

Teri Giercyk

2019-160

From: Anonymous <opra+request-5045-d1c74acd@requests.opramachine.com>
Sent: Wednesday, April 17, 2019 9:16 PM
To: Clerk
Subject: OPRA request - Evesham Lawsuit

Dear Manchester Township,

This is a request for public records made under OPRA and the common law right of access. I am not required to fill out an official form. Please acknowledge receipt of this message.

Records requested:

Copy of Complaint in matter Township Of Evesham Vs Township Of Manchester Copy of all Answers filed OCN L-45-19

Yours faithfully,

Anonymous

Please use deliver records electronically via email to the below UNIQUE address for all replies to this request:
opra+request-5045-d1c74acd@requests.opramachine.com

Is clerk@manchestertwp.com the wrong address for OPRA requests to Manchester Township? If so, please contact us using this form:

https://opramachine.com/change_request/new?body=manchester_township

Disclaimer: This message and any reply that you make will be published on the internet. Our privacy and copyright policies:

<https://opramachine.com/help/officers>

View this OPRA request & responses online:

https://opramachine.com/request/evesham_lawsuit

Please note that in some cases publication of requests and responses will be delayed.

If you find this service useful as an OPRA custodian, please ask your web manager to link to us from your organisation's website.



File No. 14965-0074-JCG

Law Offices

PARKER McCAY P.A.

John C. Gillespie, Esquire

Atty ID #030831980

George M. Morris, Esquire

Atty ID #013122005

9000 Midlantic Drive, Suite 300

P.O. Box 5054

Mount Laurel, New Jersey 08054

(856) 596-8900

Attorneys for Plaintiff, Township of Evesham

TOWNSHIP OF EVESHAM,

Plaintiff,

v.

TOWNSHIP OF MANCHESTER,

Defendant.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
BURLINGTON COUNTY
DOCKET NO. BUR-L-

CIVIL ACTION

**COMPLAINT &
TRIAL DESIGNATION**

Plaintiff, the Township of Evesham ("Evesham"), by way of Complaint against Defendant, the Township of Manchester ("Manchester"), says:

THE PARTIES

1. Evesham is a municipal corporation of the State of New Jersey with offices at 984 Tuckerton Road, Township of Evesham, County of Burlington, State of New Jersey.

2. Manchester is a municipal corporation of the State of New Jersey with offices at 1 Colonial Drive, Township of Manchester, County of Ocean, State of New Jersey.

BACKGROUND

3. Evesham incorporates by reference the preceding paragraphs of this Complaint as if fully restated herein.

4. This dispute involves the reimbursement provisions of N.J.S.A. 40A:14-178 and N.J.S.A. 40A:14-178.1, which provide, in relevant part, that:

Whenever a person who resigned as a member of a county or municipal law enforcement agency is appointed to another county or municipal law enforcement agency . . . within 120 days of resignation, and that person held a probationary appointment at the time of resignation or held a permanent appointment for 30 days or less prior to resignation, the county or municipal law enforcement agency . . . is liable to the former county or municipal employer, as appropriate, for the total certified costs incurred by the former employer in the examination, hiring, and training of the person.

5. Said legislation further provides that it is the obligation of the municipal law enforcement agency which subsequently appoints such person to “notify the former employer immediately upon the appointment of a former employee” and “reimburse the former employer within 120 days of the receipt of the certified costs.” N.J.S.A. 40A:14-178(c).

6. On or about May 27, 2016, Evesham hired Victoria Raub (“Raub”) as a Class II Police Officer, incurring various costs associated with her examination and hiring.

7. During her employment with Evesham, Raub obtained her Police Training Commission certification, advanced from a Class II Special Police Officer to Police Officer, and underwent additional examination and training, all at Evesham’s expense.

8. Raub remained employed by Evesham until on or about April 30, 2017, when she resigned and immediately accepted employment as a Police Officer with Manchester.

9. At the time of Raub’s resignation, she held a probationary appointment status with the Evesham Police Department.

10. Accordingly, Manchester was and is obligated to pay “the total certified costs” incurred by Evesham in the “examination, hiring, and training” of Raub.

11. On or about May 17, 2017, Evesham’s Chief of Police, Christopher Chew, provided Manchester’s Chief of Police, Lisa Parker (“Chief Parker”), a detailed list of claimed certified costs in connection with the “examination, hiring, and training” of Raub.

12. Although reimbursement from Manchester was due on or about September 14, 2017, Manchester has refused to pay same to Evesham, despite Evesham’s repeated demand.

