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Attorney for the Plaintiff

JOSE CRUZ,	::	UNITED STATES DISTRICT COURT
	::	DISTRICT OF NEW JERSEY
<i>Plaintiff,</i>	::	
	::	Civil Action No.: 2:16-cv-08335-ES-JAD
vs.	::	
	::	<u>AMENDED COMPLAINT AND JURY</u>
	::	<u>DEMAND</u>
SGT DOMINICK SEGRO (NJ TRANSIT POLICE	::	
NO. 326), OFFICER CHRISTOPHER DUPARS	::	
(NJ TRANSIT POLICE NO. 512), OFFICER OMI	::	
DEVERS (NORTH BERGEN POLICE NO. 83),	::	
OFFICER JONNNY SANCHEZ (NORTH	::	
BERGEN POLICE NO. 91) JOHN / JANE DOES	::	
1-6, ABC ENTITIES 1-5, fictitious parties,	::	
<i>Defendants</i>	::	

Plaintiff Jose Cruz, who resides at 291 Central Avenue, Jersey City, New Jersey 07306, County of Hudson, by way of amended complaint against the defendants, states:

INTRODUCTION

1. This action arises from the wrongful acts and omissions of law enforcement officers against plaintiff in or about North Bergen, New Jersey on July 21, 2014, in the early morning. This action was originally filed in Superior Court of New Jersey (docket number HUD-L-2897-16) and removed by certain of the defendants to United States District Court for the District of New Jersey. The case is dismissed without prejudice pending the filing by plaintiff of this amended complaint.

JURISDICTION and VENUE

2. Plaintiff seeks redress for deprivation of rights secured by the Fourth and Fourteenth Amendments to the United States Constitution, 42 U.S.C.A. §1983, the Constitution and laws of the State of New Jersey, and the common law.

3. This Court has jurisdiction over this matter pursuant to 28 U.S.C.A. §1331, §1343(a)(3) and 42 U.S.C.A. §1983. The plaintiff seeks monetary damages and attorney fees and costs pursuant to 42 U.S.C.A. §1988 and other applicable law.

4. Plaintiff invokes the supplemental jurisdiction of this Court over his state and common law claims against defendants pursuant to 28 U.S.C.A. §1367 as said claims form part of the same case or controversy.

5. Venue is with this Court pursuant to 28 U.S.C.A. §1391(b).

PARTIES

6. Plaintiff is an individual who resides at 291 Central Avenue, Jersey City, New Jersey 07306, County of Hudson

7. At all times relevant defendant Sgt. Dominick Segro (hereinafter “Sgt. Segro”) was a law enforcement officer for New Jersey Transit Police Department, sub-division of New Jersey Transit Corporation (“NJT”), a public entity under New Jersey state law with offices at One Penn Plaza East, Newark, NJ, County of Essex.

8. At all times relevant defendant Officer Christopher Dupars (hereinafter “Officer Dupars”) was a law enforcement officer of the New Jersey Transit Police Department, sub-division of New Jersey Transit Corporation (“NJT”), a public entity under New Jersey state law with offices at One Penn Plaza East, Newark, NJ, County of Essex.

9. At all relevant times defendant Officer Omi Devers (hereinafter "Officer Devers") was a law enforcement officer of the North Bergen Police Department, sub-division of North Bergen Township ("North Bergen"), a public entity and/or unit of local government under New Jersey state law with offices at 4233 Kennedy Blvd., North Bergen, New Jersey, Hudson County.

10. At all times relevant Officer Johnny Sanchez (hereinafter "Officer Sanchez") was a law enforcement officer of the North Bergen Police Department, sub-division of North Bergen Township ("North Bergen"), a public entity and/or unit of local government under New Jersey state law with offices at 4233 Kennedy Blvd., North Bergen, New Jersey, Hudson County.

11. On information and belief, at all times relevant John / Jane Does 1-3, fictitiously named persons whose identities are presently unknown and who may have participated in the wrongful acts against plaintiff, were law enforcement officers or other agents of NJT.

12. On information and belief, at all times relevant John / Jane Does 4-6, fictitiously named persons whose identities are presently unknown and who may have participated in the wrongful acts against plaintiff, were law enforcement officers or other agents of North Bergen.

FACTS OF CASE

13. On July 21, 2014, at approximately 2:15am, plaintiff left a restaurant in Secaucus, New Jersey intending to return to his Jersey City residence and, because a car he called did not arrive, walked east along Route Three toward North Bergen, New Jersey, County of Hudson.

14. Approximately 20 minutes later plaintiff came to an area adjacent to a bus garage and park and ride facility that was surrounded by a chain link fence topped with barbed wire in some places.

15. Plaintiff continued walking along Route Three, in an embankment between the highway and fence, and a few minutes later could see across the garage / parking lot facility to local streets in North Bergen.

16. Reasoning that using these local streets would be safer than continuing along the highway, would save time on his journey and he could access them faster if he cut across the lot, plaintiff located a section of the fence without barbed wire and climbed over, without difficulty, incident or injury.

17. Less than a minute later a police vehicle drove up, and two uniformed New Jersey Transit Police Officers, Sgt. Dominick Segro (badge / ID no. 326) and Officer Dupars (badge/ID no. 512), got out and confronted plaintiff, who produced identification and handed it to the officers.

18. The officers did not inform plaintiff that he was under arrest or charged with any offense, but nevertheless handcuffed him and sat him on a parking block facing the police vehicle's headlights, limiting his vision.

19. Sometime shortly thereafter a North Bergen Police vehicle pulled up, and two North Bergen Police Officers, Officer Devers (badge/ID no. 83) and Officer Sanchez (badge/ID no. 91), got out and conferred with Sgt. Segro and Officer Dupars behind the New Jersey Transit police car, out of plaintiff's hearing.

20. The officers then approached plaintiff, and Officer Sanchez pulled plaintiff up by his right arm and tossed him face first to the pavement, while boasting of his "MMA" training, which plaintiff understood to refer to mixed martial arts.

21. The other officers – Segro, Dupars and Devers – joined in this assault, pulling plaintiff up, tossing him about, striking his legs, chest and face, an attack plaintiff recalled as being like a tornado, leaving him bruised, bloody, disoriented and in pain.

22. Other officers or persons, whose identities are unknown and are designated John/Jane Does 1-6 may have participated or joined in the assault and other acts or omissions against plaintiff.

23. At no time did the named or fictitiously named defendant officers intervene or otherwise act to prevent or mitigate the unlawful acts or omissions committed against the plaintiff.
24. Plaintiff was unarmed, had not committed a crime, did not resist the officers or attempt to flee.
25. Plaintiff was never placed under arrest or charged with any offense, and there was no probable cause for the defendant officers to believe plaintiff had committed a crime or was a danger to the officers.
26. The defendants acted under color of law, statute, ordinance, regulation, custom, or usage.
27. As the direct and proximate result of the defendant officers' assault and other unlawful acts, plaintiff suffered a broken jaw, required surgical repair, has been left with jaw pain and stiffness and other severe and permanent personal injuries and damages, including but not limited to facial fractures and dislocations, humiliation, psychological trauma, loss of property including watch, car keys and key fob, and expenses to treat his injuries to date and expected in the future.
28. On or about October 16, 2014, notice required by the New Jersey Tort Claims Act was given to New Jersey Transit and North Bergen Township for the acts and omissions committed by their officers.
29. Costs of plaintiff's medical treatment exceeded \$3,600.00.

COUNT ONE

30. Plaintiff incorporates herein by reference the foregoing allegations.
31. At all relevant times defendants Sgt. Segro, Officer Dupars and/or John/Jane Does 1-3 were officers or agents of the New Jersey Transit Police Department, sub-division of NJT.
32. At all relevant times defendants Officer Devers, Officer Sanchez and/or John/Jane Does 4-6 were officers or agents of the North Bergen Police Department, sub-division of North Bergen.

33. In the early morning of July 21, 2014, in or about North Bergen, New Jersey, defendants Sgt. Segro, Officer Dupars, Officer Devers, Officer Sanchez and/or John/Jane Does 1-6 intentionally assaulted and battered plaintiff, by:

- a. Seizing him in the NJT parking garage and park and ride area notwithstanding that plaintiff had not committed a crime, there was no probable cause to believe he had committed a crime, he was unarmed, he did not resist or otherwise threaten the officers or try to flee;
- b. Immobilizing plaintiff by handcuffing him and making him sit on a parking block, with police lights shining in his eyes obscuring his vision and the defendants conferring out of his hearing;
- c. Officer Sanchez pulling plaintiff up by the arm and tossing him face first into the pavement, while boasting of martial arts training;
- d. Officers Sgt. Segro, Dupars and Devers and/or John/Jane Does 1-6 joining in what plaintiff recalled as a tornado like attack, pulling plaintiff up, tossing him about, striking his legs, chest and face, all while plaintiff was immobilized and not a threat to the officers;
- e. Committing other acts against plaintiff's person.

34. None of the defendant officers intervened to prevent or mitigate the attack on plaintiff or broke off the assault before the final blow was landed.

35. The defendant officers acted in their individual capacities and under color of state law.

36. The acts and/or omissions of the defendant officers were done with actual malice toward plaintiff or accompanied by a wanton and willful disregard of persons, including plaintiff, who foreseeably might be harmed by those acts or omissions, in that plaintiff did not provoke, threaten or resist the officers, had not committed a crime, and was immobilized by the officers and unable to defend himself against their assault.

37. As a direct and proximate result of the intentional assault and battery by defendants Sgt. Segro, Officer Dupars, Officer Devers, Officer Sanchez and/or John/Jane Does 1-6, plaintiff was left bruised, bloody, disoriented and in pain, suffered a broken jaw, residual jaw pain and stiffness, and other severe and permanent personal injuries including but not limited to facial fractures and dislocations, humiliation, and psychological trauma, suffered the loss of property including watch, car keys and key fob, and has incurred expenses to treat his injuries and is expected to incur further expenses in the future.

WHEREFORE, plaintiff demands judgment against the defendants, jointly and severally, for compensatory and punitive damages, with interest, costs, attorney fees, and such other relief as the Court may deem equitable.

COUNT TWO

38. Plaintiff incorporates herein by reference the foregoing allegations.

39. In the early morning of July 21, 2014 in or about the New Jersey Transit park and ride facility in or about North Bergen, New Jersey, the defendant officers wrongly restrained, assaulted and battered plaintiff.

40. The defendant officers – Sgt. Segro, Officer Dupars, Officer Devers, Officer Sanchez, John / Jane Does 1-6 – acted as law enforcement officers under color of state law.

41. The said defendant officers acted intentionally in their individual capacities.

42. The acts and omissions of the defendant officers deprived plaintiff of his rights under the Fourth and/or Fourteenth Amendments to the United States Constitution, 42 U.S.C. §§1983, State and/or Common Law.

43. The defendant officers deprived plaintiff of his right to be free from unreasonable seizures of his person, the use of excessive force against him and deprivation of his liberty without due process of law, by

- a. Seizing him in the NJT parking garage and park and ride area notwithstanding that plaintiff had not committed a crime, there was no probable cause to believe he had committed a crime, he was unarmed, he did not resist or otherwise threaten the officers or try to flee;
- b. Immobilizing plaintiff by handcuffing him and making him sit on a parking block, with police lights shining in his eyes obscuring his vision and the defendants conferring out of his hearing;
- c. Officer Sanchez pulling plaintiff up by the arm and tossing him face first into the pavement, while boasting of martial arts training;
- d. Officers Sgt. Segro, Dupars and Devers and/or John/Jane Does 1-6 joining in what plaintiff recalled as a tornado like attack, pulling plaintiff up, tossing him about, striking his legs, chest and face, all while plaintiff was immobilized and not a threat to the officers;
- e. Committing other acts against plaintiff's person.

44. The force used against plaintiff by the defendant officers was unreasonable in that he had not committed a crime, did not pose a threat to the safety of the officers or others, was not resisting arrest or attempting to flee, was immobilized by the officers before the force was applied, and was subjected to multiple beatings by the defendant officers while so immobilized.

45. The acts and/or omissions of the defendant officers were done with actual malice toward plaintiff or accompanied by a wanton and willful disregard of persons, including plaintiff, who foreseeably might be harmed by those acts or omissions, in that plaintiff did not provoke, threaten or resist the officers, had not committed a crime, and was immobilized by the officers and unable to defend himself against their assault.

46. Defendants' wrongful acts left plaintiff bruised, bloody, disoriented and in pain, with a broken jaw, residual jaw pain and stiffness, and other severe and permanent personal injuries including but not limited to facial fractures and dislocations, humiliation, and psychological trauma.

47. Defendants' wrongful acts deprived plaintiff of personal property including watch, car keys and key fob, and has caused and/or will cause plaintiff to incur expenses to treat his injuries.

WHEREFORE, plaintiff demands judgment against the defendants, jointly and severally, for compensatory and punitive damages, with interest, costs, attorney fees, and such other relief as the Court may deem equitable.

COUNT THREE

48. Plaintiff incorporates herein by reference the foregoing allegations.

49. The defendant officers – Sgt. Segro, Officer Dupars, Officer Devers, Officer Sanchez, John / Jane Does 1-6 – wrongly restrained, assaulted and battered plaintiff in the early morning of July 21, 2014 in or about the New Jersey Transit park and ride facility in or about North Bergen, New Jersey, by

- a. Seizing him in the NJT parking garage and park and ride area notwithstanding that plaintiff had not committed a crime, there was no probable cause to believe he had committed a crime, he was unarmed, he did not resist or otherwise threaten the officers or try to flee;
- b. Immobilizing plaintiff by handcuffing him and making him sit on a parking block, with police lights shining in his eyes obscuring his vision and the defendants conferring out of his hearing;
- c. Officer Sanchez pulling plaintiff up by the arm and tossing him face first into the pavement, while boasting of martial arts training;
- d. Officers Segro, Dupars and Devers and/or John/Jane Does 1-6 joining in what plaintiff recalled as a tornado like attack, pulling plaintiff up, tossing him about, striking his legs, chest and face, all while plaintiff was immobilized and not a threat to the officers;
- e. Committing other acts against plaintiff's person.

50. The said officers acted intentionally and under color of state law.

51. Such conduct by the officers was outrageous, outside the scope of their employment, constituted the commission of crimes against plaintiff, and/or was done with actual malice or willful misconduct.

52. The acts and/or omissions of the defendant officers were done with actual malice toward plaintiff or accompanied by a wanton and willful disregard of persons, including plaintiff, who foreseeably might be harmed by those acts or omissions, in that plaintiff did not provoke, threaten or resist the officers, had not committed a crime, and was immobilized by the officers and unable to defend himself against their assault.

53. On or about October 16, 2014, notice required by the New Jersey Tort Claims Act was given to New Jersey Transit and North Bergen Township for the acts and omissions committed by their officers.

54. Costs of plaintiff's medical treatment exceeded \$3,600.00.

55. As the direct and proximate result of the wrongful restraint and excess force by the defendants, plaintiff was left bruised, bloody, disoriented and in pain, suffered a broken jaw, residual jaw pain and stiffness, and other severe and permanent personal injuries including but not limited to facial fractures and dislocations, humiliation, and psychological trauma, and has caused plaintiff loss of property including watch, car keys and key fob, and has caused him to incur expenses for medical treatment now and to be expected in the future.

WHEREFORE, plaintiff demands judgment against the defendants, jointly and severally, for compensatory and punitive damages, with interest, costs, attorney fees, and such other relief as the Court may deem equitable.

COUNT FOUR

56. Plaintiff incorporates herein by reference the foregoing allegations.

57. Defendants Segro, Dupars, Devers, Sanchez and / or John / Jane Does 1-6 owed a duty to plaintiff to perform their duties without the excessive use of force or resort to abuse and other wrongful acts, to refrain from actions that would reasonably be expected to injure or intimidate plaintiff, and / or to prevent or mitigate the excessive use of force or other wrongful acts or omissions against him.

58. In the early morning of July 21, 2014, in or about the New Jersey Transit park and ride facility in or about North Bergen, New Jersey, the said defendant officers were acting in their capacities as law enforcement officers for their respective entities New Jersey Transit and North Bergen Police Department.

59. While so acting, the defendant officers wrongly restrained and injured plaintiff, by such acts as seizing him without probable cause that he had committed a crime, was a danger to the officers or was attempting to flee or was at risk of flight; handcuffing him and making him sit on a parking block, with police lights shining in his eyes obscuring his vision and the defendants conferring out of his hearing; pulling him up and throwing him to the ground, striking him about his legs, chest and face, notwithstanding that plaintiff did not resist or threaten the officers, refuse their instructions or otherwise present a danger; committing other acts against plaintiff's person.

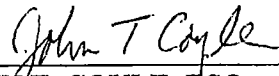
60. The aforesaid wrongful acts and / or omissions, committed when plaintiff was unarmed and did not pose a threat of death or grievous bodily injury to the said defendants or others, when the said defendants had no lawful authority to arrest plaintiff or use force against him, breached the defendant police officers' duty of reasonable care and constitute negligence for which the said defendants are liable.

61. As a direct and/or proximate result of the defendants' negligence, plaintiff has sustained serious and permanent injuries, has been prevented from attending to his necessary business and affairs, has suffered loss of property, and has incurred medical bills and other expenses, all which have caused and will continue to cause plaintiff great pain and suffering, both mental and physical.

WHEREFORE, plaintiff demands judgment against the defendants, jointly and severally, for compensatory damages, with interest, costs, attorney fees, and such other relief as the Court may deem equitable.

JURY DEMAND

The plaintiff hereby demands a trial by jury as to all issues raised in the foregoing complaint.



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Dated: April 12, 2018

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FILED
CUSTOMER SERVICE TEAM

JAN 29 2015

SUPERIOR COURT OF NEW JERSEY
COUNTY OF HUDSON
CIVIL DIVISION #3

MARINA ANDERSON,

Plaintiff,

v.

THE NORTH BERGEN POLICE
DEPARTMENT
and CHIEF ROBERT DOWD,

Defendants.

: SUPERIOR COURT OF NEW JERSEY
: LAW DIVISION - HUDSON COUNTY

: DOCKET NUMBER: L-434-15

: Civil Action

: COMPLAINT, JURY DEMAND,
: DESIGNATION OF TRIAL COUNSEL,
: DEMAND FOR DISCOVERY OF
: INSURANCE INFORMATION AND
: CERTIFICATION

THE PARTIES

1. The plaintiff, Marina Anderson, at all times relevant hereto, was/is an employee of Defendant North Bergen Police Department, employed in its police department. Her reputation is pristine, and her professional record within the department is beyond reproach.
2. Defendant North Bergen Police Department (NBPD), at all times relevant hereto, was a municipal subdivision of Defendant Township of North Bergen, and serves/served as the employer of several of the plaintiff's supervisors, as well as the plaintiff during the relevant times mentioned herein.
3. Defendant Robert Dowd, at all times mentioned herein, was/is the Chief of Defendant NBPD, who was an upper echelon employee and who enjoyed tremendous decision making authority,

given such by the municipality of North Bergen and never answering to anyone he did not want to.

