LBUSTIPS	Bloomberg US Treasury US TIPS TR Index measures the performance of rulesbased, market value-weighted inflation-protected securities issued by the U.S. Treasury. It is a subset of the Global Inflation-Linked Index (Series-L).
LEHM	Bloomberg US Agg Bond TR Index measures the performance of investment grade, U.S. dollar-denominated, fixed-rate taxable bond market, including Treasuries, government-related and corporate securities, MBS (agency fixed-rate and hybrid ARM passthroughs), ABS, and CMBS. It rolls up into other Barclays flagship indices, such as the multi-currency Global Aggregate Index and the U.S. Universal Index, which includes high yield and emerging markets debt.
MSCIAWEI	MSCI ACWI (All Country World Index) ex USA IMI (Investable Market Index) captures large, mid and small cap representation across 22 of 23 Developed Markets countries (excluding the United States) and 3 Emerging Markets countries. With 6,010 constituents, the index covers approximately 99% of the global equity opportunity set outside the US.
MSCIXUS	MSCI ACWI (All Country World Index) ex USA Index measures the performance of the large and mid-cap segment of the particular regions, excluding USA equity securities,including developed and emerging market. It is free float-adjusted market-capitalization weighted.
RS1000G	Russell 1000 Growth Index measures the performance of the large-cap growth segment of the U.S. equity securities. It includes the Russell 1000 index companies with higher price-to-book ratios and higher forecasted growth values. It is market-capitalization weighted.

See Performance Introduction Page for Important Information

Benchmark Id	Benchmark Description
RS1000V	Russell 1000 Value Index measures the performance of the large-cap value segment of the U.S. equity securities. It includes the Russell 1000 index companies with lower price-to-book ratios and lower expected growth values. It is market-capitalization weighted.
RS2500	Russell 2500 Index measures the performance of the small to mid-cap segment of the U.S. equity universe. It is a subset of the Russell 3000 index includes approximately 2500 of the smallest securities based on the combination of their market cap and current index membership.
RSMCC	Russell Small Cap Completeness index measures the performance of the Russell 3000 Index companies excluding S&P 500 constituents. The Russell Small Cap Completeness Index is constructed to provide a comprehensive and unbiased barometer of the extended broad market beyond the S&P 500 exposure. The Index and is completely reconstituted annually to ensure new and growing equities are reflected.
RSMID	Russell Mid-Cap Index measures the performance of the mid-cap segment of the U.S. equity universe. It is a subset of Russell 1000 index and includes approximately 800 of the smallest securities based on a combination of their market cap and current index membership. The index represents approximately 31% of the total market capitalization of the Russell 1000 companies.
SP2035	S&P Target Date 2035 Index measures the performance of a portfolio of multi-asset including equities, fixed income and commodities. The index has target retirement date of 2035, and belongs to S&P Target Date Index Series which comprises eleven indexes with different target retirement date. Each index in this series is determined once a year through survey of large fund management companies that offer target date products.
SP2045	S&P Target Date 2045 Index measures the performance of a portfolio of multi-asset including equities, fixed income and commodities. The index has target retirement date of 2045, and belongs to S&P Target Date Index Series which comprises eleven indexes with different target retirement date. Each index in this series is determined once a year through survey of large fund management companies that offer target date products.
SPT2030	S&P Target Date 2030 Index measures the performance of a portfolio of multi-asset including equities, fixed income and commodities. The index has target retirement date of 2030, and belongs to S&P Target Date Index Series which comprises eleven indexes with different target retirement date. Each index in this series is determined once a year through survey of large fund management companies that offer target date products.
SPT2040	S&P Target Date 2040 Index measures the performance of a portfolio of multi-asset including equities, fixed income and commodities. The index has target retirement date of 2040, and belongs to S&P Target Date Index Series which comprises eleven indexes with different target retirement date. Each index in this series is determined once a year through survey of large fund management companies that offer target date products.
SPT2050	S&P Target Date 2050 Index measures the performance of a portfolio of multi-asset including equities, fixed income and commodities. The index has target retirement date of 2050, and belongs to S&P Target Date Index Series which comprises eleven indexes with different target retirement date. Each index in this series is determined once a year through survey of large fund management companies that offer target date products.
SPT2055	S&P Target Date 2055+ Index measures the performance of a portfolio of multi-asset including equities, fixed income and commodities. The index has target retirement date of 2055, and belongs to S&P Target Date Index Series which comprises eleven indexes with different target retirement date. Each index in this series is determined once a year through survey of large fund management companies that offer target date products.
SPT2060	S&P Target Date 2060 TR USD - description is not available.
SPT2065	S&P Target Date 2065 TR USD - description is not available.
SPTREIN	S&P Target Date Retirement Income Index measures the performance of a portfolio of multi-asset including equities, fixed income and commodities. The index belongs to S&P Target Date Index Series which comprises eleven indexes with different target retirement date. Each index in this series is determined once a year through survey of large fund management companies that offer target date products.
SPXRE	S&P 500 Index measures the performance of 500 widely held stocks in U.S. equity market. Standard and Poor's chooses member companies for the index based on market size, liquidity and industry group representation. Included are the stocks of industrial, financial, utility, and transportation companies. Since mid 1989, this composition has been more flexible and the number of issues in each sector

See Performance Introduction Page for Important Information

Benchmark Id

Benchmark Description

has varied. The index is market capitalization-weighted.

