Appellate Division Docket No. CA 20-00745
Onondaga County Clerk's Index No. 006869/19

Court of Appeals

of the

State of New York

CITY OF SYRACUSE,

Petitioner-Appellant,

For a Decision and Order Pursuant to Article 75
of the Civil Practice Law and Rules

– against –

SYRACUSE POLICE BENEVOLENT ASSOCIATION, INC.,

Respondent-Respondent.

MOTION FOR LEAVE TO APPEAL TO THE COURT OF APPEALS

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November 4, 2021

STATE OF NEW YORK
COURT OF APPEALS

CITY OF SYRACUSE,

Petitioner,

For a Decision & Order Pursuant to Article 75 of the Civil Practice Law and Rules

v.

SYRACUSE POLICE BENEVOLENT ASSOCIATION, INC.,

Respondent.

NOTICE OF MOTION

Onondaga County Index No. 6859/2019

Fourth Department Docket No. CA 20-00745

PLEASE TAKE NOTICE that, upon the annexed Statement pursuant to Rules 500.21 and 500.22 of the Court of Appeals Rules of Practice, signed on November 4, 2021, proposed Appellant City of Syracuse will move this Court, at the Court of Appeals Hall, Albany, New York, on November 22, 2021 for an Order granting leave to appeal to this Court from the Order of the Appellate Division, Fourth Department, dated October 1, 2021.

PLEASE TAKE FURTHER NOTICE that answering papers, if any, must be served and filed in the Court of Appeals with proof of service on or before the return date of this motion.

Dated: November 4, 2021

BOND, SCHOENECK & KING, PLLC

By: _____

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STATE OF NEW YORK
COURT OF APPEALS

CITY OF SYRACUSE,

Petitioner,

For a Decision & Order Pursuant to Article 75 of the Civil Practice Law and Rules

v.

SYRACUSE POLICE BENEVOLENT ASSOCIATION, INC.,

Respondent.

STATEMENT IN SUPORT OF MOTION FOR LEAVE TO APPEAL

Onondaga County
Index No. 6859/2019

Fourth Department
Docket No. CA 20-00745

Pursuant to Rules 500.21 and 500.22 of the Court of Appeals Rules of Practice, the following Statement is offered in support of the motion of the City of Syracuse (the "City") for leave to appeal to the Court of Appeals:

STATEMENT OF PROCEDURAL HISTORY

1. On or about July 30, 2019, the City filed a Verified Petition to stay arbitration of certain arbitration requests made by the Syracuse Police Benevolent Association, Inc. (the "Union"), pursuant to Section 7503 of the Civil Practice Law and Rules. The City argued, among other things, that the parties' collective bargaining agreement provisions relating to police discipline were invalid based

upon this Court's ruling in *Matter of the City of Schenectady v. New York State Pub. Emp. Relations Bd.*, 30 N.Y.3d 109 (2017).

2. The Union filed a cross-motion to dismiss the Petition, and for a declaration regarding future disciplinary disputes. (R. 297).

3. By decision and Order dated May 11, 2020, the Supreme Court, Onondaga County (Karalunas, D.) granted the Union's motion and denied the Petition. The court held that the City had superseded the SCCL provisions regarding police and firefighter discipline when it enacted its 1960 Charter. (R. 20). The Supreme Court reasoned that it believed the City intended to supersede the SCCL's provisions regarding police and firefighter discipline based on changes to the police and firefighter discipline language in the 1960 Charter, as bolstered by the parties' history of collective bargaining. (R. 19 - 22). A copy of the May 11, 2020, Supreme Court decision is attached hereto as Exhibit A.

4. The City timely appealed the Supreme Court decision to the Appellate Division, Fourth Department.

5. By Order dated October 1, 2021, the Appellate Division, Fourth Department affirmed the lower court decision. A copy of the Appellate Division Decision is attached hereto as Exhibit B.

6. No prior motion for leave to the Court of Appeals was filed with the Appellate Division, and a copy of the Order to be appealed from, together with

Notice of Entry, was electronically filed by the Union's counsel on October 8, 2021. A copy of the Notice of Entry dated October 8, 2021, is attached hereto as Exhibit C.

7. This motion for leave to the Court of Appeals is made within thirty (30) days of the date that a copy of the Order or Judgment to be appealed from, together with Notice of Entry, was electronically filed. As such, the motion is timely. See CPLR Section 5513(b).

STATEMENT OF JURISDICTION

8. This Court has jurisdiction of this motion and of the proposed appeal pursuant to CPLR Sections 5501 and 5602(a)(1)(i) because the October 1, 2021, Order of the Appellate Division, Fourth Department, sought to be appealed is an order that finally determines the action, is not appealable as of right, and raises questions of law.

STATEMENT OF THE QUESTIONS PRESENTED FOR REVIEW

9. The questions presented for review on the proposed appeal are as follows:

a. Does the Second Class Cities Law govern police and fire discipline in cities of the second class, such as the City of Syracuse, as indicated in *Matter of the City of Schenectady v. New York State Pub. Emp. Relations Bd.*, 30 N.Y.3d 109 (2017)?

b. What changes to police and fire disciplinary provisions in the charter of a second class city will supersede the Second Class Cities Law provisions relating to police and fire discipline?

10. These questions presented for review were raised and preserved by the City in the proceedings below. (R. 1004 – 1009, 1068 – 1073).

STATEMENT OF WHY THE QUESTIONS PRESENTED MERIT REVIEW BY THE COURT OF APPEALS

11. The questions presented merit review by this Court because: (i) the holding of the Appellate Division, Fourth Department, conflicts with this Court's decision in *City of Schenectady*, 30 N.Y. 3d at 109, (ii) the issues raised are of statewide importance to all cities of the second class insofar as they implicate the public policy in favor of local control over police and fire discipline, and (iii) this is not an issue the Court has considered before.

12. This case arises in the context of several Court of Appeals decisions addressing the scope of a public employer's obligation under the Taylor Law to engage in collective bargaining where the subject of discipline is concerned.

13. Since 2006, this Court has consistently expressed a clear preference for local control over police discipline. This preference has been articulated through a series of cases, beginning with *Matter of Patrolmen's Benevolent Assn. of City of N.Y., Inc. v. N.Y. State Pub. Empl. Relations Bd.*, 6 N.Y.3d 563 (N.Y. 2006), extending to *Matter of Town of Wallkill v. Civil Serv. Empls. Assn., Inc.,* 19 N.Y.3d

1066 (N.Y. 2012), and culminating most relevantly in *Matter of the City of Schenectady v. N.Y. State Pub. Empl. Relations Bd.*, 30 N.Y.3d 109 (N.Y. 2017).

