

Resolution 2018-312

RESOLUTION OF THE OCEAN TOWNSHIP COMMITTEE, TOWNSHIP OF OCEAN, COUNTY OF OCEAN,
STATE OF NEW JERSEY AUTHORIZING THE SETTLEMENT OF THE CASE OF RISDEN, ET ALIA v. TOWNSHIP
OF OCEAN, DOCKET No. OCN-428-16

WHEREAS, Andrew Riden, Steven Mandarine, Hermogenes Jarin, Michal Rogalski and Michael Ward, all employees of the Police Department of Township of Ocean, filed a lawsuit against the Township of Ocean alleging claims under the Conscientious Employees Protection Act, as well as other causes of action; and,

WHEREAS, the matter was assigned Docket No. OCN-428-16; and,

WHEREAS, the Township of Ocean filed an answer and the parties exchanged and completed discovery; and,

WHEREAS, the matter as it related to Michal Rogalski was dismissed during the pendency of the matter; and,

WHEREAS, the Township of Ocean and the remaining plaintiffs agreed to proceed to mediation before proceeding to a trial in this matter; and,

WHEREAS, E. David Millard, retired judge of the Superior Court, conducted a mediation session on November 30, 2018; and,

WHEREAS, the Township of Ocean was represented at the mediation by Peter J. Van Dyke, Esq., counsel for the Township; Diane B. Ambrosio, Administrator/Clerk of the Township; and Tyler Baker, representatives of Summit Risk Services; and,

WHEREAS, an agreement was reached at mediation to settle the matter inclusive of plaintiffs' attorney fees and without an admission of liability; and,

WHEREAS, the above referenced representatives for the Township opine that the agreed to settlement is fair and reasonable, that it avoids the uncertainty of an outcome at trial and that it should be approved by the Township Committee;

NOW THEREFORE IT BE RESOLVED, by the Township Committee of the Township of Ocean, County of Ocean, State of New Jersey, that:

1. The above referenced matter be settled for the amount of \$130,000.00, inclusive of attorney fees.
2. The settlement will be paid in two installments of \$65,000.00. The first installment is to be paid by December 31, 2018. The second installment it to be paid by January 31, 2019.
3. The settlement is conditioned upon the plaintiffs executing a general release in a form approved by counsel for the Township in consultation with representatives of Summit Risk Services.

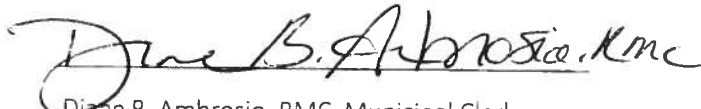
4. Township counsel is authorized to take the appropriate action to finalize the settlement and to conclude the matter.

BE IT FURTHER RESOLVED that a copy of this Resolution be forwarded to the following:

1. Diane B. Ambrosio, RMC, Township Clerk/Administrator;
2. Gregory P. McGuckin, Esquire, Township Attorney;
3. Summit Risk Services
4. Peter J. Van Dyke, Esq.

CERTIFICATION

I certify that the foregoing Resolution was duly adopted by the Township Committee of the Township of Ocean, County of Ocean, State of New Jersey at a regular meeting held on the 13th day of December 2018, quorum being present and voting in the majority.


Diane B. Ambrosio, RMC, Municipal Clerk

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**ANDREW RISDEN, STEVEN
MANDARINE, HERMOGENES
JARIN, MICHAL ROGALSKI, AND
MICHAEL WARD,**

Plaintiffs,

vs.

OCEAN TOWNSHIP,

Defendant.

**SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: OCEAN COUNTY
DOCKET NO.**

(Civil Action)

COMPLAINT AND JURY DEMAND

Plaintiffs Andrew Riden ("Riden"), Steven Mandarine ("Mandarine"), Hermogenes Jarin ("Jarin"), Michal Rogalski ("Rogalski"), and Michael Ward ("Ward"), residing in Ocean County, New Jersey, by way of Complaint against defendant Ocean Township ("Township" or "Defendant") allege the following:

PARTIES

1. Plaintiffs Riden, Mandarine, Jarin, Rogalski, and Ward are employees of Defendant, who are currently employed by the Ocean Township Police Department as Law Enforcement Officers.

2. Upon information and belief, Defendant Ocean Township is a municipality operating in the state of New Jersey which administrates the Ocean Township Police Department, and serves as the employer for the Plaintiffs in their capacity as Law Enforcement Officers.

ALLEGATIONS COMMON TO ALL COUNTS

3. Defendant is responsible for establishing the terms, conditions and other practices regarding the employment of its members and employees, including the institution of workplace policies against unlawful retaliation.

4. In 2012, the Township of Ocean Committee consisted of then Mayor, Dennis Tredy, Deputy Mayor Tina Wetter, Committeeman Joseph Lachowiec, and Business Administrator David Breeden along with then Chief of Police Gerhardt Frenz.

5. In 2012, the Defendant promulgated a new promotional process by passing a local ordinance.

6. The promotional process consisted of interested eligibles submitting a formal letter of intent to participate in the process, a resume and an interview which would be calculated along with past evaluations and performance.

7. On or about December 13, 2013, Personnel Order 12-10 was issued announcing the promotions of several officers.

8. The Defendant did not promulgate any notice of the promotions or inform Plaintiffs of the promotional process.

9. No list was promulgated and no application process was engaged in.

10. Defendant apparently engaged in the promotional process based upon the promotional applications and interviews of 2012.

11. The lack of proper process was the subject of a grievance and unfair practice charge issued by the Policemen's Benevolence Association ("PBA") Local 371.

ALLEGATIONS AS TO PLAINTIFF ROGALSKI

12. Plaintiff Rogalski was hired by the Ocean Township Police Department in March of 2005 as a Special Class II.

13. Plaintiff Rogalski was then hired full time in September of 2005, and was assigned to the patrol division.

14. In December of 2010, Plaintiff Rogalski was assigned to the Criminal Investigations Division as a Detective.

15. Plaintiff Rogalski currently holds the rank of Detective Sergeant.

16. On or about October 17, 2012, Special Order 2012-32 was issued, which announced that the Township Committee approved Ordinance 2011-20.

