

# Middletown PBA scores victory

BY KEVIN MCGOVERN

Police officers in Middletown Township can breathe a little easier when booking their next flight to New Jersey State PBA Convention, thanks to Arbitrator Robert Light. In PBA Local 124 v. Township of Middletown, Docket No. AR-2008-2007, Arbitrator Light sustained a grievance filed by PBA Local 124 on behalf of its President, Bernie Chenoweth, and ordered the Township to restore a paid leave day to Officer Chenoweth which had been taken from him as a result of his attendance at the 2007 State PBA Convention in Paradise Island. "I'm glad to get the day back", said Chenoweth, "but it's more important to me to make sure that the Township honors the language of our contract."

The problem arose when Middletown Police Chief Robert Oches denied Chenoweth's request for a convention leave day on Sept. 30, 2007. Chenoweth was scheduled to work the midnight shift that day, but his return flight from Paradise Island was not scheduled to land until the evening of Sept. 29, meaning that he would need to go straight from the airport to his post. Concerned with both timing and fatigue, Chenoweth asked for convention leave on Sept. 30. Under the union contract, officers are entitled to five (5) working days for convention leave, and Sept. 30 would have been Chenoweth's fifth day of leave. Despite the clear language of the contract, Chief Oches denied the request, on the basis that Chenoweth would technically no longer be at the convention on Sept. 30. As a result, Chenoweth was forced to use his own personal leave time that day. The union filed a grievance, alleging that the Township had failed to honor that portion of the agreement granting five (5) convention leave days. The case was processed to binding arbitration, where the union was represented by me, Kevin P. McGovern of Mets Schiro & McGovern, in Woodbridge.

After hearing from both sides, Arbitrator Light sustained the grievance, finding that on the "unique circumstances" presented, the Township was wrong to force Chenoweth to use his own time rather than a convention leave day for Sept. 30. The arbitrator observed that "the affected members would have returned to work at such a time that, for them to work on Sept. 30, would have been not in the best interest of the Township." Of course, this was precisely why Chenoweth had asked for the day. The Township was ordered to restore a paid leave day to Chenoweth's annual leave bank.

Kevin P. McGovern is a partner in Mets Schiro & McGovern, in Woodbridge.

<http://zoominlocal.com/advertising-rates/2010/05/?article=847253&dpg=1>