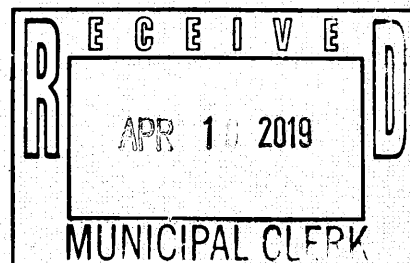


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KATE PROSCIA-BERGER,

Plaintiff

v.

TOWNSHIP OF BRANCHBURG,
BRANCHBURG POLICE DEPARTMENT,
LIEUTENANT PETER CRISAFULLI,
SERGEANT MANUEL CAMUNAS,
SERGEANT COREY FLOYD, SERGEANT
THOMAS MEOLA, JOHN DOES 1-10 and
ABC ENTITIES 1-10 (as yet
unknown and unidentified
supervisors, agents, or
employees or entities),

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: WARREN COUNTY
DOCKET NO.: WRN-L-0039-19

Civil Action

**AMENDED COMPLAINT AND JURY
DEMAND**

Plaintiff, KATE PROSCIA-BERGER, residing at 25 Plaza Road, in
the Township of Phillipsburg, County of Warren, and State of New
Jersey, by way of Complaint herein states:

RELEVANT FACTS

1. Plaintiff Kate Proscia-Berger ("Plaintiff") has been employed with the Branchburg Township Police Department since 2002 as a Police Officer.

2. At all times relevant hereto, Defendant Township of Branchburg ("Branchburg") was and still is a municipal entity organized and existing pursuant to the laws of the State of New Jersey, with a place of business located at 1077 U.S. Highway 202, North Branchburg, in the County of Somerset and State of New Jersey.

3. At all times relevant hereto, Defendant Branchburg Police Department ("Branchburg PD") was and still is an agency, department, or subdivision of Branchburg, organized and existing pursuant to the laws of the State of New Jersey, engaged in the hiring, training, and supervision of law enforcement officers, with a place of business located at 590 Old York Road, Branchburg, New Jersey.

4. At all times relevant hereto, Defendant Police Lieutenant Peter Crisafulli ("Defendant Crisafulli") was an employee of Branchburg PD and Branchburg.

5. At all times relevant hereto, Defendant Police Sergeant Manuel Camunas ("Defendant Camunas") was an employee of Branchburg PD and Branchburg.

6. At all times relevant hereto, Defendant Police Sergeant Corey Floyd ("Defendant Floyd") was an employee of Branchburg PD and Branchburg.

7. At all times relevant hereto, Defendant Police Sergeant Thomas Meola ("Defendant Meola") was an employee of Branchburg PD and Branchburg.

8. Plaintiff began her career with the Branchburg PD in or about January 2002.

9. Soon thereafter, and continuing to the present day, Plaintiff has been subjected to various and severe sexual comments and unwanted physical advances that have made compelled Plaintiff to work in a hostile work environment.

10. During the beginning of Plaintiff's tenure, she was placed on probationary status as is standard procedure, and Defendant Floyd was one of Plaintiff's Training Officers.

11. Defendant Floyd made sexual comments consistently which started almost immediately after Plaintiff's hire.

12. Defendant Floyd frequently asked Plaintiff whether she would engage in sexual relations with him, and also made many sexual comments about Plaintiff's figure.

13. Defendant Floyd would frequently tell Plaintiff about all of his "girlfriends" and his need for sex.

14. Despite Plaintiff's efforts to keep Defendant Floyd from asking such offensive and intrusive questions, his commentary did

not cease and he continued to subject Plaintiff to these inappropriate comments.

15. Defendant Floyd's behavior became exceedingly egregious as he sexually assaulted Plaintiff and made unwanted physical advances toward Plaintiff.

16. At one point, while Plaintiff and Defendant Floyd were on duty in a patrol car, Defendant Floyd reached over Plaintiff and began rubbing and massaging Plaintiff's crotch and vagina.

17. Plaintiff was speechless and felt completely frozen while Defendant Floyd violated her.

18. On another occasion, while both Plaintiff and Defendant Floyd were on duty, Defendant Floyd grabbed Plaintiff by her wrist and kissed her on the mouth with his tongue. Defendant Floyd also proceeded to grope Plaintiff all over her body, including her butt and crotch areas. These egregious violations and assaults were reported to fellow officers but never acted upon.

19. Several other employees of Branchburg PD also made many inappropriate comments to Plaintiff.

20. Defendant Crisafulli, originally a sergeant but later was promoted to lieutenant, was Plaintiff's supervisor at various points of her employment with Branchburg PD and in fact knew plaintiff since she was 14 years old when she was a Branchburg Police Explorer.

