

Joshua F. McMahon, Esq. – NJAID 043282005
 Schiller McMahon LLC
 123 South Avenue East
 Westfield, New Jersey 07090
 P: (908) 233-4840
 F: (908) 935-0822
 Attorneys for Plaintiffs, M.B.,
 J.M. and S.K.¹

M.B., J.M., and S.K.,

Plaintiffs,

v.

CITY OF PLAINFIELD, JOHN/JANE DOE 1-10,
 and ABC CORPORATIONS 1-10,

Defendants.

SUPERIOR COURT OF NEW ERSEY
 LAW DIVISION: UNION COUNTY

DOCKET NO.: UNN-L-

Civil Action

COMPLAINT and JURY DEMAND

COMPLAINT

Plaintiffs, M.B., J.M., and S.K. (collectively referred to as “Plaintiffs”), by and through their attorneys, Schiller McMahon LLC, by way of this Complaint and Jury Demand, seeks compensatory damages, punitive damages, injunctive and declaratory relief, attorneys’ fees, and costs of suit from Defendants, and allege as follows:

NATURE OF ACTION

1. This is a civil action for damages and injunctive relief by Plaintiffs against their employer, the City of Plainfield (hereafter “Defendant”), and more specifically, the Plainfield Police Division (hereafter “PPD”), for violations of the *New Jersey Law Against Discrimination* (hereafter “LAD”), codified at *N.J.S.A. 10:5-1 et seq.*

¹ Due to the highly sensitive sexual nature of the allegations, Plaintiffs have abbreviated their initials as permitted by Court Rules; however, Defendant City is aware of the identity of each Plaintiff.

2. Plaintiffs are highly decorated, veteran Police Officers in one of the most violent, crime-ridden and gang-populated jurisdictions in all of New Jersey—the City of Plainfield.

3. Plaintiffs—whom are constitutionally charged with detecting, investigating, arresting and aiding the prosecution of offenders of the law—primarily focus on policing the most dangerous and heavily-armed, violent street gangs and racketeering organizations, such as MS-13, Bloods, Crips and Latin Kings, as well as all manner of narcotics interdiction, ranging from open-air drug markets to electronic-based investigations of more sophisticated narcotics traffickers.

4. Plaintiffs daily employment duties, when compared to the average citizen, are extraordinarily dangerous.

5. All Plaintiffs, in the course of their duties, have suffered brutally violent attacks against them, including, but not limited to, running-gun battles with dangerous gang members and the attempted murder (by shooting) of police officers. This is not an experience most human beings, or even the vast majority of police officers, will ever experience.

6. Sadly, these well-trained, highly-respected, and very experienced police officers, already engaged in an incredibly stressful line of work, also fell prey to a rogue supervisor who engaged in unlawful and discriminatory racial and sexual misconduct against these Officers, because Defendant failed to act or acted in such a way as to allow same.

JURISDICTION AND VENUE STATEMENT

7. This is an action for damages arising out of one or more violations of state law.

8. This Court has jurisdiction over this action in that Defendants are subject to personal

jurisdiction in the State of New Jersey, the events giving rise to the Complaint occurred within the County of Union, and Defendant City of Plainfield is a public body and employer located in Union County, with the Plainfield Police Division being a subsidiary or arm of same.

9. Plaintiffs have retained Schiller McMahon LLC to represent their interests in prosecuting this action, and said law firm is entitled to their reasonable attorneys' fees and costs incurred in connection therewith.

PARTIES

10. At all relevant times hereto, Plaintiff M.B. is an employee of Defendant within the meaning of the LAD. M.B. is an African-American male.

11. At all relevant times hereto, Plaintiff J.M. is an employee of Defendant within the meaning of the LAD. J.M. is a Caucasian male.

12. At all relevant times hereto, Plaintiff S.K. is an employee of Defendant within the meaning of the LAD. S.K. is an African-American male.

13. At all times relevant hereto, Defendant CITY OF PLAINFIELD is a municipal subdivision of the State, and the PLAINFIELD POLICE DIVISION is an arm of the City located at 200 E. 4th Street, Plainfield, NJ 07060.