17. Ordinance 2011-20 amended the organizational structure of the OTPD

18. As a result of this new organizational structure the Township has indicated that they would like to fill the vacant positions, including one (1) Lieutenant of Patrol, up to two (2) Sergeant of Patrol, and one (1) Detective Sergeant.

19. On or about October 17, 2012, the Township of Ocean Committee consisting of then Mayor, Dennis Tredy, Deputy Mayor Tina Wetter and Committeeman Joseph Lachowicz and Business Administrator David Breeden along with then Chief of Police Gerhardt Frenz promulgated a new promotional process by passing a local ordinance.

20. The promotional process consisted of interested eligibles submitting a formal letter of intent to participate in the process, a resume and an interview which would be calculated along with past evaluations and performance.

21. The promotional process committee consisted of then Mayor Dennis Tredy (police liason), Business Administrator David Breeden and Chief of Police Gerhard Frenz.

22. Plaintiff Rogalski participated in the process and, in December of 2012, was promoted to the rank of Sergeant and assigned back to the patrol division.

23. During his tenure as Patrol Sergeant, on or about June of 2014, Plaintiff Rogalski was assigned a police background on a new hire, Michael Pasquale.

24. The Chief of Police instructed Plaintiff Rogalski to conduct an extensive background on Michael DePasquale, who was to be hired as a patrol officer.

25. At the time of the background investigation, on or about June of 2014 the bureau had two detectives. Detective Sergeant William Sneddon and Detective Riden.

26. The detective bureau is the primary unit within the agency to conduct backgrounds but nonetheless Plaintiff Rogalski was advised to complete the background while working as the night shift supervisor.

27. Michael DePasquale turned in an application to the township clerk's office for the position of dispatcher.

28. Michael DePasquale is the nephew of Jerry J. Dasti, Esq., who is the lead attorney for the township's law firm.

29. Michael DePasquale's application cited Senator Christopher Connors, Jerry J. Dasti and Gregory P. McGuckin, Esq., as references.

30. These individuals are all republican leaders within Ocean County.

31. The Township Committee is all republican.

32. Michael DePasquale was given an interview with then Mayor Dennis Tredy for the position of dispatcher and subsequently offered a position as a full time police officer according to Police Chief Gerhard Frenz.

33. After being assigned the background investigation, Plaintiff advised against hiring Michael DePasquale, without the completion of a full background.

34. Despite this advisement, on or about June of 2014, the Township Committee and Police Chief hired DePasquale prior to the completion of the background check.

35. A ceremony was held during the township meeting on or about June of 2014.

36. Immediately following the ceremony, Plaintiff Rogalski conducted a pre background interview with Michael DePasquale.

37. At this time, Michael DePasquale admitted that he never wanted to be a police officer, drank alcohol on a nightly basis and used marijuana on a regular basis.

38. Michael DePasquale also admitted to having Marijuana at his house in Forked River.

39. On or about June of 2014 Plaintiff Rogalski retrieved the marijuana from his house, and advised Lt. Thompson and Chief of the same.

40. Plaintiff Rogalski was instructed to continue the background check.

41. Plaintiff ultimately wrote up background check report on or about June 24th, 2014 and stated that DePasquale did not pass the background portion of the hiring process due to drug use, numerous inconsistencies in the application, and the smell of alcohol on his breath when being fingerprinted.

42. Shortly thereafter Michael DePasquale was no longer employed with the Township.

43. In February of 2015, Plaintiff Rogalski was advised via a group - text message that Scott Murphy was being promoted to the rank of Lieutenant.

44. There was no promotional advisement promulgated in the police Department for this position.

45. According to the Ocean Township Rules and Regulation III:10-4 Lieutenant – Eligibility Requirement, the applicant (E) ‘Must have achieved 90 credits or an Associate’s Degree in Law Enforcement curriculum at an accredited college or have three-year college educational equivalency as defined by III:8-13 (B)’.

46. According to the Ocean Township Rules and Regulation III:8-13 Educational Equivalency (B) ‘And in recognition of the principle that “Experience will give you and education, but education will not give you job experience”, the following ratio will apply: two years of credible time experience with a recognized (fulltime) police agency, will be equivalent to one year of college; four years’ experience equated to two years of college; six years’ experience equated to three years of college; and eight years’ experience equated to four years of college. College credits and/or a degree plus experience will be preferential to experience alone. No amount of experience or combination of an undergraduate degree and experience will be equated to any graduate degree.’

47. Plaintiff Rogalski completed his Master’s Degree in Administrative Science from Fairleigh Dickinson University in May of 2014.

48. Plaintiff Rogalski was the only officer within the police department to possess a master’s degree.

49. At that time Scott Murphy held no college education.

50. On February 12 2015, during a Township of Ocean Regular meeting, a promotion ceremony was held. At that meeting, Business Administrator David Breeden on behalf of the Township of Ocean Committee explained in a public forum that the recent promotions were based on an extensive processes which occurred in 2012 that resulted in the formulation of a ranked list

of candidates for future career advancements. He also noted that the promotions were also based upon "education and experience".

51. In response to a OPRA requested, the Township of Ocean replied on January 5, 2016 into a request for: list testing results, list rankings, list eligibility in reference to the promotion process from 2012 which subsequently resulted in the response of "This document does not exist" which directly contradicted statements made by David Breeden at the February 12 2015 Township of Ocean meeting.

ALLEGATIONS AS TO PLAINTIFF JARIN

52. Sergeant Hermogenes D. Jarin III was initially hired in July of 1996 as a patrolman.

53. In September of 1999, Plaintiff Jarin was assigned to the Detective Bureau.

54. In January of 2003, Plaintiff Jarin was promoted to Corporal and assigned to patrol as supervisor of a squad.

55. In January of 2007, Plaintiff Jarin was promoted to Sergeant, and continued to supervise patrol squad.

56. Plaintiff Jarin also attended the NJ State Association of Chiefs of Police West Point Command Leadership Program on or about December 2007.

57. Plaintiff Jarin obtained a Bachelor's Degree in Administrative Science from Fairleigh Dickinson University on or about February 1, 2012.