FACTUAL AVERMENTS RELEVANT TO ALL CLAIMS FOR RELIEF

4. Plaintiff Marina Anderson has served as a Police Officer for Defendant Township of North Bergen with distinction for years. The plaintiff has no real IAD disciplinary history whatsoever in the department. Her professional reputation is pristine, and she is exceedingly well liked among fellow employees. She is hardworking, diligent, low key and keeps to herself. She is of Dominican ethnic decent. She is outwardly proud of her ethnic background within the department, and speaks freely about it. Over the years, it has become common knowledge that Defendant North Bergen Police Chief Robert Dowd does not care for ethnic minorities, but no one understands why.
5. Since in/about September 2011, plaintiff has consistently and without let-up been subjected to, for no valid, ascertainable, logical or legal reason whatsoever, retaliatory, harassing, abusive, vicious, sexually discriminatory and immoral conduct/acts, as well as clear adverse employment actions.
6. From September 2011, up to and including the calendar year 2012, the plaintiff was consistently and without valid reason moved from sector to sector, and was also moved in and out of the police department desk officer position. During that same time period, each time she legitimately called in sick, she was ordered by a captain (or other superiors) to submit a report stating what her illness was. Further, the plaintiff was advised by a captain and a detective that she would be fired if she did not stop calling in sick at that time. This action was not taken toward any other officers the way it was taken toward her.
7. In/about that same time period (September 2011), the plaintiff's husband was constrained to retire as a police officer with the defendant NBPD due to a serious on the job injury. When the administration learned of this accidental disability retirement, defendant Dowd inexplicably and

immediately ordered that the plaintiff be transferred to the patrol squad working around the clock. There is no question that this transfer of the plaintiff was direct retaliation by Dowd toward the plaintiff and her husband for her husband being granted an accidental disability retirement, something that Dowd ostensibly was not a fan of.

8. From September 2011 to the Fall of 2013, the plaintiff was verbally and in other ways abused by several superior officers, so much so as to not being able to adequately and fully/comprehensively mention herein.
9. In/around October 2013, while attending a sergeant's birthday party, the plaintiff was awkwardly approached by a deputy chief who called her the "sexiest woman" at the party. The deputy chief was fully aware that the plaintiff was married and had no interest toward him or anyone else, but this did not stop the deputy chief from overtly coming on to the plaintiff.
10. In/around that same time, during the winter months, a few officers were in the municipal parking lot drinking beer after hours. When the plaintiff approached, she was offered a beer. A deputy chief flat-out said to her, in front of others, "Is that the way you will put my cock in your mouth, the way you are drinking that beer?" The plaintiff was embarrassed, shocked and humiliated, and immediately left. Several officers witnessed same. While hearing sometime thereafter about what happened to the plaintiff and the despicable sexually harassing remark made to her, none of the defendants took any corrective or disciplinary action to remedy that horrible remark/situation.
11. In/around January 2013, while addressing the plaintiff, a supervising sergeant stated to her "who the fuck do you think you are, you're a fucking spic, you are going to do what we tell you to do and that's the end of it".
12. In/around March 2014, plaintiff was summoned by school Vice Principal Liggio to take a report regarding an incident involving a call he received from an irate parent from the school who felt her son was being "picked on" by him. Plaintiff prepared to issue the summons with regard to the threat as requested by Liggio. When plaintiff presented the complaint for signature, Liggio

became verbally aggressive/abusive toward her, screaming loudly, saying that it was not what he said and continued to repeat that he was not going to sign it. It was apparent that Liggio became upset because the plaintiff did not sign the complaint. Procedure states that unless the party is a juvenile, the complainant who requests to have a complaint filed must sign it personally. Vice Principal Liggio also threatened that he was going to "make some calls" and will "have my job", something he told the plaintiff he enjoyed the absolute power to do. Plaintiff then properly reported this incident to her chief, defendant Dowd, who told her he would handle it. However, all defendant Dowd did was take additional adverse employment action toward the plaintiff, in direct violation of her NJCEPA rights.

13. The abuse of the plaintiff continued. From May 2014 through June 2014, the plaintiff was working as school resource officer at the local high school. At that time, she was oddly/constantly approached by a security officer who questioned her work and the reasons that/why she did what she did at the school. Despite this request, and under no duty at all to respond, the plaintiff advised this security officer that she was taking her orders from Sgt. Enrique Marrero (who also happens to be a close friend of the plaintiff and her family off the job). The security guard went on to comment that Sgt. Marrero "doesn't know what he is doing" and that Sgt. Marrero "shouldn't be a sergeant". The security guard further remarked that he was "going to talk to the mayor and have Marrero removed". Simply put, the plaintiff was routinely retaliated against, abused and harassed by superiors and individuals acquainted with certain of her superiors because of her and her family's personal off the job relationship with Sgt. Marrero, in direct violation of her state freedom of speech and freedom of assembly rights.

14. This same security officer, on several occasions, yelled at and threatened to call the plaintiff's chief, telling her that she (the plaintiff) had no right to tell him what to do. Of course, this security officer knew that he enjoyed the protection of certain of the plaintiff's superior officers, including

defendant Dowd, who would back him and turn on/retaliate toward the plaintiff on a moment's notice.

15. In/around June 2014, the plaintiff was called into her Internal Affairs Department and told that a principal of a local school had filed a complaint against her. The IA Complaint was bogus and completely based in bad faith. Defendant Dowd was aware that this complaint enjoyed no factual or legal basis, and nevertheless allowed same to proceed, all in an effort to harass, retaliate toward and force the plaintiff to quit the job.

16. Shockingly, at that same time, the plaintiff was hastily and without valid cause reassigned to the patrol division for the entire summer. Only the plaintiff and her friend, Sgt. Enrique Marrero, were reassigned at that time.

17. The harassment continued. At the end of June 2014, the plaintiff was yet again notified that she was reassigned to another squad and removed as the school resource officer (SRO). She was replaced as the SRO by someone who did not have the training she had. It is quite interesting to note that the only two officers removed from schools were the plaintiff and Sgt. Marrero.

18. Plaintiff's debacle got even worse. On August 28, 2014, while working on the police desk, defendant Dowd and a deputy chief approached the plaintiff, stating that she did a fine job as the SRO- the plaintiff, justifiably, was now entirely confused. Dowd went on to state that the school administration and the mayor were complaining about her (the plaintiff's) department squad, and especially her. Defendant Dowd then apologized to the plaintiff and specifically stated to her that due to the tension and problems between plaintiff's superiors and Marrero, the administration "took it out on her". Defendant Dowd went on to state that "Principal Tennaro does not want (her) back working in the schools because the administration runs the town and they will not be happy". Needless to say, the plaintiff was dumbfounded. The deputy chief went on to say that "Mr. Tennaro is a prick but we still have to listen to him".

19. The harassment/retaliation/sexual harassment continued. September 20, 2014 was Police Department Photo Day in front of town hall. While on a line to be positioned for the photograph, a detective who was standing behind the plaintiff, in clear view of numerous others, grabbed her upper thigh near her vaginal area and laughed, saying that he would "do this when the picture was taken". Of course, by virtue of the defendant Police Department's non-action to address and correct this type of sexual harassment over the years, this detective knew he has carte blanche to act in such a fashion, and that no disciplinary or corrective action would be taken toward him or anyone else. He was right.
20. Needless to say, by virtue of the department's inaction over a several year period, the sexual harassment continued to take place. On September 25, 2014, while the plaintiff was sitting at a chair working the police desk, a detective who heard a noise apparently made by the chair flatly stated to the plaintiff, "your fat ass broke the chair". The detective laughed and mocked plaintiff and had the audacity to repeat that very same phrase toward her, and left the area while still laughing.
21. Separately, while plaintiff was working the desk on light duty while she was pregnant, a supervising lieutenant lit a cigarette next to her, to which she politely asked him to step out while he smoked- the lieutenant replied by stating "you fucking spic. you think you run shit around here". While walking away, that same lieutenant was heard to say "this is why women shouldn't be on the job". Of course, this lieutenant felt free to act and speak in this fashion toward the plaintiff because over the years, nothing was done by the defendant police department's upper management or its chief to curb this type of sexual/racial harassment and abuse.
22. Additionally, over the span of the several years immediately preceding the filing of this Complaint, a supervising lieutenant referred to the plaintiff as a "fucking spic" on numerous occasions.

THE ABOVE IS MERELY MEANT TO BE ILLUSTRATIVE, NOT EXHAUSTIVE

SPECIFIC CAUSES OF ACTION

A. (NEW JERSEY LAW AGAINST DISCRIMINATION, N.J.S.A. 10:5-1, ET SEQ.)

23. During all periods relevant to this cause of action, the plaintiff was an employee of Defendant North Bergen Police Department within the meaning of N.J.S.A. 10:5-1, et seq.

24. Defendant North Bergen Police Department willfully and/or grossly negligently failed to provide meaningful training regarding discrimination, retaliation and harassment of its employees. By and through the actions described herein, all defendants have discriminated against plaintiff and created a harassing and hostile work environment for her because of her first amendment activities and/or gender, in violation of the NJLAD. The plaintiff being subjected to and the target of vicious sexual and other demeaning slurs and/or a pattern of ongoing harassment, discrimination and retaliation by defendant Dowd and others was and is unconscionable and illegal.

25. As a direct and proximate result of defendants' actions, plaintiff has suffered and continues to suffer severe mental anguish, humiliation, pain, distress and reputational damages as well as loss of earnings and other employment benefits.

26. All defendants negligently, recklessly and/or intentionally:

- a) failed to have in place a well-publicized and enforced discrimination, anti-harassment and anti-retaliation policy;
- b) failed to properly train its employees regarding compliance with any sexual discrimination, anti-harassment and anti-retaliation policy promulgated by defendants;
- c) failed to properly supervise its employees to ensure compliance with any discrimination, anti-harassment and anti-retaliation policy promulgated by defendants;

- d) failed to make an unequivocal commitment from the upper echelon of the organization that any discrimination, anti-harassment and anti-retaliation policy is not just words but backed up by consistent practice; and
- e) failed to protect plaintiff and others similarly situated from abusive harassment, discrimination and retaliation in the workplace.

27. Based on the foregoing, the county defendants negligently, recklessly and/or intentionally failed to take prompt, appropriate and/or reasonable remedies to prevent, stop and remedy the discrimination, harassment and retaliation aimed at plaintiff. By and through their agents, defendants openly fostered a discriminatory, harassing and retaliatory atmosphere and allowed actions which constitute discrimination, harassment and retaliation in violation of the NJLAD.

B. (NEW JERSEY CIVIL RIGHTS ACT, N.J.S.A. 10:6-2(C))

28. By virtue of the above, plaintiff has been deprived of her First Amendment Freedom of Speech/Assembly rights secured by the New Jersey Constitution, and/or her state substantive First Amendment rights, privileges or immunities secured by the Constitution or laws of this State of New Jersey, and/or her procedural/substantive due process and Equal Protection Rights, her NJCEPA rights, her NJLAD rights and her exercise or enjoyment of those substantive rights, privileges or immunities has been interfered with, by threats, intimidation or coercion by the individual defendants herein, who at all times were acting under color of law, all in violation of N.J.S.A.10:6-2.

29. Further, by virtue of the defendants' dislike of the plaintiff's exercising her N.J. State constitutionally protected Article I, Section 6, freedom of speech rights and her complying with the NJLAD and NJCEPA dictates, all defendants took the above illegal actions toward plaintiff.

C. (N.J. CONSCIENTIOUS EMPLOYEE PROTECTION ACT)

30. During the relevant time period mentioned herein, all procedural prerequisites of N.J.S.A. 34:19-1 et seq were satisfied.

31. By and through the actions described above, all defendants retaliated against plaintiff because plaintiff objected to activity which she reasonably believed was fraudulent and/or illegal and/or unethical, including but not limited to, subjecting and making the plaintiff the target of slurs relating to plaintiff's gender and a pattern of ongoing harassment, discrimination, revenge and retaliation, her state freedom of speech and assembly rights and/or in violation of public policy. Such retaliation violates the NJCEPA, N.J.S.A.34:19-1 et seq.

PRAYER FOR RELIEF

WHEREFORE, plaintiff prays that this honorable Court:

- (a) accept jurisdiction over this matter;
- (b) empanel a jury to hear and decide this matter;
- (c) award against defendants compensatory and punitive damages in a manner determined by a jury;
- (d) enjoin defendants from engaging in further retaliation;
- (e) award to plaintiff the reasonable attorneys' fees and costs of this litigation; and
- (f) for such/any other relief that this Court deems equitable and just.

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 4:35-1, the plaintiff, Marina Anderson, herein demands a trial by jury.

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:25-4 and Rule 4:5-1(c), Patrick P. Toscano, Jr. is hereby designated trial counsel for the plaintiff, Marina Anderson.

THE TOSCANO LAW FIRM, LLC
80 Bloomfield Ave.
Suite 101
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Phone: 973-226-1691
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Patrick P. Toscano, Jr.
Attorney ID: 014461986

Attorney for Plaintiff

FILED
TEAM #1

JUL 28 2014

SUPERIOR COURT OF NEW JERSEY
COUNTY OF HUDSON
CIVIL DIVISION #4

NORTH BERGEN POLICE SERGEANT ENRIQUE MARRERO, Plaintiff, v. TOWNSHIP OF NORTH BERGEN, THE NORTH BERGEN POLICE DEPARTMENT and CHIEF ROBERT DOWD, Defendants.	: SUPERIOR COURT OF NEW JERSEY : LAW DIVISION -HUDSON COUNTY : : DOCKET NUMBER: HUD-L-848-14 : : Civil Action : : FIRST AMENDED COMPLAINT, : JURY DEMAND, : DESIGNATION OF TRIAL COUNSEL, : DEMAND FOR DISCOVERY OF : INSURANCE INFORMATION AND : CERTIFICATION : :
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THE PARTIES

1. The plaintiff, Enrique Marrero, at all times relevant hereto, was/is an employee of defendant Township of North Bergen, employed in its police department. His reputation is pristine, and his professional record within the department is beyond reproach.
2. Defendant, Township of North Bergen, is a municipal corporation and runs/operates/oversees/is responsible for, by funding and through other means the North Bergen Police Department.
3. Defendant North Bergen Police Department, at all times relevant hereto, was a municipal subdivision of Defendant Township of North Bergen, and serves as the employer of several of the plaintiff's supervisors during the relevant times mentioned herein.

4. Defendant Robert Dowd, at all times mentioned herein, was/is an employee of Defendant Township of North Bergen, employed in its police department.

FACTUAL AVERMENTS RELEVANT TO ALL CLAIMS FOR RELIEF

5. Plaintiff Enrique Marrero has served as a Police Officer/Sergeant for Defendant Township of North Bergen with distinction for years. The plaintiff has no disciplinary history whatsoever to speak of. His professional reputation is pristine, and he is exceedingly well liked among fellow employees. He is hardworking, diligent, low key and keeps to himself. For years he served as the mayor's liaison (as well as numerous other duties for the mayor) and is of Puerto Rican ethnic decent. He is outwardly proud of his ethnic background within the department. Over the years, it has become common knowledge that Defendant North Bergen Police Chief Robert Dowd does not care for people of Hispanic descent, but no one understands why.
6. For the last several years, plaintiff has consistently and without let-up been subjected to, for no valid, ascertainable, logical or legal reason whatsoever, retaliatory, harassing, abusive, vicious and immoral conduct/acts, since the period of time that Robert Dowd has been named Chief of Police.
7. On May 16, 2012, plaintiff was called into Robert Dowd's office. Present were Captain Gerald Sanzari, Captain Peter Fasilis, Robert Dowd and Internal Affairs Captain Christopher Brignola. At that time, Defendant Dowd announced that he "was going to be the next chief", and that all that plaintiff does for the mayor from that point in time must "first go through him". Further, and both inexplicably and shockingly, Defendant Dowd stated that he "earned the position of chief" and that he "lied to the State Attorney General's Office" when he "sent 36 boxes of documents to them and got away with it". At that juncture, the plaintiff had no idea what Defendant Dowd was

talking about, and why Defendant Dowd told him this with such unadulterated hubris. At that same time, Defendant Dowd also stated that "someone" had approached him, stating that the plaintiff "was talking shit" about him. Plaintiff then respectfully suggested to Defendant Dowd that he call that person to his office immediately, so the "air could be cleared", as this assertion was entirely untrue. Defendant Dowd replied by stating that he didn't want to involve that person, and that the plaintiff "should just cut the shit". Dowd clearly, from long before he was chief, was envious/jealous/insecure with the relationship the plaintiff had with the mayor, both professionally and personally.

8. On several occasions, and pursuant to his statutory NJCEPA rights, the plaintiff properly complained to the mayor and others, on more than one occasion, about the unfair/illegal fashion in which plaintiff was treated by defendant Dowd (see Exhibit A attached hereto as one singular example).
9. The above having been said, both the plaintiff and former Police Chief William Galvin were entirely aware of defendant Dowd's intention to "take out" the plaintiff subsequent to Dowd being promoted to the position of chief of police. In essence, it was both the intention and well thought out plan of defendant Dowd to so do, so as to make the plaintiff's life unbearable on the job day to day. In point of fact, when defendant Dowd held the position of captain of police, Dowd made it well known to several supervisors that he would "take out" plaintiff Marrero once he became chief. In order to protect the plaintiff from this illegal and vicious future vendetta at the hands of defendant Dowd, Galvin assigned the plaintiff to the mayor prior to Galvin's retirement, a position that both the plaintiff and mayor cherished.
10. Around this same time, the plaintiff spoke to a supervisor, asking why he was "being set up" - that supervisor's response, in words or substance, was that it would all be ok because they were all on the same team.

11. At a separate time, the plaintiff was brought down to the Operations Center with four of his bosses present. At that time, the plaintiff again properly registered his complaints as against defendant Dowd relative to Dowd's mistreatment of him. It was obvious to the plaintiff that Dowd was conspiring with several other of plaintiff's superiors in an effort to retaliate against and force the plaintiff to quit his job by making his professional life untenable. At one point in time, after Dowd took the adverse employment action of returning/demoting the plaintiff back to a uniformed police officer, another supervisor and friend of Dowd openly laughed at the plaintiff, stating "what are you doing back in uniform- aren't you the golden boy?".