14. Defendants ABC CORPORATIONS 1 through 10 are fictitious corporations meant to represent affiliates, associates and/or Agents of the CITY OF PLAINFIELD who have been involved in the conduct that gives rise to this Complaint, but are heretofore unknown to Plaintiff at the present time. As these defendants are identified, Plaintiff shall amend the Complaint to include their known identities where appropriate.

15. Defendants JOHN/JANE DOES 1 through 10 are gender-neutral, fictitious individuals meant to represent affiliates, associates, and/or agents of the CITY OF PLAINFIELD who have

been involved in the conduct that gives rise to this Complaint, but are heretofore unknown to Plaintiff at the present time. As these defendants are identified, Plaintiff shall amend the Complaint to include their known identities where appropriate.

16. In addition to being sued individually and in their official capacities, said defendants are being sued and judgment is sought against them jointly and severally.

FACTUAL ALLEGATIONS

A. Background

17. At all times relevant hereto, Plaintiffs were employees of the Defendant, working as PPD Detectives, assigned to the Narcotics/Vice Section of the PPD.

18. At all times relevant hereto, Plaintiffs were subordinates to one Michael Caspersen, a Caucasian, former PPD Lieutenant, who at all times relevant hereto was a superior and/or supervisor of all Plaintiffs in their assignment to the Narcotics/Vice Section of the PPD.

19. On or between approximately January 2017 and February 2018, Caspersen was re-assigned to Narcotics and supervised all Plaintiffs.

20. Prior to being re-assigned to Narcotics, PPD was well aware of Caspersen's predilection for unlawful computer access and activity as it relates to PPD employees.

21. For example, Caspersen was investigated for downloading an image of Lieutenant Jeffrey Plum onto every single computer in the main building of the PPD.

22. This conduct, in a para-military organization, completely eradicates chain of authority and command, damages morale, and undermines rank.

23. LT Plum complained that Caspersen was creating a hostile work environment due to his harassment of Plum and others.

24. A "mediation" was held involving LT Plum, Caspersen and others whereupon Plum

was advised by Superiors to “let it go” and Caspersen suffered zero consequences or discipline for his harassment.

25. Caspersen receiving no punishment was well-known throughout the PPD and was utilized by Caspersen as evidence that he had “dirt” on people and was “untouchable”.

26. All Plaintiffs were acutely aware of this investigation and the total lack of accountability for Caspersen.

27. Upon arrival in Narcotics, Caspersen would let it be known to Plaintiffs and others that Caspersen had “dirt” on PPD “higher-ups” that prevented Caspersen from being held accountable for any misconduct. Specifically, Caspersen made references to having information related to a former Lieutenant, Craig Venson, and other high-ranking officials, some of whom Caspersen would refer to by their first names to indicate a connection and/or influence and/or power over same, that rendered Caspersen “untouchable”.

B. North American Man Boy Love Association (NAMBLA)

28. In the Winter of 2017, Caspersen went to J.M.’s work desk in the Narcotics Division. J.M. was not present.

29. Caspersen proceeded to access J.M.’s work computer and proceed to a website referred to as NAMBLA, which is an acronym for the North American Man/Boy Love Association. NAMBLA is widely-known, especially in law enforcement circles, as a pedophile-associated web domain utilized by child sexual predators to sexually assault children.

30. Caspersen then downloaded an image of an elderly Caucasian male, who was wearing a Santa Klaus costume with a pre-pubescent, unclothed (save white, skin-tight underwear), young boy sitting on Santa Klaus’ lap.

31. Caspersen downloaded said image onto J.M.’s assigned work-computer, thereby

jeopardizing J.M. from either Administrative, or worse, possibly criminal, consequences for utilizing Government property to access pedophile websites and downloading potential child pornography onto police computers.

32. M.B. observed Caspersen engaged in the aforementioned web perusing and downloading, and, again, advised Caspersen to cease his conduct, which he did not, because, as he alluded, he (Caspersen) was “untouchable”.

33. J.M. returned to the Narcotics Division and was visibly distraught.

34. J.M. confronted Caspersen but Caspersen, while admitting to J.M. he (Caspersen) was responsible for downloading and placing said image on J.M.’s computer, stated that he would simply deny doing same if he was reported and/or confronted.