58. On or about July 30, 2012, Plaintiff Jarin was assigned as the Administration Division Commander as well as the Alpha Squad Supervisor.

59. Among his responsibilities in this role, Plaintiff Jarin interviewed applicants and recommended hiring and dismissals of administrative personnel in the division, and oversaw the functions of the Records Bureau and other duties as assigned by the Chief of Police or his designee.

60. On or about October 17, 2012, Special Order 2012-32 was issued, which announced that the Township Committee approved Ordinance 2011-20.

61. Ordinance 2011-20 amended the organizational structure of the OTPD.

62. As a result of this new organizational structure the Township has indicated that they would like to fill the vacant positions, including one (1) Lieutenant of Patrol, up to two (2) Sergeant of Patrol, and one (1) Detective Sergeant.

63. The application packets for promotion were due at 1630 hours on October 26, 2012.

64. Interviews were conducted as part of the above process by the screening committee.

65. Plaintiff Jarin submitted the required paperwork for the position of Lieutenant of Patrol and Detective Sergeant within the week.

66. Plaintiff Jarin was interviewed in the Mayor's office on or about December 4, 2012 at 9:00 am by the screening committee, composed of the Acting Chief of Police Gerhard Frenz, Business Administrator David Breeden and Mayor Dennis Tredy.

67. At no time during the interview was Plaintiff Jarin asked any job related questions for the positions he was applying for.

68. On or about December 13, 2012, Personnel Order 12-10 was issued announcing the promotions of Lieutenant Gerhard Frenz to Chief of Police, Sergeant George Thompson to Lieutenant of Patrol, Corporal Adam Mogul to Patrol Sergeant, Detective William Sneddon to Detective Sergeant, Detective Michal Rogalski to Patrol Sergeant, and Patrolman Scott Murphy to Administrative Sergeant.

69. Sgt. Murphy did not possess a Bachelor's Degree or attend the Leadership program at the time of his promotion to Lieutenant.

70. On or about December 10, 2013, Personnel Order 13-21 was issued assigning Sergeant Scott Murphy in charge of the Administrative Division.

71. On or about December 10, 2013, Plaintiff Jarin was informed by the Chief of Police Gerhard Frenz that because Sergeant Scott Murphy was promoted to the position of Administrative Sergeant, he has to assume that position.

72. On or about November 2013, Lieutenant Thompson informed Plaintiff Jarin that Chief Frenz opined that the position of Administrative Sergeant should have been assigned to Plaintiff, as Plaintiff Jarin was senior to Sergeant Murphy and was already in the acting position.

73. After the promotions, on or about January or February 2013, Chief Frenz made it known to Plaintiff Jarin that, in order to be promoted, Plaintiff would have to make his presence known in Town Hall and attend events that involved the Township Committee.

74. Plaintiff Jarin assisted with Town Hall activities such as 9-11 memorials, Tree Lighting Ceremony, Waretown Fire Company Haunted Hay Ride, Halloween Parade Waretown Athletic events, among other activities, and submitted the photographs to Town Hall, on the dates July 2013, September 2013, October 2013, and March 2014 respectively.

75. On or about August 25, 2014, Special Order 2014-17 was issued regarding a possible opening for a position in the K-9 Unit.

76. The Special Order instructed the officer interested in the position to submit a resume along with a Special Report.

77. On or about September 3, 2014, Plaintiff Jarin submitted a resume and application pursuant to the Special Order, indicating his interest.

78. The position was awarded to Patrolman Nicholas McGavin.

79. The qualification for the position set forth within S.O.P. 08-01 requires an officer applying to have a minimum of two years departmental experience to qualify for a specialized assignment.

80. Patrolman McGavin was appointed on August 9, 2012, in anticipation of his attendance of the Ocean County Police Academy.

81. His attendance at the academy was postponed due to surgery, and McGavin remained a recruit while awaiting attendance of the police academy.

82. Patrolman Nicholas McGavin is the nephew of the Township Clerk.

83. On or about September 12, 2014, an interoffice memorandum was written by Mayor Dennis Tredy to Chief Frenz regarding the appointment of K-9 officer.

84. The memorandum detailed how Patrolman McGavin was selected to the position.

85. The memorandum stated that "it was felt that as a shift supervisor, that Sergeant Jarin's ability to perform K-9 related duties would be limited since the primary responsibility of a shift commander is oversight and management of personnel assigned to their shift. It is firmly believed that this restriction imposed by the duties associated with being a patrol sergeant would not permit the department to fully realize the benefits of having a second K-9 officer in the department".

86. After learning of this, Plaintiff Jarin spoke to Chief Frenz in his office on or about September 12, 2014 to ascertain why he was not picked for the position of K-9 officer.

87. Chief Frenz informed Plaintiff Jarin that he passed the decisions to Lieutenant Thompson and K-9 Officer Capaccio to make the recommendations.

88. The Chief also stated "maybe they don't like you next door".

89. On or about February 12, 2015, Sergeant Scott Murphy was promoted to Administrative Lieutenant.

90. This position was not posted and there was no promotional process followed.

91. According to the Ocean Township Rules and Regulation III:10-4 Lieutenant – Eligibility Requirement, the applicant (E) ‘Must have achieved 90 credits or an Associate’s Degree in Law Enforcement curriculum at an accredited college or have three-year college educational equivalency as defined by III:8-13 (B)’.

92. According to the Ocean Township Rules and Regulation III:8-13 Educational Equivalency (B) ‘And in recognition of the principle that “Experience will give you and education, but education will not give you job experience”, the following ratio will apply: two years of credible time experience with a recognized (fulltime) police agency, will be equivalent to one year of college; four years’ experience equated to two years of college; six years’ experience equated to three years of college; and eight years’ experience equated to four years of college. College credits and/or a degree plus experience will be preferential to experience alone. No amount of experience or combination of an undergraduate degree and experience will be equated to any graduate degree.’