14. In each of these cases, this Court found that, based upon the competing policy considerations, local officials had been granted the authority to administer police discipline, and that the Taylor Law's collective bargaining provisions did not control. *See, Patrolmen's Benevolent Assn.*, 6 N.Y.3d at 571-72; *Town of Wallkill*, 19 N.Y.3d at 1069; *City of Schenectady*, 30 N.Y.3d at 115.

15. The *City of Schenectady* decision is particularly relevant in this case. There, the Court considered whether the SCCL governed police discipline in the City of Schenectady (a city of the second class, like the City in this case), where the statute's disciplinary provisions conflicted with the parties' current and prior collective bargaining agreements.

16. The City of Schenectady argued that because it was a "second class city" the SCCL negated the collective bargaining requirements in the Taylor Law and that, as a result, the City should be permitted to promulgate its own police disciplinary procedures consistent with the SCCL.

17. In support of its claims, the City of Schenectady cited to the Court of Appeals decisions in *Patrolmen's Benevolent Assn.* and *Town of Wallkill* and argued that the Court's analysis in those cases controlled. The respondents, including the Schenectady PBA, argued, among other things, that the changes to Schenectady's

governmental structure and the parties' history of collective bargaining required the Court to disregard the explicit provisions regarding police discipline found in the SCCL.

18. This Court agreed with the City of Schenectady and rejected the Schenectady PBA's arguments. The Court held that its analysis in *Patrolmen's Benevolent Assn.* and *Town of Wallkill* controlled and that the provisions in the SCCL regarding police discipline applied to the City of Schenectady.

19. Importantly, this Court also considered whether changes to the City of Schenectady charter, which eliminated the position of Commissioner of Public Safety, and made other changes that were inconsistent with the SCCL, had any impact on whether the SCCL controlled police discipline. This Court considered those changes, and held that they were "irrelevant" to its analysis. *Id*., at 116, n. 1.

20. As a result, this Court held that the SCCL controlled the administration of police discipline in the City of Schenectady and that collective bargaining regarding police discipline was prohibited. *Id*.

21. In this case, in the courts below, the City argued that the Court of Appeals' decision in *City of Schenectady* controlled, and that because the City is a city of the second class, the provisions of the SCCL control police and fire discipline. In response, the Union argued that the SCCL did not control police and fire discipline because the City had superseded the SCCL when it enacted its 1960 Charter.

However, it is respectfully submitted that the Union's argument and the lower court decisions ignore this Court's precedent and relevant statutory law.

A. <u>This Court's decision in *City of Schenectady* should control in this case</u>

22. As an initial matter, this Court considered similar changes to the City of Schenectady's charter and held that those changes were "irrelevant" to whether the SCCL applied. *See City of Schenectady*, 30 N.Y.3d at 116, n. 1.

23. The SCCL, as originally enacted in 1906, included specific provisions regarding the discipline of police and firefighters, and expressly vested the authority to make rules regarding such discipline in a local public official – the commissioner of public safety.

24. Prior to 1934, the City of Schenectady operated under a governmental structure that incorporated the SCCL (like the City in this case) and included a commissioner of public safety, who was vested with the authority to prescribe disciplinary procedures and discipline. (R. 1029). However, in 1934, the City of Schenectady adopted a new form of government pursuant to the Optional City Government Law. (R. 1032). In conjunction with this change in the form of its government, on January 4, 1936, the City of Schenectady adopted an ordinance that expressly abolished the office of the commissioner of public safety and transferred the powers and duties of that office to a "City Manager." (R. 1032).

25. In 1978, pursuant to the Municipal Home Rule Law, the City of Schenectady approved a change in governance from an appointed City Manager to an elected mayor. (R. 1033 – 1034). In 1986, the City of Schenectady again amended its Charter by, among other things, deleting its reference to a "Commissioner of Public Safety" and replacing it with "Police Department." (R. 1051 – 1055).

26. In the *City of Schenectady* decision, this Court considered whether these changes to the structure of the City of Schenectady's government, including the elimination of the "commissioner of public safety" position, had any impact on the applicability of the SCCL provisions regarding discipline. The Court held that they did not, and disposed of the issue in a footnote, stating, "Subsequent changes to Schenectady's form of government have eliminated the office of the commissioner and transferred that office's powers and responsibilities to others, which is irrelevant for the purpose of our decision in this case." 30 N.Y.3d at 116, n. 1.

27. Similarly, here, through changes in its organizational structure, the City has eliminated the position of commissioner of public safety, but transferred the disciplinary power of that position to others, including the Chief of Fire.

28. As of 1915, the City operated under a charter that provided for several governmental departments, including a "Department of Public Safety." (R. 206). The Department of Public Safety was headed by a "commissioner of public safety,"

who had "cognizance, jurisdiction, supervision and control of the government, administration, disposition and discipline of the police department, fire department, buildings department and health department." (R. 208). The 1915 charter authorized the commissioner of public safety to "to make, adopt, promulgate and enforce reasonable rules, orders and regulations for the government, discipline, administration and disposition of the officers and members of the police and fire departments . . ." (R. 208). The City's 1915 charter provisions relating to police and fire discipline mirrored the SCCL provisions regarding discipline.

29. In 1935, the City adopted a new charter pursuant to the City Home Rule Law. As part of the new charter, the City transferred the disciplinary powers of the commissioner of public safety to others within the government. (R. 256). Among other changes, the 1935 charter split the Department of Public Safety into a Department of Police, Department of Fire, and Department of Public Health. (R. 296, 300, 304). The 1935 charter explicitly transferred the powers of the commissioner of public safety to the commissioners of these new departments.

30. The City again amended its charter in 1960, and again kept the power to promulgate disciplinary procedures for the Fire Department with the Chief of Fire. Section 5-908 of the 1960 Charter states, "The chief of fire, with the approval of the mayor, shall make, adopt, promulgate and enforce such reasonable rules, orders and regulations for the . . . discipline . . . of the officers and members of the department

of fire as may be necessary to carry out the functions of the department. Disciplinary proceedings against any member of the department shall be conducted in accordance with the rules and regulations of the department and the provisions of law applicable thereto, including the Civil Service Law." (R. 377).