COUNT I
(Statutory Violations - N.J.S.A. 40A:14-178 & N.J.S.A. 40A:14-178.1)

13. Evesham incorporates by reference the preceding paragraphs of this Complaint as if fully restated herein.

14. As stated above, Manchester was and is responsible for reimbursing Evesham for “the total certified costs” incurred by Evesham in the “examination, hiring, and training” of Officer Raub, but has continually failed to do so despite repeated demands, in violation of N.J.S.A. 40A:14-178 to -178.1 and other applicable law.

15. As a direct and proximate result of Manchester’s statutory violation, Evesham has suffered damages, exclusive of any applicable interest, costs, and attorneys’ fees.

WHEREFORE, Evesham demands judgment in its favor and against Manchester, plus applicable interest, costs, attorneys’ fees, and such other relief as this Court deems just.

COUNT II
(Breach of Contract)

16. Evesham incorporates by reference the preceding paragraphs of this Complaint as if fully restated herein.

17. Manchester has a contractual obligation to reimburse Evesham for “the total certified costs” Evesham incurred in the “examination, hiring, and training” of Officer Raub.

18. Manchester materially and substantially breached its contractual obligation by failing to reimburse Evesham for said costs, despite Evesham’s repeated demand.

19. As a direct and proximate result of Manchester’s breach of contract, Evesham has suffered damages, exclusive of applicable late fees/service charges, interest, costs, and attorneys’ fees.

WHEREFORE, Evesham demands judgment in its favor and against Manchester, plus applicable interest, costs, attorneys’ fees, and such other relief as this Court deems just.

COUNT III
(Unjust Enrichment)

20. Evesham incorporates by reference the preceding paragraphs of this Complaint as if fully restated herein.

21. Evesham sues Manchester for the value of the “examination, hiring, and training” it provided to Officer Raub, which conferred direct and measurable benefits upon Manchester, which has enjoyed the benefit of same.

22. Pursuant to N.J.S.A. 40A:14-178 to -178.1, common law, and other applicable law, Evesham fully and reasonably expected to be compensated for same.

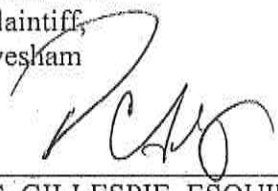
23. Evesham has repeatedly demanded reimbursement, and Manchester’s retention of the benefits conferred by Evesham without compensating Evesham is unjust.

24. As a direct and proximate result of Manchester’s failure to compensate Evesham, Manchester has been unjustly enriched and Evesham has suffered damages, exclusive of applicable late fees/service charges, interest, costs, and attorneys’ fees.

WHEREFORE, Evesham demands judgment in its favor and against Manchester,

plus applicable interest, costs, attorneys' fees, and such other relief as this Court deems just.

PARKER McCAY P.A.
Attorneys for Plaintiff,
Township of Evesham

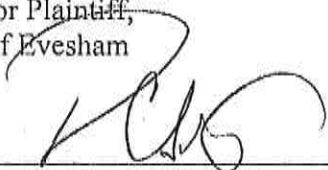
BY: 
JOHN C. GILLESPIE, ESQUIRE

Dated: May 16, 2018

DESIGNATION OF TRIAL COUNSEL PURSUANT TO R. 4:25-4

The Court is advised that John C. Gillespie, Esquire and George M. Morris, Esquire are hereby designated as trial counsel for Evesham in this matter.

PARKER McCAY P.A.
Attorneys for Plaintiff,
Township of Evesham

BY: 
JOHN C. GILLESPIE, ESQUIRE

Dated: May 16, 2018

CERTIFICATION PURSUANT TO R. 1:38-7

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b), if any.

PARKER McCAY P.A.
Attorneys for Plaintiff,
Township of Evesham

BY: 
JOHN C. GILLESPIE, ESQUIRE

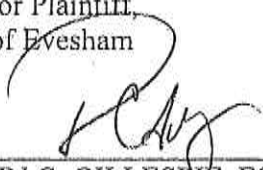
Dated: May 16, 2018

CERTIFICATION PURSUANT TO R. 4:5-1

The undersigned certifies that this matter is not the subject of any other action pending in any Court or arbitration proceeding nor is any other action or arbitration proceeding contemplated and all known necessary parties have been joined to this action.

PARKER McCAY P.A.