93. Plaintiff Jarin is Asian, and therefore a minority.

ALLEGATIONS AS TO PLAINTIFF WARD

94. Plaintiff Ward is an employee of the Ocean Township Police Department, hired on or around January of 1998.

95. Plaintiff Ward became a squad leader and shift commander on or about January of 1999.

96. Plaintiff Ward became a Corporal on or about January of 2001.

97. Plaintiff Ward was promoted to Sergeant in January of 2007, and currently holds the rank of Sergeant.

98. Sgt. Jarin, Sgt. Thompson and Plaintiff Ward were all held the rank of Sergeant on or about January of 2007.

99. According to the rules and regulations of the Township, the senior Sergeant is the one whose hire date was the earliest.

100. Sergeant Jarin, had the earliest date of hire.

101. However, Sgt. Jarin had a break in creditable time in service due a suspension.

102. This break in service left Plaintiff Ward as the senior Sergeant.

103. On or about May 11, 2012, Lt. Frenz issued an order that Plaintiff Ward was to be the acting Lieutenant of Administration.

104. A few days prior to taking the position, on or about May 17, 2012, Plaintiff Ward tore his hamstring on the range while training other Officers.

105. Plaintiff Ward could not walk and was transported to the hospital.

106. Plaintiff Ward would have initially been out for six (6) weeks and returned to work.

107. However, on or about July 10, 2012, Plaintiff Ward was advised by Lt. Frenz that even though he was cleared by the Workman's Compensation Physician to return to work, Plaintiff Ward would be required to undergo a Fitness for Duty Examination.

108. Lt. Frenz requested that Plaintiff Ward go next door and speak to the Township Administrator David Breeden.

109. David Breeden directed Plaintiff Ward to go to the Township Physician in the morning for the fit for duty test.

110. Plaintiff Ward then reported to the Township Physician that morning as directed.

111. He was informed that the test was not a Fitness for Duty examination, but to give a script for a Functional Capacity Evaluation ("FCE").

112. The nurse advised Plaintiff Ward that he will be given a drug test that was requested from the township and handed me one container to collect the sample.

113. No second container was provided, and no form was provided to document what prescriptions and over the counter medications Plaintiff was taking.

114. At this time I contacted Lt. Frenz, who stated that he did not order Plaintiff Ward to go to the FCE.

115. Later that day, Lt. Frenz called and advised Plaintiff Ward that he did not know who ordered the FCE.

116. Lt. Frenz was advised that, under advice of attorney, Plaintiff would have to be ordered to go to the FCE.

117. Plaintiff Ward requested to come back to work, but Lt. Frenz did not allow him to.

118. Plaintiff Ward's attorney, Mr. Rosenberg, then made numerous attempts to speak to the Township, but received no response.

119. On or about July 30, 2012, Plaintiff's attorney received a letter from the Township attorney directing that Plaintiff Ward attend the FCE or face termination.

120. On or about August 21, 2012, Lt. Frenz stated that the FCE had been scheduled again.

121. On or about August 2012, Plaintiff Ward requested Patrolman Riden to train the new Officers in the use of the Colt M-4.

122. Plaintiff Ward was at this time the head firearms instructor and range master in charge of all firearms related training, and had been since 2000.

123. On or about August 9, 2012, Plaintiff Ward received a memo stating that Patrolman Capaccio would be conducting the training on said dates.
124. The training procedure that Plaintiff Ward has written required a minimum two day course.
125. The Trainees are required to name each part of the weapon and determine the different types of rounds and their uses.
126. Trainees must also demonstrate the proper use of the weapon with magazine changes transition drills and multiple targets.
127. Trainees must also be able to demonstrate and explain how to zero the weapon and make adjustments.
128. Trainees must also be proficient from at least 100 yards.
129. A data book must also be completed for each individual officer.
130. Prior to the date, on or about August 12, 2012, Patrolman Capaccio was scheduled to train the Officers. Sgt. Thompson was by himself in the locker room.
131. Plaintiff Ward walked in and asked him why Patrolman Capaccio was training the new Officers, rather than Patrolman Risen.
132. At that time Sgt. Thompson began to yell, "because I said so."
133. Sgt. Thompson continued to be irate and stated he is in charge of firearms and, "if you don't like it, too bad, and as a matter of fact you are no longer in charge of firearms training."
134. During the first day of training, on or about August 20, 2012, the trainees walked into the patrol room and stated that they had completed their M-4 training.
135. Given that less than a day had passed, Plaintiff Ward asked them questions regarding training and various parts of the weapon, which they could not answer.

136. Plaintiff Ward requested to see their data books, which they did not have.
137. About a week later, Lt. Frenz asked Plaintiff Ward about the firearms training, and Plaintiff Ward advised him that Sgt. Thompson had removed him from my position.
138. A few days later, Lt. Frenz called Sgt. Thompson and Plaintiff Ward in the office.
139. Upon questioning, Sgt. Thompson denied ever saying Plaintiff Ward was removed.
140. On or about October 11, 2012, the township changed the ordinance regarding promotions, allowing them to be chosen by resume and interview only.
141. Plaintiff Ward has approximately 18 years as a supervisor and shift commander, 5 years in the Marine Corps as a Sergeant, an associate's degree in criminal justice and a bachelor's of science in administration.
142. Sgt. Thompson has only a high school diploma and a few years' experience as a Sergeant.
143. On or about November 27, 2012, during Plaintiff Ward's interview for promotion, there were no questions asked relating to supervision or law enforcement, with the exception of a question related to simunitions guns.
144. Following the interview, on or about December 13, 2012, the Township promoted Sgt. Thompson, not Plaintiff Ward.
145. Lt. Thompson began scheduling Plaintiff Ward for assignments he had not requested, and ignoring stated preferences for assignments.
146. On or about 2013, the computer monitor on Plaintiff Ward's desk was removed and replaced with a smaller monitor.
147. On or about February 2014, Plaintiff Ward asked Chief Frenz a question about the firearms training, and he directed Plaintiff to ask Sgt. Rogalski.

148. When asked why Plaintiff would someone who is not certified to be a firearms instructor a question about firearms, the Chief stated that, "he is your boss now."

149. The Chief said that Lt. Thompson appointed him training officer in charge of all training for the department.

150. On or about February of 2014, Plaintiff Ward asked why he was never offered the opportunity to apply for the position, and the chief again advised him to speak to Lt Thompson.