35. Again, Caspersen had near total control and domination of Plaintiffs professional lives—when they worked; where they worked; the conditions they worked; and, as noted above, Plaintiffs are Narcotics detectives in a dangerous City, thereby heightening the danger behind Caspersen’s threats of retaliation against anyone who reported and/or confronted him. Caspersen simply reiterated to J.M., Plaintiffs and others that he was “untouchable” because of the “information” he had on “higher-ups”, as well as Plaintiff’s independent knowledge of Caspersen escaping prior discipline or accountability for previous, well-known bad acts.

36. This situation was especially difficult for J.M., because Caspersen, throughout his entire tenure in Narcotics (approximately 01/17-02/18), would deride, tease and verbally abuse J.M., because he was unmarried and did not have children, insinuating that he was “homosexual,” despite J.M. not being homosexual.

37. The entire Narcotics Division witnessed the NAMBLA Santa Klaus photo on J.M.’s computer, as it remained there for a period of weeks.

C. Illegal Computer Searches/“Tranny” Photos on Police Computers

38. In the Winter of 2017 into the Spring of 2017, Caspersen would repeatedly, without authorization, access M.B.’s PPD work computer and repeatedly download images of scantily-clad, transsexual, African-American men on M.B.’s desktop.

39. M.B. would delete the image and a short time later, Caspersen would access and download another image.

40. Caspersen did same and bragged to same amongst other Narcotics Detectives, including Plaintiffs. Caspersen is also aware that M.B. has friends who are homosexual and that these images were deliberately targeted towards M.B. because he is single, unmarried and socializes with non-heterosexuals.

41. Again, M.B. expressed fear about improper computer and internet access and pornography on his computer, but Caspersen reiterated his connections, leverage over superiors, and that he would deny the conduct.

42. It is unknown and unclear whether Defendant PPD ever secured said devices to conduct a proper forensic examination of same.

D. Illegal Computer Use/Tila Tequila “Porn” Movies on Police Computers

43. On or about October through December 2017, M.B. was in the Narcotics Division when Caspersen approached J.M.’s computer and advised M.B. that he was not previously aware that Tila Tequila was an adult-film, or pornography, star.

44. Caspersen proceeded to unlawfully access J.M.’s computer, proceed to a pornographic website, and play a pornographic movie of Tila Tequila engaged in anal sex.

45. Caspersen proceeded to watch said movie on J.M.’s computer, repeatedly

requesting M.B. and other Narcotics members to watch the pornography on J.M.'s work computer while J.M. was not present. The other members demurred to watch.

46. When J.M. returned from being away, he was advised that Caspersen was downloading and watching additional pornography and was, again, visibly distraught because J.M. was scared and fearful that he would get into trouble for having illegally accessed websites and downloading illegal content on his work computer.

47. M.B. assured J.M. that if J.M. were ever confronted regarding same, M.B. would testify truthfully as to the offender.

48. Again, it is unknown and unclear whether Defendant PPD ever secured said devices to conduct a proper forensic examination of same.

E. Gay Porn/Erect Penis Pictures on Police Work Phones

49. On or about January 21, 2018, Caspersen responded to the common area of the Narcotics Division and took possession of S.K.'s work phone. S.K. was not present in the Office at that time.

50. At that time, Caspersen searched the internet on S.K.'s phone for "big penis gay" and other homophobic, non-work-related search terms and downloaded an image of a fully erect Caucasian penis onto S.K.'s work phone.

51. Upon observing the erect Caucasian penis on his work phone, S.K. was distraught, in fear that he would be in serious trouble for pornography being on his work device.

52. At this time, S.K. was unaware of who downloaded the image and began inquiring of other Detectives. M.B., witnessing S.K. was upset, as well as scared, immediately advised him when they interacted that M.B. personally witnessed Caspersen download said image, as Caspersen had told M.B. he was downloading a "big white gay penis" onto S.K.'s phone. M.B.,

again, verbally advised Caspersen not to download the image, reminded same he was on the Captain's list, but Caspersen indicated, as was his modus operandi, that he would deny same and was nevertheless "untouchable" because of the information he had on "higher-ups".