Attorneys for Plaintiff
Township of Evesham

BY: 

JOHN C. GILLESPIE, ESQUIRE

Dated: May 16, 2018

4819-1955-0565, v. 1

Civil Case Information Statement

Case Details: BURLINGTON | Civil Part Docket# L-001030-18

Case Caption: TOWNSHIP OF EVESHAM VS TOWNSHIP OF MANCHESTER

Case Initiation Date: 05/16/2018

Attorney Name: JOHN C GILLESPIE

Firm Name: PARKER MCCAY, PA

Address: 9000 MIDLANTIC DR STE 300 PO BOX 5054
MT LAUREL NJ 080545054

Phone:

Name of Party: PLAINTIFF : Township of Evesham

Name of Defendant's Primary Insurance Company
(if known): Unknown

Case Type: BOOK ACCOUNT (DEBT COLLECTION MATTERS ONLY)

Document Type: Complaint

Jury Demand: NONE

Hurricane Sandy related? NO

Is this a professional malpractice case? NO

Related cases pending: NO

If yes, list docket numbers:

Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? NO

If yes, is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? NO

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule* 1:38-7(b)

05/16/2018
Dated

/s/ JOHN C GILLESPIE
Signed

Armando V. Riccio, LLC
7 North Main Street Suite A
Medford NJ 08055
Attorney ID 013351995
Attorney for Defendant Township of Manchester

TOWNSHIP OF EVESHAM,

Plaintiff,

vs.

TOWNSHIP OF MANCHESTER,

Defendant.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
BURLINGTON COUNTY

DOCKET NO.: BUR-L-001030-18

CIVIL ACTION

ANSWER & COUNTERCLAIMS

Defendant, Township of Manchester ("Manchester"), by way of Answer and Counterclaims, states:

1. Neither admitted or denied.
2. Admitted.

BACKGROUND

3. Manchester repeats and incorporates its responses to the previous allegations as if set forth in full herein.
4. Denied.
5. This contention fails to state facts in support of the complaint, but, instead, makes a legal conclusion to which no responsive pleading is required by Manchester. To the extent it states a claim for relief, Manchester denies the allegation.
6. Denied.
7. Denied as stated.

8. Admitted that Officer Victoria Raub was hired by Manchester on May 1, 2017. Manchester is without sufficient evidence to admit or deny the balance of the allegation and plaintiff is left to its proofs.
9. Upon information and belief, this allegation is denied.
10. Denied.
11. Admitted that plaintiff made demands alleging certified costs including a demand for \$7,605.63; denied that the costs claimed are legitimate. The balance of the allegation, if any, is denied.
12. Denied.

COUNT ONE

13. Manchester repeats and incorporates its responses to the previous allegations as if set forth in full herein.
14. Denied.
15. This contention fails to state facts in support of the complaint, but, instead, makes a legal conclusion to which no responsive pleading is required by Manchester. To the extent it states a claim for relief, Manchester denies the allegation.

WHEREFORE, the Manchester respectfully requests judgment in its favor and dismissal of plaintiff's complaint with prejudice, as well as an award of all fees and costs, and such other relief as permitted by law and/or the Court may deem appropriate.

COUNT TWO

16. Manchester repeats and incorporates its responses to the previous allegations as if set forth in full herein.

17. Admitted that to the extent a statute relied upon applies to this case, an implied contractual obligation exists between the plaintiff and Manchester. Otherwise, the allegation is denied.

18. Denied.

19. This contention fails to state facts in support of the complaint, but, instead, makes a legal conclusion to which no responsive pleading is required by Manchester. To the extent it states a claim for relief, Manchester denies the allegation.

WHEREFORE, the Manchester respectfully requests judgment in its favor and dismissal of plaintiff's complaint with prejudice, as well as an award of all fees and costs, and such other relief as permitted by law and/or the Court may deem appropriate.

COUNT THREE

20. Manchester repeats and incorporates its responses to the previous allegations as if set forth in full herein.

21. Denied.

22. This contention fails to state facts in support of the complaint, but, instead, makes a legal conclusion to which no responsive pleading is required by Manchester. To the extent it states a claim for relief, Manchester denies the allegation.

23. This contention fails to state facts in support of the complaint, but, instead, makes a legal conclusion to which no responsive pleading is required by Manchester. To the extent it states a claim for relief, Manchester denies the allegation.

24. This contention fails to state facts in support of the complaint, but, instead, makes a legal conclusion to which no responsive pleading is required by Manchester. To the extent it states a claim for relief, Manchester denies the allegation.

WHEREFORE, the Manchester respectfully requests judgment in its favor and dismissal of plaintiff's complaint with prejudice, as well as an award of all fees and costs, and such other relief as permitted by law and/or the Court may deem appropriate.