12. During the entire relevant period of time mentioned herein, defendant Dowd's conduct toward the plaintiff was extreme and outrageous, known fully by defendant Township, with the Township turning a blind eye and/or condoning Dowd's conduct by doing absolutely nothing to curb same.

13. On November 2, 2012, prior to Defendant Dowd's swearing in ceremony, the plaintiff was taken aside by the Township Attorney and was asked "what the problem was", and to "stop doing what he was doing". When the plaintiff asked the Twp. Attorney what he meant, the Twp. Attorney stated "Take my advice, stop doing what you are doing- leaving town or whatever it is you are doing". When plaintiff again replied that he was not doing anything wrong and has been doing the same thing for the last 10 years for his department and the mayor, the Township Attorney stated "just take my advice", and then walked away. Needless to say, the plaintiff was dumbfounded, and for the first time realized that the Township Attorney seemed to be doing Dowd's dirty work, carrying out Dowd's plan to eventually force the plaintiff to quit. Even though the plaintiff believed that the Township Attorney was his attorney also because he was a municipal employee, it was obvious to the plaintiff that the Township Attorney was completely adversarial toward him.

~~14. Thereafter, on November 6, 2012, the plaintiff worked elections off duty, but was never~~
compensated for same. This was at the direction of defendant Dowd.

15. On/about November 9, 2012, during a fundraiser held in town for a terminally ill officer in the NBPD, the plaintiff was approached by both the Mayor and Defendant Dowd to settle what appeared to be a growing issue of tension between the plaintiff and the Chief. At that time, the mayor told Defendant Dowd "to settle this and to give" the plaintiff "whatever he wanted." When Defendant Dowd then begrudgingly approached the plaintiff moments thereafter and asked him what he wanted, the plaintiff responded that he wanted nothing other than to be left alone and be able to do his job. At that time, Defendant Dowd asked the plaintiff if he desired a position in Defendant Dowd's office of a position in Internal Affairs (generally a "plum" assignment). Plaintiff refused same.

16. On/about November 29, 2012, when assignments were handed out for the "Winterfest" detail (volunteer work), the plaintiff was, without explanation from anyone, reassigned and placed back in uniform for that detail after being in plain clothes for 10 years. The plaintiff then advised Kathy Somick, the mayor's secretary, that he was reassigned for the event and would not be assigned to her and the mayor to which she responded "I will handle it". Thereafter, the plaintiff received a call from Defendant Dowd within the hour advising him that he would be assigned to Kathy Somick, while Defendant Dowd and another detective would escort the Mayor.

17. Thereafter, on/about December 7, 2012, plaintiff was summoned to Defendant Dowd's office, in the Township Attorney's presence- once again, the plaintiff realized that the Township Attorney was on Dowd's "team" and did not have the plaintiff's best interest in mind. The plaintiff was advised at that time that he could no longer take his assigned vehicle to his residence, because "the AG's office was all over the town". This made no sense to the plaintiff, as he was assigned that vehicle and there was nothing untoward or illegal about him taking the vehicle home, as he was on duty 24 hours a day. It was obvious to the plaintiff at that time that this was simply a bogus excuse in yet another attempt to slowly force him out of the department (it should be mentioned that three other individuals who took their vehicles to their residences were not at that

time told to cease doing so). At the end of that meeting, the plaintiff was told that if he "did not straighten up, this is how people get fired- you don't want to be another Eisenhower" (a reference to a previously fired sergeant). Again, this made no sense whatsoever to the plaintiff, and he was waiting for the Township Attorney to support him, which the Township Attorney did not do. He continued to walk on eggshells.

18. In continuing with the harassment/retaliation/abuse of the plaintiff, on/about December 10, 2012, the plaintiff was told that his position in the department as Mayor's Liaison had been eliminated. Immediately, the plaintiff realized that this statement was bogus, and merely further evidence of Dowd's plan to take adverse employment actions toward plaintiff until he quit. The position of Mayor's Liaison was truly never eliminated, as defendant Dowd thereafter acted in that capacity, even though that exact title was on its face said to be eliminated. He was told by Captain Gerald Sanzari, per Defendant Dowd, not to "bust balls" as plaintiff "would not have done so" to the prior chief. Plaintiff requested a copy of memo eliminating the position, but his request was denied, even though he was forced to sign the elimination memo. Further, later that very day, the plaintiff was threatened with the words "if I really want to get you, I can have IA follow you all day". Defendant Dowd also attempted to further intimidate the plaintiff by stating to him at that time to "stop crying to everyone in town". This statement by Defendant Dowd was meant to mean that the plaintiff should no longer report to Kathy Somick and the mayor the vicious and hostile treatment the plaintiff was receiving at the hands of Defendant Dowd, which was a direct violation of plaintiff's state "whistleblower" rights.
19. On January 8, 2013, while assigned to the Juvenile Division, the plaintiff was denied funds to have that division's office equipment updated, and was falsely told that the denial was due to a lack of money in budget. However, at this same time, Defendant Dowd and other supervisors' offices were completely remodeled at deep/extensive monetary cost to the taxpayers.

20. On/about October 30, 2013, during a Halloween Masquerade at the local high school, the plaintiff and other officers were confronted by a security guard regarding the procedure of vacating students from the high school during a pulled fire alarm. The plaintiff advised the security guard to assist them in removing the 600 or so children from the premises, which the security guard simply did not like. The following day, that security guard's boss met with Defendant Dowd to complain about the plaintiff's conduct, even though plaintiff did nothing wrong. Thereafter, the plaintiff was called into Defendant Dowd's office, in the presence of a captain, and was severely excoriated and humiliated by Defendant Dowd. Simply put, Dowd simply would not let up when it came to retaliating toward the plaintiff at every chance he could.
21. Sometime thereafter, on a day the plaintiff was not scheduled to work, plaintiff was ordered by a Deputy Chief to report to Defendant Dowd's Office with three other officers from the Juvenile Division. When they all arrived, the plaintiff realized that a Deputy Chief and Captain were also present. At that time, Defendant Dowd told the plaintiff was he "was sick and tired of being called to the Mayor's Office at the Board of Education and being yelled at". The plaintiff was purposely ordered to go back to a "marked patrol unit" by Dowd, with plaintiff assigned Unit 74, which was the worst car in the fleet- yet another retaliatory and adverse employment action by Dowd toward the plaintiff.
22. Thereafter, on December 3, 2013, the plaintiff was advised that for the annual "Winterfest" occurring on Dec. 5th, he would be assigned to a fixed post standing by a stage for the first time in 10 years, which was clear and further purposeful retaliation from Defendant Dowd. During that same time, Defendant Dowd replaced the plaintiff in his usual assignment, escorting the Mayor and/or Kathy Somick.
- ~~23. The retaliation/humiliation/vengeful conduct by Defendant Dowd toward the plaintiff continued.~~
- On December 4, 2013, after continuously being called in and belittled at every meeting and encounter, the plaintiff requested a meeting with Defendant Dowd. Surprisingly, Defendant

Dowd agreed. At the meeting, Defendant Dowd immediately became irate when the plaintiff suggested that they "please clear the air". Defendant Dowd responded by stating "are you fucking kidding me, we have been through this ten fucking times already; you have been out to get me and make me look like a jerk". Defendant Dowd went on to state that the plaintiff's work product was "non-existent". Defendant Dowd continued on, stating that this was the plaintiff's "last chance", and that all further matters would go through Internal Affairs. This threat was purposely made to intimidate, freeze out, harass and scare the plaintiff, in furtherance of Defendant Dowd's overall plan to ruin the plaintiff and force him to resign from the department. When the plaintiff went on to state that he was unable to attend the "Winterfest" event, Defendant Dowd blew up and directed the plaintiff to "do whatever you want and get out". At wit's end, plaintiff quietly left the office.

24. Sometime thereafter, knowing full well how even the slightest mention of an IAD investigation into any law enforcement officer can ruin his/her future promotional opportunities, and with full purpose to so do, Defendant Dowd directed a full IA investigation of the plaintiff regarding an incident that occurred *between the plaintiff and him when they were both off-duty and enjoying themselves at an affair*. Of course, as an off-duty incident, which incident is almost laughable in hindsight, same should have in no way ever triggered a formal IA investigation of the plaintiff, which investigation and IA trial are currently pending at the time the within Complaint is filed.
25. On December 10, 2013, plaintiff was advised by Anthony Vainieri that he should, in essence, plead guilty to the pending IA charges referred to in Paragraph 18 above. Of course, this message was sent by and relayed at the behest of Defendant Dowd, and delivered by Vainieri. Thereafter, plaintiff met with Vainieri to show him how serious the charges were, and how a plea to same ~~could very well destroy his professional career and any chance for advancement within the~~ department.

26. The plaintiff knew that he would never receive a fair Internal Affairs investigation or trial, so plaintiff's attorney waived what would have been a "kangaroo court" IAD trial, and immediately, pursuant to statute, requested that his IA trial be heard at the State OAL. Despite so doing, and ignoring the plaintiff's request that any penalty be held in abeyance until the matter was tried by an administrative law judge, all defendants had the temerity to suspend the plaintiff for fifteen (15) days, an absurd, draconian and unheard of penalty, even though the matter has yet to be tried. A more severe and obvious adverse employment action could not be imaginable, and was meted out by Dowd and others in furtherance of his plan to decimate the plaintiff's professional career and force him to quit the police department.

THE ABOVE IS MERELY MEANT TO BE ILLUSTRATIVE, NOT EXHAUSTIVE

SPECIFIC CAUSES OF ACTION

A. (NEW JERSEY CIVIL RIGHTS ACT, N.J.S.A. 10:6-2(C)- AS TO ALL DEFENDANTS)

27. By virtue of the above, plaintiff has been deprived of his First Amendment Freedom of Speech rights secured by the New Jersey Constitution, and/or his state substantive First Amendment rights, privileges or immunities secured by the Constitution or laws of this State of New Jersey, and/or his procedural/substantive due process and Equal Protection Rights and his exercise or enjoyment of those substantive rights, privileges or immunities has been interfered with, by threats, intimidation or coercion by the individual defendants herein, who at all times were acting under color of law, all in violation of N.J.S.A.10:6-2.

~~28. Further, by virtue of the defendants' dislike of the plaintiff's exercising his N.J. State~~
constitutionally protected Article I, Section 6, freedom of speech rights and his complying with the NJCRA and NJCEPA dictates, all defendants took the above illegal actions toward plaintiff.

B. (N.J. CONSCIENTIOUS EMPLOYEE PROTECTION ACT- AS TO ALL DEFENDANTS)

29. During the relevant time period mentioned herein, all procedural prerequisites of N.J.S.A. 34:19-1 et seq were satisfied.

30. By and through the actions described above, all defendants retaliated against plaintiff because plaintiff objected to activity which he reasonably believed was fraudulent and/or illegal and/or unethical, including but not limited to, subjecting and making the plaintiff the target of a pattern of ongoing harassment, revenge and retaliation and/or in violation of public policy. Such retaliation violates the NJCEPA, N.J.S.A.34:19-1 et seq, as when the plaintiff properly exercised his rights by complaining to the mayor and other superiors about Dowd's mission to force him to quit, no action whatsoever was taken toward Dowd, Dowd was never the subject of an Internal Affairs investigation and Dowd was allowed to take direct and patently obvious retaliatory adverse employment actions toward the plaintiff.

C. (CIVIL CONSPIRACY- AS TO ALL DEFENDANTS AND CERTAIN OTHER AGENTS/EMPLOYEES OF THE TOWNSHIP WHOM CONTINUING DISCOVERY MAY REVEAL)

31. Defendants, by and through its employees and officials, agreed in concert with one another and/or defendant Dowd to commit unlawful acts against plaintiff, and/or to commit facially lawful acts by unlawful means, as hereinabove described.

32. Pursuant to and in furtherance of said agreement and combination, all defendants committed overt acts which acts include those hereinabove stated.

33. As the direct and proximate result of defendants' conspiracy, the plaintiff has been and will continue to be severely and irreparably damaged.

D. (INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS – AS TO DEFENDANT DOWD)

34. As described above, in committing the acts and omissions to act complained of, defendant Dowd acted intentionally and purposefully to cause the plaintiff emotional distress and injury, and/or acted in reckless disregard for a high degree of probability that emotional distress would follow from his conduct.
35. Dowd's conduct was extreme and outrageous and was so extreme in degree as to go beyond all possible bounds of decency and to be regarded as atrocious and utterly intolerable in a civilized community.
36. As the direct and proximate cause of Dowd's extreme and outrageous intentional and/or reckless conduct, the plaintiff suffered genuine and substantial emotional distress and injury, including being forced to retire and ruining his professional reputation.
37. Dowd's conduct was so severe and extreme as to cause genuine and substantial emotional distress or mental harm to the average person similarly situated to the plaintiff, and plaintiff suffered such severe and substantial emotional distress and mental injury that no reasonable person would be expected to endure.

PRAYER FOR RELIEF

WHEREFORE, plaintiff prays that this honorable Court:

- (a) accept jurisdiction over this matter;
- (b) empanel a jury to hear and decide this matter;
- (c) award against defendants compensatory and punitive damages in a manner determined by a jury;
- (d) enjoin defendants from engaging in further retaliation;
- (e) award to plaintiff the reasonable attorneys' fees and costs of this

litigation; and

- (f) for such/any other relief that this Court deems equitable and just.

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 4:35-1, the plaintiff, Enrique Marrero, herein demands a trial by jury:

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:25-4 and Rule 4:5-1(c), Patrick P. Toscano, Jr. is hereby designated trial counsel for the plaintiff, Enrique Marrero.

DEMAND FOR DISCOVERY OF INSURANCE INFORMATION

Pursuant to Rule 4:10-2(b), please comply with plaintiff's request for all insurance information.

CERTIFICATION

I hereby certify, upon information and belief, that the matter in controversy is not the subject of any other action pending in any Court or of a pending arbitration proceeding.

I also certify, upon information and belief, that at the present time no other action or arbitration with respect to the matter in controversy is contemplated.

On the basis of the present knowledge, I am aware of no other party or parties who should be joined in this action.

Dated: July 24, 2014

By: 

Patrick P. Toscano, Jr.

Exhibit A

< Mayor
2014245114

12:07 PM

I would like to apologize for any misunderstandings regarding the other night. You know me most of my life and very well. I have never had issues with anyone. For some time coming I have been verbally abused and mistreated unjustly and that next time things don't go his way that all matters will be sent to internal affairs. The fact that he has the position of authority and continues to threaten my career is not fair to me or my family. I have reached out for help several times while he continues to intimidate me in a hostile work environment sucks. Hope you can understand and I will always be here for you no matter what. Thank You

12:16 PM

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Phone: 973-226-1691
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Patrick P. Toscano, Jr.
Attorney ID: 014461986

Attorney for Plaintiff

RECEIVED
MAR 05 2014

FILED
TEAM #2
FEB 26 2014
SUPERIOR COURT OF NEW JERSEY
COUNTY OF HUDSON
CIVIL DIVISION #4

NORTH BERGEN POLICE SERGEANT
ENRIQUE MARRERO,

Plaintiff,

v.

TOWNSHIP OF NORTH BERGEN,
THE NORTH BERGEN POLICE
DEPARTMENT
and CHIEF ROBERT DOWD,

Defendants.

: SUPERIOR COURT OF NEW JERSEY
: LAW DIVISION - HUDSON COUNTY

: DOCKET NUMBER:

L-848-14

Civil Action

: COMPLAINT, JURY DEMAND,
: DESIGNATION OF TRIAL COUNSEL,
: DEMAND FOR DISCOVERY OF
: INSURANCE INFORMATION AND
: CERTIFICATION

THE PARTIES

1. The plaintiff, Enrique Marrero, at all times relevant hereto, was/is an employee of defendant Township of North Bergen, employed in its police department. His reputation is pristine, and his professional record within the department is beyond reproach.
2. Defendant, Township of North Bergen, is a municipal corporation and runs/operates/oversees/is responsible for, by funding and through other means the North Bergen Police Department.
3. Defendant North Bergen Police Department, at all times relevant hereto, was a municipal subdivision of Defendant Township of North Bergen, and serves as the employer of several of the plaintiff's supervisors during the relevant times mentioned herein.

4. Defendant Robert Dowd, at all times mentioned herein, was/is an employee of Defendant Township of North Bergen, employed in its police department.

FACTUAL AVERMENTS RELEVANT TO ALL CLAIMS FOR RELIEF

5. Plaintiff Enrique Marrero has served as a Police Officer/Sergeant for Defendant Township of North Bergen with distinction for years. The plaintiff has no disciplinary history whatsoever to speak of. His professional reputation is pristine, and he is exceedingly well liked among fellow employees. He is hardworking, diligent, low key and keeps to himself. For years he served as the mayor's liaison (as well as numerous other duties for the mayor) and is of Puerto Rican ethnic decent. He is outwardly proud of his ethnic background within the department. Over the years, it has become common knowledge that Defendant North Bergen Police Chief Robert Dowd does not care for people of Hispanic descent, but no one understands why.
6. For the last several years, plaintiff has consistently and without let-up been subjected to, for no valid, ascertainable, logical or legal reason whatsoever, retaliatory, harassing, abusive, vicious and immoral conduct/acts, since the period of time that Robert Dowd has been named Chief of Police.
7. On May 16, 2012, plaintiff was called into Robert Dowd's office. Present were Captain Gerald Sanzari, Captain Peter Fasilis, Robert Dowd and Internal Affairs Captain Christopher Brignola. At that time, Defendant Dowd announced that he "was going to be the next chief", and that all that plaintiff does for the mayor from that point in time must "first go through him". Further, and both inexplicably and shockingly, Defendant Dowd stated that he "earned the position of chief" and that he "lied to the State Attorney General's Office" when he "sent 36 boxes of documents to them and got away with it". At that juncture, the plaintiff had no idea what Defendant Dowd was

talking about, and why Defendant Dowd told him this with such unadulterated hubris. At that same time, Defendant Dowd also stated that "someone" had approached him, stating that the plaintiff "was talking shit" about him. Plaintiff then respectfully suggested to Defendant Dowd that he call that person to his office immediately, so the "air could be cleared", as this assertion was entirely untrue. Defendant Dowd replied by stating that he didn't want to involve that person, and that the plaintiff "should just cut the shit". Dowd clearly, from long before he was chief, was envious/jealous/insecure with the relationship the plaintiff had with the mayor, both professionally and personally.