21. Defendant Crisafulli engaged in a continuous pattern and practice of sexual harassment. He was consistently flirtatious with Plaintiff and other women and frequently made comments about Plaintiff's looks and physique. He made further comments that Plaintiff was in his dreams and proceeded to detail those dreams to Plaintiff.

22. Defendant Crisafulli, also knew Plaintiff since she was 14 years old. He also frequently referenced past physical encounters that he had with Plaintiff despite her efforts to make him stop. Plaintiff felt the pressure of her supervisor holding her job future over him and frequently told her that the police department was their "Boys Club" and he was close with administration. Plaintiff repeatedly rebuffed his advances when he kissed her inside police headquarters, fondled her and tried to rub her back. He repeatedly told her that he was unhappy in his marriage and wanted to have sex with her even though he said he knew he was her supervisor.

23. Defendant Crisafulli's advances even after plaintiff became engaged to her husband when he advised her that he had a vasectomy he needed to have sex or be "jerked off". He stood in the doorway of the ladies locker room when he made those comments while touching himself in his genital area.

24. Defendant Crisafulli also asked plaintiff in the presence of others if she had sex with Sergeant Camunas.

25. Defendant Camunas also made sexual comments to Plaintiff and about Plaintiff to other employees of Branchburg PD.

26. On one occasion, after Plaintiff had walked by the office of a Lieutenant and Patrol Commander of Branchburg PD, Bill Halderman, in the presence of Halderman and Defendant Crisafulli, Defendant Camunas commented on Plaintiff's body, and further commented that she was a "nice piece of ass."

27. Plaintiff asked Defendant Camunas if he had made such a comment to Plaintiff's superiors, and Defendant Camunas was immediately terrified and eventually attempted to apologize to Plaintiff for making such a statement. When Defendant Camunas was asked by Plaintiff what was Halderman's reply, he indicated that he laughed and said "I didn't hear that".

28. On one occasion plaintiff went to confront Defendant Camunas as to whether he ever told Halderman or Defendant Crisafulli that she had sex with him. He denied saying it but then stated, "I knew you always wanted me baby."

29. Defendant Camunas later met with plaintiff and offered, with Crisafulli, to vote on her promotion if she didn't say anything to anyone because he was on probation and didn't want to lose his sergeant stripes. Plaintiff knew that her complaints would not be investigated because Halderman, Defendant Crisafulli and Defendant Camunas were close friends, traveled together, rode motorcycles together and had lunch and coffee every day together.

Upon information and belief none of her supervisors, Halderman, Crisafulli or Camunas reported any of this obvious sexual harassment.

30. Plaintiff had to further endure retaliation from Defendant Meola, a superior officer of Branchburg PD.

31. Plaintiff reported to Defendant Meola the various harassment and assault she had to endure.

32. Although Plaintiff thought Defendant Meola as a superior officer would take action and although Defendant Meola seemed upset when Plaintiff told him about the harassment she endured said nothing could be done because it was a "he said, she said" allegation. She also told him she was afraid of retaliation from the harassers. He never took action to report it further or conduct an investigation.

33. Defendant Meola, after hearing Plaintiff's accusations towards the other Defendants, falsely informed the Police Administration that Plaintiff had authored anonymous letters criticizing and slandering the Chief, knowing that the statements were false and did so to discredit the Plaintiff and further retaliate against her for her complaints.

34. Plaintiff has steadfastly stated that she did not produce nor create these anonymous letters and stated that from the beginning. When Plaintiff confronted Defendant Meola about whether

he made such a statement to administration he started to cry, claimed it was a lie and that the administration were cowards.

35. Plaintiff had to endure significantly more comments from her co-workers once the rumor was circulated that she was the author of the anonymous letters.

36. Plaintiff had to endure all of this harassment, assault, and discrimination throughout her employment, and still received glowing reviews throughout her 16-plus years.

37. Despite Plaintiff's consistently positive reviews, Plaintiff was passed for a promotion on occasions by other junior officers, who were male. She was told that the rumors spread about her right before the promotions were granted had worked against her and that the other officers did not like her.

38. Defendant Meola was one of the junior officers who would eventually receive a promotion instead of Plaintiff, despite her consistent and positive yearly reviews.

39. Defendant Floyd was also a sergeant and a superior officer to the plaintiff. He would repeatedly ask the plaintiff to accompany him to lunch. Plaintiff would bring her lunch to work to avoid having to have lunch with him. On one occasion Defendant Floyd showed a picture, on his phone, to the plaintiff of a yoga instructor posing provocatively and said how flexible she was and that he was going to be alone for the weekend because his wife and children were going to be away. He would repeatedly bring up his

multiple girlfriends and his need for sex. Plaintiff repeatedly told Defendant Floyd how uncomfortable the conversation made her and that she knew and respected his wife. Despite that warning Defendant Floyd continued his conduct.