31. The lower courts ignored this Court's analysis in *City of Schenectady* and its impact on whether the SCCL controlled police and fire discipline in the City. Instead, the lower courts reasoned that because the SCCL was "inconsistent" with the 1960 Charter, the City intended that it would be superseded. However, if the lower courts were correct, this Court should have held that the City of Schenectady charter, which eliminated the position of commissioner of public safety altogether, deleted any reference to the SCCL provisions relating to discipline, and transferred the authority of the commissioner of public safety to others within the government, was also "inconsistent" with the SCCL and therefore superseded its provisions relating to discipline. But that is not what this Court did.

32. Because this Court has already ruled that extensive changes to the SCCL provisions regarding police discipline are irrelevant to its determination about whether the SCCL provisions regarding police and fire discipline prohibited bargaining over discipline in second class cities, the changes to the City's charter do not supersede the SCCL, and the lower courts' decisions should be overturned.

B. The City's 1960 Charter does not state that it is superseding the SCCL, as required by the City Home Rule Law and Municipal Home Rule Law

33. The lower court rulings should also be overturned because they ignore the City Home Rule Law and Municipal Home Rule Law provisions regarding supersession.

34. Both the City Home Rule Law and the Municipal Home Rule Law specifically contemplate that a local law could supersede a state statute such as the SCCL. Former City Home Rule Law Section 12.1 stated, "Any local law adopted pursuant to this chapter may specify any provision of an act of the legislature . . . which it is intended to supersede by local law." (R. 1078).

35. This Court interpreted City Home Rule Section 12.1 as follows: "The effect of local law on acts of the Legislature is defined (§ 12, sub. 1) in substance as follows: If it is intended to supersede by a local law a provision of an act of the Legislature . . . such local law shall specify any provision of such act of the Legislature by chapter number, year of enactment, title of statute, section, subsection or subdivision which it is intended to supersede by a local law." *McCabe v. Voorhis*, 243 N.Y. 401, 414-15 (N.Y. 1926) (emphasis added).

36. Similarly, Section 22 of the Municipal Home Rule Law states,

> "In adopting a local law changing or superseding any provision of a state statute or of a prior local law or ordinance, the legislative body shall specify the chapter or local law or ordinance, number and year of enactment, section, subsection or subdivision, which it is intended to

> change or supersede, but the failure so to specify shall not affect the validity of such local law." N.Y. MUN. HOME RULE LAW § 22.

37. Stated differently, pursuant to the City Home Rule Law and Municipal Home Rule Law, if a municipality intends for a local law to supersede a state statute, it has to explicitly say so.

38. This Court explained the purpose for this rule as follows: "The existence of a duty to keep a local law free from ambiguity cannot be denied. Confusion would be intolerable if, in the case of every local law adopted throughout the cities of the State, no one could feel confident that local legislators had intended to supersede an entire statute or only part of it. If a part, which part? The purpose of section 12, subdivision 1, of the City Home Rule Law is to compel definiteness and explicitness in order that clarity shall result." *Bareham v. City of Rochester*, 246 N.Y. 140, 150 (N.Y. 1927).

39. The City has followed provision of the City Home Rule Law (and Municipal Home Rule Law) and explicitly stated when it intended to supersede a provision of the SCCL. For example, in 1927, the City enacted Local Law 5-1927, which specifically stated, "A local law of the city of Syracuse to amend and supersede section ninety-five of chapter fifty-five of the laws of nineteen hundred and nine known as second class cities law, in relation to collection of water rents." (R. 1086).

40. Similarly, in 1998 the City adopted Local Law 11-1998, which states, "A local law of the city of Syracuse superseding the New York State Second Class Cities Law to increase the minimum level of fines from $150.00 to $1,000.00 for violations of the City's local laws and general ordinances." (R. 1088 – 1089).

41. Importantly, the provisions of the City's charters and/or local laws addressing police and fire discipline do not contain any statement that they are intended to supersede the disciplinary provisions of the SCCL. (R. 1073). Pursuant to the terms of the City Home Rule Law and Municipal Home Rule Law, the City has not superseded the SCCL provisions relating to discipline. Rather, the City, like the City of Schenectady, transferred the power to promulgate disciplinary procedures, which were articulated in the Second Class Cities Law, to the Chief of Fire.

42. In a situation such as this, where there is confusion about whether the SCCL disciplinary provisions have been superseded, the Municipal Home Rule Law provisions cited above are of the utmost importance. They are in place to prevent the type of confusion the parties are confronted with in this case. It is clear from this Court's prior rulings that ambiguity should be resolved in favor of not finding supersession, specifically where there is no express statement of supersession.

43. Here, the City has specifically stated that the SCCL is superseded in prior local laws. See (R. 1086, 1088 – 1089). Its failure to do so here indicates that

it did not intend to supersede the SCCL's provisions regarding police and firefighter discipline when it enacted the 1960 Charter.

44. The lower courts' conclusion that the City superseded the SCCL is therefore in error and should be reversed by this Court.

45. It is important to note that the lower court decisions will have an impact far beyond the City of Syracuse. Indeed, they will impact every second class city within the State that is seeking clarity on whether the SCCL controls police discipline and whether collective bargaining over discipline is prohibited. The reach of this Court's decision in the *City of Schenectady* case is also in question based on the lower court decisions in this case. Accordingly, the City respectfully submits that this Court should hear the City's appeal and resolve these critical, statewide issues.

WHEREFORE, Movant City of Syracuse respectfully requests that its motion for an Order granting leave to appeal to this Court from the Order of the Appellate Division, Fourth Department, dated October 1, 2021, be granted, together with such other and further relief as this Court deems just and proper.

Dated: November 4, 2021

BOND, SCHOENECK & KING, PLLC

By: _____

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EXHIBIT A

PRESENT: HON. DEBORAH H. KARALUNAS
JUSTICE OF THE SUPREME COURT

STATE OF NEW YORK
SUPREME COURT COUNTY OF ONONDAGA

CITY OF SYRACUSE,
Petitioner,

ORDER AND JUDGMENT

For a Decision & Order Pursuant to Article 75 of the Civil Practice Law and Rules

Index No.: 006869/2019

v.

SYRACUSE POLICE BENEVOLENT ASSOCIATION, INC.,
Respondent.

Petitioner, City of Syracuse, by and through its attorneys, Bond, Schoeneck and King PLLC, Colin M. Leonard, Esq. and Adam P. Mastroleo, Esq. having duly moved for a Decision and Order pursuant to Section 7503 of the Civil Practice Law and Rules permanently staying arbitrations requested by the Respondent, Syracuse Police Benevolent Association, Inc., and for the award of such other, further and different relief as to the court seems just and proper, including costs, disbursements and attorney fees; and the Respondent Syracuse Police Benevolent Association, Inc., by and through its attorneys, DePerno & Khanzadian, P.C., Rocco A. DePerno, Esq., having duly moved for an Order Dismissing the Petition and for an Order pursuant to Section 7503(a). et seq. for an Order Compelling Arbitration of the subject disciplinary grievances in accordance with Article 11 of the Collective Bargaining Agreement, and for a declaration regarding future disciplinary disputes including costs and attorney fees.