53. S.K. conferred with his girlfriend and the couple was very upset as to the risk that this conduct placed S.K. and how it would adversely impact them and their family if the image was ever viewed by anyone on S.K.'s phone.

54. Within 24-48 hours, S.K. began receiving calls from Caspersen, whereupon Caspersen personally advised S.K. he was responsible but warned S.K. to not open his mouth, and emphasized in a loud, and threatening, manner that Caspersen would deny doing anything wrong and S.K. could lose his job as a result of gay pornography being on S.K.'s work phone. Caspersen repeatedly told S.K. to "shut up" or "keep [his] mouth shut".

55. Caspersen advised S.K. not to worry because Caspersen used to be assigned to the Union County Prosecutor's Office—Homicide Task Force and that he was intimately familiar with uncovering and/or covering of evidence as it relates to cellular devices. This caused S.K. to have greater fear because Caspersen was advising S.K. that he had technological superiority that could prevent his capture and/or cause someone else to be blamed for his (Caspersen's) conduct.

56. Caspersen continued to scream at S.K. and told him he would collect S.K.'s phone later in the day to wipe or reset the phone. Caspersen then abruptly hung up the phone on S.K..

57. Later, Caspersen physically confronted S.K. and demanded S.K. produce his phone to Caspersen. S.K., in the presence of his fellow Detectives, refused, and stayed amongst his fellow Detectives to protect him from Caspersen, due to the presence of additional witnesses, the remainder of said day.

F. Psychologically and Verbally Tormenting Narcotics Detectives

58. Caspersen would often utilize various psychological and verbal techniques as stressors against Plaintiffs.

59. For example, M.B. was referred to as “Vince,” a retired African-American janitor and long-time employee of the PPD. Caspersen would derogatorily refer to M.B. as “Vince” and state to M.B. in front of his peers that “you used to be a great cop, now you’re nothing but a garbage man,” so as to embarrass and humiliate M.B..

60. On other occasions, Caspersen would target other, junior African-Americans, including a young, but highly- respected Narcotics Detective named Pierre McCall (“McCall”), who happens to be an African-American male. As a result of Caspersen’s conduct, McCall came to have such fear and concern regarding Caspersen that, prior to the execution of a high-risk, felony search warrant, McCall learned that his Sergeant was not going to be present at the time of the execution of said warrant. Fearing that Caspersen—who routinely indicated that he was only concerned with his own promotion and not the welfare of his men—would jeopardize their safety, the case Detective, McCall, elected to delay the warrant execution until their Sergeant, who all members of the Unit held in the utmost regard, returned, so as to ensure their safety.

61. In short, the PPD Narcotics officers lost faith in Caspersen’s ability to competently and safely protect the citizens and cops.

62. Upon learning that McCall intended to delay the search warrant raid, Caspersen summoned McCall and proceeded to verbally berate, humiliate and abuse McCall in a manner and utilizing words that Plaintiffs and other Detectives felt was very disturbing. Plaintiffs and others personally were aware that Caspersen told McCall that none of the Narcotics detectives well-being was his (Caspersen’s) concern, that he (Caspersen) was close to promotion and retirement, and

that he (Caspersen) did not care about their (the other Detectives, including Plaintiffs) “personal well-being”.

63. Following Caspersen’s attack of McCall, Plaintiff observed McCall visibly distraught, and witnessed pronounced damage to McCall’s morale, due to Caspersen’s mistreatment of same.

64. Caspersen, aside from referring to J.M. and M.B. as “homosexuals” and S.K. as “stupid” or “bitch” also conducted himself in a manner that harmed others, including the Sergeant assigned to said unit, who did his very best to protect and insulate the Detectives, but was himself subject to threats, fear of retaliation, and completely overburdened because same was essentially operating as both a Sergeant and a Lieutenant, covering virtually all of the duties of both positions, but scared to take action against a Superior Officer because same had warned what would happen to anyone that was a “rat”—specifically, nothing would happen to Caspersen because he had information on “higher-ups” but there would be retaliation.

65. Caspersen also had a fascination with transsexuals and excessively targeted S.K. to play the role of a transexual decoy, despite same making S.K. very uncomfortable and Caspersen being aware of the discomfort same caused S.K..