8. On November 2, 2012, prior to Defendant Dowd's swearing in ceremony, the plaintiff was taken aside by the Township Attorney and was asked "what the problem was", and to "stop doing what he was doing". When the plaintiff asked the Twp. Attorney what he meant, the Twp. Attorney stated "Take my advice, stop doing what you are doing- leaving town or whatever it is you are doing". When plaintiff again replied that he was not doing anything wrong and has been doing the same thing for the last 10 years for his department and the mayor, the Twp. Attorney stated "just take my advice", and then walked away. Needless to say, the plaintiff was dumbfounded.
9. Thereafter, on November 6, 2012, the plaintiff worked elections off duty, but was never compensated for same. This was at the direction of defendant Dowd.
10. On/about November 9, 2012, during a fundraiser held in town for a terminally ill officer in the NBPd, the plaintiff was approached by both the Mayor and Defendant Dowd to settle what appeared to be a growing issue of tension between the plaintiff and the Chief. At that time, the mayor told Defendant Dowd "to settle this and to give" the plaintiff "whatever he wanted." When Defendant Dowd then begrudgingly approached the plaintiff moments thereafter and asked him what he wanted, the plaintiff responded that he wanted nothing other than to be left alone and

be able to do his job. At that time, Defendant Dowd asked the plaintiff if he desired a position in Defendant Dowd's office of a position in Internal Affairs (generally a "plum" assignment). Plaintiff refused same.

11. On/about November 29, 2012, when assignments were handed out for the "Winterfest" detail (volunteer work), the plaintiff was, without explanation from anyone, reassigned and placed back in uniform for that detail after being in plain clothes for 10 years. The plaintiff then advised Kathy Somick, the mayor's secretary, that he was reassigned for the event and would not be assigned to her and the mayor to which she responded "I will handle it". Thereafter, the plaintiff received a call from Defendant Dowd within the hour advising him that he would be assigned to Kathy Somick, while Defendant Dowd and another detective would escort the Mayor.

12. Thereafter, on/about December 7, 2012, plaintiff was summoned to Defendant Dowd's office, in the Twp. Attorney's presence. The plaintiff was advised at that time that he could no longer take his assigned vehicle to his residence, because "the AG's office was all over the town". This made no sense to the plaintiff, as he was assigned that vehicle and there was nothing untoward or illegal about him taking the vehicle home, as he was on duty 24 hours a day. It was obvious to the plaintiff at that time that this was simply a bogus excuse in yet another attempt to slowly force him out of the department (it should be mentioned that three other individuals who took their vehicles to their residences were not at that time told to cease doing so). At the end of that meeting, the plaintiff was told that if he "did not straighten up, this is how people get fired- you don't want to be another Eisenhower" (a reference to a previously fired sergeant). Again, this made no sense whatsoever to the plaintiff. He continued to walk on eggshells.

13. In continuing with the harassment/retaliation/abuse of the plaintiff, on/about December 10, 2012, the plaintiff was told that his position in the department as Mayor's Liaison had been eliminated.

He was told by Captain Gerald Sanzari, per Defendant Dowd, not to "bust balls" as plaintiff "would not have done so" to the prior chief. Plaintiff requested a copy of memo eliminating the position, but his request was denied, even though he was forced to sign the elimination memo. Further, later that very day, the plaintiff was threatened with the words "if I really want to get you, I can have IA follow you all day". Defendant Dowd also attempted to further intimidate the plaintiff by stating to him at that time to "stop crying to everyone in town". This statement by Defendant Dowd was meant to mean that the plaintiff should no longer report to Kathy Somick and the mayor the vicious and hostile treatment the plaintiff was receiving at the hands of Defendant Dowd, which was a direct violation of plaintiff's state "whistleblower" rights.

14. On January 8, 2013, while assigned to the Juvenile Division, the plaintiff was denied funds to have that division's office equipment updated, and was falsely told that the denial was due to a lack of money in budget. However, at this same time, Defendant Dowd and other supervisors' offices were completely remodeled at deep/extensive monetary cost to the taxpayers.

15. On/about October 30, 2013, during a Halloween Masquerade at the local high school, the plaintiff and other officers were confronted by a security guard regarding the procedure of vacating students from the high school during a pulled fire alarm. The plaintiff advised the security guard to assist them in removing the 600 or so children from the premises, which the security guard simply did not like. The following day, that security guard's boss met with Defendant Dowd to complain about the plaintiff's conduct, even though plaintiff did nothing wrong. Thereafter, the plaintiff was called into Defendant Dowd's office, in the presence of a captain, and was severely excoriated and humiliated by Defendant Dowd. Simply put, Dowd simply would not let up when it came to retaliating toward the plaintiff at every chance he could.

16. Sometime thereafter, on a day the plaintiff was not scheduled to work, plaintiff was ordered by a Deputy Chief to report to Defendant Dowd's Office with three other officers from the Juvenile Division. When they all arrived, the plaintiff realized that a Deputy Chief and Captain were also present. At that time, Defendant Dowd told the plaintiff was he "was sick and tired of being called to the Mayor's Office at the Board of Education and being yelled at". The plaintiff was purposely ordered to go back to a "marked patrol unit" by Dowd, with plaintiff assigned Unit 74, which was the worst car in the fleet.

17. Thereafter, on December 3, 2013, the plaintiff was advised that for the annual "Winterfest" occurring on Dec. 5th, he would be assigned to a fixed post standing by a stage for the first time in 10 years, which was clear and further purposeful retaliation from Defendant Dowd. During that same time, Defendant Dowd replaced the plaintiff in his usual assignment, escorting the Mayor and/or Kathy Somick.

18. The retaliation/humiliation/vengeful conduct by Defendant Dowd toward the plaintiff continued.

On December 4, 2013, after continuously being called in and belittled at every meeting and encounter, the plaintiff requested a meeting with Defendant Dowd. Surprisingly, Defendant Dowd agreed. At the meeting, Defendant Dowd immediately became irate when the plaintiff suggested that they "please clear the air". Defendant Dowd responded by stating "are you fucking kidding me, we have been through this ten fucking times already; you have been out to get me and make me look like a jerk". Defendant Dowd went on to state that the plaintiff's work product was "non-existent". Defendant Dowd continued on, stating that this was the plaintiff's "last chance", and that all further matters would go through Internal Affairs. This threat was purposely made to intimidate, freeze out, harass and scare the plaintiff, in furtherance of Defendant Dowd's overall plan to ruin the plaintiff and force him to resign from the department. When the plaintiff went on to state that he was unable to attend the "Winterfest" event, Defendant Dowd blew up

and directed the plaintiff to "do whatever you want and get out". At wit's end, plaintiff quietly left the office.

19. Sometime thereafter, knowing full well how even the slightest mention of an IAD investigation into any law enforcement officer can ruin his/her future promotional opportunities, and with full purpose to so do, Defendant Dowd directed a full IA investigation of the plaintiff regarding an incident that occurred *between the plaintiff and him when they were both off-duty and enjoying themselves at an affair*. Of course, as an off-duty incident, which incident is almost laughable in hindsight, same should have in no way ever triggered a formal IA investigation of the plaintiff, which investigation and IA trial are currently pending at the time the within Complaint is filed.

20. On December 10, 2013, plaintiff was advised by Anthony Vainieri that he should, in essence, plead guilty to the pending IA charges referred to in Paragraph 18 above. Of course, this message was sent by and relayed at the behest of Defendant Dowd, and delivered by Vainieri. Thereafter, plaintiff met with Vainieri to show him how serious the charges were, and how a plea to same could very well destroy his professional career and any chance for advancement within the department.

THE ABOVE IS MERELY MEANT TO BE ILLUSTRATIVE, NOT EXHAUSTIVE

SPECIFIC CAUSES OF ACTION

A. (NEW JERSEY LAW AGAINST DISCRIMINATION, N.J.S.A. 10:5-1, ET SEQ)

21. During all periods relevant to this cause of action, the plaintiff was an employee of Defendant Township of North Bergen within the meaning of N.J.S.A. 10:5-1, et seq.
22. Defendant Township of North Bergen is an employer as defined by N.J.S.A. 10:5-5 and defendant North Bergen Police Department was plaintiff's supervisor.
23. Defendant Township of North Bergen willfully and/or grossly negligently failed to provide meaningful training regarding discrimination, retaliation and harassment of its employees. By and through the actions described herein, all defendants, and especially Dowd have discriminated against plaintiff and created a harassing and hostile work environment for him because of his union activities and race/national origin, in violation of the NJLAD. The plaintiff being subjected to and the target of racial and ethnic slurs and/or a pattern of ongoing harassment, discrimination and retaliation was and is unconscionable and illegal.
24. As a direct and proximate result of defendants' actions, plaintiff has suffered and continues to suffer severe mental anguish, humiliation, pain, distress and reputational damages as well as loss of earnings and other employment benefits.
25. All defendants negligently, recklessly and/or intentionally:
 - a) failed to have in place a well-publicized and enforced discrimination, anti-harassment and anti-retaliation policy;
 - b) failed to properly train its employees regarding compliance with any discrimination, anti-harassment and anti-retaliation policy promulgated by defendants;
 - c) failed to properly supervise its employees to ensure compliance with any discrimination, anti-harassment and anti-retaliation policy promulgated by defendants;

- d) failed to make an unequivocal commitment from the upper echelon of the organization that any discrimination, anti-harassment and anti-retaliation policy is not just words but backed up by consistent practice; and
- e) failed to protect plaintiff and others similarly situated from abusive harassment, discrimination and retaliation in the workplace.

26. Based on the foregoing, the municipal defendants negligently, recklessly and/or intentionally failed to take prompt, appropriate and/or reasonable remedies to prevent, stop and remedy the discrimination, harassment and retaliation aimed at plaintiff. By and through their agent Dowd, defendant North Bergen fostered a discriminatory, harassing and retaliatory atmosphere and allowed actions which constitute discrimination, harassment and retaliation in violation of the NJLAD.

B. (NEW JERSEY CIVIL RIGHTS ACT, N.J.S.A. 10:6-2(C))

27. By virtue of the above, plaintiff has been deprived of his First Amendment Freedom of Speech rights secured by the New Jersey Constitution, and/or his state substantive First Amendment rights, privileges or immunities secured by the Constitution or laws of this State of New Jersey, and/or his procedural/substantive due process and Equal Protection Rights and his exercise or enjoyment of those substantive rights, privileges or immunities has been interfered with, by threats, intimidation or coercion by the individual defendants herein, who at all times were acting under color of law, all in violation of N.J.S.A. 10:6-2.

28. Further, by virtue of the defendants' dislike of the plaintiff's exercising his N.J. State constitutionally protected Article I, Section 6, freedom of speech rights and his complying with the NJLAD and NJCEPA dictates, all defendants took the above illegal actions toward plaintiff.

C. (N.J. CONSCIENTIOUS EMPLOYEE PROTECTION ACT)

29. During the relevant time period mentioned herein, all procedural prerequisites of N.J.S.A. 34:19-1 et seq were satisfied.
30. By and through the actions described above, all defendants retaliated against plaintiff because plaintiff objected to activity which he reasonably believed was fraudulent and/or illegal and/or unethical, including but not limited to, subjecting and making the plaintiff the target of slurs relating to plaintiff's race/national origin and a pattern of ongoing harassment, discrimination, revenge and retaliation and/or in violation of public policy. Such retaliation violates the NJCEPA, N.J.S.A.34:19-1 et seq.

PRAYER FOR RELIEF

WHEREFORE, plaintiff prays that this honorable Court:

- (a) accept jurisdiction over this matter;
- (b) empanel a jury to hear and decide this matter;
- (c) award against defendants compensatory and punitive damages in a manner determined by a jury;
- (d) enjoin defendants from engaging in further retaliation;
- (e) award to plaintiff the reasonable attorneys' fees and costs of this litigation; and
- (f) for such/any other relief that this Court deems equitable and just.

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 4:35-1, the plaintiff, Enrique Marrero, herein demands a trial by jury.

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:25-4 and Rule 4:5-1(c), Patrick P. Toscano, Jr. is hereby designated trial counsel for the plaintiff, Enrique Marrero.

DEMAND FOR DISCOVERY OF INSURANCE INFORMATION

Pursuant to Rule 4:10-2(b), please comply with plaintiff's request for all insurance information.

CERTIFICATION

I hereby certify, upon information and belief, that the matter in controversy is not the subject of any other action pending in any Court or of a pending arbitration proceeding.

I also certify, upon information and belief, that at the present time no other action or arbitration with respect to the matter in controversy is contemplated.

On the basis of the present knowledge, I am aware of no other party or parties who should be joined in this action.

Dated: February 21, 2014

By: 

Patrick P. Toscano, Jr.

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Attorney for Plaintiff

MARCO ROVELO,	:	SUPERIOR COURT OF NEW JERSEY
	:	LAW DIVISION -HUDSON COUNTY
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action
	:	
TOWNSHIP OF NORTH BERGEN,	:	COMPLAINT, JURY DEMAND,
AND ROBERT DOWD,	:	DESIGNATION OF TRIAL COUNSEL,
	:	DEMAND FOR DISCOVERY OF
Defendants.	:	INSURANCE INFORMATION AND
	:	CERTIFICATION

PREAMBLE

1. This is a Complaint brought pursuant to and in accordance with the New Jersey State Constitution, specifically NJSC Article VII, Section I, Paragraph 2, suffered by the Plaintiff at the hands of the enumerated Defendants, seeking relief/redress for a promotion to the rank of Captain, along with compensatory/punitive damages and statutory attorney's fees.

THE PARTIES

2. Plaintiff Marco Roveló, at all relevant times mentioned herein, is/was a Police Lieutenant with the North Bergen, Hudson County, New Jersey Police Department (hereinafter sometimes referred to as "plaintiff"). He is an exceptional, first rate law enforcement officer in his own right. His professional reputation among law enforcement is essentially unimpeachable and irreproachable, and his work record is fundamentally unblemished. He

stays to himself, inconveniences no one on the job and is only concerned with being the finest law enforcement officer he can be. Additionally, he is well respected by outside law enforcement agencies, both local and federal. Simply put, law enforcement officers do not come any better. Moreover, at all relevant times mentioned herein, he was sitting Number One (1) on the Captain's promotional list.

3. Defendant Township of North Bergen (hereinafter referred to as "Township" or "NB"), is a municipal corporation of the State of New Jersey located in Hudson County. It is governed under the Mayor/Council form of government, controlling the day-to-day operations of the North Bergen Police Department (hereinafter referred to as "NBPD"). Upon information and belief, defendant NB has allowed defendant Robert Dowd to utilize both the New Jersey State Civil Service Promotional process and the Internal Affairs process within the NBPD to exist/function rife with inconsistencies, preferential treatment, perversion, irregularities, abnormalities, illegalities, manipulation, wrongdoings and misdeeds, and NB has acted with unacceptable and abhorrent deliberate indifference to all Promotional and Internal Affairs issues, as well as Robert Dowd's vengeful motives, there in the NBPD. Additionally, NB has allowed (and indeed fostered, promoted, adopted, ratified, and directly and/or indirectly approved) the within recited misgivings and unlawful actions of defendant Robert Dowd within the NBPD for a substantial number of years, and purposely does not fill certain promotional positions that it should promptly fill, albeit there is room on the NBPD Table of Organization to do so and the NBPD needs the position to be filled.
4. Defendant Robert Dowd (hereinafter referred to as "Dowd"), is the Chief of the NBPD who, upon information and belief, rules in a quasi-tyrannical fashion toward officers he personally does not like. As Chief of the NBPD for years, Dowd routinely makes it known that he exercises substantial influence among high-ranking Township officials and enjoys

significant, unheard of and unfettered autonomy within the NBPD relative to all Promotional and Internal Affairs decisions that are of any significance/moment. Indeed, upon information and belief, Dowd has also been named as a party defendant in numerous other civil lawsuits that have been filed as against North Bergen in the past because of his reckless/vicious/discriminatory/vengeful/racist mindset and propensities in this very same regard. Upon further information and belief, defendant Dowd is also legendarily known for manipulating the NBPD Internal Affairs and Promotional examination process so as to enable him to hand pick some, bypass others, influence the governing body and convolute the procedure, practice and manner of/for promotion and discipline within the NBPD. And again, upon further information and belief, Dowd made it widely known within the NBPD that he never liked Roveló at all, the genesis of which originated when Roveló was hired in the calendar year 2000 by virtue of an NAACP lawsuit filed against NB for not hiring minority police officer candidates.

RELEVANT FACTUAL AVERMENTS

5. It is May, 2016, and the Plaintiff's nightmare begins. At that time, and much to defendant Dowd's chagrin/irritation/vexation, plaintiff Roveló, then a Lieutenant, performed in stellar fashion on the New Jersey State Civil Service promotional examination and finished Number One (1) on the NBPD Captain's promotional list. As a result, defendant Dowd should have forthwith, without hesitation/equivocation, recommended his speedy promotion to that rank to defendant NB, as the NBPD Table of Organization allowed for him to so do during the civil service three (3) year eligibility period.

6. Of course, as heretofore alluded to, defendant Dowd resented Rovelos examination performance tremendously, as he was compelled to begrudgingly realize that Rovelos earned and fully deserved a promotion to the rank of Captain.
7. But Dowd also knew full well that the only way he was able to derail Rovelos earned and deserved promotion to the rank of Captain was to consistently and regularly launch/authorize Internal Affairs investigations targeting Rovelos, and to bring him up on endless Internal Affairs charges, no matter how bogus/created/phony/spurious/specious these trumped up charges may have been.
8. Dowd was also cognizant of the fact that if he did so, he would be able to pervert the New Jersey State Constitutional Civil Service promotional process to his advantage albeit, in reality, he (Dowd) would be utilizing the NBPD internal affairs process in an illegal/ wrongful/ prohibited and/or dishonest way to block Rovelos promotion to the rank of Captain.
9. This is when Dowd first put his illegitimate, ill-conceived, unlawful and illicit plan to bar Rovelos above mentioned advancement to the Captain's position in motion.
10. So the bizarre work atmosphere for Rovelos took shape. One of Dowds "preferred" officers ranked last on the promotional list that existed prior to the new list that came out wherein Rovelos ranked first. To everyone's amazement, that officer was promoted by the defendants, at Dowds urging and insistence, despite the fact that the new promotional list came out and Rovelos should have been the person promoted to Captain. In point of fact, the true legality of that remains suspect and curiously questionable.
11. The debacle became worse. To add insult to injury, the promoted officer thereafter tested positive for cocaine usage and was suspended for six (6) months after his promotion to the

rank of Captain, and that Captain's position, after that suspension, remained vacant for a period of approximately one and one half (1.5) years.