NOW, upon the Notice of Verified Petition to Stay Arbitration dated July 30, 2019, the affirmation of Kristen E. Smith, Esq. dated July 30, 2019, with Exhibits A through H and Exhibit A (Doc #13) in support of Petitioner's petition; and upon Respondent's Notice of Cross-Motion for an Order granting Respondent's Motion to Dismiss the Petition and Compel Arbitration dated December 9, 2019, Respondent's Verified Answer, Objections and Points of Law, dated

December 9, 2019, the Affidavit of Jeffrey Piedmonte, dated December 6, 2019, the Attorney Affirmation of Rocco A. DePerno, Esq., dated December 9, 2019, Respondent Exhibits R-1 through R-5 in support of Respondent's Motion to Dismiss the Petition and Compel Arbitration; the affirmation in reply of Kirsten E. Smith, Esq., dated January 8, 2020 with Exhibits A through F, the reply Affidavit of Adam P. Mastroleo, Esq. dated January 8, 2020 with Exhibits A through D; the Affirmation of Rocco A. DePerno, Esq., dated January 15, 2020, in further support of Respondent's Cross- Motion with Exhibit R-1 (Doc #43).

NOW, upon the submission of the matter for decision by the court, and after due consideration and Decision of the Hon. Deborarh H. Karalunas, JSC, dated May 11, 2020 which is attached hereto and incorporated herein, it is hereby Ordered that Judgment be entered as follows:

ORDERED that Respondent's Cross-Motion to Dismiss the Petition and direct the parties to arbitrate the grievances filed on behalf of the four PBA members in accordance with Article 11 of the CBA is GRANTED; and it is further

ORDERED that Respondent's request for a declaration regarding future disciplinary disputes and for costs and attorney fees is DENIED; and it is further

ORDRED that Petitioner's application to stay arbitrations is DENIED

DATED: June 4, 2020
Syracuse, New York

HON. DEBORAH H. KARALUNAS
SUPREME COURT JUSTICE

ENTER:

SUPREME COURT
STATE OF NEW YORK COUNTY OF ONONDAGA

CITY OF SYRACUSE,

Petitioner,

For a Decision and Order Pursuant to Article 75 of the Civil Practice Law and Rules

Index No.: 6869/2019

v.

SYRACUSE POLICE BENEVOLENT ASSOCIATION, INC.,

Respondent.

DECISION

Appearances:

BOND, SCHOENECK & KING, PLLC
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DEPERNO & KZHANZADIAN, P.C
Rocco DePerno, Esq., Of Counsel
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Karalunas, J.:

This constitutes the Court's decision regarding the petition of the City of Syracuse ("the City" or "the petitioner") to permanently stay a request for arbitration filed by respondent Syracuse Police Benevolent Association, Inc. ("the PBA" or "respondent") on behalf of four of its members ("the grievants") for alleged conduct infractions, and respondent's cross-motion to dismiss the petition and compel arbitration. The matter was submitted to this Court's motion calendar following recusal by the Hon. Anthony J. Paris.

The City and the PBA are parties to a Collective Bargaining Agreement ("CBA") which encompasses a series of Interest Arbitration Awards and Memoranda of Agreements covering the parties' relationship between December 31, 1998 and December 31, 2017. Pet. ¶ 3; Smith 7/30/19 Aff. ¶ 3, Exhs. A-E. On November 26, 2019, the parties executed a proposed Memorandum of Agreement for a successor collective bargaining agreement to cover the period from January 1, 2018 through June 30, 2022, but the successor collective bargaining agreement has not yet been approved by the Syracuse Common Council or the PBA membership. PBA Ans. ¶ 3. Until the new collective bargaining agreement is approved, the terms of the previous CBA remain in effect. See NY Civ. Serv. L. § 209-a(1)(e).

Article 11 of the CBA, titled "Discharge and Discipline," sets forth the procedure for discipline or discharge of a police officer. In pertinent part, that article provides:

> 11.1 Procedure in Disciplinary Disputes
>
> In the event of a dispute concerning the discipline or discharge imposed upon a police officer, the following procedures shall be followed:
>
> Step 1: City shall advise an officer in writing that it proposes to commence disciplinary action against him. Such notice shall describe the general circumstances for which discipline is sought and optionally the penalty which the City seeks to impose. Within

> seven days . . . the parties (the chief, the officer, the union and any of their attorneys) shall meet to discuss voluntary resolution of the charges. If no voluntary resolution can be made, . . . then within three days, . . . the officer must serve written notice as described in Section 11.2 if he desires to follow Step 2 of this Article. Failure to make a timely election shall automatically mean that the procedures of Section 75 of the Civil Service Law shall be followed, and there shall be no right to arbitrate under the provisions of this Agreement. If the officer waives his Section 75 rights and makes a timely election for arbitration, then the remaining step will be followed. If an employee has been suspended without pay he may waive his Section 75 rights and demand arbitration immediately. In such a case, within 72 hours the City shall serve a description of the charges on which it relies for the discipline sought.
>
> Step 2: The parties will utilize the panel in matters of discharge and discipline under this article. If the officer has made a timely election in Step 1, the [PBA] shall file in writing a request for arbitration with the panel. The arbitration shall be held within twenty calendar days of the date of the request. The arbitrator shall render his decision within fourteen days following close of the record. The finding of the arbitrator shall be final and binding upon the parties. There shall be no extensions of the foregoing time limits except by mutual agreement. The arbitrator may, under appropriate circumstances, issue an interim verbal decision, to be followed by a written opinion and award.

CBA, Art. 11.

In addition to this collectively bargained right to submit disciplinary disputes to arbitration, the Syracuse Police Department Rules and Regulations ("PD Rules") also authorize arbitration. The PD Rules acknowledge the rights of its members under the Taylor Law:

> 10.00 POLICY:
>
> The purpose of this policy is to define the role of the Syracuse Police Department in the Collective Bargaining Process. The New York State "Taylor Law" provides public employees with the right to collectively bargain for wages, benefits and working conditions.

Syracuse Police General Rules & Procedure Manual, Art. 4, § 10.00.

With specific reference to police discipline, the PD Rules provide:

7.17 FORMAL DISCIPLINE:

* * *

B. Sworn officers who are formally charged shall have the option of having the case heard before:

1. A hearing officer appointed pursuant to Section 75 of the Civil Service Law.
2. An arbitrator mutually acceptable to the Department and Officer.

