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September 15, 2010

*Via Regular Mail and Facsimile (908)558-2566*Mr. Joseph Salemme  
Director of Administrative Services  
County of Union  
1 Elizabethtown Plaza  
Elizabeth, New Jersey 07202**RE: Union County Music Fest**

Dear Mr. Salemme:

As you may be aware, this office represents Union Council 8. We have just been informed by our client that a number of employees and Council 8 members were assigned with the task of setting up in anticipation of the "Union County Music Fest" held this past weekend. We have been further informed that several areas where employees were assigned to have been infested with the west Nile virus and/or treated with insecticides in response to such infestation. We are appalled, to say the least, by the County's failure to disclose this fact to employees prior to assigning them to this task. This failure to disclose could have put employees at risk for exposure to the west Nile virus, and or possible hazardous insecticides.

Article 10 of the collective bargaining agreement between the parties permits Council 8 to grieve disputes over conditions of employment. It is the union's position that the employer must not only provide, but maintain a safe work environment for employees. Further, it is the union's position that the employer must not put employees at risk by failing to disclose hazardous or potentially hazardous conditions. A safe work environment is a condition of employment. Failure to maintain or provide a safe work environment is a violation of the terms and conditions of employment set forth by the collective bargaining agreement, past practices, and/or rules and regulations of the County.

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The United States Supreme Court has recognized a substantive due process right to bodily integrity. DeShaney v. Winnebago County Dept. of Social Services, 489 U.S. 189 (1989). The substantive due process rights to bodily integrity give employees the right to be free of government policies that increase the risk of bodily harm. Benzman v. Whitman, 2006 WL 250527. By failing to disclose to employees of the west nile virus infestation and subsequent chemical spraying, the employer failed in its duty to provide a safe work environment to employees. The County's intentional concealment of these facts created a danger to employees. Further, the County knowingly failed to assure that employees had proper safety equipment which would protect them from contracting the virus or possibly coming in contact with harmful chemicals used to treat the infestation.

Council 8 requests that employees be made whole for any damages arising out of the County's actions, or inactions in this case. This includes, but is not limited to, loss of work time, compensation for any treatments necessary, out of pocket expenses, etc. Further, the union requests that the employer set up a system to monitor the health of employees who have been exposed to either the west nile virus or pesticides.

I thank you in advance for your kind attention to this matter. Please contact my office so that we may discuss this issue further.

Very truly yours,  
LOCCKE, CORREIA,  
SCHLAGER, LIMSKY & BUKOSKI



Marcia J. Tapia

cc: Edward Lozinski, President, Council 8