66. Caspersen further made sure to make it known at PPD that only S.K. would be required to assume the role of Transexual, despite S.K.’s visible discomfort with same.

67. Further, Caspersen’s well-known prior incidents, and the subsequent non-discipline for same, cemented Plaintiffs and their immediate supervisor’s view that Caspersen was, in fact, “untouchable”.

G. Other Incidents of Hostility, Harassment and Abuse: False Fire Alarms, Vape Pens, Fire Extinguishers and Airhorns

68. At or around January 2017, Caspersen, despite PPD having knowledge of other past

issues involving Caspersen, was transferred to the Narcotics Unit, where Caspersen had day-to-day, paramilitary, operational-control over Plaintiffs, including the level of danger each was placed on a daily or hourly basis.

69. Caspersen partook in what is commonly known as “vaping”.

70. Caspersen would intentionally blow “vape” smoke in Plaintiffs faces after advising them that he was sick from his children, which Plaintiffs were able to visually observe. This in fact caused one or more Plaintiffs to get sick and miss work.

71. During the same time frame, Caspersen, on a separate occasion, blew so much Vape smoke that the building fire alarm was set off, causing the Plainfield Fire Department to respond to the Narcotics Division. Caspersen fled the Narcotics Division just before the arrival of the Plainfield Fire Department personnel.

72. Also, during Caspersen’s initial return to Narcotics, he unlawfully deployed the contents of a fire extinguisher on M.B. and J.M., causing J.M. to ingest the chemicals and contents of the fire extinguisher. Said City property, which Caspersen unlawfully utilized, was to be utilized for either fires and/or to de-escalate and prevent violence to persons and/or animals during search warrant executions or other dangerous situations. J.M. suffered from respiratory issues for approximately one (1) week as a result of ingesting fire extinguisher chemicals.

73. Similarly, Caspersen would sneak up on Plaintiffs and others and utilize an “air horn” to scare and shock Plaintiffs who were performing official police duties. Said “air horns” were deployed dangerously close to Plaintiffs ears without forewarning, permission or any concern for damaging Plaintiffs hearing.

74. After each of these incidents, Plaintiffs would request that Caspersen ceased his

conduct, reminding him that he was pending promotion to Captain, and to stop the hostility and abuse towards same. Caspersen would simply advise them that he was untouchable and Plaintiffs feared taking any other action because Plaintiffs were aware that PPD was aware of Caspersen's actions but had failed to take action, thereby causing Plaintiffs to believe that perhaps Caspersen was a "protected" or "untouchable" person.

CAUSES OF ACTION

COUNT ONE

VIOLATION OF N.J.S.A. 10:5-1 *et seq.* (Law Against Discrimination- Hostile Work Environment) (All Defendants)

75. Plaintiffs re-allege and re-aver each and every allegation set forth in the preceding paragraphs as if set forth fully herein.

76. Defendants' actions are in violation of the *New Jersey Law Against Discrimination* ("LAD"), N.J.S.A. 10:5-1 *et seq.*

77. Defendant's actions against Plaintiffs created a hostile work environment against Plaintiffs because of their gender and/or race and/or sexual orientation, in violation of the New Jersey Law Against Discrimination, codified at N.J.S.A. 10:5-1 *et seq.* Defendant's actions were neither invited nor lawful.

78. Defendant's complained of conduct would not have occurred but for Plaintiffs' gender, race and/or perceived sexual orientation. Defendant's conduct was so clearly severe and pervasive enough to make a reasonable person believe that the conditions of employment were altered and the working environment was hostile or abusive.

79. Despite notice to PPD of Caspersen's unlawful conduct, Defendant took no action with regard to ceasing these activities.

80. Defendant's acts and/or failures to act constitute a severe, pervasive and/or continuing-

course of conduct in violation of LAD.

81. As a result, Plaintiffs' statutory rights have been violated and their protections under the law violated.

82. Plaintiffs are entitled to damages (compensatory, punitive and otherwise), declaratory and injunctive relief, attorney's fees and expenses, and any other relief the Court deems appropriate, because the foregoing actions were knowing, willful and deliberate violations of law and deprivations of Plaintiffs' statutory and civil rights.