Plan Balance By Investment - 09/30/2025					
Fund Name	Fund Number	Asset Class	Balance	YTD Contributions	Percent
American Funds EUPAC Fund R6	1723	Global / International	\$8,997,988.95	\$355,471.19	3.44%
BlackRock Equity Dividend Fund Inst	8518	Large Cap Value/Blend	\$6,547,257.07	\$190,237.42	2.50%
Boston Trust Walden SMID Cap CIT	F905	Small/Mid/Specialty	\$9,497,012.66	\$276,663.33	3.63%
PGIM High Yield Fund Z	2482	Bonds	\$961,618.35	\$18,355.44	0.37%
PIMCO Real Return Fund A	1035	Bonds	\$873,166.69	\$39,420.56	0.33%
Principal MidCap Fund R6	C906	Small/Mid/Specialty	\$15,248,663.64	\$329,942.05	5.83%
St Str Gl A Cp Eq Ex US In SL S F II	D937	Global / International	\$6,566,886.92	\$207,612.83	2.51%
St Str US Bond Index SL Fd XIV	C925	Bonds	\$1,161,699.63	\$58,128.38	0.44%
State Street Russell SmMid Cap SL II	QF52	Small/Mid/Specialty	\$5,957,515.52	\$261,125.35	2.28%
Vanguard FTSE Social Index Fund Adm	D591	Large Cap Value/Blend	\$1,543,218.29	\$65,976.88	0.59%
Voya Fixed Account - 457/401	0043	Stability of Principal	\$41,734,441.52	\$0.00	15.96%
Voya Fixed Account - 457/401 II	4301	Stability of Principal	\$19,623,942.27	\$1,473,048.80	7.50%
Voya Growth and Income Port I	0001	Large Cap Value/Blend	\$45,368,938.44	\$591,514.10	17.35%
Voya Intermediate Bond Fund I	0238	Bonds	\$9,589,589.13	\$542,018.03	3.67%
Voya Large Cap Growth Port Inst	0742	Large Cap Growth	\$25,576,022.76	\$656,028.70	9.78%
Voya Solution 2030 Portfolio I	6753	Asset Allocation	\$1,049,186.45	\$135,500.30	0.40%
Voya Solution 2035 Portfolio I	0761	Asset Allocation	\$4,516,149.34	\$351,321.80	1.73%
Voya Solution 2040 Portfolio I	6756	Asset Allocation	\$865,386.67	\$207,716.42	0.33%
Voya Solution 2045 Portfolio I	0764	Asset Allocation	\$3,916,313.04	\$295,326.20	1.50%
Voya Solution 2050 Portfolio I	6759	Asset Allocation	\$909,541.31	\$167,231.27	0.35%
Voya Solution 2055 Portfolio I	1166	Asset Allocation	\$2,032,842.08	\$166,234.53	0.78%
Voya Solution 2060 Portfolio I	3290	Asset Allocation	\$884,793.25	\$126,113.20	0.34%
Voya Solution 2065 Portfolio I	E479	Asset Allocation	\$338,419.15	\$73,103.61	0.13%
Voya Solution Income Prt I	0767	Asset Allocation	\$2,706,199.93	\$34,199.60	1.03%
Voya U.S. Stock Index Port Inst	0829	Large Cap Value/Blend	\$26,982,102.27	\$588,199.51	10.32%
VY TRowePrice Captl Apprec Pt Inst	1257	Balanced	\$18,049,515.04	\$456,439.35	6.90%
		TOTAL	\$261,498,410.37	\$7,666,928.85	100%

FARP PLAN



State of Rhode Island

401(a)/414(h) Monthly Performance Summary
FICA Alternative Retirement Income Security Program

Morningstar Ranking/Number of Funds in Category displays the Funds actual rank within its Morningstar Category based on average annual total return and number of funds in that Category. The returns assume reinvestment of dividends and do not reflect any applicable sales charge. Absent expense limitation, total return would be less. Past performance does not guarantee future results. Morningstar Percentile Rankings are the Fund's total return rank relative to all the funds in the same Morningstar category, where 1 is the highest percentile rank and 100 is the lowest percentile rank.

The performance data quoted represents past performance and is no guarantee of future results. Your returns and the principal value of your investments will fluctuate so that your shares or accumulation units, when redeemed, may be worth more or less than their original cost. Current performance may be lower or higher than the performance quoted below.

For performance current to the most recent month-end, visit the TIAA Website at www.tiaa.org, or call 877 518-9161.

401(a)/414(h) Monthly Performance Summary		As of 9/30/2025											Prospectus				
FICA Alternative Retirement Income Security Program		Ticker/ CUSIP	1 Mo	3 Mo	Year to Date	1 Yr	%-ile	Annualized Returns		%-ile	10 Yr	%-ile	Since Inception	Inception Date	Gross Exp Ratio	Net Exp Ratio	
Option Name								3 Yr		5 Yr							
TIAA Stable Value ¹		TSVX#	0.24	0.75	2.26	3.02		2.72		2.52		2.33		2.31	3/31/2012	n/a	n/a
BH1			Current Rate: 3.00% Guaranteed Rate 2.80%														
Vanguard Target Retirement 2020 Fund		VTWNX	1.74	3.80	10.35	8.59	39	11.98	56	6.03	58	6.99	45	6.31	6/7/2006	0.08	0.08
Morningstar Lifetime Mod 2020 TR USD			1.80	4.17	11.05	8.65		12.20		5.52		6.65					
Target-Date 2020 Median						8.41		12.03		6.09		6.95					
Target-Date 2020 Number of Funds						26		25		24		17					
Vanguard Target Retirement 2025 Fund		VTTVX	2.19	4.69	12.36	10.52	4	14.31	16	7.38	18	7.99	22	7.00	10/27/2003	0.08	0.08
Morningstar Lifetime Mod 2025 TR USD			1.99	4.50	11.72	9.16		13.09		6.11		7.23					
Target-Date 2025 Median						8.96		13.15		6.91		7.56					
Target-Date 2025 Number of Funds						32		30		28		23					
Vanguard Target Retirement 2030 Fund		VTHRX	2.53	5.31	13.62	11.70	1	15.92	5	8.50	16	8.78	26	7.22	6/7/2006	0.08	0.08
Morningstar Lifetime Mod 2030 TR USD			2.21	4.92	12.59	9.97		14.35		7.17		8.02					
Target-Date 2030 Median						9.95		14.71		7.91		8.30					
Target-Date 2030 Number of Funds						45		42		40		30					
Vanguard Target Retirement 2035 Fund		VTTHX	2.73	5.77	14.68	12.84	4	17.29	29	9.56	34	9.55	29	7.93	10/27/2003	0.08	0.08
Morningstar Lifetime Mod 2035 TR USD			2.46	5.49	13.77	11.23		16.06		8.71		8.95					
Target-Date 2035 Median						11.31		16.68		9.32		9.20					
Target-Date 2035 Number of Funds						43		40		38		31					
Vanguard Target Retirement 2040 Fund		VFORX	2.90	6.23	15.64	13.90	19	18.67	41	10.62	50	10.30	32	8.03	6/7/2006	0.08	0.08
Morningstar Lifetime Mod 2040 TR USD			2.70	6.14	15.12	12.74		17.88		10.28		9.79					
Target-Date 2040 Median						12.87		18.49		10.58		9.98					
Target-Date 2040 Number of Funds						43		40		38		30					
Vanguard Target Retirement 2045 Fund		VTIVX	3.10	6.72	16.65	14.94	19	20.02	35	11.66	42	10.89	28	8.71	10/27/2003	0.08	0.08
Morningstar Lifetime Mod 2045 TR USD			2.90	6.69	16.30	14.06		19.29		11.40		10.32					
Target-Date 2045 Median						13.88		19.76		11.57		10.49					
Target-Date 2045 Number of Funds						42		40		38		31					
Vanguard Target Retirement 2050 Fund		VFIFX	3.31	7.17	17.82	16.07	4	21.03	27	12.20	31	11.16	18	8.49	6/7/2006	0.08	0.08
Morningstar Lifetime Mod 2050 TR USD			3.01	7.03	17.04	14.83		19.99		11.90		10.52					
Target-Date 2050 Median						14.62		20.47		11.83		10.72					
Target-Date 2050 Number of Funds						43		40		38		30					