* * *

D. All formal disciplinary proceedings shall be conducted in accordance with the "Manual of Procedure in Disciplinary Actions," published by the New York State Department of Civil Service, Municipal Services Division, and applicable Laws and bargaining agreements.

E. When a sworn officer elects to have the case heard before an arbitrator, the decision of the arbitrator shall be final and binding upon the Department and the officer. All disciplinary arbitration shall be conducted in accordance with the provisions of the "Manual on Negotiated Disciplinary Procedures" published by the New York State Department of Civil Service.

* * *

8.22 COMMENCING DISCIPLINARY ACTION

* * *

C. If a voluntary resolution of the charges has not been achieved, the member must file written notice within three days . . . indicating the member's waiver of rights under Section 75 of the Civil Service Law (CSL) and the member's desire to invoke arbitration contracts between the City of Syracuse and the Syracuse Police Benevolent Association.

Syracuse Police General Rules & Procedure Manual, Art. 4, §§ 7.17 and 8.22.

The parties agree that with respect to the four grievants, the City issued grievances, the PBA filed written requests for arbitration, and the City's corporation counsel was carbon copied on the PBA's requests for arbitration. Smith 7/30/19 Aff. ¶¶ 6-9; Piedmonte Aff. ¶ 4.

Pursuant to CPLR 7503, on July 30, 2019, the City filed a verified petition seeking to permanently stay arbitration of the four PBA members' grievances. Citing Matter of City of Schenectady v. New York State Pub. Empl Relations Bd., 30 N.Y.3d 109 (2017), the City maintains it is prohibited from arbitrating issues of police discipline. Pet. ¶¶ 2, 11 and 26.

The PBA argues Matter of City of Schenectady is not controlling, and cross-moves to dismiss the petition. The PBA also seeks an order: (1) compelling arbitration of the disciplinary grievances in accordance with Article 11 of the CBA; (2) directing the City to arbitrate all future disciplinary disputes in accordance with Article 11 of the CBA, unless and until negotiated otherwise; (3) precluding the City from unilaterally implementing the disciplinary procedures set forth in the Second Class Cities Law; and (4) imposing costs and attorney's fees.

Statutory Background

In 1906, the New York State Legislature enacted the Second Class Cities Law ("SCCL") to provide a standard uniform city charter for all cities of the "Second Class," defined as a city with a population, as of the end of 1923, of between 50,000 and 175,000. As set forth in the current version of the SCCL, each of its provisions "shall apply, according to its terms, "until such provision is superseded pursuant to the municipal home rule law, was superseded pursuant to the former city home rule law or is or was otherwise changed, repealed or superseded pursuant to law." SCCL § 4.

The City Home Rule Law, which was adopted in 1924, provided:

> Any local law adopted pursuant to this chapter may specify any provision of any act of the Legislature by reference to chapter

> number, year or enactment, title of statute, section, subsection or subdivision, which provision relates to the subject matter of such local law and does not in terms and in effect apply alike to all cities, and which it is intended to supersede by such local law; and upon the taking effect of such local law, such provision of any such act of the Legislature so specified shall cease to have any force or effect in such city.

City Home Rule L. § 12.1.

Thereafter, in 1965, the City Home Rule Law was replaced by the Municipal Home Rule Law. In pertinent part, the Municipal Home Rule Law provides:

> In adopting a local law changing or superseding any provision of a state statute or of a prior local law or ordinance, the legislative body shall specify the chapter or local law or ordinance, number and year of enactment, section, subsection or subdivision, which it is intended to change or supersede, but the failure so to specify shall not affect the validity of such local law.

Mun. Home Rule L. § 22.

Turning to the substance of the SCCL, relevant here, the commissioner of public safety is granted "cognizance, jurisdiction, supervision and control of the government, administration, disposition and discipline of the police department. . . . and of the officers and members of [that] . . . department[ ]. He shall possess such other powers and perform such other duties as may be prescribed by the law or by ordinance of the common council." SCCL § 131.

Expanding on that authorization, section 133 of the SCCL provides that the commissioner of public safety shall:

> make, adopt, promulgate and enforce such reasonable rules, orders and regulations, not inconsistent with law, as may be reasonably necessary to effect a prompt and efficient exercise of all the powers conferred and the performance of all duties imposed by law upon him or the department under his jurisdiction. He is authorized and empowered to make, adopt, promulgate and enforce reasonable rules, orders and regulations for

> the government, discipline, administration and disposition of the officers and members of the police and fire departments, and for the hearing examination, investigation, trial and determination of charges made or prepared against any officer or member of said departments; . . . but no officer or member of said departments shall be removed or otherwise punished for any other cause, nor until specific charges in writing have been preferred against and served upon him, and he shall have been found guilty thereof, after reasonable notice and upon due trial before said commissioner in the form and manner prescribed by law and the rules and regulations of the department.

SCCL § 133; see also SCCL § 137 (setting forth specific procedures for discipline).

In 1958, after adoption of the SCCL, the New York State legislature passed Civil Service Law sections 75 and 76 governing disciplinary proceedings concerning civil service employees. Notably, in Matter of City of Schenectady v. New York State Pub. Empl Relations Bd., 30 N.Y.3d 109 (2017), the Court held that while "Civil Service Law §§ 75 and 76 generally govern police disciplinary procedures, pre-existing laws that expressly provided for control of police discipline were "grandfathered" under Civil Service Law § 76(4), which provides that nothing in sections 75 and 76 shall be construed to repeal or modify any general, special or local laws or charters." Id. at 114.

Almost one decade later, in 1967, the New York State legislature added Article 14 to New York's Civil Service Law. Commonly known as the Taylor Law, that statute provides in pertinent part:

> Where an employee organization has been certified or recognized . . . the appropriate public employer shall be, and hereby is, required to negotiate collectively with such employee organization in the determination of, and administration of grievances arising under, the terms and conditions of employment of the public employees.

NY Civ. Serv. L. § 204(2). As the Court of Appeals has acknowledged, "the Taylor Law represents a strong and sweeping policy of the State to support collective bargaining." Matter of

the City of Schenectady, 30 N.Y.3d at 114; Matter of Cohoes City Sch. Dist. v. Cohoes Teachers Assn., 40 N.Y.3d 744 (1976).