12. Despite all of the above, pPerhaps the most astonishing, bewildering and wholly deplorable act of incompetence, deviance and underhandedness by defendant Dowd (and NB) meant to humiliate Rovelo occurred in April, 2019, after the attached, self-explanatory Settlement Agreement dated August 22, 2018 was executed (Exhibit A). Upon execution thereof, the plaintiff's promotional opportunity to the rank of Captain was negotiated between the parties to remain in effect – i.e., said promotional opportunity to be in full force and effect. At that time, the plaintiff was fully aware that he waived any cause of action he may have had as against the enumerated defendants, but waiving same up to that date only.
13. The plaintiff executed that Settlement Agreement, (again, essentially waiving any legitimate legal claims he may have had prior thereto), believing that the defendants executed same in good faith and fair dealing, and would promote him off that subject promotional list. Again, as mentioned, the plaintiff sat Number One (1) and there clearly/unequivocally/without question existed a need for another Captain there at the NBPD at the time that Settlement Agreement was executed.
14. At that same time, it was also well known within the NBPD that defendant Dowd was successful in prolonging the termination of his close friend (anthe aforementioned NBPD Captain who tested positive for cocaine usage and was suspended) for almost two (2) years).. This Captain's leaving the NBPD at that juncture was labeled as a "retirement" and not a termination, as defendant Dowd manipulated/handled the situation so as to sanction this to take place, thereby preserving his friend's career and all future pension emoluments.
15. However, this treatment of that Captain by Dowd flatly, curiously and unmistakably coincided with the expiration of Rovelo's promotional list, as defendant Dowd all along had

planned, prearranged and calculated. In point of fact, sThat said, and hortly after the expiration of the promotional list that the plaintiff sat Number One (1) on, at the time of the filing of the within Complaint, defendant Dowd has now made it known that he intendeds to add two (2) new positions and promote four (4) Captains, four (4) Lieutenants and four (4) Sergeants.

16. As mentioned above, and as any rational individual can readily see, this is all being done immediately after defendant Dowd knew that the promotional list Rovelo was sitting Number One (1) on expired and after the plaintiff executed the above-mentioned Settlement Agreement in good faith.
17. To make matters even more egregious, at the time Exhibit A was entered into and executed, the defendants knew full well that this pre-conceived, illegitimate, secretive and furtive plan orchestrated by Dowd was in existence, as they never intended to abide by the Settlement Agreement and properly consider and meritoriously promote the plaintiff to the rank of Captain at any time.

COUNT ONE

(NEW JERSEY CIVIL RIGHTS ACT- 10:6-1, ET SEQ – AS AGAINST ALL DEFENDANTS)

18. As is laid out above specifically and with particularity, defendants Dowd and NB acted separately and/or in concert to deprive plaintiff Rovelo of his substantive due process or equal protection rights, as well as the privileges or immunities secured by the Constitution and/or laws of the State of New Jersey, **specifically, NJSC Article VII, Section I, Paragraph 2,** and interfered with or attempted to interfere with, by threats, intimidation or coercion, under color of state law, Rovelo's rights thereunder, by entering into that which is attached hereto as Exhibit A, Dowd knowing all along that they were never going to

promote the plaintiff, despite what the defendants herein agreed to in said Settlement Agreement.

19. Prior to the relevant/above mentioned dates, North Bergen developed, cemented, engrained and maintained policies or customs exhibiting deliberate indifference to the NJ State Constitutional rights of NBPD officers, which eventually caused the appalling violations of the plaintiff's NJ State Constitutional promotional rights by defendant Dowd.
20. Additionally, defendant North Bergen failed to use reasonable care in the selection of Dowd as Chief, failed to properly train and/or supervise him in the area of the NJSAGG, IAPP's, and failed to prevent the promotional abuses and state civil rights violations and/or collective violations of the plaintiff's rights. NB also, with deliberate indifference, failed to ensure that Dowd promoted the plaintiff to the rank of Captain the way he should have.
21. Further, North Bergen, under color of state law, directly or indirectly approved or ratified the unlawful, malicious and wanton conduct of Dowd herein.
22. Moreover, North Bergen failed to properly train Dowd regarding the NJSAGG, IAPP's, which defendant Dowd continuously used, after Exhibit A attached hereto was negotiated and executed, to ensure that Rovelo would not be promoted to the rank of Captain of Police in the NBPD.
23. Unequivocally, North Bergen knew or should have known that Dowd would eventually cause serious state civil rights violations to be visited upon Rovelo caused by North Bergen's deliberate indifference.
24. Indeed, the lack of training of defendant Dowd led to his violating the plaintiff's NJ State Constitutional rights.

25. Notwithstanding the above, North Bergen's governing body refused to retain, teach or properly train Dowd in how to follow the NJSAGG, IAPP's and/or properly promote/treat/act toward Rovelo.
26. The lack of training and/or the inadequate training in these areas is surely tantamount to a custom and/or policy that encourages and indeed, as occurred herein, caused the violation of these human rights, specifically, Dowd purposely utilizing his promotional discretion in a perverted and corrupt fashion so as to make the plaintiff believe that in executing Exhibit A attached hereto, he would have a fair shot and would in fact be promoted to the rank of Captain at the NBPD, prior to the expiration of the subject Captain's promotional list.
27. North Bergen's blatant and deliberate indifference herein led to the inescapable fact that if it trained Dowd properly, then the within repugnant and illegal NJ State Constitutional deprivations would never have taken place.
28. Additionally, Dowd himself purposely, intentionally, illegally, improperly, dishonestly, illicitly and fraudulently utilized the internal affairs process to block, prohibit, disallow and/or forbid Rovelo to be promoted to the rank of Captain within the NBPD and, in doing so, blatantly and assuredly violated NJSC Article VII, Section I, Paragraph 2 which state, in pertinent part, that **"Appointments and promotions in the civil service of the state, and of such political subdivisions as may be provided by law, shall be made according to merit and fitness to be ascertained, as far as practicable, by examination, which, as far as practicable, shall be competitive"**. Notwithstanding this Constitutional provision, Rovelo's merit and fitness for the position of Captain, along with his finishing Number One (1) on the promotional examination, was totally vitiated, ignored, overlooked, discounted and disregarded by defendants Dowd and NB, even after that which is attached hereto as Exhibit A was negotiated and executed.

29. As laid out above, ad nauseum, defendant Dowd knew that the only way he could support/justify not promoting Rovelo during the three (3) year eligible civil service period was to bring him up on internal affairs charges, one after another, which is exactly what he did, as well as coerce him into executing Exhibit A attached hereto, all the while knowing that he himself (Dowd) would never promote Rovelo to the rank of Captain, and his conduct in so doing was illegal, inappropriate, abhorrent, loathsome, despicable, contemptible, shameful and detestable. Simply put, Rovelo never violated any NBPD Rule and Regulation at any time which would have justified his non-promotion to the rank of Captain in the NBPD. Simply put, there existed no legitimate/valid reason not to promote the plaintiff to the rank of Captain within the NBPD subsequent to the execution of Exhibit A attached hereto and prior to the expiration of the subject promotional list.

PRAYER FOR RELIEF

WHEREFORE, plaintiff prays that this honorable Court:

- (a) accept jurisdiction over this matter;
- (b) empanel a jury to hear and decide this matter;
- (c) award against defendants compensatory and punitive damages in a manner determined by the jury, as well as issuing a direct Order and/or legal finding as to the defendants to cease and desist from engaging in any further malicious, instigating, illegal and/or improper manner toward the plaintiff as a result of his exercising his constitutionally protected state rights;
- (d) promote the plaintiff to the rank of Captain, along with all back-pay and concomitant pension emoluments;

- (e) award to plaintiff the reasonable attorneys' fees, interest and costs of this litigation; and
- (f) for such/any other relief that this Court deems equitable and just.

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 4:35-1, the plaintiff herein demand a trial by jury on all counts.

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:25-4 and Rule 4:5-1(c), Patrick P. Toscano, Jr., is hereby designated trial counsel for the plaintiff.

DEMAND FOR DISCOVERY OF INSURANCE INFORMATION

Pursuant to Rule 4:10-2(b), please comply with plaintiff's request for all insurance information.

CERTIFICATION

I hereby certify, upon information and belief, that the matter in controversy is not the subject of any other action pending in any Court or of a pending arbitration proceeding.

I also certify, upon information and belief, that at the present time no other action or arbitration with respect to the matter in controversy is contemplated. On the basis of the present knowledge, I am aware of no other party or parties who should be joined in this action.

Dated: September 17, 2019

By: s/ Patrick P. Toscano, Jr.
Patrick P. Toscano, Jr.

Exhibit A

RELEASE AND SETTLEMENT AGREEMENT

This Settlement Agreement and Release (hereinafter "Agreement"), dated August 22, 2018, is by and between Marco Rovelo ("Rovelo") and the Township of North Bergen (the "Township").

1. Background and Purpose of Agreement

- 1.1 Rovelo is employed by the Township as a Lieutenant for the Township of North Bergen Police Department (hereinafter "Department").
- 1.2 Rovelo was served with a Preliminary Notice of Disciplinary Action ("PNDA") on May 24, 2018, a copy of which is attached hereto, charging him with violation of various New Jersey Civil Service Rules and Regulations and North Bergen Police Department General Orders and Rules and Regulations.
- 1.3 The Township sought a 30-day suspension without pay and a loss of a promotional opportunity for the duration of the applicable Captain's Civil Service Eligibility List.
- 1.4 Rovelo requested a departmental hearing in accordance with the Civil Service rules and regulations.
- 1.5 The Township and Rovelo have determined that it is in their mutual best interest to enter into this Agreement and thereby amicably resolve all issues related to this pending disciplinary matter.

2. Settlement

- 2.1 Rovelo acknowledges that he is guilty of the charges set forth in the Final Notice of Disciplinary Action ("FNDA") attached hereto.
- 2.2 Rovelo rescinds his request for a departmental hearing and waives all rights of appeal with respect to the PNDA and the FNDA.

- 2.3 The Township agrees to reduce the suspension from 30 days to 15 days and to withdraw a loss of a promotional opportunity for the duration of the applicable Captain's Civil Service Eligibility List from the penalty.
- 2.4 The 15 day suspension may be served by the forfeiture of comp time or vacation time available to Roveló in 2018. In the event the comp time and vacation time available in 2018 are less than 15 days, Roveló will be suspended without pay for the remaining days.
- 2.5 The Township shall serve the FNDA upon Roveló in the form attached hereto, and shall forward such FNDA to the Civil Service Commission ("CSC").

3. Complete Release

- 3.1 Roveló releases and gives up any and all claims and rights that he has or may have against the Township, or any of its officials, officers, representatives or employees, including, but not limited to, any claim of liability, damages or attorneys' fees. This release includes all claims, including those of which Roveló is not aware and those not mentioned in this Agreement. This Agreement and this release apply to all claims resulting from anything that has occurred through the date of execution of this Agreement.
- 3.2 In addition to releasing any and all claims and rights pursuant to Section 3.1 above, Roveló also specifically releases the following claims arising:
 - A. under the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1, et seq. ("LAD"), which, among other things, prohibits discrimination in employment on the basis of an individual's race, creed, color, religion, sex, national origin, ancestry, age, marital status, affectional or sexual orientation, familial status,

handicap, atypical hereditary cellular or blood trait or liability for service in the Armed Forces of the United States;

B. under the Conscientious Employee Protection Act, N.J.S.A. 34:19-1, et seq., which, among other things, prohibits retaliatory action against an employee under certain specified conditions;

C. under the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1, et seq.;

D. under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et seq., or the Civil Rights Act of 1991, as amended, which, among other things, prohibits discrimination in employment on account of a person's race, color, religion, sex or national origin;

E. under the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 621, et seq., ("ADEA"), which, among other things, prohibits discrimination in employment on account of a person's age;

F. under the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101, et seq., ("ADA"), which, among other things, prohibits discrimination in employment on account of a person's disability or handicap;

G. under the Family and Medical Leave Act of 1993, as amended, 29 U.S.C. § 2601, et seq., ("FMLA"), which among other things, entitles certain employees to take reasonable leave for medical reasons, for the birth or adoption of a child, and for the care of a child, spouse or parent who has a serious health condition;

H. under the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 701, et seq., which among other things, prohibits discrimination in employment by federal contractors against individuals with disabilities;

I. under any federal or state statute, rule or regulation, or common law, and

J. under any applicable collective negotiated agreement.

4. Who is Bound

Rovelo is bound by this Agreement. Anyone who succeeds to Rovelo's rights and responsibilities, such as heirs or the executors of Rovelo's estate, are also bound. The Township and all who succeed to its rights and responsibilities are also bound.

5. Opportunity for Consultation with an Attorney

Rovelo has been given the opportunity to consult with an attorney of his choosing and any other people he has determined necessary with respect to this Agreement, and reviewed with them all the terms and conditions of this Agreement before signing this Agreement.

6. Complete Agreement

This Agreement contains the entire agreement between the Township and Rovelo with respect to the subject matter, and supersedes all prior agreements or understandings dealing with the same subject matter. There is no agreement on the part of the Township or Rovelo to do anything other than that which is expressly stated in this Agreement.

7. Choice of Law

This Agreement shall in all respects be interpreted, enforced and governed by the laws of the State of New Jersey.

8. Modification

No modification or amendment of this Agreement will be enforceable unless it is in writing and signed by all parties hereto.

9. Attestation of Rovelo

Rovelo represents and warrants that he has carefully read each and every provision of this Agreement, and that he fully understands all of the terms and conditions contained in each provision of this Agreement. Rovelo represents and warrants that he enters into this Agreement voluntarily, of his own free will, without any pressure or coercion from any person or entity whatsoever.

10. Negotiated Agreement; No Construction Against Any Party

This Agreement was not drafted by any of the parties, but rather is the result of negotiations among the parties. Each party to this Agreement read this Agreement and has freely and voluntarily executed it. No ambiguity that may arise in this Agreement shall be resolved by construing the Agreement against either of the parties as drafter of same.

11. Severability

Except as set forth below, should any provision of this Agreement be declared or determined by any court of competent jurisdiction to be illegal, invalid or unenforceable, the legality, validity, and enforceability of the remaining parts, terms, or provisions shall not be affected thereby and said illegal, unenforceable or invalid part, term, or provision shall be deemed not to be a part of this Agreement.

12. Execution in Counterparts

This Agreement may be signed in separate counterparts, each of which shall be deemed a duplicate original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be
duly executed.

WITNESS:

Mrs. Vasquez

MARCO ROVELO.

Jun

[Signature]

Dated: *8/27/18.*

WITNESS:

TOWNSHIP OF NORTH BERGEN

[Signature]

BY:

[Signature]

Dated: *9/5/18*

THE TOSCANO LAW FIRM, LLC
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Attorney for Plaintiff

MARCO ROVELO,	:	SUPERIOR COURT OF NEW JERSEY
	:	LAW DIVISION -HUDSON COUNTY
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action
	:	
TOWNSHIP OF NORTH BERGEN,	:	COMPLAINT, JURY DEMAND,
AND ROBERT DOWD,	:	DESIGNATION OF TRIAL COUNSEL,
	:	DEMAND FOR DISCOVERY OF
Defendants.	:	INSURANCE INFORMATION AND
	:	CERTIFICATION

PREAMBLE

1. This is a Complaint brought pursuant to and in accordance with the New Jersey Civil Rights Act, N.J.S.A. 10:6-1 et seq, speaking to and addressing numerous gross, blatant and intentional New Jersey State Constitutional violations, specifically NJSC Article VII, Section I, Paragraph 2, suffered by the Plaintiff at the hands of the enumerated Defendants, seeking relief/redress for compensatory and punitive damages, as well as statutory attorneys fees.

THE PARTIES

2. Plaintiff Marco Roveló, at all relevant times mentioned herein, is/was a Police Lieutenant with the North Bergen, Hudson County, New Jersey Police Department (hereinafter sometimes referred to as "plaintiff"). He is an exceptional, first rate law enforcement officer

in his own right. His professional reputation among law enforcement is essentially unimpeachable and irreproachable, and his work record is fundamentally unblemished. He stays to himself, inconveniences no one on the job and is only concerned with being the finest law enforcement officer he can be. Additionally, he is well respected by outside law enforcement agencies, both local and federal. He is of minority ethnicity, being born in Honduras, and came to the United States when he was twelve (12) years old, dreaming as a child to one day become a law enforcement officer in the United States. Simply put, law enforcement officers do not come any better.

3. Defendant Township of North Bergen (hereinafter referred to as "Township" or "NB"), is a municipal corporation of the State of New Jersey located in Hudson County. It is governed under the Mayor/Council form of government, controlling the day-to-day operations of the North Bergen Police Department (hereinafter referred to as "NBPD"). Upon information and belief, defendant NB has allowed defendant Robert Dowd to utilize both the New Jersey State Civil Service Promotional process and the Internal Affairs process within the NBPD to exist/function rife with inconsistencies, preferential treatment, perversion, irregularities, abnormalities, illegalities, manipulation, wrongdoings and misdeeds, and NB has acted with unacceptable and abhorrent deliberate indifference to all Promotional and Internal Affairs issues, as well as Robert Dowd's vengeful motives, there in the NBPD. Moreover, it was/is common knowledge within the NBPD that the New Jersey State Attorney General Guidelines, Internal Affairs Policy and Procedures (NJSAGG, IAPP), which every municipality in New Jersey is statutorily mandated to adopt in basic form/substance and strictly follow, is allowed by NB to be utilized by defendant Robert Dowd as a weapon to derail promotional opportunities for those officers who are not on his "A List". Additionally, NB has allowed (and indeed fostered, promoted, adopted, ratified, and directly

and/or indirectly approved) the within recited misgivings and unlawful actions of defendant Robert Dowd within the NBPD for a substantial number of years.

4. Defendant Robert Dowd (hereinafter referred to as "Dowd"), is the Chief of the North Bergen Police Department who, upon information and belief, rules in a quasi-tyrannical fashion toward officers he personally does not like. As Chief of the NBPD for years, Dowd routinely makes it known that he exercises substantial influence among high-ranking Township officials and enjoys significant, unheard of and unfettered autonomy within the NBPD relative to all Promotional and Internal Affairs decisions that are of any significance/moment. Indeed, upon information and belief, Dowd has also been named as a party defendant in numerous other civil lawsuits that have been filed as against North Bergen in the past because of his reckless/vicious/discriminatory/vengeful/racist mindset and propensities in this very same regard. Upon further information and belief, defendant Dowd is also legendarily known for manipulating the NBPD Internal Affairs and Promotional examination process so as to enable him to hand pick some, bypass others, influence the governing body and convolute the procedure, practice and manner of/for promotion and discipline within the NBPD. And again, upon further information and belief, Dowd made it widely known within the NBPD that he never liked Rovelo at all, the genesis of which originated when Rovelo was hired in the calendar year 2000 by virtue of an NAACP lawsuit filed against NB for not hiring minority police officer candidates.