Morningstar Ranking/Number of Funds in Category displays the Funds actual rank within its Morningstar Category based on average annual total return and number of funds in that Category. The returns assume reinvestment of dividends and do not reflect any applicable sales charge. Absent expense limitation, total return would be less. Past performance does not guarantee future results. Morningstar Percentile Rankings are the Fund's total return rank relative to all the funds in the same Morningstar category, where 1 is the highest percentile rank and 100 is the lowest percentile rank.

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401(a)/414(h) Monthly Performance Summary		As of 9/30/2025											Prospectus				
FICA Alternative Retirement Income Security Program		Ticker/ CUSIP			Year to	Annualized Returns							Since Inception		Gross Exp	Net Exp	
Option Name			1 Mo	3 Mo	Date	1 Yr	%-ile	3 Yr	%-ile	5 Yr	%-ile	10 Yr	%-ile	Inception	Date	Ratio	Ratio
Vanguard Target Retirement 2055 Fund		VFFVX	3.31	7.18	17.82	16.07	10	21.03	34	12.20	40	11.15	23	10.77	8/18/2010	0.08	0.08
Morningstar Lifetime Mod 2055 TR USD			3.05	7.16	17.37	15.07		20.15		11.99	10.54						
Target-Date 2055 Median						14.83		20.57		11.94	10.71						
Target-Date 2055 Number of Funds						42		40		38	30						
Vanguard Target Retirement 2060 Fund		VTTSX	3.30	7.17	17.81	16.05	16	21.03	39	12.20	42	11.15	35	10.65	1/19/2012	0.08	0.08
Morningstar Lifetime Mod 2060 TR USD			3.07	7.19	17.53	15.08		20.14		11.95	10.48						
Target-Date 2060 Median						15.01		20.72		12.05	11.03						
Target-Date 2060 Number of Funds						42		40		37	17						
Vanguard Target Retirement 2065 Fund		VLXVX	3.29	7.17	17.82	16.02	20	21.02	46	12.20	50			10.55	7/12/2017	0.08	0.08
Morningstar Lifetime Mod 2065 TR USD			3.08	7.20	17.64	15.04		20.08		11.87							
Target-Date 2065+ Median						15.22		20.95		12.20							
Target-Date 2065+ Number of Funds						52		35		25							
Vanguard Target Retirement 2070 Fund		VSVNX	3.29	7.16	17.80	16.00	23	21.03	42					16.39	6/28/2022	0.08	0.08
Morningstar Lifetime Mod 2065 TR USD			3.08	7.20	17.64	15.04		20.08									
Target-Date 2065+ Median						15.22		20.95									
Target-Date 2065+ Number of Funds						52		35									
Vanguard Target Retirement Income Fund		VTINX	1.57	3.42	9.61	7.89	20	10.30	53	4.55	50	5.29	45	5.21	10/27/2003	0.08	0.08
Morningstar Lifetime Mod Incm TR USD			1.46	3.73	10.14	8.28		11.01		5.53	5.74						
Target-Date Retirement Median						7.14		10.30		4.54	5.13						
Target-Date Retirement Number of Funds						32		30		29	23						

Source: TIAA & Morningstar Direct

401(a)/414(h) Monthly Summary
FICA Alternative Retirement Income Security Program - 406403
STATE OF RHODE ISLAND - 065107
As of 9/30/2025

<i>Investment Name</i>	<i>Asset Class</i>	<i>Asset Balance</i>	<i>% of Assets</i>
VANGUARD TARGET RETIRE 2020	Multi-Asset	\$1,690,871.95	27.8%
VANGUARD TARGET RETIRE 2060	Multi-Asset	\$863,203.99	14.2%
VANGUARD TARGET RETIRE 2065	Multi-Asset	\$738,453.54	12.1%
VANGUARD TARGET RETIRE 2070	Multi-Asset	\$527,851.65	8.7%
VANGUARD TARGET RETIRE 2055	Multi-Asset	\$435,807.18	7.2%
VANGUARD TARGET RETIRE 2030	Multi-Asset	\$393,041.15	6.5%
VANGUARD TARGET RETIRE 2050	Multi-Asset	\$330,634.54	5.4%
VANGUARD TARGET RETIRE 2025	Multi-Asset	\$315,488.70	5.2%
VANGUARD TARGET RETIRE 2040	Multi-Asset	\$274,976.40	4.5%
VANGUARD TARGET RETIRE 2035	Multi-Asset	\$246,158.97	4.0%
VANGUARD TARGET RETIRE 2045	Multi-Asset	\$222,072.92	3.6%
VANGUARD TARGET RETIRE INCOME	Multi-Asset	\$41,514.55	0.7%
TIAA STABLE VALUE	Guaranteed	\$6,399.14	0.1%
FICA Retirement Income Security Plan Total		\$6,086,474.68	

▲ RetirePlus Select Model underlying investment

Closed to new investments

Disclosures

Note: Mesirow Index data is calculated in Morningstar Direct Portfolio Management using Mesirow's allocations.

Note: The Mesirow custom benchmark consists of eight underlying indices aligning with the eight ReitrePlus Select asset classes. Large Cap: Russell 1000 TR USD; Small/Mid Cap: Russell 2500 TR USD; Real Estate: FTSE NAREIT Equity REITs TR USD; International: MSCI EAFE NR USD; Bonds: Bloomberg US Aggregate Bond TR USD; TIPS: Bloomberg Global Inflation Linked US TIPS TR USD; Guaranteed/Stable Value: Bloomber Stable Value Index; Cash: FTSE 3 Month US T-Bill USD.