COUNTER-CLAIMS

Background

1. Manchester repeats and incorporates its responses to the previous allegations as if set forth in full herein.

2. Plaintiff has demanded and continues to demand sums from Manchester to which plaintiff is not entitled by law.

3. Upon information and belief, Officer Raub obtained her police certification as the result of a waiver process; not the result of a police training course required by P.L. 1961, c. 56 (C. 52:17B-66 et seq.) as provided within the statutes relied upon by plaintiff.

4. Plaintiff's improper monetary demands to Manchester included, *inter alia*, salary and health insurance allegedly paid plaintiff's Police Captain for matters which there is no right of recoupment or recovery from Manchester.

5. Plaintiff's Captain did not spend the time claimed by plaintiff with Officer Raub in connection with any matter to which plaintiff is entitled to a recovery from Manchester.

6. Plaintiff's improper demands for payment also included, *inter alia*, salary and health insurance allegedly paid plaintiff's investigator for eighty (80) hours in connection with Officer Victoria Raub.

7. The extraordinary sums alleged by plaintiff which it demanded Manchester pay were memorialized within a document plaintiff relied upon as a "certification" of costs signed by plaintiff's finance director, Thomas S. Shanahan ("Shanahan"). A copy of that certification is attached as Exhibit A. The extraordinary amount demanded totaled \$7,605.63.

8. Shanahan had a duty and/or obligation to act in good faith and only certify those amounts permitted by law.

FIRST COUNTER-CLAIM
Breach of Covenant of Good Faith and Fair Dealing

9. Manchester repeats and incorporates its responses to the previous allegations as if set forth in full herein.

10. Plaintiff's actions have the effect of destroying and/or injuring rights of Manchester and therefore Plaintiff has violated the covenant of good faith and fair dealing.

11. Plaintiff's failure and refusal to limit its demands for reimbursement to the strict confines of that permissible under the law violated the covenant of good faith and fair dealing.

12. As a direct and proximate result of plaintiff's actions and inactions, including plaintiff's breach of the duties it owes Manchester, plaintiff has cost and continues to cost Manchester expenses and sums which it otherwise would not incur but for plaintiff's conduct. Manchester has been injured as a result of Plaintiff's breach of duties and therefore Manchester is entitled to damages and equitable relief.

WHEREFORE, the Manchester respectfully requests judgment in its favor and dismissal of plaintiff's complaint with prejudice, as well as an award of all fees and costs, and such other relief as permitted by law and/or the Court may deem appropriate.

SECOND COUNTER-CLAIM

Breach of Duty

13. Manchester repeats and incorporates its responses to the previous allegations as if set forth in full herein.

14. The actions and inactions of plaintiff, by and through its Finance Officer Shanahan, and Shanhan breached a statutory obligation either or both owed to Manchester by improperly certifying expenditures claimed against Manchester.

15. The actions and inactions of plaintiff, by and through its Finance Officer Shanahan, and Shanhan breached a fiduciary obligation either or both owed to Manchester by improperly certifying expenditures claimed against Manchester.

16. As a direct and proximate result of plaintiff's actions and inactions, including plaintiff's breach of duties it owed Manchester, plaintiff has cost and continues to cost Manchester expenses and sums which it otherwise would not incur but for plaintiff's conduct. Manchester has been injured as a result of Plaintiff's breach of duties and therefore Manchester is entitled to damages and equitable relief.

WHEREFORE, the Manchester respectfully requests judgment in its favor and dismissal of plaintiff's complaint with prejudice, as well as an award of all fees and costs, and such other relief as permitted by law and/or the Court may deem appropriate.

AFFIRMATIVE & OTHER DEFENSES

1. The Complaint fails to state a claim upon which relief can be granted.
2. Plaintiff's claims are baseless, meritless and/or frivolous warranting an award in Manchester's favor of costs and counsel fees.
3. Plaintiff's claims are barred by the statute of limitations.
4. At all times, Manchester acted in good faith.
5. Plaintiff's claims, in whole or in part, are subject to the limitations and requirements of the New Jersey Punitive Damages Act.
6. Plaintiff has not been damaged by any act of, or failure to act by, Manchester.
7. Plaintiff's claims are barred or limited by reason of legislative limitation, waiver, estoppel, res judicata and/or laches.
8. Plaintiff's claims are barred or limited by reason of the Doctrine of Unclean Hands.
9. The remedies sought by the plaintiff are not justified.
10. No action by Manchester was reckless, malicious, extreme or outrageous.
11. Plaintiff was negligent in contributing to, and fostering, the alleged treatment through its inactions and actions, and this negligence serves to bar or limit any recovery for plaintiff pursuant to N.J.S.A. 2A:15-5.1, 5.2 and 5.3, et seq.
12. Plaintiff's claims are barred in whole or in part based upon the New Jersey Tort Claims Act.
13. Manchester hereby gives notice that it may rely on other defenses which may become apparent during discovery and thus, reserves its rights to amend the answer to assert such defenses.