RELEVANT FACTUAL AVERMENTS

5. It is May, 2016, and the Plaintiff's nightmare begins. At that time, and much to defendant Dowd's chagrin/irritation/vexation, plaintiff Rovelo, then a Lieutenant, performed in stellar fashion on the New Jersey State Civil Service promotional examination and finished

Number One (1) on the NBPB Captain's promotional list. As a result, defendant Dowd should have forthwith, without hesitation/equivocation, recommended his speedy promotion to that rank to defendant NB, as the NBPB Table of Organization allowed for him to so do during the civil service three (3) year eligibility period.

6. Of course, as heretofore alluded to, defendant Dowd resented Rovel's examination performance tremendously, as he was compelled to begrudgingly realize that Rovel earned and fully deserved a promotion to the rank of Captain.
7. But Dowd also knew full well that the only way he was able to derail Rovel's earned and deserved promotion to the rank of Captain was to consistently and regularly launch/authorize Internal Affairs investigations targeting Rovel, and to bring him up on endless Internal Affairs charges, no matter how bogus/created/phony/spurious/specious these trumped up charges may have been.
8. Dowd was also cognizant of the fact that if he did so, he would be able to pervert the New Jersey State Constitutional Civil Service promotional process to his advantage albeit, in reality, he (Dowd) would be utilizing the NBPB internal affairs process in an illegal/ wrongful/ prohibited and/or dishonest way to block Rovel's promotion to the rank of Captain.
9. This is when Dowd first put his illegitimate, ill-conceived, unlawful and illicit plan to bar Rovel's above mentioned advancement to the Captain's position in motion.
10. So the bizarre work atmosphere for Rovel took shape. One of Dowd's "preferred" officers ranked last on the promotional list that existed prior to the new list that came out wherein Rovel ranked first. To everyone's amazement, that officer was promoted by the defendants, at Dowd's urging and insistence, despite the fact that the new promotional list

came out and Rovelo should have been the person promoted to Captain. In point of fact, the true legality of that remains suspect and curiously questionable.

11. The debacle became worse. To add insult to injury, the promoted officer thereafter tested positive for cocaine usage and was suspended for six (6) months after his promotion to the rank of Captain, and that Captain's position, after that suspension, remained vacant for a period of approximately one and one half (1.5) years.
12. The insanity continues. In June, 2016, Rovelo was asked a question about "seagull management" by an unsworn NBPd employee, a colloquial term known among the law enforcement community. He answered the question as defendant Dowd was walking by. Defendant Dowd thereafter ordered that an internal affairs investigation be opened, wherein Rovelo was the target. Said investigation was absurd, later found to be "unsustained", and was solely generated by Dowd to allow him to begin to "paper" Rovelo's internal affairs file, so as to later be used as a compelling reason not to promote Rovelo to the rank of Captain.
13. The foolishness and sneaky plan put in motion by Dowd continues. In September, 2018, although another officer was the one solely at fault in a bias incident situation, defendant Dowd threatened to suspend Rovelo, called him an "imbecile" and initiated another internal affairs investigation, once again done to further Dowd's plan to block Rovelo's promotion to the rank of captain. Needless to say, that investigation was also "unsustained".
14. The idiocy/stupidity exhibited toward Rovelo by Dowd continues. By June, 2017, it had become exceedingly noticeable to myriad sworn personnel that defendant Dowd would not allow Rovelo to be promoted to the rank of Captain under any circumstances. Dowd authorized Rovelo to be "written up" for insubordination after a Captain asked Rovelo to have road officers take photos of themselves as they interacted with the public for social

media/public relations purposes and goals. Rovelo was disciplined by defendant Dowd "for not taking photos for Facebook", which allegation was just plain silly. This was yet again another attempt by defendant Dowd to ensure that Rovelo would never be promoted to the rank of Captain.

15. The senseless harassment and abuse by defendant Dowd toward Rovelo continues. On several/countless occasions during NBPD CompStat meetings throughout the entire 2018 calendar year, defendant Dowd would call certain officers lunatics for filing past lawsuits against him. During these meetings, who defendant Dowd labeled/referred to only as "Lieutenant Rovelo" was the topic of conversation and as the "example of how not to do things". In point of fact, this once again was nothing other than defendant Dowd's way to ensure that Rovelo would remain the laughing stock of the NBPD, and that he would never be looked upon as Captain material by any member of the NBPD.
16. On other occasions, defendant Dowd was heard by many to say how the Mayor of NB "should build a wall around NB and have the Mayors of West New York and Union City pay for it", as too many "Guats" (a depreciatory and pejorative term for Central Americans) were taking over NB. As mentioned, plaintiff Rovelo is Honduran.
17. Defendant Dowd's hatred toward and humiliation of Rovelo continues. On March 3, 2018, Dowd authorized additional internal affairs "rules and regulations" charges as against Rovelo concerning an alleged murder, all of which were ludicrous. Needless to say, these charges were found "unsustained" once again.
18. Despite the numerous findings of internal affairs charges as "unsustained", defendant Dowd's furtive plan to bar Rovelo's promotion to the rank of Captain succeeded. Because of the countless internal affairs investigations launched by Dowd into Rovelo's on the job performance, and regardless of them all being vacuous, specious, fallacious, misleading and

untrue, Roveló was flagged and placed on a three (3) month period of what is known in the NBPD as "intensive supervision" by Order of defendant Dowd. By virtue of this, Roveló never being promoted by defendant Dowd to the rank of Captain off that promotional list (the same list wherein he ranked number One (1)) was virtually cemented.

19. Dowd's puerile folly toward Roveló continues. On May 15, 2018, defendant Dowd again authorized internal affairs charges as against Roveló, this time for allegedly not contacting the FBI on a specific case and not approving an arrest report. It goes without mentioning that this internal affairs investigation was thereafter closed out as "unsustained".

20. Perhaps the most astonishing, bewildering and wholly deplorable act of incompetence, deviance and underhandedness by defendant Dowd meant to humiliate Roveló occurred in April, 2019. At that time, it was known within the NBPD that defendant Dowd was successful in prolonging the termination of his close friend (the aforementioned NBPD Captain who tested positive for cocaine usage and was suspended) for almost two (2) years. This Captain's leaving the NBPD at that juncture was labeled as a "retirement" and not a termination, as defendant Dowd manipulated/handled the situation so as to sanction this to take place. However, this flatly and unmistakably coincided with the expiration of Roveló's promotional list, as defendant Dowd all along had planned, prearranged and calculated. That said, and at the time of the filing of the within Complaint, defendant Dowd has now made it known that he intends to add two (2) new positions and promote four (4) Captains, four (4) Lieutenants and four (4) Sergeants. As any rational individual can readily see, this is all being done immediately after defendant Dowd knew that the promotional list Roveló was sitting Number One (1) on expired.

COUNT ONE

(NEW JERSEY CIVIL RIGHTS ACT- 10:6-1, ET SEQ - AS AGAINST ALL DEFENDANTS)

21. As is laid out above specifically and with particularity, defendants Dowd and NB acted separately and/or in concert to deprive plaintiff Roveló of his substantive due process or equal protection rights, as well as the privileges or immunities secured by the Constitution and/or laws of the State of New Jersey, specifically, NJSC Article VII, Section I, Paragraph 2, and interfered with or attempted to interfere with, by threats, intimidation or coercion, under color of state law, Roveló's rights thereunder, by instituting or allowing to be instituted numerous bogus internal affairs investigations/charges, all of which were contrived/created/manufactured/shaped/bent by Dowd, never sustained and all of which grossly violated numerous mandates contained in the NJSAGG, IAPP's.
22. Prior to the above mentioned dates, North Bergen developed, cemented, engrained and maintained policies or customs exhibiting deliberate indifference to the NJ State Constitutional rights of NBPD officers, which eventually caused the appalling violations of the plaintiff's NJ State Constitutional rights by defendant Dowd.
23. Additionally, defendant North Bergen failed to use reasonable care in the selection of Dowd as Chief, failed to properly train and/or supervise him in the area of the NJSAGG, IAPP's, and failed to prevent the promotional abuses and state civil rights violations and/or collective violations of the plaintiff's rights.
24. Further, North Bergen, under color of state law, directly or indirectly approved or ratified the unlawful, malicious and wanton conduct of Dowd herein.

25. Moreover, North Bergen failed to train properly either Dowd regarding the NJSAGG, IAPP's, which defendant Dowd continuously used to ensure that Rovelo would not be promoted to the rank of Captain of Police in the NBPD.
26. Unequivocally, North Bergen knew or should have known that Dowd would eventually cause serious civil rights violations to be visited upon Rovelo caused by North Bergen's deliberate indifference.
27. Indeed, the lack of training of defendant Dowd led to his violating the plaintiff's NJ State Constitutional rights.
28. Notwithstanding the above, North Bergen's governing body refused to retain, teach or properly train Dowd in how to follow the NJSAGG, IAPP's and properly promote/treat/act toward Rovelo.
29. The lack of training and/or the inadequate training in these areas is surely tantamount to a custom and/or policy that encourages and indeed, as occurred herein, caused the violation of these human rights.
30. North Bergen's blatant and deliberate indifference herein led to the inescapable fact that if it trained Dowd properly, then the within repugnant and illegal NJ State Constitutional deprivations would never have taken place.
31. Additionally, Dowd himself purposely, intentionally, illegally, improperly, dishonestly, illicitly and fraudulently utilized the internal affairs process for several years within the NBPD to block, prohibit, disallow and/or forbid Rovelo to be promoted to the rank of Captain within the NBPD and, in doing so, blatantly and assuredly violated NJSC Article VII, Section I, Paragraph 2 which state, in pertinent part, that "Appointments and promotions in the civil service of the state, and of such political subdivisions as may be provided by law, shall be made according to merit and fitness to be ascertained, as far

as practicable, by examination, which, as far as practicable, shall be competitive".

Notwithstanding this Constitutional provision, Rovelo's merit and fitness for the position of Captain, along with his finishing Number One (1) on the promotional examination, was totally vitiated, ignored, overlooked, discounted and disregarded by defendants Dowd and NB.

32. As laid out above, ad nauseum, defendant Dowd knew that the only way he could support/justify not promoting Rovelo during the three (3) year eligible civil service period was to bring him up on internal affairs charges, one after another, which is exactly what he did, albeit his conduct in so doing was illegal, inappropriate, abhorrent, loathsome, despicable, contemptible, shameful and detestable. Simply put, Rovelo never violated any NBPD Rule and Regulation at any time which would have justified his non-promotion to the rank of Captain in the NBPD.

PRAYER FOR RELIEF

WHEREFORE, plaintiff prays that this honorable Court:

- (a) accept jurisdiction over this matter;
- (b) empanel a jury to hear and decide this matter;
- (c) award against defendants compensatory and punitive damages in a manner determined by the jury, as well as issuing a direct Order and/or legal finding as to the defendants to cease and desist from engaging in any further malicious, instigating, illegal and/or improper manner toward the plaintiff as a result of his exercising his constitutionally protected state rights;
- (d) promote the plaintiff to the rank of Captain, along with all back-pay and concomitant pension emoluments;

- (e) award to plaintiff the reasonable attorneys' fees, interest and costs of this litigation; and
- (f) for such/any other relief that this Court deems equitable and just.

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 4:35-1, the plaintiff herein demand a trial by jury on all counts.

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:25-4 and Rule 4:5-1(c), Patrick P. Toscano, Jr., is hereby designated trial counsel for the plaintiff.

DEMAND FOR DISCOVERY OF INSURANCE INFORMATION

Pursuant to Rule 4:10-2(b), please comply with plaintiff's request for all insurance information.

CERTIFICATION

I hereby certify, upon information and belief, that the matter in controversy is not the subject of any other action pending in any Court or of a pending arbitration proceeding.

I also certify, upon information and belief, that at the present time no other action or arbitration with respect to the matter in controversy is contemplated. On the basis of the present knowledge, I am aware of no other party or parties who should be joined in this action.

Dated: June 6, 2019

By: s/ Patrick P. Toscano, Jr.
Patrick P. Toscano, Jr. (9415)

Kristopher Kim, Esq.
Attorney ID# 007822005
Law Offices of Gary S. Park
120 Sylvan Ave., Suite 200
Englewood Cliffs, New Jersey 07632
Tel: (201) 693-4693
Attorneys for Plaintiff
File No.: NJ 1144-13GD

FILED
CUSTOMER SERVICE TEAM

OCT 27 2014

SUPERIOR COURT OF NEW JERSEY
COUNTY OF HUDSON
CIVIL DIVISION #4

PETER LEE,

Plaintiff(s),

vs.

YU DONG-XIONG, VITAL
TRANSPORTATION, INC., ALEX J.
BARRIOS, TOWNSHIP OF NORTH
BERGEN, "JOHN DOE" (fictitious name)
and "ABC CORP." (fictitious name),

Defendant(s).

SUPERIOR COURT OF NEW JERSEY
HUDSON COUNTY / LAW DIVISION

COMPLAINT
& JURY DEMAND

CIVIL ACTION

Docket No.:

L-472-1-14

Plaintiff, PETER LEE, by way of Complaint against the defendants, say:

COUNT ONE

1. Plaintiff, PETER LEE, is an adult individual who resides or resided at 18 Willis Drive, Leonia, New Jersey 07605.
2. Defendant, YU DONG-XIONG, is an adult individual who resides or resided at 1828 82nd Street, 2nd Floor, Brooklyn, New York 11214.
3. Defendant, VITAL TRANSPORTATION, INC., is a corporation, or other legal entity, duly organized or authorized to conduct business and to sue or be sued in the State of New Jersey, with offices located at 41-24 38th Street, Long Island City, New York 11101.
4. Defendant, ALEX J. BARRIOS, is an adult individual who resides or resided at 4233 Kennedy Boulevard, North Bergen, New Jersey 07047.

5. Defendant, TOWNSHIP OF NORTH BERGEN, is a municipality with offices located at 4233 Kennedy Boulevard, North Bergen, New Jersey 07047.

6. Defendant, "JOHN DOE", is the fictitious name of an unknown individual who is or shall be deemed, upon further discovery and disclosure, a defendant in this action.

7. Defendant, "ABC CORP.", is the fictitious name of an unknown entity that is or shall be deemed, upon further discovery and disclosure, a defendant in this action.

8. On or about January 29, 2013, plaintiff, PETER LEE, was a passenger of a motor vehicle which was traveling in a generally northbound direction on Tonnelle Avenue, at or near 1500 Tonnelle Avenue, in the Township of North Bergen, County of Hudson, State of New Jersey.

9. At the aforesaid time and place, defendant, YU DONG-XIONG, was the operator and owner of the aforementioned motor vehicle, in which plaintiff was a passenger.

10. At the aforesaid time and place, defendant, VITAL TRANSPORTATION, INC., was the registered owner/co-owner of the motor vehicle operated by defendant, YU DONG-XIONG, which, at the time, was registered in the State of New York bearing license plate number T605652C.

11. At the aforesaid time and place, defendant, YU DONG-XIONG, was operating the aforementioned defendant motor vehicle with the knowledge, permission and/or consent of defendant owner/co-owner, VITAL TRANSPORTATION, INC.

12. At the aforesaid time and place, defendant, YU DONG-XIONG, was operating the aforementioned defendant motor vehicle as an agent, servant and/or employee of defendant owner/co-owner, VITAL TRANSPORTATION, INC, or held such other relationship of agency with said defendant owner/co-owner that said defendant owner/co-owner is vicariously liable to plaintiff.

13. At the aforesaid time and place, defendant, ALEX J. BARRIOS, was the operator and owner of a motor vehicle which was traveling in a generally northbound direction on Tonnelle Avenue, at or near 1500 Tonnelle Avenue, in the Township of North Bergen, County of Hudson, State of New Jersey.

14. At the aforesaid time and place, defendant, TOWNSHIP OF NORTH BERGEN, was the registered owner/co-owner of the motor vehicle operated by defendant, ALEX J. BARRIOS, which, at the time, was registered in the State of New Jersey bearing license plate number MG84522.

15. At the aforesaid time and place, defendant, ALEX J. BARRIOS, was operating the aforementioned defendant motor vehicle with the knowledge, permission and/or consent of defendant owner/co-owner, TOWNSHIP OF NORTH BERGEN.

16. At the aforesaid time and place, defendant, ALEX J. BARRIOS, was operating the aforementioned defendant motor vehicle as an agent, servant and/or employee of defendant owner/co-owner, TOWNSHIP OF NORTH BERGEN, or held such other relationship of agency with said defendant owner/co-owner that said defendant owner/co-owner is vicariously liable to plaintiff.

17. At the aforesaid time and place, an occurrence took place wherein the motor vehicle operated by defendant, YU DONG-XIONG, and the motor vehicle operated by defendant, ALEX J. BARRIOS, did forcibly strike and/or come in contact with one another.

18. At the aforesaid time and place, defendants, YU DONG-XIONG and ALEX J. BARRIOS, were operating, using, possessing, driving and/or controlling their respective motor vehicles in a careless, reckless and/or negligent a manner so as to have caused the occurrence.

19. At the aforesaid time and place, defendants, YU DONG-XIONG, VITAL TRANSPORTATION, INC, ALEX J. BARRIOS and TOWNSHIP OF NORTH BERGEN, were maintaining, repairing, managing, supervising and/or otherwise owning the aforementioned defendant motor vehicle in a careless, reckless and/or negligent a manner so as to have caused the occurrence.

20. As a direct and proximate cause of the carelessness, recklessness and/or negligence of defendants, plaintiff, PETER LEE, suffered and continues to suffer from serious and painful personal injuries.

21. As a direct and proximate cause of the carelessness, recklessness and/or negligence of defendants, plaintiff, PETER LEE, suffered and continues to suffer from severe and painful personal injuries that have caused plaintiff to incur medical expenses and costs, and other economic expenses.

22. As a direct and proximate cause of the carelessness, recklessness and/or negligence of defendants, plaintiff, PETER LEE, suffered and continues to suffer from other damages, which may or may not include a claim for special damages, lost wages and/or future loss of earnings.

23. By reason of the foregoing, defendants, YU DONG-XIONG, VITAL TRANSPORTATION, INC, ALEX J. BARRIOS and TOWNSHIP OF NORTH BERGEN, are jointly and severally liable to plaintiff for damages.