Note: Category medians are shown for Morningstar's Open-End Funds universe.

% Rank => Percentile Ranking in Morningstar Category.

Morningstar peer rankings include fractional weights for all share classes. Morningstar peer rankings also include ETFs. Depending on the category, this may cause some variances with the category median illustrated in this report since most ETFs are index based options that can include more volatile and less mainstream indices.

SI = Since Inception Annualized Total Return; Incep. Date = Since Inception Date (SI return is calculated from this date).

You cannot invest directly in an index.

Accumulations in mutual funds not managed by TIAA-CREF may be subject to administrative charges. These charges are subject to change. Please review current documents related to your plan.

The expense ratio paid by an investor is the net expense ratio as stated in the prospectus. The net expense ratio reflects total annual fund operating expenses excluding interest expense. If interest expense was included, returns would have been lower. For definitions, please visit www.tiaa.org/public/assetmanagement.

Disclosures

Investing in non-investment grade securities presents special risks, including significantly higher interest-rate and credit risk.

Small-cap and mid-cap stocks may have limited marketability and may be subject to more abrupt or erratic market movements than large-cap stocks.

The risks associated with foreign investments are often magnified in emerging markets where there is greater potential for political, currency, and economic volatility.

Funds that invest in fixed-income securities are not guaranteed and are subject to interest-rate, inflation and credit risks.

Funds that invest in foreign securities are subject to special risks, including currency fluctuation and political and economic instability.

Real estate securities are subject to various risks, including fluctuations in property values, higher expenses or lower income than expected, and potential environmental problems and liability.

Any guarantees under annuities issued by TIAA are subject to TIAA's claims-paying ability. TIAA Stable Value is a guaranteed insurance contract and not an investment for Federal Securities Law purposes.

Target Date Funds share the risks associated with the types of securities held by each of the underlying funds in which they invest. In addition to the fees and expenses associated with the Target Date Funds, there is exposure to the fees and expenses associated with the underlying mutual funds as well.

The principal value of a target date fund isn't guaranteed at any time, including at the target date, and will fluctuate with market changes. The target date represents an approximate date when investors may plan to begin withdrawing from the fund. However, you are not required to withdraw the funds at the target date.

Investment, insurance and annuity products are not FDIC insured, are not bank guaranteed, are not deposits, are not insured by any federal government agency, are not a condition to any banking service or activity, and may lose value.

Footnotes

1 TIAA Stable Value is not an investment for purposes of federal securities laws; it is a guaranteed insurance contract. Therefore, unlike a variable annuity or mutual fund, TIAA Stable Value does not include an identifiable expense ratio. The contract provides a guaranteed minimum rate of interest of between 1% and 3% (before deductions for contract fees). Contract Fees are described in the annuity contract and are collected on a daily basis by way of a reduction to the Declared Rate. Payment obligations and the fulfillment of the guarantees provided for in the contract in the accumulation phase are supported by the assets held in the separate account. If the assets in the separate account are insufficient to meet these obligations, the shortfall is supported by the General Account of TIAA and is therefore subject to TIAA's claims-paying ability. Past interest rates are not indicative of future interest rates. The TIAA Stable Value Inception Date represents the date that the plan's TIAA Stable Value record was initiated on TIAA's recordkeeping system which may be earlier than the date of first deposit to the contract.

2 Performance shown for periods prior to the inception date reflects the performance of an older share class of the fund/account or underlying fund. Total returns have not been restated to reflect any expense differential between any of the classes. Had the expense differential been reflected, total returns for the fund may have been higher or lower. Category ranks are not available for these time periods.

3 This Fund is a collective investment trust and is not FDIC insured, nor is it an obligation or deposit of, or guaranteed by State Street Corporation, SSGA or its affiliates. Category ranks are not available for these investment options and percentile ranks provided rank the investment in its Morningstar Separate Account category universe.

4 TIAA RetirePlus Select (the "Program") is an asset allocation program that includes formulaic asset allocation models that a plan participant may choose to guide the investment of his or her account into underlying mutual funds and annuities (the "underlying investments"). The plan fiduciary selects the specific underlying investments available under its plan to represent the various asset classes in the models. An independent third-party advisor engaged (and paid) by Teachers Insurance and Annuity Association of American ("TIAA") developed the target asset class allocations for the models and the Program is administered by TIAA as plan recordkeeper. In making the Program available to plans, TIAA is not providing investment advice to the plans or plan participants.

For RetirePlus Select Models, the performance shown is of the underlying funds and that of a hypothetical account invested in accordance with the Model during the relevant time periods and reflects the weighted average return of the underlying investments assuming an annual rebalance from the model inception date. Actual and current performance may be higher or lower. The net asset values used to calculate the hypothetical account performance are compiled using values for underlying funds as of the prior business day and current business day for fixed annuities. For current performance information, including performance to the most recent month-end, call 1-800-842-2252. Performance may reflect waivers or reimbursements of certain expenses at both the model and underlying investment level. Absent these waivers or reimbursement arrangements, performance may be lower. Such waivers or reimbursements may not apply in the future.

No category rankings or percentile ranks are currently available for the RetirePlus Select models. The investment option is a model service and not a fund it does not have a Morningstar peer group.

5 It is important to remember that the TIAA Traditional Annuity is not an investment for purposes of federal securities laws; it is a guaranteed insurance contract. Therefore, unlike a variable annuity or mutual fund, the TIAA Traditional Annuity does not include an identifiable expense ratio.

Disclosures

Prospectus Gross Expense Ratio

The percentage of fund assets used to pay for operating expenses and management fees, including 12b-1 fees, administrative fees, and all other asset-based costs incurred by the fund, except brokerage costs. Fund expenses are reflected in the fund's NAV. Sales charges are not included in the expense ratio.

--The expense ratio for fund of funds is the aggregate expense ratio as defined as the sum of the wrap or sponsor fees plus the estimated weighted average of

the underlying fund fees.

--Often referred to as the Annual Operating Expense, the Prospectus Gross Expense Ratio is collected annually from a fund's prospectus.

Prospectus Net Expense Ratio

The percentage of fund assets, net of reimbursements, used to pay for operating expenses and management fees, including 12b-1 fees, administrative fees, and all other asset-based costs incurred by the fund, except brokerage costs. Fund expenses are reflected in the fund's NAV. Sales charges are not included in the expense ratio.