40. The harassment continued in 2018 when plaintiff was assigned now Lieutenant Crisafulli as her direct supervisor of her new position of Services/Community Officer. This assignment was despite the numerous complaints that plaintiff made to her superiors regarding Crisafulli's conduct. During his supervision of her he repeatedly discussed his desire to have sex with her and described dreams he had of engaging in sex with her. He stated, "I just have to tell you I am so crushing on you. I can't get you out of mind." These comments created a further hostile work environment and victimized the plaintiff.

41. One of Plaintiff's female co-workers whom Plaintiff told about the harassment, assault, and discrimination, told Plaintiff that she was not surprised due to the male dominated culture, which operated as a "boys club."

42. On July 31, 2018 plaintiff was again passed over for promotion which was given to a junior officer. Plaintiff was advised by Sergeant Auleta, a female superior officer, who plaintiff had advised of her complaints and the actions of the named defendants, that the process for promotions is flawed and that she was bullied by Defendant Crisafulli to vote against

plaintiff for promotion. She told plaintiff that Defendant Crisafulli was furious at her for voting for Plaintiff and that her vote was a "fuck you" to the department. After hearing this plaintiff was overwhelmed with shock and emotion and she advised Auleta that the sexual harassing comments from Crisafulli were continuing. At that point plaintiff was advised by Auleta that the secretary had also complained about being sexually harassed by Defendant Crisafulli.

43. Plaintiff's harassment at the hands of the defendants happens every year as the Defendant Branchburg has a process by which someone can't be promoted unless voted on by the superior officers. This process is akin to a fraternity house on a college campus. Defendants methods of promotion are rife with discrimination and harassment. Despite Plaintiff's glowing reviews and praise for her performance she has never been able to get through the gauntlet set up by her harassers.

44. Plaintiff endured the sexual harassment, hostile work environment, retaliation, gender discrimination, failure to promote and assault and battery for far too long as she was afraid to continue to report to her superiors, who already knew and had witnessed the harassment, and face even further retaliation and degrading comments.

SECOND COUNT

CREATION OF A HOSTILE WORK ENVIRONMENT IN VIOLATION OF NJLAD,
10:5-1 et. seq.

58. Plaintiff repeats each and every allegation of the Complaint as if the same were set forth at length herein.

59. Defendant Floyd consistently made sexual comments to Plaintiff throughout her employment with Branchburg PD.

60. Defendant Crisafulli also made sexual comments to Plaintiff for most of her tenure with Branchburg PD.

61. Defendant Camunas implied to other co-workers that he had engaged in sexual relations with Plaintiff, and also frequently made sexual comments about Plaintiff's body and physique.

62. Defendant Meola retaliated against Plaintiff who advised him of the various harassment she had to endure by falsely claiming and spreading to other employees that Plaintiff had authored anonymous letters slandering other employees of Branchburg PD.

63. The harassing comments and conduct Plaintiff endured made her working environment hostile, abusive, and offensive.

64. As a direct and proximate result of the aforementioned comments and conduct of the Defendants, Plaintiff has suffered economic damages, severe emotional distress, and will continue to suffer damages including economic losses and emotional distress.

WHEREFORE, Plaintiff demands judgment against the Defendants, jointly and severally, for compensatory damages together with pre-

judgment interest, punitive damages, counsel fees, costs of suit and any other relief that the court deems to be just and reasonable.

THIRD COUNT

RETALIATION AND FAILURE TO PROMOTE IN VIOLATION OF NJLAD, 10:5-1 et. seq.

65. Plaintiff repeats each and every allegation of the Complaint as if the same were set forth at length herein.

66. Plaintiff reported to Defendant Meola about the various harassment and discrimination she faced while with Branchburg PD.

67. After Defendant Meola told Plaintiff he would look into her complaints, he instead informed the Police Administration, falsely, that Plaintiff was the one who had authored anonymous letters critiquing and slandering the Chief.

68. This retaliation resulted in Plaintiff facing further inappropriate and hostile comments from other employees of Branchburg PD.

69. This retaliation was done as a result of Plaintiff's status as a woman and the fact that she had confided in Defendant Meola and implicated other employees who Defendant Meola knew.

70. This retaliation was further evidenced by Defendants failure to promote Plaintiff and intentionally preventing her from advancing in the department.

71. The conduct of Defendants constitutes retaliation in violation of NJLAD, N.J.S.A. § 10:5-1 et seq.

72. As a direct and proximate result of the aforementioned comments and conduct of the Defendants, Plaintiff has suffered economic damages, severe emotional distress, and will continue to suffer damages including economic losses and emotional distress.

WHEREFORE, Plaintiff demands judgment against the Defendants, jointly and severally, for compensatory damages together with pre-judgment interest, punitive damages, counsel fees, costs of suit and any other relief that the court deems to be just and reasonable.