24. Additionally, prior to the filing of this Complaint, plaintiff did timely place the defendants, ALEX J. BARRIOS and TOWNSHIP OF NORTH BERGEN, on notice in accordance with the law and have demanded that the claim for damages sought herein be adjusted and paid.

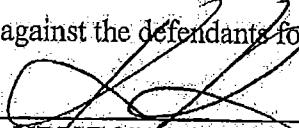
25. To the extent further discovery and disclosure identifies defendant(s), "JOHN DOE" and/or "ABC CORP.", as [an] additional defendant(s) in this action, and further reveals that

said defendant(s) owed a legal duty to plaintiff that was breached in so careless, reckless and/or negligent a manner as to have caused the occurrence and plaintiff's injuries and damages, plaintiff reserves the right to maintain causes of action against defendant(s), "JOHN DOE" and/or "ABC CORP.", for damages.

26. To the extent the identity(ies) of defendant(s), "JOHN DOE" and/or "ABC CORP.", are later disclosed or discovered, said defendant(s) (is) are jointly and severally liable to plaintiff for damages with defendants, YU DONG-XIONG, VITAL TRANSPORTATION, INC, ALEX J. BARRIOS and TOWNSHIP OF NORTH BERGEN.

WHEREFORE, plaintiff demands judgment against the defendants for damages.

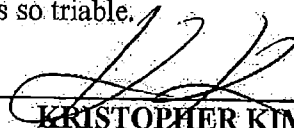
Dated: October 24, 2014


KRISTOPHER KIM, ESQ.

JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

Dated: October 24, 2014


KRISTOPHER KIM, ESQ.

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, KRISTOPHER KIM, ESQ. is designated as trial counsel.

Dated: October 24, 2014

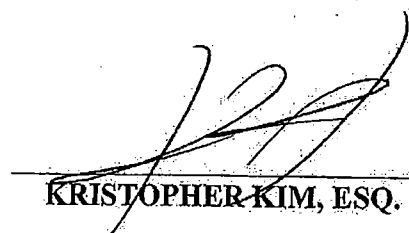

KRISTOPHER KIM, ESQ.

CERTIFICATION

I hereby certify that this matter in controversy is not the subject of any other action pending in any court or arbitration proceeding, that no such action or arbitration proceeding is contemplated by the plaintiff at this time, and that there are no other parties whom, to the knowledge of plaintiff's counsel, should be joined in this action.

I hereby certify that the foregoing statements made by me are true to the best of my knowledge and belief. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: October 24, 2014



KRISTOPHER KIM, ESQ.

DEMAND FOR ANSWER TO INTERROGATORIES

Plaintiff hereby demands that defendant answer Form C and C1 Interrogatories in accordance with the law.

Dated: October 24, 2014



KRISTOPHER KIM, ESQ.

DEMAND FOR DISCOVERY OF INSURANCE COVERAGE

Pursuant to New Jersey Court Rule 4:10-2(b), demand is made that defendants disclose to plaintiff's attorney whether or not there are any insurance agreements or policies under which any person or firm carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in this action or indemnify or reimburse for payments made to satisfy the judgment and provide plaintiff's attorney with true copies of those insurance agreements or policies, including, but not limited to, any and all declaration sheets. This demand shall include

and cover not only primary coverage, but also any and all excess, catastrophe and umbrella policies.

Dated: October 24, 2014


KRISTOPHER KIM, ESQ.

LAW OFFICES OF ALAN L. ZEGAS, ESQ.

Alan L. Zegas, Esq., ID No. 02133-1981

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(973) 701-7080

azegas@zegaslaw.com

Attorneys for Plaintiff

DELMY ALAS-CRUZ, personally and as guardian ad litem of her minor child, DELMY CRUZ, and OTONIEL CRUZ,

Plaintiffs,

vs.

THE TOWNSHIP OF NORTH BERGEN; THE NORTH BERGEN POLICE DEPARTMENT; MAYOR NICK SACCO; POLICE OFFICER RONALD POBUTKIEWICZ; CHIEF OF POLICE ROBERT DOWD, THE COUNTY OF HUDSON; THE HUDSON COUNTY SHERIFF'S DEPARTMENT; HUDSON COUNTY SHERIFF FRANK X. SCHILLARI, SHERIFF'S OFFICER SERGEANT LUIGI A. DECECCO, ABC ENTITIES 1-5 (as yet unidentified entities); and JOHN DOES 1-5 (as yet unidentified entities);

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, HUDSON COUNTY
DOCKET NO. HUD - L 2781-15

Civil Action

COMPLAINT AND JURY DEMAND

FILED
CUSTOMER SERVICE TEAM

JUN 29 2015

SUPERIOR COURT OF NEW JERSEY
COUNTY OF HUDSON
CIVIL DIVISION #2

Plaintiff Delmy Alas-Cruz, personally and as guardian ad litem of her minor child, Delmy Cruz, and Plaintiff Otoniel Cruz, her husband, personally, by and through their attorneys, Law Offices of Alan L. Zegas, by way of Complaint against the Defendants, allege as follows:

THE PARTIES

1. Delmy Cruz is a 12-year-old girl residing at 305 Willever Way, Stewartsville, N.J. She lives with her mother, Plaintiff Delmy Alas-Cruz, and her father, Plaintiff Otoniel Cruz.
2. Defendant Ronald J. Pobutkiewicz at all relevant times was and is a North Bergen Township police officer.
3. Defendant, the Township of North Bergen, at all relevant times was and is a public entity organized and existing pursuant to the laws of the State of New Jersey, located in Hudson County.
4. Defendant Mayor Nick Sacco at all relevant times was and is the top elected official of the Township of North Bergen.
5. Defendant, the Township of North Bergen Police Department, at all relevant times was and is a township organized and existing pursuant to the laws of the State of New Jersey, located in Hudson County.
6. Defendant, the Hudson County Sheriff's Office, at all relevant times was and is a public entity organized and existing pursuant to the laws of the State of New Jersey.
7. Defendant, the County of Hudson, at all relevant times was and is a public entity organized and existing pursuant to the laws of the State of New Jersey.
8. Defendant Robert Dowd, at all relevant times, was and is the chief of the North Bergen Police Department;
9. Defendant Frank X. Shillari, at all relevant times, was and is at all relevant times the Sheriff of Hudson County; and

10. Defendant, Sergeant Luigi A. DeCecco, at all relevant times, was and is a Hudson County Sheriff's officer employed by the Hudson County's Sheriff's Office.

VENUE

11. Venue is proper as the events giving rise to this action took place in Hudson County.

COUNT ONE

(RECKLESSNESS)

12. In the late afternoon or early evening of June 30, 2013, then 10-year-old Delmy Cruz was a pedestrian heading north and crossing 76th Street on the west side of the intersection with Kennedy Boulevard.
13. Before the young Ms. Cruz was able to reach the sidewalk on the other side of 76th Street, however, a North Bergen Township police car driven by Defendant Ronald J. Pobutkiewicz, heading west on 76th Street and crossing Kennedy Boulevard, struck her.
14. At the time of the collision, Defendant Pobutkiewicz was on duty and driving a marked North Bergen police car, a Ford Crown Victoria sedan. The posted speed limit was 25 mph for 76th Street generally. Due to the nearby North Bergen High School, there was a posted 15 mph speed in the school zone.
15. According to several eyewitnesses at the scene, at the time that the marked police car driven by Officer Pobutkiewicz struck Ms. Cruz, he was travelling well in excess of 25 mph, far exceeding the posted speed limits.
16. At the time of the collision, as a police officer and as a private citizen traveling the streets of North Bergen Township, Officer Pobutkiewicz had a duty to Ms.

Cruz and other pedestrians and motorists to drive safely and carefully. By traveling well in excess of the posted speed limit, Defendant Officer Pobutkiewicz breached that duty of care, and/or acted willfully and/or recklessly and proximately caused severe and permanent physical and psychological damages to the younger Ms. Cruz.

17. The conduct of Defendant Officer Pobutkiewicz in driving his patrol car at an excessive speed was unreasonable and/or willful.
18. In doing so, the officer violated clearly established constitutional and/or statutory rights.
19. Among other statutory violations, the officer engaged in reckless driving, in violation of N.J.S.A. 39:4-96, and speeding, in violation of N.J.S.A. 39:4-98.
20. As a direct and proximate result of Defendant's wrongful conduct, Plaintiff Delmy Cruz, a minor, has suffered and will continue to suffer severe and permanent physical and mental harm, pain and suffering, emotional distress and economic loss.

WHEREFORE, Plaintiff, Delmy Cruz, as guardian ad litem for her minor child, Delmy Cruz, demands judgment against all Defendants, jointly and severally, as follows:

- A. Compensatory Damages;
- B. Punitive Damages;
- C. Attorney Fees;
- D. Costs, other fees and all other relief that the Court deems proper.

COUNT TWO

(Negligence)

21. The Plaintiffs repeat each of the allegations in paragraphs 1-20 above as if fully set forth herein.
22. As stated above, Defendant Officer Pobutkiewicz, as a citizen and as a North Bergen Township police officer, owed the Plaintiffs a duty of care to operate his marked police car in a reasonable and safe manner and to obey posted speed limits.
23. That duty of care is also set forth in certain statutes, including statutes prohibiting reckless driving, in violation of N.J.S.A. 39:4-96, and speeding, in violation of N.J.S.A. 39:4-98.
24. By operating his vehicle well in excess of the posted speed limit, the officer breached this duty of care and proximately caused severe and permanent damages to the minor Plaintiff, Delmy Cruz.
25. As a direct and proximate result of the Defendant's wrongful conduct, Plaintiff Delmy Cruz has suffered and will continue to suffer severe and permanent physical and mental harm, pain and suffering, emotional distress and economic loss.

WHEREFORE, Plaintiff, Delmy Alas-Cruz, as guardian ad litem for her minor child, Delmy Cruz, demands judgment against all Defendants, jointly and severally, as follows:

- A. Compensatory Damages;
- B. Punitive Damages;

C. Attorney Fees;

D. Costs, other fees and all other relief that the Court deems proper.

COUNT THREE

(Failure to Train)

26. The Plaintiffs repeat each of the allegations in paragraphs 1-25 above as if fully set forth herein.
27. Defendants Hudson County Sheriff's Office, Hudson County Sheriff Frank X. Shillari, Hudson County Sheriff's Officer Sgt. Luigi A. DeSecco, Hudson County, North Bergen Township Police Department, North Bergen Township Mayor Nick Sacco, North Bergen Police Chief Robert Dowd and the Township of North Bergen are required to establish and/or implement policies, practices and customs and to adequately screen, train, supervise and discipline personnel.
28. As a direct and proximate result of these Defendants' failure to establish such policies, practices and customs or to adequately screen, train, supervise or discipline personnel, including Defendant Officer Pobutkiewicz, the Plaintiff Delmy Cruz was hit by Defendant Pobutkiewicz's police car and has suffered and will continue to suffer severe and permanent physical and mental harm, pain and suffering, emotional distress and economic loss.

WHEREFORE, Plaintiff, Delmy Alas-Cruz, as guardian ad litem for her minor child, Delmy Cruz, demands judgment against all Defendants, jointly and severally, as follows, for:

A. Compensatory Damages;

B. Punitive Damages;

- C. Attorney Fees;
- D. Costs, other fees and all other relief that the Court deems proper.

COUNT FOUR

(Negligent Infliction of Emotional Distress)

- 29. The Plaintiffs repeat each of the allegations in paragraphs 1-28 above as if fully set forth herein.
- 30. Within seconds of the collision, Ms. Cruz's parents, mother Delmy Alas-Cruz and father Otoniel Cruz, rushed to the scene to find their 10-year-old daughter shocked and scared, in pain and seriously injured, having just been struck by the car driven by Defendant Officer Pobutkiewicz. Her mother rode with her daughter in the ambulance to the hospital.
- 31. The serious injury of Plaintiff Delmy Cruz was directly and proximately caused by the Defendants.
- 32. An intimate family relationship at all relevant times existed and continues to exist between Delmy Alas-Cruz, Otoniel Cruz and their daughter, Delmy Cruz.
- 33. Ms. Alas-Cruz and Mr. Otoniel Cruz arrived at the collision scene just a few seconds after the collision happened.
- 34. As a result of what they heard and saw at the scene, Ms. Alas-Cruz and Mr. Otoniel have sustained severe and lasting emotional distress.

WHEREFORE, Plaintiffs Delmy Alas-Cruz and Otoniel Cruz demand judgment against all Defendants, jointly and severally, as follows, for:

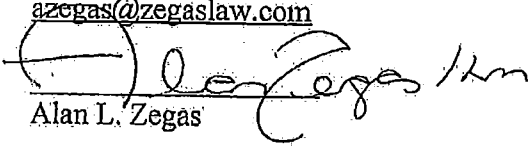
- A. Compensatory Damages;
- B. Punitive Damages;

C. Attorney Fees;

D. Costs, other fees and all other relief that the Court deems proper.

Dated: June 29, 2015

Alan L. Zegas, Esq.
ID# 02133-1981
Law Offices of Alan L. Zegas
552 Main Street
Chatham, NJ 07928
973-701-7080
azegas@zegaslaw.com


Alan L. Zegas

JURY DEMAND

Plaintiffs hereby demand a trial by jury on all issues so triable.

DESIGNATION OF TRIAL COUNSEL

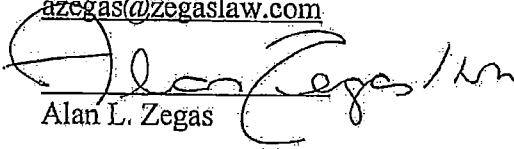
Plaintiffs hereby designate Alan L. Zegas, Esq. as trial counsel in the above matter.

RULE 4:51 CERTIFICATION

I hereby certify, to the best of my knowledge, that the matter in controversy is not the subject of any other action pending in any other court, or of any pending arbitration or administrative proceeding.

Dated: June 29, 2015

Alan L. Zegas, Esq.
ID# 02133-1981
Law Offices of Alan L. Zegas
552 Main Street
Chatham, NJ 07928
973-701-7080
azegas@zegaslaw.com


Alan L. Zegas

Our File No.: 700204 (MCD/sas)

**DIFRANCESCO, BATEMAN, COLEY, YOSPIN,
KUNZMAN, DAVIS, LEHRER & FLAUM, P.C.**

15 Mountain Boulevard

Warren, New Jersey 07059-5686

(908) 757-7800

Attorneys for Defendants/Third Party Plaintiffs, Mohamed Deghaili and Saadeddin Deghaili

RAIMUNDO JEREZ,

Plaintiff,

v.

MOHAMED DEGHAILI,
SAADEDDIN DEGHAILI, JOHN DOE
A-Z, (FICTITIOUS NAMES),

Defendants.

and

MOHAMED DEGHAILI AND
SAAEDDIN DEGHAILI,

Third Party Plaintiffs,

v.

THE TOWNSHIP OF NORTH BERGEN,
NORTH BERGEN POLICE
DEPARTMENT, OFFICER JOHN/JANE
DOE 1-10, said names being fictitious,
OF THE NEWARK POLICE
DEPARTMENT,

Third Party Defendants.

) SUPERIOR COURT OF NEW JERSEY
) LAW DIVISION: HUDSON COUNTY
) DOCKET NO.: HUD-L-1065-12

) Civil Action.

) **THIRD PARTY COMPLAINT**

**FILED
TEAM 2**

AUG 03 2012

**SUPERIOR COURT OF NEW JERSEY
COUNTY OF HUDSON
CIVIL DIVISION #7**

Defendants/Third Party Plaintiffs, Mohamed Deghaili and Saadeddin Deghaili by way of
Third Party Complaint against third party defendants, The Township of North Bergen, The North
Bergen Police Department, and Officers John/Jane Doe 1-10, say:

FIRST COUNT

1. Plaintiff, Raimundo Jerez, commenced the within cause of action against the defendants, Mohamed Deghaili and Saadeddin Deghaili, for alleged personal injuries arising out of a car accident on April 15, 2010.

2. On April 15, 2010, this accident occurred on Kennedy Boulevard in the Township of North Bergen.

3. Third party defendant, North Bergen Police Officer, John/Jane Doe operated his/her Township of North Bergen police vehicle in such a careless, reckless, and negligent fashion so as to cause and/or contribute to the accident and plaintiff's alleged injuries.

4. At that time of the accident, Police Officer John/Jane Doe was employed by the North Bergen Police Department and the Township of North Bergen, New Jersey.

5. In the event Mohamed Deghaili and Saadeddin Deghaili are found liable to plaintiff, they are entitled to contribution from Police Officer John/Jane Doe, the North Bergen Police Department, and the Township of North Bergen in accordance with the Comparative Negligence Act, N.J.S.A. 2A:15-5.1 et seq. and the Joint Tort Feasors Contribution Law, N.J.S.A. 2A:53A-1 et seq.

6. In the event defendants, Mohamed Deghaili and Saadeddin Deghaili are found liable to plaintiff, they are entitled to indemnification from third party defendants, Police Officer John/Jane Doe, the North Bergen Police Department, and the Township of North Bergen for any and all sums of money she may be required to pay.

WHEREFORE, defendants/third party plaintiffs, Mohamed Deghaili and Saadeddin Deghaili, demands judgment against third party defendants, Police Officer John/Jane Doe, The North Bergen Police Department, and The Township of North Bergen, for contribution, indemnification, attorney's fees and cost of suit.

DESIGNATION OF TRIAL COUNSEL

Pursuant to R.4:25-4, MATTHEW C. DORSI, ESQ., is hereby designated as trial counsel in the within matter.

JURY DEMAND

These defendants/third party plaintiffs demand a trial by jury on all issues.

CERTIFICATION

I hereby certify that the original of this pleading has been filed with the Clerk of this Court and that a copy of same has been served upon all counsel via regular mail on this date.

R.4:5-1 CERTIFICATION

Pursuant to R.4:5-1, the undersigned hereby certifies that at the time of filing the within, the matter in controversy is not the subject of any other action pending in any court and/or arbitration proceeding.

DIFRANCESCO, BATEMAN, COLEY,
YOSPIN, KUNZMAN, DAVIS & LEHRER
Attorneys for Defendants/Third Party Plaintiffs,
Mohamed Deghaili and Saadeddin Deghaili

By: 

MATTHEW C. DORSI, ESQ.

Dated: August 1, 2012

FROM

(TUE) OCT 16 2012 15:33/ST. 15:30/No. 7364207919 P 8

FILED
CUSTOMER SERVICE TEAM

OCT 09 2012

JAVERBAUM WURGAFT HICKS
KAHN WIKSTROM & SININS
Park Place Legal Center
959 South Springfield Avenue
Springfield, NJ 07081
Telephone No. (973) 379-4200
Attorneys for Plaintiff

SUPERIOR COURT OF NEW JERSEY
COUNTY OF HUDSON
CIVIL DIVISION #5

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: HUDSON COUNTY

Plaintiff

ALBERT M. YABROUDI

Docket No. *2-4830-12*

vs.