DESIGNATION OF TRIAL COUNSEL

Pursuant to R.4:25-4, Armando V. Riccio, Esq., is hereby designated as trial counsel in the above matter.

Dated: December 10, 2018

ARMANDO V. RICCIO, LLC,
Attorneys for the Defendant Township of Manchester

/s/ Armando V. Riccio
Armando V. Riccio, Esq.

CERTIFICATIONS

Upon information and belief, I hereby certify pursuant to R.4:5-1 that this matter is not currently the subject of any other action pending in any court or arbitration proceedings. There are no additional parties who should be joined in this action.

Further, I hereby certify that this pleading was served within the time period allowed by the Rules of Court, law or the time period permitted by stipulation or Court Order.

Pursuant to R. 1:38-7, I also certify that confidential personal identifiers have been redacted from all documents now submitted to the Court, and will be redacted from all documents submitted in the future in accordance with R. 1:38-7(b), if any.

Dated: December 10, 2018

ARMANDO V. RICCIO, LLC,
Attorneys for the Township of Manchester

/s/ Armando V. Riccio
Armando V. Riccio, Esq.

TOWNSHIP OF EVESHAM

POLICE OFFICER - EXAMINATION, HIRING AND TRAINING COSTS

OFFICER VICTORIA RAUB - DATE OF HIRE 5/27/16

PART ONE - SALARY AND FRINGE BENEFIT COSTS							
Employee	Charge Hours	Salary/Wage		Payroll Taxes		Insurance	
		Rate of Pay	Amount	% Rate	Amount	Hourly Rate	Amount
Chief of Police	85	\$261.51	\$22,227.35	46.51%	\$835.79	\$1.64	\$139.30
Det. 1st	3	\$654.3	\$1,962.90	46.51%	\$910.84	\$0.89	\$2,678.70
Det. 2nd	80	\$301.78	\$24,142.40	46.51%	\$834.80	\$1.47	\$117.60
Det. 3rd	2	\$24.73	\$49.46	21.75%	\$10.12	\$11.44	\$22.88
		Salary Total	\$5,254.23	Tax Total	\$1,907.11	Ins. Total	\$444.30

PAYROLL TAX CALCULATIONS					
	FICA	SUI/SDI/FLI	Pension	W/C	Total %
Chief of Police	7.65%	0.765%	25.67%	7.42%	36.51%
Det. 1st	7.65%	0.765%	25.67%	7.42%	36.51%
Det. 2nd	7.65%	0.765%	25.67%	7.42%	36.51%
Det. 3rd	7.65%	0.765%	12.46%	0.87%	21.75%

HEALTH INSURANCE CALCULATIONS			
		Annual Cost	Hourly Cost
Chief of Police		\$3,417.64	\$1.64
Det. 1st	(Thomas Reinhold)	\$20,572.68	\$9.89
Det. 2nd	(Ron Henry)	\$5,134.00	\$2.47
Det. 3rd	(Aurora Gibson)	\$23,802.48	\$11.44

Grand Total Part One

\$7,605.63

TOTALS	
PART ONE COSTS (FROM ABOVE)	\$7,605.63
PSYCHOLOGICAL EXAMINATION	\$400.00
MEDICAL EXAMINATION	\$261.30
URINALYSIS	\$45.00
TOTAL COSTS - OFFICER VICTORIA RAUB	\$7,605.63

Signed

Thomas S. Shenafah, Finance Director

Date

5/25/17

Exhibit A

Civil Case Information Statement

Case Details: BURLINGTON | Civil Part Docket# L-001030-18

Case Caption: TOWNSHIP OF EVESHAM VS TOWNSHIP OF MANCHESTER

Case Initiation Date: 05/16/2018

Attorney Name: ARMANDO V RICCIO

Firm Name: ARMANDO V. RICCIO, LLC

Address: 7 NORTH MAIN ST, STE A
MEDFORD NJ 08055

Phone:

Name of Party: DEFENDANT : TOWNSHIP OF MANCHESTER

Name of Defendant's Primary Insurance Company
(if known): None

Case Type: TORT-OTHER

Document Type: Answer

Jury Demand: NONE

Hurricane Sandy related? NO

Is this a professional malpractice case? NO

Related cases pending: NO

If yes, list docket numbers:

Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? NO

If yes, is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? NO

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule 1:38-7(b)*

12/10/2018
Dated

/s/ ARMANDO V RICCIO
Signed