--The expense ratio for fund of funds is the aggregate expense ratio as defined as the sum of the wrap or sponsor fees plus the estimated weighted average of the underlying fund fees.

--Net reimbursements, the Prospectus Net Expense Ratio is collected annually from a fund's prospectus.

--TIAA, unless noted, does not charge additional fees for record keeping a fund. 12b-1, revenue share and admin fees are all included in the Prospectus fees. --

Prospectus Net Expense Ratio % - ile rank is the percentile rank for the fund. The better the expense ratio (lower) the lower the ranking out of 100.

By communicating the information contained in this material, TIAA is not providing impartial investment advice or giving advice in a fiduciary capacity regarding any investment by, or other transaction of, the plan(s). TIAA is acting solely in a sales capacity with respect to an arms-length sale, purchase, loan, exchange or other transaction related to the investment of securities or other investment property.

Disclosures

This material is for informational or educational purposes only and is not fiduciary investment advice, or a securities, investment strategy, or insurance product recommendation. This material does not consider an individual's own objectives or circumstances which should be the basis of any investment decision.

TIAA is providing educational services concerning plan menu construction and the plan sponsor's fiduciary duties under its plan. It is not providing investment advice and is not a plan fiduciary with respect to the education and information presented herein. Note also that TIAA cannot and does not provide legal advice and that we recommend that you seek such advice from your own legal advisors.

TIAA reported performance may differ from Morningstar source returns for the same option over the same time period. We would expect an occasional one to two basis point difference. Morningstar Direct calculates returns by one share owned by hypothetical investor over the requested time period. The return for one year is calculated using the same formula as one month. TIAA calculates returns by \$1,000 owned by hypothetical investor for one month then links returns for requested time period. Both set of returns would include dividends and capital gains, if applicable.

Investment products may be subject to market and other risk factors. See the applicable product literature or visit tiaa.org for details. You should consider the investment objectives, risks, charges and expenses carefully before investing. Go to tiaa.org or call 877-518-9161 for product and fund prospectuses that contain this and other information. Please read the prospectuses carefully before investing.

TIAA-CREF Individual & Institutional Services, LLC, Member FINRA, distributes securities products. Annuity contracts and certificates are issued by Teachers Insurance and Annuity Association of America (TIAA) and College Retirement Equities Fund (CREF), New York, NY. Each is solely responsible for its own financial condition and contractual obligations.

TIAA.org

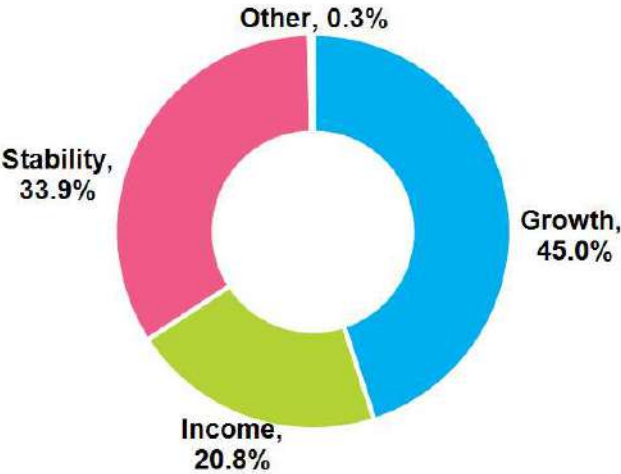
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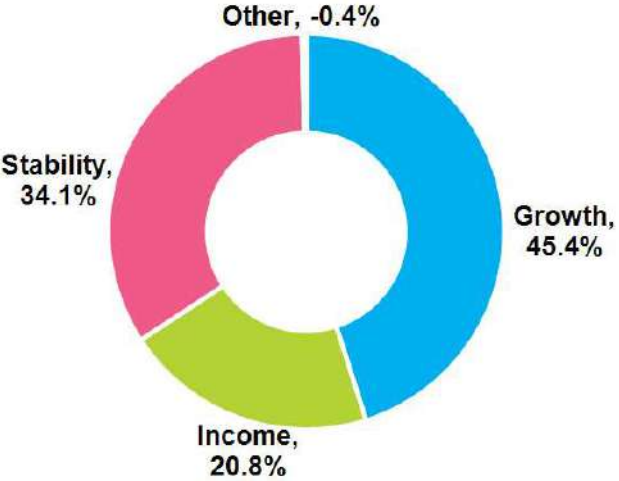
TOTAL FUND OVERVIEW

Asset Allocation vs. Target and Policy							
		Current Balance	Current Allocation	Current Allocation (w/ Overlay)	Strategic Benchmark Allocation	Difference	Difference (w/Overlay)
	Growth	\$ 351,987,045	45.0%	45.4%	45.0%	0.0%	0.4%
	Income	\$ 162,818,580	20.8%	20.8%	21.0%	-0.2%	-0.2%
	Stability	\$ 265,043,877	33.9%	34.1%	34.0%	-0.1%	0.1%
	Other	\$ 2,635,712	0.3%	-0.4%	0.0%	0.3%	-0.4%

Current Asset Allocation



Current Asset Allocation (w/ Overlay)



Asset Class Performance | As of September 30, 2025

Net Asset Class Performance Summary												
	Market Value (\$)	% of Portfolio	Compliance Target (%)	1 Mo (%)	FYTD (%)	YTD (%)	1 Yr (%)	3 Yrs (%)	5 Yrs (%)	10 Yrs (%)	Inception (%)	Inception Date
Total OPEB	782,485,214	100.00	100.00	2.13	4.68	11.48	10.43	14.87	8.86	9.78	9.23	May-11
<i>OPEB Custom Blend</i>				<i>2.17</i>	<i>4.65</i>	<i>10.91</i>	<i>10.45</i>	<i>13.56</i>	<i>8.10</i>	<i>9.47</i>	<i>8.65</i>	
OPEB Public Growth	337,219,804	43.10	40.00	3.65	7.72	18.52	17.48	--	--	--	21.49	Jan-23
<i>MSCI AC World Index (Net)</i>				<i>3.62</i>	<i>7.62</i>	<i>18.44</i>	<i>17.27</i>	--	--	--	<i>21.29</i>	
OPEB Private Growth	14,767,241	1.89	5.00	0.46	4.50	7.75	9.84	--	--	--	6.38	Jan-23
<i>OPEB Private Growth BM</i>				<i>0.48</i>	<i>5.11</i>	<i>7.23</i>	<i>9.61</i>	--	--	--	<i>5.24</i>	
OPEB Total Income	162,818,580	20.81	21.00	0.96	3.01	6.54	8.11	--	--	--	11.17	Jan-23
<i>OPEB Total Income BM</i>				<i>1.80</i>	<i>3.47</i>	<i>6.58</i>	<i>9.14</i>	--	--	--	<i>12.50</i>	
OPEB Tot Inflation Protection	32,374,049	4.14	8.00	0.60	1.46	3.98	5.09	--	--	--	-0.65	Jan-23
<i>OPEB Inflation Protection BM</i>				<i>0.41</i>	<i>1.39</i>	<i>3.23</i>	<i>5.20</i>	--	--	--	<i>1.02</i>	
OPEB Total Volatility	232,669,828	29.73	26.00	1.10	2.04	6.13	2.91	--	--	--	4.77	Jan-23
<i>Bimbg. U.S. Aggregate Index</i>				<i>1.09</i>	<i>2.03</i>	<i>6.13</i>	<i>2.88</i>	--	--	--	<i>4.68</i>	