CIVIL ACTION

Defendants
TOWNSHIP OF NORTH BERGEN, JOHN
STAKNECHT, JOHN DOE 1-5
(fictitious names) and ABC CORP
1-5 (fictitious names)

MOTOR VEHICLE ACCIDENT COMPLAINT
DEMAND FOR JURY TRIAL
DESIGNATION OF TRIAL ATTORNEY
AND DEMAND FOR TRANSCRIPTION AND
DEMAND FOR ANSWERS TO
INTERROGATORIES

Plaintiff, Albert Yabroudi, residing at 15 66th Street in the City of West New York, County of Hudson and State of NJ, complaining of the Defendants, deposes and says:

FIRST COUNT

1. On or about 11/18/2011, Plaintiff, Albert Yabroudi, was a pedestrian lawfully on McKinley Place in the City of West New York, County of Hudson and State of New Jersey.

2. On or about 11/18/2011, Defendant, John Staknecht, was the operator of a certain motor vehicle owned by Defendant, Township of North Bergen, which motor vehicle was being operating as a permissive user of the owner and/or as the agent, servant and/or employee of the owner and which motor vehicle was traveling in a generally westerly direction on McKinley Place in the City of West New York, County of Hudson, and State of New Jersey.

3. Defendants, John Staknecht, Township of North Bergen, John Doe 1-5 (fictitious names) and ABC Corp 1-5 (fictitious names) did so negligently and carelessly own, operate and/or maintain the aforesaid motor vehicle so as to cause same to collide with the Plaintiff, Albert Yabroudi.

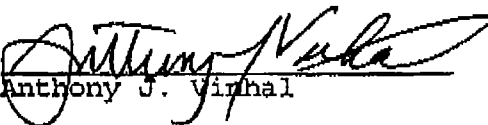
4. As a direct and proximate result of the negligence of Defendants, as aforesaid, Plaintiff, Albert Yabroudi, was caused to sustain and did sustain serious and permanent personal injuries requiring the care and treatment of physicians, hospitalization and medication and has been and will in the future continue to be hampered in his daily routine.

5. On or about January 16, 2012, Notice of Claim was served upon the Township of North Bergen, John Doe 1-5 (fictitious names) and ABC Corp 1-5 (fictitious names). More than six months have elapsed since service of the Notice of Claim and Plaintiff's claim remain unsatisfied.

WHEREFORE, Plaintiff, Albert Yabroudi, demands judgment against Defendants, John Staknecht, Township of North Bergen, John Doe 1-5 (fictitious names) and ABC Corp 1-5 (fictitious names) jointly, severally or in the alternative in the amount of his damages together with interest and costs of suit.

JAVERBAUM WURGFT HICKS KAHN
WIKSTROM & SININS
Attorneys for Plaintiff

by:


Anthony J. Vignali

FILED
Customer Service Team

MAR 18 2014

SUPERIOR COURT OF NEW JERSEY
COUNTY OF HUDSON
CIVIL DIVISION # 1

COSTELLO & MAINS, P.C.
By: Kevin M. Costello, Esquire
Attorney ID No. 024411991
18000 Horizon Way, Suite 800
Mount Laurel, NJ 08054
(856) 727-9700
Attorneys for Plaintiff

AMIRA GRAY,

Plaintiff,

vs.

NORTH BERGEN; NORTH BERGEN
POLICE DEPARTMENT; OFFICER
A. BEROVIDES; OFFICER "DOE";
SERGEANT "DOE"; and JOHN DOES
1-5 AND 6-10,

Defendants.

SUPERIOR COURT OF NEW JERSEY:
HUDSON COUNTY – LAW DIVISION

Civil Action

DOCKET NO. L - 1231-14

COMPLAINT AND JURY DEMAND

Plaintiff, Amira Gray, by way complaint against the Defendants, says:

Preliminary Statement

This is a matter under the New Jersey Law Against Discrimination ("LAD") alleging, collectively under the phrase "transgender discrimination," gender identity or gender affectation discrimination, gender expression discrimination, gender role discrimination, sexual orientation

discrimination, perceived or affectional sexual orientation discrimination and gender discrimination by a place of public accommodation.

Identification of Parties

1. Plaintiff Amira Gray is, at all relevant times herein, a male to female transgender person residing in Laurel, Maryland.

2. Defendant North Bergen Police Department is a municipal entity and a place of public accommodation within the meaning of the New Jersey Law Against Discrimination.

2a. Defendant North Bergen is a municipality and a place of public accommodation within the meaning of the LAD.

3. Defendant Officer A. Berovides a Police Officer with the North Bergen Police Department, is an individual who, on the basis of his direct acts or on the basis of *respondeat superior*, is responsible to the plaintiff and is a place of public accommodation.

3a. Defendant Officer "Doe" a Police Officer with the North Bergen Police Department, is an individual who, on the basis of his direct acts or on the basis of *respondeat superior*, is responsible to the plaintiff and is a place of public accommodation.

3b. Defendant Sergeant "Doe" a Police Officer with the North Bergen Police Department, is an individual who, on the basis of his direct acts or on the basis of *respondeat superior*, is responsible to the plaintiff and is a place of public accommodation.

4. Defendants John Does 1-5 and 6-10, currently unidentified, are individuals and/or entities who, on the basis of their direct acts or on the basis of *respondeat superior*, are answerable to the plaintiff.

General Allegations

5. At the time of the events set forth herein, plaintiff had already completed the process of transitioning from male to female and was thus a transgender person as that term is utilized by the LAD and associated case law.

6. In addition, plaintiff claims, collectively under the rubric of "transgender discrimination:" gender identity discrimination, gender expression discrimination, gender perception discrimination, gender role discrimination, sexual orientation discrimination and perceived or affectional sexual orientation discrimination.

7. This is so because plaintiff argues that the typical homophobic harasser or discriminator does not make fine mental distinctions between transgender persons, homosexual persons or bisexual persons, etc. Rather, such homophobic individuals tend to group all alternative or minority sexualities into a negative category and to apply all manner of hate speech and denigration to such individuals, as was the situation in this case.

8. All discrimination herein is alleged to be especially egregious, purposeful, willful, vicious and intentional.

9. All discrimination herein is "because of" gender, gender identity, gender expression, transgender status, sexual orientation or perceived sexual or affectional sexual orientation discrimination.

10. Punitive damages are appropriate when any police officer decides to abuse the discretion vested in him/her by the law and by the police executive authority of the State by committing acts of discrimination or harassment against members of the public.

11. A determinative and/or motivating factor in any discriminatory act was plaintiff's membership in one or more of the protected groups set forth above.

12. At the time of these events, plaintiff was, and still is, a fully transitioned transgender individual.

13. Additionally, plaintiff's driver's license indicates and lists the plaintiff's sex as female.

14. The name listed is the plaintiff's born name, Mario Haywood, which has been legally changed to Amira Gray.

15. On September 7, 2013, the plaintiff was driving from her home in Laurel, Maryland to Extra Storage in Secaucus, New Jersey.

16. At that time, the plaintiff was driving her 2002 Honda Accord in the vicinity of Route 1/9 turning off of an off ramp to continue onto Paterson Plank Road.

17. While on the off ramp to go onto Paterson Plank Road, Defendant Officer Berovides, while traveling in the opposite direction on Route 1/9, executed a U-turn and began to follow the plaintiff. Shortly thereafter, Defendant Officer Berovides initiated a traffic stop of the Plaintiff while she was driving on Paterson Plank Road.

18. The plaintiff sat in her car for some time while Officer Berovides remained in his car behind her.

19. Eventually, Officer Berovides, an approximately 5' 7" tall Caucasian or Hispanic male with a slim build, in his late 30s, in uniform, approached the plaintiff's car on the driver's side.

20. When Officer Berovides arrived at the plaintiff's driver's side door, he instructed the plaintiff to roll her window via a downward pointing hand gesture.

21. Officer Berovides briskly said, "License, registration and insurance" to the plaintiff.

-
22. The plaintiff then handed the requested documents to Officer Berovides.
 23. Officer Berovides then examined the plaintiff's documents, and referring to the plaintiff's insurance card, asked "Is this all you have?"
 24. The plaintiff responded "This is what I printed offline."
 25. Officer Berovides then stated to the plaintiff "Just wait a minute."
 26. Officer Berovides then returned to his car.
 27. Approximately ten minutes later, Officer Berovides returned to the plaintiff's car, but this time, on the passenger side.
 28. Officer Berovides tapped on the passenger front window indicating to the plaintiff to roll it down.
 29. The plaintiff rolled down the window.
 30. After the window was rolled down, Officer Berovides asked in an aggressive tone, "What is your name?"
 31. The plaintiff responded that her name was Mario Haywood, as opposed to Mari, as the plaintiff was known at the time.
 32. The name on the plaintiff's driver's license states Mario Haywood.
 33. In response, Officer Berovides said "One second Mr. Haywood."
 34. Officer Berovides returned to his car again for several minutes.
 35. After returning to the plaintiff's car, Officer Berovides, said, "You know your license is suspended."
 36. The plaintiff requested that Office Berovides check again to see if her license was expired because she was sure that it was not.
 37. Officer Berovides returned to his car for another lengthy period.

38. During this time, plaintiff retrieved her cell phone and called the Maryland Motor Vehicle Administration ("MMVA").

39. The plaintiff was able to reach an individual from the MMVA and confirm that her driver's license was not suspended.

40. The individual at the MMVA gave plaintiff a phone number for a national registry of licenses so that the plaintiff could check with that registry as well to clear up any potential issues during the traffic stop.

41. Plaintiff called the national registry, explained that she was currently pulled over by a police officer and that she needed to know if her license was suspended.

42. This national registry also informed the plaintiff that her license was not suspended, and was, in fact, valid.

43. Plaintiff then made a phone call to the Jersey City Courthouse.

44. By way of further information, plaintiff lived in Jersey City sometime between the years 2011 and 2013.

45. Plaintiff explained to the person she reached at the Jersey City courthouse that she was pulled over in New Jersey and asked to check on the status of her driver's license.

46. The individual with whom plaintiff was speaking in the Jersey City courthouse told her that her driver's license was valid.

47. Plaintiff then reached out to the New York State Department of Motor Vehicles ("NYDMV") and inquired regarding the status of her license.

48. The individual at the NYDMV also informed plaintiff that her license was valid.

49. The individual with whom plaintiff was speaking at the NYDMV suggested to plaintiff that she ask the police officer where the suspension originated.

-
50. Plaintiff was able to make the phone calls before Officer Berovides returned to her car.
51. Officer Berovides returned to plaintiff's driver's side window.
52. Officer Berovides again stated that plaintiff's license was suspended.
53. Plaintiff told Officer Berovides about her phone calls to the agencies identified above, which confirmed that her license was valid.
54. Plaintiff then called the MMVA, on her speaker phone, with Officer Berovides next to her car.
55. An individual from the MMVA then told both plaintiff and Officer Berovides that the plaintiff's driver's license was valid.
56. The phone call was concluded shortly thereafter and Officer Berovides stated to plaintiff "Well Mario, you're going to have to call someone to drive this car or it's going to get towed."
57. Plaintiff then stated to Officer Berovides that she should not have to get out of her car because her license was not suspended and that Officer Berovides just heard the proof of the same.
58. Officer Berovides then sucked his teeth, reached into his pocket and retrieved a cellular phone.
59. Officer Berovides then began to have a conversation while walking around the plaintiff's car.
60. Thereafter, a tow truck arrived and pulled in front of the plaintiff's car.
61. Immediately after the tow truck arrived, plaintiff called the North Bergen Police Department.

62. Plaintiff told the police dispatcher that she did not feel comfortable with Officer Berovides.

63. Plaintiff also told the police dispatcher that Officer Berovides knew that she had a valid driver's license.

64. The dispatcher replied by saying "Another officer will be out."

65. Approximately ten minutes later, a second police officer arrived.

66. The second officer was a Caucasian male, approximately 5' 10" tall, weighing approximately 185 pounds, and was approximately 44 years old.

67. This second officer will be referred to as "Officer 2."

68. Officer 2 had a several minute conversation with Officer Berovides.

69. Officer 2 then began to approach the plaintiff's car; as he approached, he was laughing.

70. When Officer 2 arrived at the driver's side window, plaintiff asked the officer why he was laughing.

71. After plaintiff inquired why Officer 2 was laughing, he stopped laughing.

72. Plaintiff then explained to Officer 2 a summary of the traffic stop thus far with Officer Berovides.

73. Plaintiff stated to Officer 2 "He has a problem with how I live my life."

74. Officer 2 replied, "Okay."

75. Shortly thereafter Officer 2 then went back to talk with Officer Berovides.

76. Officer 2 and Officer Berovides spoke again for a few minutes.

77. Officer 2 returned to plaintiff's driver's side window and advised that she had to get out of her car because her license is suspended.

-
78. Plaintiff responded to Officer 2 by explaining that she had shown Officer Berovides, via speaker phone, that her license was not suspended.
79. Plaintiff then called the dispatcher for the North Bergen Police Department, and requested a police sergeant to come to the traffic stop.
80. Several minutes later, a police Sergeant arrived at the traffic stop.
81. The police Sergeant was a male in his mid-50s, approximately 5' 9" tall, and approximately 175 pounds. Additionally, the Sergeant had a beard. This officer will hereinafter be referred to as the "Sergeant."
82. The Sergeant came to plaintiff's driver's side window and said, "You have to get out of the car."
83. Plaintiff refused to exit her vehicle, knowing that her driver's license was valid.
84. Officer Berovides, Officer 2 and the Sergeant met together.
85. The conversation took place within ear shot of plaintiff.
86. During this conversation, Officer 2 said to the Sergeant "I told him (referring to Officer Berovides) to just give her a warning for tinted windows and let her go."
87. The Sergeant then returned to plaintiff's driver's side window and plaintiff asked the Sergeant what database they were using to determine her license was suspended.
88. The Sergeant then asked Officer 2, "Do you know the database?"
89. Officer 2 shrugged his shoulders and laughed while saying, "I don't know."
90. Immediately thereafter, the three officers met behind the plaintiff's car.
91. The Sergeant said to Officer 2 "Is it suspended?"
92. Officer 2 responded to the Sergeant "It shows that it has been suspended a few times."

-
93. Upon information and belief, plaintiff's license had been suspended in the past.
94. The Sergeant then returned to the driver's side window and stated that they still had to take plaintiff's car and offered to give plaintiff a ride to where she needed to go.
95. The plaintiff then exited her car. Upon exiting the car, plaintiff said to the Sergeant "I do not feel comfortable with Officer Berovides."
96. The Sergeant then stated to Officer 2 "Tell him (referring to Officer Berovides) to stay in his car."
97. Officer 2 then said to the plaintiff "Come with me." He then opens the back door to his police car.
98. The plaintiff then became short of breath.
99. Officer 2 asked the plaintiff if she was okay and asked if she needed an ambulance.
100. Plaintiff responded, "Yes."
101. After a few minutes, an ambulance arrived.
102. After the ambulance arrived, and after being examined by a paramedic, plaintiff opted not to go to the hospital.
103. Officer 2, with the Sergeant following in his own police car, took plaintiff to her storage unit.
104. Shortly thereafter, plaintiff took a car service to the Amtrak station in Newark, New Jersey and took a train back to her home in Maryland.
105. Plaintiff reported to municipal court in North Bergen on or about October 7, 2013 to defend the charges levied against her by Officer Berovides.

106. Plaintiff was charged with driving with a revoked or suspended license, a safety glass violation, and unclear plates.

107. Plaintiff was found not guilty of driving with a revoked or suspended driver's license and of the safety glass charges.

108. Plaintiff pled guilty and paid a \$54.00 fine for the improper display/unclear license plate violation.

109. The conduct of the police officers of the North Bergen Police Department, taken as a whole, constitutes discrimination in a place of public accommodation as against the plaintiff.

COUNT I

Public Accommodation Discrimination Based on Sexual/Transgender/Gender/Sexual Orientation/Affectional Sexual Orientation Harassment Under the LAD

110. Plaintiff hereby repeats and realleges paragraphs 1 through 109, as though fully set forth herein.

111. The conduct described above constitutes discrimination in a place of public accommodation because of gender, gender identity, gender affectation, transgender status, sexual orientation or perceived sexual or affectional sexual orientation.

WHEREFORE, plaintiff demands judgment against the defendants jointly, severally and in the alternative, together with compensatory damages, punitive damages, interest, costs, attorneys' fees, enhanced attorneys' fees, and any other relief the Court deems equitable and just.

COUNT II

Request for Equitable Relief

112. Plaintiff hereby repeats and realleges paragraphs 1 through 111 as though fully set forth herein.

113. Plaintiff requests the following equitable remedies and relief in this matter.

114. Plaintiff requests a declaration by this Court that the practices contested herein violate New Jersey law as set forth herein.

115. Plaintiff requests that this Court order the defendants to cease and desist all conduct inconsistent with the claims made herein going forward, both as to the specific plaintiff and as to all other individuals similarly situated.

116. To the extent that plaintiff was separated from employment and to the extent that the separation is contested herein, plaintiff requests equitable reinstatement, with equitable back pay and front pay.

117. Plaintiff requests, that in the event that equitable reinstatement and/or equitable back pay and equitable front pay is ordered to the plaintiff, that all lost wages, benefits, fringe benefits and other remuneration is also equitably restored to the plaintiff.

118. Plaintiff requests that the Court equitably order the defendants to pay costs and attorneys' fees along with statutory and required enhancements to said attorneys' fees.

119. Plaintiff requests that the Court order the defendants to alter their files so as to expunge any reference to which the Court finds violates the statutes implicated herein.

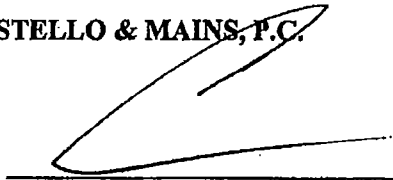
120. Plaintiff requests that the Court do such other equity as is reasonable, appropriate and just.

WHEREFORE, plaintiff demands judgment against the defendants jointly, severally and in the alternative, together with compensatory damages, punitive damages, interest, costs of suit,

attorneys' fees, enhanced attorneys' fees, equitable back pay, equitable front pay and any other relief the Court deems equitable and just.

COSTELLO & MAINS, P.C.

Dated: 3/13/14

By: 

Kevin M. Costello