151. Lt. Thompson stated that the Chief was mistaken, and that the application process would begin in a few days.

152. A few days later, on or about March 3, 2014, the position was announced, along with instructions on how to apply.

153. Plaintiff Ward applied for the position on or about March of 2014.

154. Sgt. Rogalski was given the position on or about May 29, 2014.

155. On or about May 29, 2014, Plaintiff Ward received a letter stating that the department is going in a different direction.

156. On or about August 5, 2014, a new event called national night out was scheduled, and all officers with the exception of Plaintiff Ward were assigned to it.

157. Plaintiff Ward was scheduled to work the road and answer calls, while all other officer received compensatory time or overtime to attend.

158. On or about February 12, 2015, Sgt. Ward was advised that Scott Murphy was being promoted to the rank of Lieutenant.

159. No notice or application process for this promotion was promulgated to Plaintiff.

160. Plaintiff Ward was advised that the Township was promoting off of the results of the last interviews in 2010.

161. No promotional list was established or promulgated.

ALLEGATIONS AS TO PLAINTIFF RISDEN

162. Plaintiff Riden is a Law Enforcement Officer employed by the Defendant for approximately twelve (12) years.

163. In June of 2013, Plaintiff Riden was assigned to the Detective Bureau.

164. As of 2008, Plaintiff Riden became the President of PBA Local 371, the collective bargaining unit for the police officers employed by Ocean Township.

165. In 2009 and 2010, Dennis Tredy and Tina Wetter were appointed to the Ocean Township Committee to fill two vacancies.

166. In 2010, both Dennis Tredy and Tina Wetter ran for office for the term beginning in 2011.

167. That year, Officer William Sneddon helped these individuals generate support for their campaign.

168. Officer Sneddon informed both candidates that Plaintiff Riden would be voting for two independent candidates, Collamer and Cottrell.

169. Dennis Tredy began to ignore Plaintiff Riden, refusing to address him or acknowledge him.

170. Dennis Tredy, on or about the summer of 2010, at the municipal, made comments regarding Plaintiff Riden's support of other candidates.

171. In the spring of 2012, the Township Committee decided to hire Nicholas McGavin.

172. Nicholas McGavin is the Nephew of the Township Clerk and present administrator, Dianne Ambrosio.

173. Dianne Ambrosio is married to the Superintendent of Public Works, Matthew Ambrosio.

174. On or about April of 2012, in his capacity as PBA President, Plaintiff Ridsen approached Gerhard Frenz, who was in charge of the Police Department at this time.

175. Plaintiff Ridsen advised Frenz that hiring Nicholas McGavin could cause political conflict within the Police Department.

176. Plaintiff Ridsen also advised that there were concerns about nepotism.

177. Gerhard Frenz acknowledged the concern, stating that he would approach the Township Administrator, David Breeden, with this concern.

178. On or about May of 2012, Nicholas McGavin was hired despite these concerns.

179. On or about October 17, 2012, Special Order 2012-32 was issued, which announced that the Township Committee approved Ordinance 2011-20.

180. This ordinance changed the promotional procedures, requiring only a resume and interview.

181. On or about October 2012, Plaintiff Ridsen filed a letter and resume indicating his interest for promotion.

182. Plaintiff Ridsen was then the subject of an interview on or about November 2012, which did not involve any questions regarding police procedures or the department.

183. Township Administrator David Breeden stated that Plaintiff did not have enough time on the job for the position.

184. On or about December 13, 2013, Personnel Order 12-10 was issued announcing the promotions of Lieutenant Gerhard Frenz to Chief of Police, Sergeant George Thompson to Lieutenant of Patrol, Corporal Adam Mogul to Patrol Sergeant, Detective William Sneddon to

Detective Sergeant, Detective Michal Rogalski to Patrol Sergeant, and Patrolman Scott Murphy to Administrative Sergeant.

185. On or about March of 2013, Plaintiff Riden spoke with Chief Frenz, who indicated that Plaintiff Riden met all of the requirements for promotion to Sergeant, and stated that Plaintiff would be the next to be promoted.

186. In July of 2014, Plaintiff Riden, P.B.A. Delegate Michael Cicero, and Vice President Jeremy Samuel met with Lt. George Thompson and Chief Gerhard Frenz.

187. Plaintiff advised the Chief and Lt. Thompson about concerns they had regarding the flow of information in the department.

188. Officer McGavin was advising officers that the township's next promotions would consist of James Capaccio, James Kinlan, and Scott Murphy.

189. Officer McGavin was close friends with the officers, who associated outside of work.

190. Officer McGavin was trained by James Capaccio.

191. Officer McGavin's acting supervisor was James Kinlan.

192. On or about August 25, 2014, Special Order 2014-17 was issued regarding a possible opening for a position in the K-9 Unit.

193. Officer McGavin did not meet the promotional criteria.

194. Officer McGavin nevertheless was promoted to the position over a more qualified candidate.

195. Plaintiff Riden spoke with the Chief about the issue and expressed his concerns about the issue.

196. On or about August of 2014, Plaintiff Riden's supervisor, Sgt. Sneddon, went on terminal leave.

197. Plaintiff Riden was left in charge of the Detective Bureau.

198. As a result, Plaintiff Riden reported directly to Lt. Thompson.

199. In the fall of 2014, the Township Committee attempted to amend the Police Ordinance to give the Mayor the authority of the Chief of Police.

200. On or about October 2014, as P.B.A. President, Plaintiff Riden initiated legal action, in the form of a grievance, to stop the ordinance.

201. On or about October 9, 2014, the ordinance was tabled.

202. Following the Public Comment session on or about October 9, 2014, Dennis Tredy angrily stated to Plaintiff that there would be no mergers.

203. Plaintiff Riden responded that he didn't think there would be.

204. On the same day, Tina Wetter also approached Plaintiff Riden afterwards, angrily stating that there would be no mergers.

205. Plaintiff Riden again responded that he didn't think there would be.

206. David Breeden also approached Plaintiff Riden, heatedly stating 'clearly you didn't.'

207. The Ordinance was abandoned by the Township Committee.

208. In December of 2014, Plaintiff Riden was assigned a background investigation for a Police Dispatch position for one Kevin McKnight.

