

**DISSENTING OPINION
OF THE
UNION APPOINTED ARBITRATOR**

Fire fighting is an inherently dangerous profession. Stated in its most simplistic fashion, the citizens of Wilkes Barre require their fire fighters to rush into a burning building to effect a rescue when common sense, and even the most basic of survival instincts, demands the exact contrary action.

Most public officials who ask for these daily acts of extraordinary heroism are demonstrably appreciative of the brave fire fighters who willingly expose themselves to this danger. The Mayor of Wilkes Barre is not one of them. On the contrary, this Mayor has deliberately chosen to greatly – and needlessly – increase the danger that every Wilkes Barre fire fighter faces by twice decimating their complement to less than a skeletal status. The result is self-evident. As any Wilkes Barre citizen readily sees, a mere handful of fire fighters now respond to the most serious of dangers.

The fact that no one, be it citizen or fire fighter, has thus far indisputably died as a direct result of this reckless course of conduct stands more as a testament to the skill and professionalism of the remaining fire fighter than to the shockingly ill-advised judgment of the City's Mayor. However, their ability and dedication cannot forever overcome the inevitable. It is only a matter of time until people are killed or severely injured because this Mayor was unwilling to protect either the citizens that elected him or the fire fighters who must follow his orders.

During the course of the Act 111 hearing in this case, the fire fighters dedicated an entire day of hearing to present hours of unrebutted evidence regarding the Mayor's utter disregard for the safety of the members of this bargaining unit. Compelling – and unrebutted - evidence demonstrated that the City has slashed the active complement of fire fighters to a mere twelve responding fire fighters to cover an entire city. As the citizens themselves know, the Mayor has, without any reduction in their taxes, deprived them and their families of the vital protection that had been offered by two now vacant fire stations and the precious minutes of now squandered response time that the City formally provided prior to the arrival of the current mayor.

The fire fighters proved to this Panel that the preeminent scientific body in the United States – the National Fire Protection Association – has promulgated very explicit regulations demonstrating that Wilkes Barre is running at half – and less than half – of the *minimum* complement necessary to *minimally* protect the lives and safety of the fire fighters of the City. Not a single shred of contrary scientific evidence was presented by the Mayor to explain, much less justify, his policies.

Thus, it was more than evident to the Panel that this Mayor has no hesitation in endangering the lives of the City's fire fighters. For reasons known only to him – and the handful of people left in the City who are still supporting him – he has chosen to risk the

lives of citizens and fire fighters in some misguided mission to decimate and destroy the City's fire department. Whether it be mayoral pique at the unbroken string of expensive arbitration losses costing the citizens hundreds of thousands of dollars in squandered legal fees or simply a complete lack of concern for safety of the City's populace, the inescapable fact of the matter is lives at being placed in danger by the Mayor's chosen course of conduct.

Having been abandoned by the City, the fire fighters could only depend on this Panel to provide them with the minimum of protection that the City was not unable – but unwilling – to provide to them. If the Mayor was not to have a conscience regarding the lives and the safety of fire fighters, it was hoped and trusted by those fire fighters that this Panel – or at least the majority of the Panel – would step forward and do the right thing. In that hope and trust, they were sadly mistaken.

Sadly, the Panel totally abandoned the fire fighters with the same dispatch and finality as the City that it so obviously sought to please. A majority of this Panel simply ignored the fact that the lives and safety of this bargaining unit are being blatantly endangered by the City of Wilkes Barre. In place of providing some modicum of safety through at least an effort, however inadequate, to comply with NFPA standards, the majority of this Panel coldly turned its back on the fire fighters and their families and shamelessly washed its hands of any concern for their lives, their safety, their future.

In lieu of offering the fire fighters of this bargaining unit a greater opportunity to safety return to their homes and families at the end of their shift, a majority of the Panel instead increased their wages and provided improvements that, on the whole, are satisfactory to the Union, and clearly significantly more than the Mayor was willing to pay.¹

However, a few pieces of silver will never substitute for one life, one injury, or one fire fighter. The majority of the Panel knew to a point of certitude that if it does nothing on the issue of safety, someone will get hurt in the very near future. With that knowledge and in the face of overwhelming evidence that the Mayor is more than willing to accept that horrific certainty, the Panel still did nothing. Its inactivity in the face of this record is inexplicable, inexcusable and unforgivable.

The law does not allow fire fighters to strike for obvious reasons. As a consequence, the members of this bargaining unit are required to respond to blazing infernos with a decimated complement under the "leadership" of individuals who are more than willing to needlessly expose those fire fighters to death and danger.

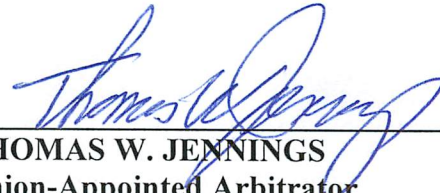
¹ Being a politician, the Mayor will undoubtedly spin the economics of the award to make it appear that it does not constitute the crushing loss that it so clearly is. So be it. No one ever expected candor.

However, it should be clearly understood that the fire fighters did not want – and never wanted – dollars in place of their lives and safety. Thus the citizens lost twice – paying more than a reasonable administration could have easily bargained and being deprived of additional fire fighters who would have – and could have – made a significant contribution to their safety and that of their families.

Act 111 was designed and intended to serve as the fire fighters' substitute for their inability to strike. Interest arbitration was supposed to provide the fire fighters with a rational response to individuals, such as the Mayor, who have a demonstrated pattern of acting irrationally. The fire fighters of Wilkes Barre trusted this Panel to exhibit more concern – *any* concern - for their lives and safety than a Mayor who is apparently bereft of that characteristic. That trust was grossly misplaced.

A majority of this Panel, without even a modicum of apparent concern for the lives and safety of fire fighters, has chosen to abandon the fire fighters who trusted it to protect them. Instead, that majority has opted to walk lock step with a Mayor who has, time and again, demonstrated his utter lack of concern for their safety and that of the citizens that they protect. I cannot and will not abandon them. I will not be part of any Award that so clearly fails to respond to the proven basic safety needs of fire fighters.

Having inexplicably abandoned the fire fighters to their fate, the Panel majority alone shall be responsible for what the future now holds. For that reason, I dissent to the Award and will not place my signature upon it. I do request that this Dissent be appended to the Award in lieu of my signature.



THOMAS W. JENNINGS
Union-Appointed Arbitrator

February 3, 2011