Relevant City Charters

Consistent with the SCCL, the City of Syracuse Charter of 1915 ("1915 City Charter") authorized appointment of a commissioner of public safety. 1915 City Charter, Art. 3, §17 and Art. 9. The 1915 City Charter mandated that the commissioner of public safety "make, adopt, promulgate and enforce reasonable rules, order and regulations for the government, discipline, administration and disposition of the officers and member of the police and fire departments." 1915 City Charter, Art. 9, § 133. The language of section 133 of the 1915 City Charter practically mirrored the language of section 133 of the SCCL.

In 1935, pursuant to the City Home Rule Law, the City of Syracuse adopted a new charter ("1935 City Charter") which, among other things, eliminated the position of commissioner of public safety, organized a Department of Police and a separate Department of Fire, and vested the powers previously held by the commissioner of public safety in a Chief of Police (section 202) and a Chief of Fire (section 222). 1935 City Charter, Arts. 12 and 13, §§ 200 - 230. The 1935 City Charter, in relevant part, provided: "The Chief of Police . . . is authorized and empowered with approval of the Mayor, to make, adopt, promulgate and enforce reasonable rules, orders and regulations for the . . . discipline . . . of officers and members of the Police Department." Id. at § 202.

As with the 1915 City Charter, language in the 1935 City Charter nearly mirrored the language of section 133 of the SCCL. The only changes of any relevant significance were: (1) elimination of the phrase that purported to limit designation of power to that which was "not inconsistent with law;" (2) addition of a requirement that the Mayor approve adoption of rules.

orders and regulations concerning discipline of officers and members; and (3) designation of the Mayor as the trier of fact in disciplinary proceedings against officers and members. 1935 City Charter, § 202.

The 1935 City Charter specified that: [a]ll authorities, rights, powers, duties and obligations enjoyed or possessed by or devolved upon an officer, department, commission, board or other city agency, or employee, as of the time when this Charter shall take effect, shall continue and be preserved except where inconsistent with the provisions of this Charter;" and "[s]ubject to the provisions of the City Home Rule Law, any provisions of law, local law or ordinance including all laws, local laws or ordinances creating, providing for or continuing any office, officer, department, board, body, commission or other city agency, inconsistent with this Charter are hereby repealed." 1935 City Charter, §§ 2 and 26.

A new Syracuse City Charter was enacted in 1960 ("1960 City Charter"). Also known as Local Law No. 13, the 1960 City Charter expressly provides that it is "a new charter for the City of Syracuse, and generally supersed[es] acts and local laws inconsistent therewith." 1960 City Charter, Preamble; see also 1960 City Charter, § 9-106 ("[a]ll laws and parts of law in force when this charter shall take effect are hereby superseded so far as they affect the city of Syracuse, to the extent that same are inconsistent with the provisions of this charter, and no further").

To make the point abundantly clear, the 1960 City Charter further provides:

> [A]ll property, rights and interests now possessed or enjoyed by the city of Syracuse, shall continue to be possessed and enjoyed by it. The city, and all officers, departments, commissions, boards and other agencies thereof, shall have, enjoy and be subject to all authority rights and powers now possessed by it or them, and all obligations or duties now owed by it or them, and shall perform all duties devolved upon it or them under and by virtue of all existing general or special laws of the state of New York or hereafter

> devolved upon the city of Syracuse, or upon such officers, departments, commissions, boards, or agencies, by any general or special laws hereafter enacted, except insofar as such authority, rights, powers, obligations or duties are and shall be lawfully governed, modified, or affected by the provisions of this charter. Subject to the provisions of the City Home Rule Law, any provisions of law, local law or ordinance including all laws, local laws or ordinances creating, providing for or continuing any office, officer, department, board, body, commission or other city agency, inconsistent with this charter are hereby repealed.

Id. at § 1-102.

With specific respect to the police department, the 1960 City Charter provides:

> The chief of police, with the approval of the mayor, shall make, adopt, promulgate and enforce such reasonable rules, orders and regulations for the government, discipline, administration and disposition of the officers and members of the department of police as may be necessary to carry out the functions of the department. Disciplinary proceedings against any member of the department shall be conducted in accordance with the rules and regulations of the department and the provisions of law applicable thereto, including the Civil Service Law

Id. at § 5-1409.

Discussion

As a preliminary matter, the parties agree Syracuse was, and still is, a city of the second class. Pet. ¶ 25. Resp. MOL p. 4. They disagree on whether the SCCL provisions regarding police discipline were superseded by Civil Service Law, local law, the CBA and the parties' custom and practice.

The City argues the trilogy of Matter of Patrolmen's Benevolent Assn. of City of N.Y., Inc. v. New York State Pub. Empl. Relations Bd., 6 N.Y.3d 563 (2006); Matter of Wallkill v. Civil Serv. Empls. Assn., Inc., 19 N.Y.3d 1066 (2012); and Matter of City of Schenectady v.

New York State Pub. Empl. Relations Bd., 30 N.Y.3d 109 (2017) is dispositive. This Court disagrees.

In Matter of Patrolmen's Benevolent Assn. of City of N.Y., Inc. v. New York State Pub. Empl. Relations Bd., 6 N.Y.3d 563 (2006), the Court of Appeals considered whether the New York City Charter and the Rockland County Police Act eradicated any right police officers in those jurisdictions had to collectively bargain issues of discipline. The New York City Charter committed matters of police discipline to the police commissioner; the Rockland County Police Act committed matters of police discipline to a local town board. In deciding the issue, the Court confronted the "tension between the strong and sweeping policy of the State to support collective bargaining under the Taylor Law and . . . the [competing] policy favoring strong disciplinary authority for those in charge of police forces." Id. at 571. While confirming that "the policy of the Taylor Law prevails, and collective bargaining is required where no legislation specifically commits police discipline to the discretion of local officials," the Court explicated that where such legislation is in force, *i.e.*, where local law has expressly committed police discipline to local officials, "the policy favoring control over the police prevails, and collective bargaining over disciplinary matters is prohibited." Id. at 570-71. Examining the applicable New York City and Rockland County local laws, the Court concluded that those laws expressed in clear terms a policy favoring management authority over police disciplinary matters such that "the policy favoring collective bargaining should give way." Id. at 576.