209. On or about December 2014, Kevin McKnight, during an interview with Plaintiff Riden pursuant to this investigation, stated that his father-in-law had been advised of the opening by David Breeden.

210. During the investigation, Plaintiff Riden discovered that Kevin McKnight had lied on his application regarding a prior arrest.

211. Plaintiff Riden therefore recommended against hiring McKnight on or about January 2015.

212. Lt. Thompson also wrote a letter on or about January 2015 to the Township advising against hiring McKnight.

213. Plaintiff Riden, in his role as PBA President, filed a grievance against the Township the day prior to the promotions, on or about February 11, 2015

214. The Township then announced that it would eliminate the position of Detective Sergeant on or about February 4, 2015.

215. Plaintiff Riden was acting Detective Sergeant at this time.

216. Kevin McKnight was nevertheless hired on or about February 12, 2015.

217. On or about February 4, 2015, the Township committee contacted Lt. Thompson.

218. The Committee advised that three officers would be promoted.

219. Lt. Thompson advised against this, as there was no promotional process utilized.

220. Lt. Thompson also advised legal action could result.

221. On or about February 12, 2015, the Officers were promoted regardless.

ALLEGATIONS AS TO PLAINTIFF MANDARINE

222. Plaintiff Mandarine has been employed by the Ocean Township Police Department since September 1, 2000.

223. During the course of his employment in 2011, Plaintiff Mandarine was working alongside Patrolman Matthew Azzarone and Corporal Edward Vanderbilt.

224. At the time, these individuals were working on Route 532, leading towards Route 9, by Wells Mills Road near Corliss Avenue, dealing with traffic.

225. Corporal Vanderbilt directed Plaintiff Mandarine to sit in their patrol vehicles on the shoulder of the road, to prevent vehicles from driving on the shoulder.

226. Dennis Tredy called police headquarters, demanding that Plaintiff and the other officers move their vehicles and allow cars to travel on the shoulder.

227. Corporal Vanderbilt refused the demand.

228. Later that day, when Plaintiff Mandarine returned to headquarters, Dennis Tredy entered the headquarters.

229. Dennis Tredy had a heated argument with the officers before leaving the headquarters.

230. On or about 2011, Plaintiff Mandarine was called into Police Headquarters due to a traffic complaint of Dennis Tredy.

231. Dennis Tredy complained about a recommended curve road-sign posted on 7th street, an Ocean County Road.

232. Plaintiff Mandarine told Dennis Tredy that the sign could not be removed, as it was an Ocean County sign.

233. On or about October 17, 2012, Special Order 2012-32 was issued, which announced that the Township Committee approved Ordinance 2011-20.

234. Pursuant to the notice of promotional openings, Plaintiff Mandarine applied for promotion to Sergeant on or about October 26, 2012.

235. Plaintiff Mandarine was denied the promotion.

236. On or about April 7, 2015, Plaintiff Mandarine learned that he was skipped several times on the overtime list.

237. The word "no" was written next to the Plaintiff's name on the list for several dates.

238. Sgt. Capaccio had gone through the overtime list.

239. When Plaintiff Mandarine asked Capaccio about this, Sgt. Capaccio became agitated and did not answer.

240. Plaintiff Mandarine asked Sgt. Jarin, who was present, if he could speak to Sgt. Thompson about the issue.

241. Sgt. Capaccio began screaming at the Plaintiff as a result.

242. Sgt. Capaccio stormed out when Sgt. Jarin attempted to intervene.

243. When Sgt. Thompson came on duty, Plaintiff Mandarine advised him of the overtime issue and resulting confrontation.

244. On April 14, 2015, Plaintiff Mandarine received three performance notices issued by Sgt. Capaccio in reference to the events of April 7, 2015.

245. These were given by Sgt. Ward, who indicated that Sgt. Capaccio must serve them upon Plaintiff.

246. It was alleged that Plaintiff Mandarine was in violation of regulations of insubordination, criticism of official acts, and conduct towards superior officers.

247. On or about December 13, 2012, Chief Frenz called Plaintiff Mandarine into his office after the announcement of the promotions was put out to the police department.

248. Chief Frenz told Plaintiff that he did a good job in the interview and was within the top 4 of the candidates. He also told Plaintiff that it would help if Plaintiff Mandarine showed my face more to the "people next door".

249. A few days after the promotion list came out Plaintiff was in dispatch with several other people, and Chief Frenz walked into the room and stated in a joking manner "Did anyone shoot themselves yet?". That comment was made in regards to the promotions that had been just made.

250. Shortly after Super Storm Sandy there was a "Sandy Pin" that was given out to the members of the police department. It was held in Chief Frenz's office. There were numerous officers present along with Tina Wetter and Dennis Tredy.

251. When Tina Wetter called Plaintiff's name, as Plaintiff walked towards them, Tina Wetter stated "Ok" in a deep voice, mocking the Plaintiff's voice.

252. After Plaintiff said thank you, she again mocked him by saying "Your Welcome" again in a deep voice.

253. On April 27, 2015, Sgt. Capaccio finally gave the notices to Plaintiff Mandarine.

254. Sgt. Capaccio has a friendly relationship with both Dennis Tredy and Tina Wetter.

FIRST COUNT

(Conscientious Employee Protection Act (N.J.S.A. 34:19-1, et seq.))

255. Plaintiffs repeat and reallege the allegations contained in the statement of fact as if separately set forth herein.

256. During all periods relevant to this cause of action, Plaintiffs were "employee[s]" as defined by the Conscientious Employee Protection Act ("CEPA"), N.J.S.A. 34:19-1, et. seq.

257. During all periods relevant to this cause of action, Defendant was an "employer," as defined by CEPA, and controlled Plaintiffs' working environment during all periods relevant to this cause of action.

258. Through the aforementioned control, employees, supervisors, and officers of Defendant caused, condoned and/or ratified unlawful retaliation against Plaintiffs for their objection to the unlawful promotion practices, procedures, and policies of Defendant, including the bypassing them for promotion, which they reasonably believed violated a law or rule or regulation issued under the law and/or a clear mandate of public policy.

