

THOMAS R. SUOZZI
County Executive



LORNA B. GOODMAN
County Attorney

COUNTY OF NASSAU
OFFICE OF THE COUNTY ATTORNEY
Ralph G. Caso Executive and Legislative Building
One West Street
Mineola, New York 11501-4820
516-571-3044
FAX: 516-571-3058

October 25, 2005

VIA ECF

Honorable Joanna Seybert
United States District Judge
United States District Court for the
Eastern District of New York
P.O. Box 9014
100 Federal Plaza
Central Islip, New York 11722-4438

Re: *United States v. Nassau County, et al.*
Civil Action No. 77 CV 1881

Dear Judge Seybert:

This office represents defendant Nassau County (the "County") in the above referenced action.

The purpose of this letter is to inform the Court that the Department of Justice notified the County, by letter dated October 17, 2005, that the United States' experts are of the view that there is sufficient evidence of validity to support using the 2005 Nassau County Police Sergeant Examination in the manner proposed in the validity materials. Accordingly, the United States has no objection to Nassau County using the 2005 examination and scoring model. As more fully set forth below, it is, therefore, respectfully requested that the Current List generated from the January 1999 examination, which is set to expire on November 4, 2005, pursuant to the Order of the Court dated October 3, 2005, expire effective immediately.

Under N.Y. Civil Service Law § 56 (1), "an eligible list that has been in existence for one year or more shall terminate upon the establishment of an appropriate new list, unless otherwise prescribed by the state civil service department or municipal commission having jurisdiction." The Nassau County Civil Service Commission has established for certification a new list of candidates for promotion to the rank of sergeant generated from the 2005 examination. Accordingly, it is respectfully requested that the Current List shall be deemed expired, effective immediately, on the basis that a new list is available. Attached is a proposed order for the Court's consideration in this regard.

I had provided notice of the County's intention to make this application to the United States Department of Justice, the Nassau County Superior Officers' Association (the "SOA"), the Nassau County Detective Association, Inc. (the "DAI"), and the Police Benevolent Association of Nassau County, Inc. (the "PBA").

The Department of Justice does not oppose this application. Counsel for the SOA/DAI, Michael Axelrod has informed me that they take no position on this application. Counsel for the PBA, Harry Greenberg, has informed me that they take no position on this application. They have all been provided with a copy of this application being presented to the Court.

In sum, the County respectfully requests that the Court So Order the proposed order expiring the Current List.

The Court's time and consideration to this matter is greatly appreciated.

Respectfully submitted,

Tatum J. Fox (TF-5905)
Deputy County Attorney

cc: VIA FACSIMILE and FEDERAL EXPRESS

John M. Gadzichowski, Esq.
Special Litigation Counsel
U.S. Department of Justice
Civil Rights Division-Employment Litigation Section
Attorney for Plaintiff United States
Patrick Henry Building
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20539
Facsimile Number-202-514-1105

Harry Greenberg, Esq.
Law Offices of Solomon Richman Greenberg P.C.
Attorney for the Police Benevolent Association of
Nassau County, Inc.
3000 Marcus Avenue
Lake Success, NY 11042
Facsimile Number- 516-570-4348

Michael Axelrod, Esq.
Certilman Balin
Attorney for the Superior Officer's Association
of Nassau County, Inc.
90 Merrick Avenue
East Meadow, NY 11554
Facsimile Number- 516-296-7111