In Matter of Wallkill v. Civil Serv. Empls. Assn., Inc., 19 N.Y.3d 1066 (2012), the applicable collective bargaining agreement gave the Town of Wallkill police officers the right to a disciplinary hearing before a neutral arbitrator. The Town of Wallkill later adopted a local law which included disciplinary procedures for police officers different from those outlined in the

collective bargaining agreement. When the Wallkill PBA filed requests for arbitration consistent with the collective bargaining agreement, the Town responded with a CPLR Article 75 proceeding seeking to permanently stay arbitration and a declaration regarding the validity of the local law. The trial court ruled in favor of the Wallkill PBA, declaring the local law invalid "insofar as inconsistent with the disciplinary provisions of the CBA." Id. at 1068. The Appellate Division reversed, and the Court of Appeals affirmed stating:

> [T]he Town properly exercised its authority to adopt Local Law No. 2 pursuant to Town Law § 155. Town Law § 155, a general law enacted prior to Civil Service Law §§ 75 and 76, commits to the Town the power and authority to adopt and make rules and regulations for the examination, hearing, investigation and determination of charges, made or preferred against any member or members of such police department. Accordingly, the subject of police discipline resides with the Town Board and is a prohibited subject of collective bargaining between the Town and Wallkill PBA.

Id. at 1069.

More recently, in Matter of City of Schenectady v. New York State Pub. Empl. Relations Bd., 30 N.Y.3d 109 (2017), the Court of Appeals addressed the issue of whether article 14 of the Civil Service Law superseded the provisions of the SCCL regarding police discipline in the city of Schenectady.

In that case, the city of Schenectady challenged a determination by the New York State Public Employment Relations Board ("PERB") that "the City committed an improper employer practice by [adopting] new police disciplinary procedures different from those contained in the parties' expired collective bargaining agreement." Id. at 112-13. The trial court held, with the Appellate Division affirming, that "the relevant provisions of the [SCCL] were superseded by the

enactment of the Taylor Law, and thus collective bargaining applies to police discipline in Schenectady." Id. at 114. The Court of Appeals reversed.

The Court of Appeals acknowledged "that although Civil Service Law §§ 75 and 76 generally govern police disciplinary procedures, preexisting laws that expressly provide for control of police discipline were grandfathered under Civil Service Law § 76(4), which provides that nothing in sections 75 and 76 shall be construed to repeal or modify any general, special or local laws or charters." Id.

Specifically addressing the SCCL, the Court explained: "[t]he Taylor Law's general command regarding collective bargaining is not sufficient to displace the more specific authority granted by the [SCCL]." Id. at 115. In other words, in the absence of contrary local law, the SCCL, which commits police discipline to the discretion of local officials, trumps the Taylor Law, and collective bargaining of police discipline is prohibited. Id. However, the Court acknowledged that where the local government has expressed through legislation and other indicia its intent to supersede applicable parts of the SCCL and permit collective bargaining of police discipline, the Taylor Law prevails. Id. at 115; see Auburn Police Local 195, Council 82, AFSCMA v. Helsby, 62 A.D.2d 12 (3d Dep't 1978) *aff'd sub nom.* 46 N.Y.2d 1034 (1979) (disputes relating to police discipline "are terms and conditions of employment under the Taylor Law, and as such, may be agreed by a public employer and employee to be resolved by arbitration"). Against this background, on the specific facts and laws applicable in Schenectady, the Court concluded: "police discipline is a prohibited subject of bargaining in Schenectady." Matter of City of Schenectady, 30 N.Y.3d at 116.

So, where does that leave the police in Syracuse under the relevant laws, contracts and rules? "It might be thought this question could be answered yes or no, but the relevant statutes

and case law are not so simple." Matter of Patrolmen's Benevolent Assn., 6 N.Y.3d. at 573. As the Court of Appeals stated: what "is quite clear, from the different results in Matter of Patrolmen's Benevolent Assn., Matter of Town of Wallkill, and Matter of Auburn Police, some local counterparts have the right to bargain about police discipline, and some do not." Matter of City of Schenectady, 30 N.Y.3d at 118. The answer turns on the expressed intent of the local body. Has the City of Syracuse clearly expressed a specific intent "strong enough to justify excluding police discipline from collective bargaining?" Matter of Patrolmen's Benevolent Assn., 6 N.Y.3d. at 573, 576. The Court finds that the City of Syracuse has not expressed such an intent.

First, the SCCL specifically states that it "shall apply, according to its term, . . . until such provision is superseded pursuant to the municipal home rule law, was superseded pursuant to the former city home rule law or is or was otherwise changed, repealed or superseded pursuant to law." SCCL § 4. From this language, there can be no dispute "that the Legislature did not intend to put any of its provisions beyond supersession by city home rule." Fullerton v. Schenectady, 285 A.D. 545, 547 (3d Dep't 1955), *aff'd* 309 N.Y.701 (1955); Carlino v. Albany, 118 A.D2d 928, 929 (3d Dep't 1986); 1983 Ops. Atty Gen No. 83-84.

Second, the language of the 1960 City Charter makes clear that it intended to change the way police were disciplined by requiring that: "[d]isciplinary proceedings. . . be conducted in accordance with the rules and regulations of the department and the provisions of law applicable thereto, *including the Civil Service Law*." 1960 City Charter § 5-1409 (emphasis added). Unlike the City of Syracuse, specific compliance with Civil Service Law was not mandated by the municipalities in either Matter of Patrolmen's Benevolent Assn. of City of N.Y., Matter of Wallkill or Matter of City of Schenectady.

Third, the City's intent to supersede the SCCL's submission of police discipline to the Chief of Police is further demonstrated by the language in the minutes of the proceeding at which the City's Charter Revision Committee submitted the then proposed 1960 City Charter to the City's Common Council. The City's Charter Revision Committee specifically stated:

> The charter eliminates special disciplinary provisions for the Departments of Police and Fire. All employees will be disciplined in accordance with the procedures prescribed by the State Civil Service Law. The city will finally be able to operate under a uniform disciplinary policy for all departments.

DePerno Repl. Aff.¶ 3 and R-1.[1]

Fourth, consistent with section 5-1409 of the 1960 City Charter, the Syracuse Police General Rules & Procedure Manual expressly authorizes arbitration of police disciplinary disputes. Syracuse Police General Rules & Procedure Manual Art. 4, §§ 7.17, 8.22 and 10.00.

Unlike the local legislative structure in Matter of the Town of Wallkill or Matter of the City of Schenectady, the City of Syracuse, through passage of its 1960 City Charter, as bolstered by the CBA and the Syracuse Police General Rules & Procedure Manual, evinced its intent to supersede the SCCL provisions regarding police discipline, and to require compliance with the Civil Service Law's collective bargaining provisions.

The City's argument that the Taylor Law is not applicable because it was enacted after the 1960 City Charter is unpersuasive. The 1960 City Charter specifically requires disciplinary proceedings to be conducted in accordance with the Civil Service Law. The Taylor Law is part of the Civil Service Law, compliance with which the 1960 City Charter compels.