MANAGER PERFORMANCE

Trailing Net Performance | As of September 30, 2025

Trailing Net Performance												
	Market Value (\$)	% of Portfolio	Compliance Target (%)	1 Mo (%)	FYTD (%)	YTD (%)	1 Yr (%)	3 Yrs (%)	5 Yrs (%)	10 Yrs (%)	Inception (%)	Inception Date
Total OPEB	782,485,214	100.00	100.00	2.13	4.68	11.48	10.43	14.87	8.86	9.78	9.23	May-11
<i>OPEB Custom Blend</i>				<i>2.17</i>	<i>4.65</i>	<i>10.91</i>	<i>10.45</i>	<i>13.56</i>	<i>8.10</i>	<i>9.47</i>	<i>8.65</i>	
OPEB Total Growth	351,987,045	44.98	45.00	3.51	7.57	18.08	17.16	--	--	--	21.14	Jan-23
<i>OPEB Total Growth BM</i>				<i>3.27</i>	<i>7.35</i>	<i>17.19</i>	<i>16.46</i>	--	--	--	<i>19.49</i>	
OPEB Public Growth	337,219,804	43.10	40.00	3.65	7.72	18.52	17.48	--	--	--	21.49	Jan-23
<i>MSCI AC World Index (Net)</i>				<i>3.62</i>	<i>7.62</i>	<i>18.44</i>	<i>17.27</i>	--	--	--	<i>21.29</i>	
OPEB SSIM MSCI ACWI ex Russia	337,219,804	43.10		3.65	7.72	18.81	17.83	--	--	--	21.84	Nov-22
<i>MSCI AC World Index (Net)</i>				<i>3.62</i>	<i>7.62</i>	<i>18.44</i>	<i>17.27</i>	--	--	--	<i>21.39</i>	
OPEB Private Growth	14,767,241	1.89	5.00	0.46	4.50	7.75	9.84	--	--	--	6.38	Jan-23
<i>OPEB Private Growth BM</i>				<i>0.48</i>	<i>5.11</i>	<i>7.23</i>	<i>9.61</i>	--	--	--	<i>5.24</i>	

Trailing Net Performance | As of September 30, 2025

	Market Value (\$)	% of Portfolio	Compliance Target (%)	1 Mo (%)	FYTD (%)	YTD (%)	1 Yr (%)	3 Yrs (%)	5 Yrs (%)	10 Yrs (%)	Inception (%)	Inception Date
OPEB Total Income	162,818,580	20.81	21.00	0.96	3.01	6.54	8.11	--	--	--	11.17	Jan-23
<i>OPEB Total Income BM</i>				<i>1.80</i>	<i>3.47</i>	<i>6.58</i>	<i>9.14</i>	--	--	--	<i>12.50</i>	
OPEB Liquid Credit	93,606,633	11.96	8.00	0.82	2.61	7.17	7.41	--	--	--	10.49	Nov-22
<i>ICE BofAML US High Yield TR*</i>				<i>0.77</i>	<i>2.42</i>	<i>7.12</i>	<i>7.31</i>	--	--	--	<i>10.32</i>	
OPEB Private Credit	8,426,762	1.08	5.00	0.27	4.06	9.51	11.14	9.17	--	--	9.17	Oct-22
<i>Cambridge Assoc Sen Debt 1Qlag</i>				<i>4.20</i>	<i>4.20</i>	<i>6.35</i>	<i>9.74</i>	<i>9.42</i>	--	--	<i>9.42</i>	
OPEB NB Index Fund	30,860,099	3.94	4.00	1.91	5.16	7.45	10.06	--	--	--	10.35	Dec-22
<i>CBOE PutWrite Index</i>				<i>1.64</i>	<i>4.56</i>	<i>4.15</i>	<i>8.26</i>	--	--	--	<i>12.53</i>	
OPEB CLO Aggregate	29,925,086	3.82	4.00	0.60	1.82	2.99	7.39	--	--	--	11.33	Dec-22
<i>JP Morgan CLOIE BB Index</i>				<i>0.99</i>	<i>3.43</i>	<i>7.99</i>	<i>12.64</i>	--	--	--	<i>18.66</i>	
OPEB Sycamore Tree CLO Fund	14,235,001	1.82		0.00	3.07	2.38	6.11	--	--	--	9.21	Dec-22
OPEB Neuberger CLO Total	15,690,085	2.01		1.19	0.61	3.67	8.86	--	--	--	13.76	Dec-22
OPEB Tot Inflation Protection	32,374,049	4.14	8.00	0.60	1.46	3.98	5.09	--	--	--	-0.65	Jan-23
<i>OPEB Inflation Protecton BM</i>				<i>0.41</i>	<i>1.39</i>	<i>3.23</i>	<i>5.20</i>	--	--	--	<i>1.02</i>	
OPEB Core Real Estate	19,791,646	2.53	4.00	0.99	1.18	2.79	3.18	-2.81	--	--	-2.74	Sep-22
OPEB Private Real Assets ex RE	12,582,403	1.61	4.00	0.00	1.95	6.15	8.67	--	--	--	5.58	Apr-23
OPEB Total Volatility	232,669,828	29.73	26.00	1.10	2.04	6.13	2.91	--	--	--	4.77	Jan-23
<i>Blmbg. U.S. Aggregate Index</i>				<i>1.09</i>	<i>2.03</i>	<i>6.13</i>	<i>2.88</i>	--	--	--	<i>4.68</i>	
OPEB Total Stability	265,043,877	33.87	34.00	1.03	1.95	5.87	3.14	--	--	--	4.19	Jan-23
<i>OPEB Total Stability BM</i>				<i>0.93</i>	<i>1.88</i>	<i>5.45</i>	<i>3.45</i>	--	--	--	<i>3.85</i>	
RI OPEB SSIM Bloomberg Barclay	232,669,828	29.73	26.00	1.10	2.04	6.13	2.91	4.94	--	--	-0.36	Nov-20
<i>Blmbg. U.S. Aggregate Index</i>				<i>1.09</i>	<i>2.03</i>	<i>6.13</i>	<i>2.88</i>	<i>4.93</i>	--	--	<i>-0.37</i>	
OPEB Operating Cash	1,631,588	0.21		0.00	0.72	2.86	4.02	4.91	--	--	4.77	Sep-22
OPEB Russell Overlay	1,004,124	0.13		0.00	-0.01	0.03	0.00	--	--	--	-0.06	Jan-23

