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This opinion shall not "constitute precedent or be binding upon any court."
Although it is posted on the internet, this opinion is binding only on the
parties in the case and its use in other cases is limited. R.1:36-3.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION

DOCKET NO. A-5267-14T2
A-5443-14T2
A-5444-14T2
A-5508-14T2

ALISSA BRANKER,

Plaintiff-Respondent,

v.

RICHARD WEBER, ADA, INC.,
and JOSEPH C. MITCHELL,

Defendants.

JOSEPH C. MITCHELL,

Plaintiff-Respondent,

v.

RICHARD WEBER,

Defendant/Third-Party
Plaintiff,

v.

COUNTY OF ESSEX,

Third-Party Defendant-
Appellant.

JOSEPH C. MITCHELL,

Plaintiff-Respondent,

v.

RICHARD WEBER,

Defendant/Third-Party
Plaintiff-Appellant,

v.

COUNTY OF ESSEX,

Third-Party Defendant.

Submitted April 25, 2017 - Decided May 5, 2017

Before Judges Reisner and Mayer.

On appeal from the Office of the Attorney General, Department of Law and Public Safety.

Courtney M. Gaccione, Essex County Counsel, attorney for appellant County of Essex (Alan Ruddy, Assistant County Counsel, on the brief).

Willie L. Parker, City of Newark Corporation Counsel, attorney for appellant Richard Weber (Emilia Perez, Assistant Corporation Counsel, on the briefs).

Christopher S. Porrino, Attorney General, attorney for respondent State of New Jersey (Lisa A. Puglisi, Assistant Attorney General, of counsel; Akeel A. Qureshi, Deputy Attorney General, on the brief).

PER CURIAM

Defendants Richard Weber (Weber) and the County of Essex (County) appeal final agency decisions by the New Jersey Office of the Attorney General (Attorney General) denying defendants' requests for representation and indemnification in a personal injury action. We affirm the Attorney General's decisions.

The relevant facts are undisputed. While driving a county-owned vehicle, Weber was involved in an automobile accident. Alissa Branker and Joseph Mitchell filed suit alleging personal injuries stemming from the accident. Weber is a detective employed by the City of Newark. In that capacity, he was assigned to work with the Essex County Narcotics Task Force in conjunction with the Essex County Prosecutor's Office.

Weber and the County requested that the Attorney General provide representation and indemnification in the personal injury actions. See N.J.S.A. 59:10A-1. Relying on Wright v. State, 169 N.J. 422 (2001) and Township of Edison v. Hyland, 156 N.J. Super. 137 (App. Div. 1978), the Attorney General rendered final agency decisions by letters dated July 8, 2015 and July 27, 2015, denying defendants' requests for defense and indemnification.

The standard of appellate review from a final agency decision is deferential. An agency determination should not be reversed "unless it is arbitrary, capricious or unreasonable or it is not

supported by substantial credible evidence in the record as a whole." Lavezzi v. State, 219 N.J. 163, 171 (2014) (quoting Prado v. State, 186 N.J. 413, 427 (2006)). However, we review an agency's legal interpretations de novo. Id. at 172.

The Attorney General concluded Weber was an employee of the City of Newark, not the County. Therefore, the Attorney General found Weber was not entitled to defense and indemnification according to the well-established case law. We agree. As a municipal police officer, Weber does not fall into a hybrid employment category, unlike a county prosecutor, who in some situations may be deemed to be a "state employee" for defense and indemnification purposes. See id. at 175-76.

As the Attorney General correctly recognized, Hyland is dispositive of defendants' appeals. In Hyland, the court found the municipality was responsible for defending actions against municipal police officers "arising out of or incidental to the performance of [their] duties." Hyland, supra, 156 N.J. Super. at 141 (quoting N.J.S.A. 40A:14-155). Because the police officers in Hyland were functioning as officers of their respective municipalities despite their associated efforts on a county created narcotics task force, the officers remained employees of the municipality. The Hyland court concluded:

[L]ocal police participation on the prosecutor's task force was beneficial to the welfare and safety of the residents of the municipalities. . . . The mutual assistance and cooperation of the local entities in assigning their police officers was simply another method of carrying out their local police functions.

[Id. at 143.]

Contrary to defendants' arguments, Hyland remains good law. The Attorney General's determinations were based on the well-established legal principles set forth in Hyland and were not arbitrary, capricious or unreasonable. We concluded that the remaining issues raised by defendants are without sufficient merit to warrant discussion in this opinion. R. 2:11-3(e)(1)(E). We affirm for the reasons expressed by the Attorney General in the written opinions dated July 8, 2015 and July 27, 2015.

Affirmed.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.



CLERK OF THE APPELLATE DIVISION