259. As a direct and proximate result of the unlawful actions of Defendant and of its agents, Plaintiffs have suffered and continue to suffer mental anguish, humiliation, pain, distress, and reputational damage, as well as the loss of other benefits enjoyed as part of their employment by to being unlawfully denied promotion.

WHEREFORE, Plaintiffs demand judgment against Defendant for:

- a. Compensatory damages;
- b. Punitive damages;
- c. Reasonable attorney's fees;
- d. Costs; and

- e. Any further relief as the Court deems equitable and just.

SECOND COUNT
(Violation of the Law Against Discrimination (N.J.S.A. 10:5-1, et. seq.))
(As to Plaintiff Jarin Only)

260. Plaintiff repeats and realleges the allegations contained in the statement of facts as if separately set forth herein.

261. During all periods relevant to this cause of action, Plaintiff Jarin was an “employee” as defined by the Law Against Discrimination (“LAD”), N.J.S.A. 10:5-5(f).

262. During all periods relevant to this cause of action, Defendant was an “employer.” as defined by the LAD, N.J.S.A. 10:5-5(e).

263. Plaintiff Jarin is Filipino, and therefore a minority and member of a protected class as defined by the LAD, N.J.S.A. 10:5-5.

264. Defendant was aware that Plaintiff Jarin is a member of a protected class, as defined by the LAD.

265. Defendant and its agents had a duty not to discriminate against Plaintiff Jarin in the terms and conditions of his employment on the basis of his race, and had a duty to prevent such discrimination from occurring.

266. As a direct, foreseeable and proximate result of the Defendant’s acts and omissions, Plaintiff Jarin has suffered damages, including emotional pain and mental anguish, in an amount to be determined at trial.

267. The negligent, reckless and/or intentional conduct of Defendant and its agents, was especially egregious, thus warranting the imposition of punitive damages pursuant to the LAD.

WHEREFORE, Plaintiff Jarin demands judgment against Defendant for:

- a. Compensatory damages;

- b. Punitive damages;
- c. Reasonable attorney's fees;
- d. Costs; and
- e. Any further relief as the Court deems equitable and just.

THIRD COUNT

(Retaliation/Discrimination on the basis of Political Affiliation)

268. Plaintiffs repeat and reallege the allegations contained in the statement of fact as if separately set forth herein.

269. During all periods relevant to this cause of action, Plaintiffs were employees of the Defendant.

270. Defendant is a municipality administering a public agency, the Ocean Township Police Department.

271. During the periods relevant to this cause of action, Plaintiffs had engaged in political activities, including voting in local government elections and advocating for candidates.

272. Plaintiffs's political affiliations and activities are protected by the New Jersey Constitution.

273. Plaintiff's duties and/or employment do not require a political affiliation.

274. Defendant maintains control of the conditions of employment of all Plaintiffs.

275. Through the aforementioned control, employees, supervisors, and officers of Defendant caused, condoned and/or ratified unlawful retaliation against Plaintiffs for their protected political beliefs and/or activities.

276. As a direct and proximate result of the unlawful actions of Defendant and of its agents, Plaintiffs have suffered and continue to suffer mental anguish, humiliation, pain, distress,

and reputational damage, as well as the loss of other benefits enjoyed as part of their employment by being unlawfully denied promotion.

WHEREFORE. Plaintiffs demand judgment against Defendant for:

- a. Compensatory damages;
- b. Punitive damages;
- c. Reasonable attorney's fees;
- d. Costs; and
- e. Any further relief as the Court deems equitable and just.

FOURTH COUNT

(Violation of Published Promotional Criteria)

277. Plaintiffs repeat and reallege the allegations contained in the statement of fact as if separately set forth herein.

278. During all periods relevant to this cause of action, Plaintiffs were employees of the Defendant.

279. Defendant is a municipality administering a public agency, the Ocean Township Police Department.

280. Defendant deviated from published promotional criteria in regards to the 2015 promotions.

281. Defendant violated the Collective Bargaining Agreement by deviating from this published criteria.

282. Through the actions, employees, supervisors, and officers of Defendant caused, condoned and/or ratified unlawful employment against Plaintiffs.

283. As a direct and proximate result of the unlawful actions of Defendant and of its agents, Plaintiffs have suffered and continue to suffer mental anguish, humiliation, pain, distress, and reputational damage, as well as the loss of other benefits enjoyed as part of their employment by being unlawfully denied promotion.

WHEREFORE. Plaintiffs demand judgment against Defendant for:

- a. Compensatory damages;
- f. Punitive damages;
- g. Reasonable attorney's fees;
- h. Costs; and
- i. Any further relief as the Court deems equitable and just.

JURY DEMAND, R. 4:35-1

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

DESIGNATION OF TRIAL COUNSEL

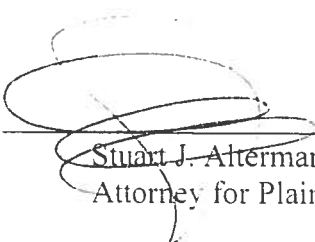
Pursuant to R. 4:25-4, Stuart J. Alterman is designated as trial counsel in the within action.

ALTERMAN & ASSOCIATES

Dated:

2/10/16

By:


Stuart J. Alterman, Esquire
Attorney for Plaintiffs

CERTIFICATION PURSUANT TO R. 4:5-1

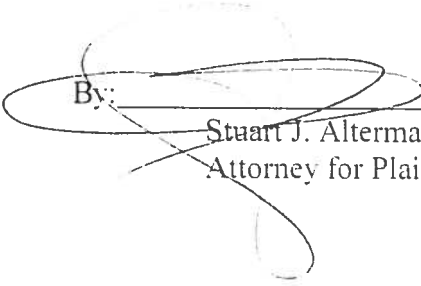
This matter in controversy is not the subject of any other action pending in any court or of a pending arbitration proceeding, and no other action or arbitration proceeding is contemplated. Further, no other party is presently known to plaintiffs who should be joined in this action.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

ALTERMAN & ASSOCIATES

Dated:

2/10/16

By: 

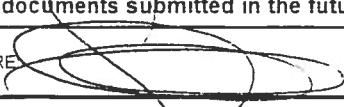
Stuart J. Alterman, Esquire
Attorney for Plaintiffs