Appendix

Disclaimer, Glossary, and Notes

THIS REPORT (THE "REPORT") HAS BEEN PREPARED FOR THE SOLE BENEFIT OF THE INTENDED RECIPIENT (THE "RECIPIENT").

SIGNIFICANT EVENTS MAY OCCUR (OR HAVE OCCURRED) AFTER THE DATE OF THIS REPORT, AND IT IS NOT OUR FUNCTION OR RESPONSIBILITY TO UPDATE THIS REPORT. THE INFORMATION CONTAINED HEREIN, INCLUDING ANY OPINIONS OR RECOMMENDATIONS, REPRESENTS OUR GOOD FAITH VIEWS AS OF THE DATE OF THIS REPORT AND IS SUBJECT TO CHANGE AT ANY TIME. ALL INVESTMENTS INVOLVE RISK, AND THERE CAN BE NO GUARANTEE THAT THE STRATEGIES, TACTICS, AND METHODS DISCUSSED HERE WILL BE SUCCESSFUL.

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PERFORMANCE DATA CONTAINED HEREIN REPRESENT PAST PERFORMANCE. PAST PERFORMANCE IS NO GUARANTEE OF FUTURE RESULTS.

Credit Risk: Refers to the risk that the issuer of a fixed income security may default (i.e., the issuer will be unable to make timely principal and/or interest payments on the security).

Duration: Measure of the sensitivity of the price of a bond to a change in its yield to maturity. Duration summarizes, in a single number, the characteristics that cause bond prices to change in response to a change in interest rates. For example, the price of a bond with a duration of three years will rise by approximately 3% for each 1% decrease in its yield to maturity. Conversely, the price will decrease 3% for each 1% increase in the bond's yield. Price changes for two different bonds can be compared using duration. A bond with a duration of six years will exhibit twice the percentage price change of a bond with a three-year duration. The actual calculation of a bond's duration is somewhat complicated, but the idea behind the calculation is straightforward. The first step is to measure the time interval until receipt for each cash flow (coupon and principal payments) from a bond. The second step is to compute a weighted average of these time intervals. Each time interval is measured by the present value of that cash flow. This weighted average is the duration of the bond measured in years.

Information Ratio: This statistic is a measure of the consistency of a portfolio's performance relative to a benchmark. It is calculated by subtracting the benchmark return from the portfolio return (excess return), and dividing the resulting excess return by the standard deviation (volatility) of this excess return. A positive information ratio indicates outperformance versus the benchmark, and the higher the information ratio, the more consistent the outperformance.

Jensen's Alpha: A measure of the average return of a portfolio or investment in excess of what is predicted by its beta or "market" risk. $\text{Portfolio Return} - [\text{Risk Free Rate} + \text{Beta} * (\text{market return} - \text{Risk Free Rate})]$.

Market Capitalization: For a firm, market capitalization is the total market value of outstanding common stock. For a portfolio, market capitalization is the sum of the capitalization of each company weighted by the ratio of holdings in that company to total portfolio holdings; thus it is a weighted-average capitalization. Meketa Investment Group considers the largest 65% of the broad domestic equity market as large capitalization, the next 25% of the market as medium capitalization, and the smallest 10% of stocks as small capitalization.

Market Weighted: Stocks in many indices are weighted based on the total market capitalization of the issue. Thus, the individual returns of higher market-capitalization issues will more heavily influence an index's return than the returns of the smaller market-capitalization issues in the index.

Maturity: The date on which a loan, bond, mortgage, or other debt/security becomes due and is to be paid off.

Prepayment Risk: The risk that prepayments will increase (homeowners will prepay all or part of their mortgage) when mortgage interest rates decline; hence, investors' monies will be returned to them in a lower interest rate environment. Also, the risk that prepayments will slow down when mortgage interest rates rise; hence, investors will not have as much money as previously anticipated in a higher interest rate environment. A prepayment is any payment in excess of the scheduled mortgage payment.

Price-Book Value (P/B) Ratio: The current market price of a stock divided by its book value per share. Meketa Investment Group calculates P/B as the current price divided by Compustat's quarterly common equity. Common equity includes common stock, capital surplus, retained earnings, and treasury stock adjusted for both common and nonredeemable preferred stock. Similar to high P/E stocks, stocks with high P/B's tend to be riskier investments.

Price-Earnings (P/E) Ratio: A stock's market price divided by its current or estimated future earnings. Lower P/E ratios often characterize stocks in low growth or mature industries, stocks in groups that have fallen out of favor, or stocks of established blue chip companies with long records of stable earnings and regular dividends. Sometimes a company that has good fundamentals may be viewed unfavorably by the market if it is an industry that is temporarily out of favor. Or a business may have experienced financial problems causing investors to be skeptical about its future. Either of these situations would result in lower relative P/E ratios. Some stocks exhibit above-average sales and earnings growth or expectations for above average growth. Consequently, investors are willing to pay more for these companies' earnings, which results in elevated P/E ratios. In other words, investors will pay more for shares of companies whose profits, in their opinion, are expected to increase faster than average. Because future events are in no way assured, high P/E stocks tend to be riskier and more volatile investments. Meketa Investment Group calculates P/E as the current price divided by the I/B/E/S consensus of twelve-month forecast earnings per share.