COUNT TWO
VIOLATION OF N.J.S.A. 10:5-1 *et seq.*
(Law Against Discrimination- Retaliation)
(All Defendants)

83. Plaintiffs re-allege and re-aver each and every allegation set forth in the preceding paragraphs as if set forth fully herein.

84. Defendants' actions are in violation of the *New Jersey Law Against Discrimination* ("LAD"), *N.J.S.A. 10:5-1 et seq.*

85. Defendant's actions against Plaintiffs, including those enumerated above, constitute retaliation against Plaintiffs as a result of Plaintiffs' [protected activities in violation of the LAD.

86. Defendants' actions against Plaintiffs outlined above include but are not limited to a hostile work environment and a change to the terms and conditions of employment including but not limited to Caspersen threatening Plaintiffs and others to not report his unlawful conduct or face retaliation from Caspersen, including Caspersen threatening that he has information or material involving PPD superiors that would result in Caspersen being "protected" and Plaintiffs being disbelieved and punished for being "rats", as well as other hostile and abusive conduct.

87. Despite notice to PPD of Caspersen's unlawful conduct and other issues, Defendant took no action with regard to ceasing these activities.

88. Defendant's acts and/or failures to act constitute a severe, pervasive and/or continuing-course of conduct in violation of LAD.

89. As a result, Plaintiffs' statutory rights have been violated and their protections under the law violated.

90. Plaintiffs are entitled to damages (compensatory, punitive and otherwise), declaratory and injunctive relief, attorney's fees and expenses, and any other relief the Court deems appropriate, because the foregoing actions were knowing, willful and deliberate violations of law and deprivations of Plaintiffs' statutory and civil rights.

PRAYER FOR RELIEF

91. WHEREFORE, Plaintiff demands judgment against Defendants as follows:

- a. Awarding Plaintiffs damages, including, but not limited to, equitable, punitive, and compensatory damages including but not limited to non-economic damages for emotional distress, any statutory fines, compensation for the adverse tax consequences of a lump sum award, together with both pre-judgment and post judgment interests and attorneys' fees and costs, as well as any enhancements pursuant to case law, and costs of court;
- b. For equitable relief including but not limited to protection by the Court with respect to any retaliatory actions by Defendant and its agents against Plaintiffs';
- c. For an Order of the Court retaining jurisdiction over this action until Defendant has fully complied with the Orders of this Court, and that the Court

require Defendant to file such reports as may be necessary to supervise such compliance; and

- d. For such other, further, additional and different relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury of all issues so triable under the law.

DESIGNATION OF TRIAL COUNSEL

Plaintiff designates the undersigned as trial counsel.

RESERVATION OF RIGHTS

Plaintiff reserves the right to file such specific amendments and/or additional claims as are applicable hereinafter to this action and/or as the same are subsequently discovered.

DEMAND FOR PRODUCTION OF INSURANCE AGREEMENTS

Pursuant to Rule 4:10-2(b), demand is hereby made that you disclose to the undersigned whether there are any insurance agreements or policies under which any person or firm carrying on an insurance business may be liable to satisfy all or part of a judgment, which may be entered in the action or to indemnify or reimburse for payment made to satisfy the judgment. If so, attached a copy of each, or in the alternative state, under oath and certification, the (a) policy number; (b) name and address of the insurer; (c) inception and expiration date; (d) names and addresses of all persons insured thereunder; (e) personal injury limits; (f) property damage limits; and (g) medical payment limits.

RESERVATION OF RIGHTS

Plaintiff reserves the right to file such specific amendments and/or additional claims as are applicable hereinafter to this section and/or as the same are subsequently discovered.

CERTIFICATION IN ACCORDANCE WITH COURT RULE 4:5-1

I certify that the matter in controversy is not the subject of any other court action or arbitration proceeding and no such action or proceeding is contemplated. I know of no other party who should be joined in this action.

Respectfully submitted,

SCHILLER MCMAHON LLC
Attorneys for Plaintiffs

/s/ Joshua F. McMahon

Joshua F. McMahon
Schiller McMahon LLC
123 South Avenue East, 2nd Fl.
Westfield, New Jersey 07090
Attorneys for Plaintiffs

Dated: December 12, 2019