FOURTH COUNT

GENDER DISCRIMINATION IN VIOLATION OF NJLAD, 10:5-1 et. seq.

73. Plaintiff repeats each and every allegation of the Complaint as if the same were set forth at length herein.

74. Plaintiff had to endure sexual comments on a regular basis from several of her co-workers while employed with Branchburg PD.

75. Plaintiff endured an assault and battery which would not have occurred but for her status as a protected woman.

76. Plaintiff was passed by for promotions by junior officers who were not female on more than one occasion.

77. The comments Plaintiff endured were a result of her protected status as a woman.

78. The comments and conduct Plaintiff endured constitute invidious discrimination and harassment by Defendant towards

Plaintiff and therefore, constitutes a violation of NJLAD, N.J.S.A. § 10:5-1 et seq.

79. As a direct and proximate result of the aforementioned comments and conduct of the Defendants, Plaintiff has suffered economic damages, severe emotional distress, and will continue to suffer damages including economic losses and emotional distress.

WHEREFORE, Plaintiff demands judgment against the Defendants, jointly and severally, for compensatory damages together with pre-judgment interest, punitive damages, counsel fees, costs of suit and any other relief that the court deems to be just and reasonable.

FIFTH COUNT

ASSAULT AND BATTERY

80. Plaintiff repeats each and every allegation of the Complaint as if the same were set forth at length herein.

81. Defendants Floyd and Crisafulli committed assault and battery upon the Plaintiff, based on the unauthorized and non-consensual touching, kissing, and groping of the Plaintiff.

82. As a direct and proximate result of Defendant Floyd and Crisafulli's assault and battery upon the Plaintiff, the Plaintiff has suffered and will continue to suffer economic damages, severe emotional distress, economic loss, and mental uncertainty and anguish.

WHEREFORE, Plaintiff demands judgment against the Defendants, jointly and severally, for compensatory damages together with pre-judgment interest, punitive damages, counsel fees, costs of suit and any other relief that the court deems to be just and reasonable.

SIXTH COUNT

AIDING AND ABETTING AND RESPONDEAT SUPERIOR

83. Plaintiff repeats each and every allegation of the Complaint as if the same were set forth at length herein.

84. The Defendants, Branchburg PD and Branchburg, and JOHN DOES 1-10, were the superiors of and supervisory authority over the various Lieutenant and Sergeants Defendants.

85. Branchburg and Branchburg PD, as the employers of the various Lieutenant and Sergeants Defendants and JOHN DOES 1-10, are responsible for the actions and conduct of their employees.

86. Defendants knew or had reason to know of the conduct of their employees and failed to take any action in reporting, investigating and disciplining the responsible parties. Defendants also had reason to know of other woman being sexually harassed and the creation of a hostile work environment and failed to take action. Defendants have failed to perform their obligations as required by law.

87. As a direct and proximate result of the Defendants' actions, Plaintiff has suffered and will continue to suffer

economic damages, severe physical and emotional distress, economic loss, and mental uncertainty and anguish.

WHEREFORE, Plaintiff demands judgment against the Defendants, jointly and severally, for compensatory damages together with pre-judgment interest, punitive damages, counsel fees, costs of suit and any other relief that the court deems to be just and reasonable.

DEMAND FOR TRIAL BY JURY

Plaintiff hereby demands trial by jury as to all matter herein.

TRIAL DESIGNATION

Pursuant to R. 4:5-1, Alan Genitempo, Esq., is hereby designated as trial counsel for the within matter.

CERTIFICATION PURSUANT TO R. 4:5-1

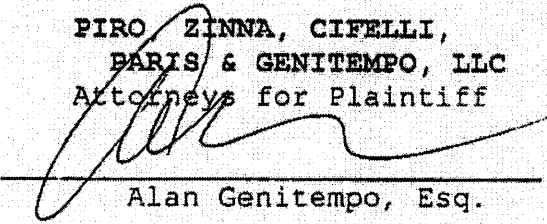
I certify, pursuant to R. 4:5-1, that the matter in controversy is not the subject of any other action or arbitration proceeding, now or contemplated, and that no other parties should be joined in this action at this time.

DEMAND FOR INSURANCE INFORMATION

Pursuant to R. 4:10(b), demand is hereby made that Defendants disclose to Plaintiff's attorney whether 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 and provide Plaintiff's attorney with true copies of such insurance agreements or policies including, but not limited to,

any and all declaration sheets. This demand shall be deemed to include and cover not only primary coverage but also any and all excess, catastrophe and umbrella policies.

PIRO, ZINNA, CIFELLI,
PARIS & GENITEMPO, LLC
Attorneys for Plaintiff

BY: 

Alan Genitempo, Esq.

Dated: March 13, 2019

