

**[J-94A-D-2010] [MO – Saylor, J.]
IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT**

CITY OF SCRANTON, : No. 35 MAP 2010
: :
: Appeal from the Order of the
Appellee : Commonwealth Court at No. 2314 CD
v. : 2007 dated 01/23/09 affirmed as modified
: the order of Lackawanna County Court of
: Common Pleas, Civil Division, at No. 06
: CV 3131 dated 10/23/07

FIREFIGHTERS LOCAL UNION NO. 60,
OF THE INTERNATIONAL
ASSOCIATION OF FIRE FIGHTERS,
AFL-CIO,

Appellant

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF COMMUNITY AND
ECONOMIC DEVELOPMENT AND ACT
47 COORDINATOR FOR THE CITY OF
SCRANTON, INTERVENORS

CITY OF SCRANTON, : No. 36 MAP 2010
Appellee : :
: Appeal from the Order of the
v. : Commonwealth Court at No. 213 CD 2008
: dated 1/23/09 affirmed as modified the
order of the Lackawanna County Court of
FIRE FIGHTERS LOCAL UNION NO. 60, : Common Pleas, Civil Division, at No. 06
OF THE INTERNATIONAL : CV 3131 dated 1/15/08
ASSOCIATION OF FIRE FIGHTERS,
AFL-CIO,

Appellant

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF COMMUNITY AND
ECONOMIC DEVELOPMENT AND ACT
47 COORDINATOR FOR THE CITY OF
SCRANTON,

Intervenors :
: CITY OF SCRANTON, : No. 37 MAP 2010
: Appellee : Appeal from the Order of the
: v. : Commonwealth Court at No. 2322 CD
: E.B. JERMYN LODGE NO. 2 OF THE : 2007 dated 2/6/09 affirmed as modified
FRATERNAL ORDER OF POLICE, : the order of Lackawanna County Court of
: Common Pleas, Civil Division, at No. 06
: CV 2255 dated 10/23/07

Appellant :
: COMMONWEALTH OF PENNSYLVANIA, :
DEPARTMENT OF COMMUNITY AND :
ECONOMIC DEVELOPMENT AND ACT :
47 COORDINATOR FOR THE CITY OF :
SCRANTON, :

Intervenors :
: CITY OF SCRANTON, : No. 38 MAP 2010
: Appellee : Appeal from the Order of the
: v. : Commonwealth Court at No. 232 CD 2008
: E.B. JERMYN LODGE NO. 2 OF THE : dated 2/6/09 affirmed as modified the
FRATERNAL ORDER OF POLICE, : order of Lackawanna County Court of
: Common Pleas, Civil Division, at No. 06
: CV 2255 dated 1/15/08

Appellant :
: COMMONWEALTH OF PENNSYLVANIA, :
DEPARTMENT OF COMMUNITY AND :
ECONOMIC DEVELOPMENT AND ACT :
45 COORDINATOR FOR THE CITY OF :
SCRANTON, :

Intervenors : ARGUED: November 30, 2010

CONCURRING OPINION

I join the salient analysis of my colleague Justice Saylor.

During argument of this case, counsel candidly acknowledged that of approximately 25 cities that have “entered” Act 47 and its protections, only a handful have recovered to the point of leaving the protections of Act 47. The remaining cities have apparently found a home there; Scranton has been there nearly 20 years.

I do not propose to fault the cities or their leaders for this condition – the crutch-like aid of Act 47 can understandably lead to dependence, and extrication from a state of dependence can be difficult. However, Act 47 comes with a price, a sacrifice by many, including the appellants here. When, as here, their sacrifice becomes de facto permanent, one must remember who is really paying the price.

In Pennsylvania, our first responders have had their ability to strike replaced by arbitration. The reasons for this are manifest, and arbitration has generally proved a workable substitute. However, if Act 47 were allowed to eliminate meaningful arbitration, unilaterally and permanently eviscerating the ability of workers to adjudicate legitimate issues, the consequences on many levels would not be acceptable.

I believe Justice Saylor’s reasoning is analytically correct; I also believe that result is the just one, and join the holding that § 252 does not supersede Act 111 arbitration awards.

Mr. Justice Baer joins this concurring opinion.