

WILLIAM B. CHANDLER III
CHANCELLOR

**COURT OF CHANCERY
OF THE
STATE OF DELAWARE**

COURT OF CHANCERY COURTHOUSE
34 THE CIRCLE
GEORGETOWN, DELAWARE 19947

Submitted: March 21, 2006
Decided: March 31, 2006

Eric Leonard Episcopo
New Castle County Law Department
87 Reads Way
New Castle, DE 19720

Perry F. Goldlust
Aber, Goldlust, Baker & Over
P.O. Box 1675
Wilmington, DE 19899

Re: *New Castle Co. v. Council 81 AFASCME, et al.*
Civil Action No. 1995-N

Dear Counsel:

The plaintiff County seeks a preliminary injunction to halt an arbitration scheduled for April 3, 2006. The County formerly employed the defendant, Dennis Parkstone, who is represented by the defendant Union. The County terminated Parkstone's employment for a purported breach of a memorandum of understanding entered by the parties on May 12, 2005. The defendants deny that Parkstone violated the memorandum of understanding, and allege that it was the County that violated that memorandum. These are the issues to be addressed at the April 3, 2006 arbitration.

The County seeks to enjoin the arbitration based on a provision in the memorandum of understanding in which Parkstone agreed "not to file a grievance or any other legal action with respect to this matter." It is the County's position that the arbitration proceeding is itself a violation of the memorandum of understanding, and that it is therefore entitled to a preliminary and permanent injunction preventing the arbitration. The County, however, has failed to allege any irreparable harm that will befall it absent the injunction. A demonstration of

pending irreparable harm, of course, is a necessary element of any successful request for injunctive relief in this Court. Moreover, defendants, in their reply to the plaintiff's motion, point out that "[t]he County cites no irreparable harm if it is required to submit the matter to arbitration" The County has chosen not to file a reply to the defendants' answer and has thus waived the opportunity to rebut this deficiency in its motion for injunctive relief, or to supplement that motion. Finally, it is not apparent to me that the County is at risk of irreparable harm absent the injunction.

Since the County has failed to allege an essential predicate to the relief it seeks, I need not address the merits of this action at this stage. The plaintiff's motion for a preliminary injunction is denied.

Finally, I deny the County's motion to file under seal certain exhibits to the complaint. In addition, I deny defendants' motion to strike certain exhibits on grounds of irrelevance and prejudice.

IT IS SO ORDERED.

Very truly yours,

A handwritten signature in dark ink, reading "William B. Chandler III". The signature is written in a cursive style with a horizontal line underlining the name.

William B. Chandler III

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