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[1] Although the CPLR does not authorize submission of reply papers in connection with a cross-motion, and because petitioner did not object to the submission, the Court exercises its discretion to accept respondent's reply papers to the extent they supply minutes from petitioner's submission of the 1960 City Charter to the Syracuse Common Council. See, Ferrari v. National Football League, 153 A.D.3d 1589 (4th Dep't 2017).

Equally unpersuasive is the City's argument that the 1960 City Charter did not supersede the SCCL because it was not in compliance with the specificity requirement of City Home Rule Law section 12.1. City Home Rule section 12.1 was replaced by the Municipal Home Rule Law section 22. Unlike the City Home Rule Law, the Municipal Home Rule Law expressly provides that any failure to specify by chapter, section, subdivision or year the state statute or prior local law which it is intended to change or supersede, "*shall not affect the validity of such local law*." Mun. Home Rule L. § 22 (emphasis added). This principle has been confirmed by both the Fourth and Third Departments. See Henderson Taxpayers Ass'n v. Town of Henderson, 283 A.D.2d 940, 941, 948 (4th Dep't 2001) (rejecting plaintiff's argument that local law did not supersede Town Law § 263 because it did not comply with specificity requirement of Municipal Home Rule L. § 22(1); "[s]o long as there is substantial adherence to the statutory methods to evidence a legislative intent to amend or supersede, a local law will be upheld"); see also, Miller v. City of Albany, 278 A.D.2d 647, 648 (3d Dep't 2000) (rejecting Albany's claim that local law could not supersede the SCCL "due to its failure to state what statute it was intended to supersede").

Although provisions of the SCCL regarding police discipline were not specifically mentioned in the 1960 City Charter, there can be no reasonable doubt as to the City of Syracuse's intent to supersede section 131 of the SCCL, mandate compliance with the Civil Service Law, and authorize arbitration as a means to resolve police disciplinary disputes.

Accordingly, respondent's cross-motion to dismiss the petition and direct the parties to arbitrate the grievances filed on behalf of the four PBA members in accordance with Article 11 of the CBA is GRANTED. Respondent's request for a declaration regarding future disciplinary

disputes and for costs and attorney's fees is DENIED. Petitioner's application to stay arbitrations is DENIED.

Respondent's attorney is directed to prepare an order and judgment consistent with this decision to be submitted to the Court within 15 days. The order and judgment must attach a copy of this decision and incorporate it therein.

Dated: May 11, 2020
Syracuse, New York

Deborah H. Karalunas
Justice of Supreme Court

EXHIBIT B

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

758

CA 20-00745

PRESENT: SMITH, J.P., PERADOTTO, CURRAN, AND BANNISTER, JJ.

IN THE MATTER OF ARBITRATION BETWEEN
CITY OF SYRACUSE, PETITIONER-APPELLANT,

AND ORDER

SYRACUSE POLICE BENEVOLENT ASSOCIATION, INC.,
RESPONDENT-RESPONDENT.

BOND, SCHOENECK & KING, PLLC, SYRACUSE (ADAM P. MASTROLEO OF COUNSEL), FOR PETITIONER-APPELLANT.

BLITMAN & KING LLP, SYRACUSE (KENNETH L. WAGNER OF COUNSEL), FOR RESPONDENT-RESPONDENT.

Appeal from an order and judgment (one paper) of the Supreme Court, Onondaga County (Deborah H. Karalunas, J.), entered June 4, 2020 in a proceeding pursuant to CPLR article 75. The order and judgment, insofar as appealed from, denied the petition to stay arbitration and granted the cross motion of respondent to dismiss the petition and to compel arbitration.

It is hereby ORDERED that the order and judgment so appealed from is unanimously affirmed without costs for reasons stated in the decision at Supreme Court.

Entered: October 1, 2021

Ann Dillon Flynn
Clerk of the Court

Supreme Court
APPELLATE DIVISION
Fourth Judicial Department
Clerk's Office, Rochester, N.Y.

I, **Ann Dillon Flynn**, *Clerk of the Appellate Division of the Supreme Court in the Fourth Judicial Department, do hereby certify that this is a true copy of the original order, now on file in this office.*

***IN WITNESS WHEREOF**, I have hereunto set my hand and affixed the seal of said Court at the City of Rochester, New York, this October 1, 2021*

Ann Dillon Flynn

Clerk

EXHIBIT C

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION FOURTH DEPARTMENT

CITY OF SYRACUSE,

Petitioner,

For a Decision & Order Pursuant to Article 75 of the Civil Practice Law and Rules

v.

SYRACUSE POLICE BENEVOLENT ASSOCIATION, INC.,

Respondent.

NOTICE OF ENTRY

Appellate Division
Case/Docket No. CA 20-00745

Originating Court
Index No. 6869/2019

PLEASE TAKE NOTICE that the within is a true and accurate copy of the Order of the Supreme Court of the State of New York, Appellate Division, Fourth Judicial Department, filed and entered by the State of New York, Onondaga County Clerk, on October 5, 2021.

Dated: October 8, 2021
Syracuse, NY

BLITMAN & KING LLP

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Lisa Dell, County Clerk *(via NYSCEF)*
Onondaga County Clerk's Office
401 Montgomery Street, Room 200
Syracuse, NY 13202

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

758

CA 20-00745

PRESENT: SMITH, J.P., PERADOTTO, CURRAN, AND BANNISTER, JJ.

IN THE MATTER OF ARBITRATION BETWEEN
CITY OF SYRACUSE, PETITIONER-APPELLANT,

AND ORDER

SYRACUSE POLICE BENEVOLENT ASSOCIATION, INC.,
RESPONDENT-RESPONDENT.

BOND, SCHOENECK & KING, PLLC, SYRACUSE (ADAM P. MASTROLEO OF COUNSEL), FOR PETITIONER-APPELLANT.

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It is hereby ORDERED that the order and judgment so appealed from is unanimously affirmed without costs for reasons stated in the decision at Supreme Court.

Entered: October 1, 2021

Ann Dillon Flynn
Clerk of the Court

Supreme Court
APPELLATE DIVISION
Fourth Judicial Department
Clerk's Office, Rochester, N.Y.

I, **Ann Dillon Flynn**, *Clerk of the Appellate Division of the Supreme Court in the Fourth Judicial Department, do hereby certify that this is a true copy of the original order, now on file in this office.*

***IN WITNESS WHEREOF**, I have hereunto set my hand and affixed the seal of said Court at the City of Rochester, New York, this October 1, 2021*

Ann Dillon Flynn

Clerk