Quality Rating: The rank assigned a security by such rating services as Fitch, Moody's, and Standard & Poor's. The rating may be determined by such factors as (1) the likelihood of fulfillment of dividend, income, and principal payment of obligations; (2) the nature and provisions of the issue; and (3) the security's relative position in the event of liquidation of the company. Bonds assigned the top four grades (AAA, AA, A, BBB) are considered investment grade because they are eligible bank investments as determined by the controller of the currency.

Sharpe Ratio: A commonly used measure of risk-adjusted return. It is calculated by subtracting the risk free return (usually three-month Treasury bill) from the portfolio return and dividing the resulting excess return by the portfolio's total risk level (standard deviation). The result is a measure of return per unit of total risk taken. The higher the Sharpe ratio, the better the fund's historical risk adjusted performance.

STIF Account: Short-term investment fund at a custodian bank that invests in cash-equivalent instruments. It is generally used to safely invest the excess cash held by portfolio managers.

Standard Deviation: A measure of the total risk of an asset or a portfolio. Standard deviation measures the dispersion of a set of numbers around a central point (e.g., the average return). If the standard deviation is small, the distribution is concentrated within a narrow range of values. For a normal distribution, about two thirds of the observations will fall within one standard deviation of the mean, and 95% of the observations will fall within two standard deviations of the mean.

Style: The description of the type of approach and strategy utilized by an investment manager to manage funds. For example, the style for equities is determined by portfolio characteristics such as price-to-book value, price-to-earnings ratio, and dividend yield. Equity styles include growth, value, and core.

Tracking Error: A divergence between the price behavior of a position or a portfolio and the price behavior of a benchmark, as defined by the difference in standard deviation.

Yield to Maturity: The yield, or return, provided by a bond to its maturity date; determined by a mathematical process, usually requiring the use of a “basis book.” For example, a 5% bond pays \$5 a year interest on each \$100 par value. To figure its current yield, divide \$5 by \$95—the market price of the bond—and you get 5.26%. Assume that the same bond is due to mature in five years. On the maturity date, the issuer is pledged to pay \$100 for the bond that can be bought now for \$95. In other words, the bond is selling at a discount of 5% below par value. To figure yield to maturity, a simple and approximate method is to divide 5% by the five years to maturity, which equals 1% pro rata yearly. Add that 1% to the 5.26% current yield, and the yield to maturity is roughly 6.26%.

$$\frac{5\% \text{ (discount)}}{5 \text{ (yrs. to maturity)}} = 1\% \text{ pro rata, plus } 5.26\% \text{ (current yield)} = 6.26\% \text{ (yield to maturity)}$$

Yield to Worst: The lowest potential yield that can be received on a bond without the issuer actually defaulting. The yield to worst is calculated by making worst-case scenario assumptions on the issue by calculating the returns that would be received if provisions, including prepayment, call, or sinking fund, are used by the issuer.

NCREIF Property Index (NPI): Measures unleveraged investment performance of a very large pool of individual commercial real estate properties acquired in the private market by tax-exempt institutional investors for investment purposes only. The NPI index is capitalization-weighted for a quarterly time series composite total rate of return.

NCREIF Fund Index - Open End Diversified Core Equity (NFI-ODCE): Measures the investment performance of 28 open-end commingled funds pursuing a core investment strategy that reflects funds' leverage and cash positions. The NFI-ODCE index is equal-weighted and is reported gross and net of fees for a quarterly time series composite total rate of return.

Sources: Investment Terminology, International Foundation of Employee Benefit Plans, 1999.
The Handbook of Fixed Income Securities, Fabozzi, Frank J., 1991

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Throughout this report, numbers may not sum due to rounding.

Returns for periods greater than one year are annualized throughout this report.

Values shown are in millions of dollars, unless noted otherwise.



10.4. Retirement Application Processing Report

For Reference

Pension Application Processing Report as of 10/31/2025

For Month of August 25

	Teachers	State Employees	Municipal Employees	Totals
Total Outstanding				
Less than 0	17	9	3	29
0-30 Days	8	26	15	49
31-60 Days	1	6	3	10
61-90 Days	13	-	7	20
91-120 Days	-	-	-	-
120 + Days	1	2	2	5
Total	40	43	30	113

For Month of September 25

	Teachers	State Employees	Municipal Employees	Totals
Total Outstanding				
Less than 0	11	20	4	35
0-30 Days	4	10	6	20
31-60 Days	2	9	12	23
61-90 Days	1	-	-	1
91-120 Days	1	-	1	2
120 + Days	1	2	2	5
Total	20	41	25	86

For Month of October 25

	Teachers	State Employees	Municipal Employees	Totals
Total Outstanding				
Less than 0	13	13	7	33
0-30 Days	1	6	2	9
31-60 Days	2	4	-	6
61-90 Days	-	-	1	1
91-120 Days	-	1	2	3
120 + Days	2	2	2	6
Total	18	26	14	58

Total Processed	Teachers	State Employees	Municipal Employees	Totals
October 24	14	36	28	78
November 24	18	28	14	60
December 24	15	31	9	55
January 25	7	56	25	88
February 25	11	34	36	81
March 25	15	42	41	98
April 25	9	22	25	56
May 25	9	37	18	64
June 25	8	31	18	57
July 25	113	22	21	156
August 25	78	28	44	150
September 25	42	52	40	134
October 25	20	41	21	82
Total (rolling year)	345	424	312	1,077
Total (since 07/01/03)	9,044	10,546	6,024	25,614

Fiscal Year Totals

FY 2004 Total	689	665	199	1,553
FY 2005 Total	534	574	256	1,364
FY 2006 Total	493	507	221	1,221
FY 2007 Total	462	464	239	1,165
FY 2008 Total	409	659	195	1,263
FY 2009 Total	565	1,368	303	2,236
FY 2010 Total	562	283	263	1,108
FY 2011 Total	325	261	302	888
FY 2012 Total	458	346	292	1,096
FY 2013 Total	369	334	276	979
FY 2014 Total	266	311	209	786
FY 2015 Total	271	375	192	838
FY 2016 Total	301	345	262	908
FY 2017 Total	311	378	239	928
FY 2018 Total	300	570	269	1,139
FY 2019 Total	308	324	313	945
FY 2020 Total	349	405	281	1,035
FY 2021 Total	396	588	316	1,300
FY 2022 Total	380	467	336	1,183
FY 2023 Total	322	355	331	1,008
FY 2024 Total	399	398	288	1,085
FY 2025 Total	322	426	316	1,064
FY 2026 Total	253	143	126	522