UN

2-10-1

Mr. Payne

Appendix XII-B1

	CIVIL CASE INFORMATION STATEMENT (CIS) Use for initial Law Division Civil Part pleadings (not motions) under <i>Rule 4:5-1</i> Pleading will be rejected for filing, under <i>Rule 1:5-6(c)</i>, if information above the black bar is not completed or attorney's signature is not affixed		FOR USE BY CLERK'S OFFICE ONLY PAYMENT TYPE: ☐ CK ☐ CG ☐ CA CHG/CK NO.: AMOUNT: OVERPAYMENT: BATCH NUMBER:
	ATTORNEY / PRO SE NAME Stuart J. Alterman, Esquire		TELEPHONE NUMBER (856) 334-5737
	COUNTY OF VENUE Passaic		
	FIRM NAME (if applicable) Alterman & Associates, LLC		DOCKET NUMBER (when available)
	OFFICE ADDRESS 8 South Maple Avenue Marlton, New Jersey 08053		DOCUMENT TYPE Verified Complaint, OTSC
		JURY DEMAND ☐ YES ☒ NO	
NAME OF PARTY (e.g., John Doe, Plaintiff) Andrew Ridsen, Steven Mandarine, Hermogenes Jarin, Michal Rogalski, and Michael Ward, Plaintiffs		CAPTION Andrew Ridsen, Steven Mandarine, Hermogenes Jarin, Michal Rogalski, and Michael Ward vs Ocean Township	
CASE TYPE NUMBER (See reverse side for listing) 616		IS THIS A PROFESSIONAL MALPRACTICE CASE? ☐ YES ☒ NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53A-27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.	
RELATED CASES PENDING? ☐ YES ☒ NO		IF YES, LIST DOCKET NUMBERS	
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? ☐ YES ☒ NO		NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known) ☐ NONE ☒ UNKNOWN	
THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.			
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION			
DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? ☒ YES ☐ NO		IF YES, IS THAT RELATIONSHIP: ☒ EMPLOYER/EMPLOYEE ☐ FRIEND/NEIGHBOR ☐ OTHER (explain) ☐ FAMILIAL ☐ BUSINESS Coworkers	
DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? ☐ YES ☒ NO			
USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION			
 DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? ☐ YES ☒ NO		IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION	
WILL AN INTERPRETER BE NEEDED? ☐ YES ☒ NO		IF YES, FOR WHAT LANGUAGE?	
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with <i>Rule 1:38-7(b)</i> .			
ATTORNEY SIGNATURE 			



CIVIL CASE INFORMATION STATEMENT (CIS)

Use for initial pleadings (not motions) under Rule 4:5-1

CASE TYPES (Choose one and enter number of case type in appropriate space on the reverse side.)

Track I - 150 days' discovery

- 151 NAME CHANGE
- 175 FORFEITURE
- 302 TENANCY
- 399 REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 BOOK ACCOUNT (debt collection matters only)
- 505 OTHER INSURANCE CLAIM (including declaratory judgment actions)
- 506 PIP COVERAGE
- 510 UM or UIM CLAIM (coverage issues only)
- 511 ACTION ON NEGOTIABLE INSTRUMENT
- 512 LEMON LAW
- 801 SUMMARY ACTION
- 802 OPEN PUBLIC RECORDS ACT (summary action)
- 999 OTHER (briefly describe nature of action)

Track II - 300 days' discovery

- 305 CONSTRUCTION
- 509 EMPLOYMENT (other than CEPA or LAD)
- 599 CONTRACT/COMMERCIAL TRANSACTION
- 603N AUTO NEGLIGENCE - PERSONAL INJURY (non-verbal threshold)
- 603Y AUTO NEGLIGENCE - PERSONAL INJURY (verbal threshold)
- 605 PERSONAL INJURY
- 610 AUTO NEGLIGENCE - PROPERTY DAMAGE
- 621 UM or UIM CLAIM (includes bodily injury)
- 699 TORT - OTHER

Track III - 450 days' discovery

- 005 CIVIL RIGHTS
- 301 CONDEMNATION
- 602 ASSAULT AND BATTERY
- 604 MEDICAL MALPRACTICE
- 606 PRODUCT LIABILITY
- 607 PROFESSIONAL MALPRACTICE
- 608 TOXIC TORT
- 609 DEFAMATION
- 616 WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
- 617 INVERSE CONDEMNATION
- 618 LAW AGAINST DISCRIMINATION (LAD) CASES

Track IV - Active Case Management by Individual Judge / 450 days' discovery

- 156 ENVIRONMENTAL/ENVIRONMENTAL COVERAGE LITIGATION
- 303 MT. LAUREL
- 508 COMPLEX COMMERCIAL
- 513 COMPLEX CONSTRUCTION
- 514 INSURANCE FRAUD
- 620 FALSE CLAIMS ACT
- 701 ACTIONS IN LIEU OF PREROGATIVE WRITS

Centrally Managed Litigation (Track IV)

- | | |
|----------------------------------|--|
| 280 ZELNORM | 290 POMPTON LAKES ENVIRONMENTAL LITIGATION |
| 285 STRYKER TRIDENT HIP IMPLANTS | 291 PELVIC MESH/GYNECARE |
| 288 PRUDENTIAL TORT LITIGATION | 292 PELVIC MESH/BARD |

Mass Tort (Track IV)

- | | |
|---------------------------------------|--|
| 248 CIBA GEIGY | 281 BRISTOL-MYERS SQUIBB ENVIRONMENTAL |
| 266 HORMONE REPLACEMENT THERAPY (HRT) | 282 FOSAMAX |
| 271 ACCUTANE | 283 DIGITEK |
| 274 RISPERDAL/SEROQUEL/ZYPREXA | 284 NUVARING |
| 275 ORTHO EVRA | 286 LEVAQUIN |
| 277 MAHWAH TOXIC DUMP SITE | 287 YAZ/YASMIN/OCELLA |
| 278 ZOMETA/ARELIA | 601 ASBESTOS |
| 279 GADOLINIUM | |

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category ☐ Putative Class Action ☐ Title 59