

Attorney(s) Charles J. Sciarra, Esq.
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Telephone Number (973) 242-2442
Attorney(s) for Plaintiff Marlowe Botti

MARLOWE BOTTI

Plaintiff(s)

Vs.
BOROUGH OF WEST LONG BRANCH, BOROUGH OF
WEST LONG BRANCH POLICE DEPARTMENT, ET AL.
Defendant(s)

Superior Court of New Jersey

Monmouth ☒ COUNTY
LAW DIVISION

Docket No: 3327-12

CIVIL ACTION SUMMONS

From The State of New Jersey To The Defendant(s) Named Above:

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (The address of each deputy clerk of the Superior Court is provided.) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, P.O. Box 971, Trenton, NJ 08625-0971. A filing fee payable to the Treasurer, State of New Jersey and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee of \$135.00 and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live or the Legal Services of New Jersey Statewide Hotline at 1-888-LSNJ-LAW (1-888-576-5529). A list of these offices is provided. If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A list of these numbers is also provided.

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Jennifer M. Perez,
Clerk of the Superior Court

DATED: 08/20/2012

Name of Defendant to Be Served: Borough of West Long Branch + Borough of West Long Branch
Address of Defendant to Be Served: 965 Broadway, West Long Branch, NJ 07764

NOTE: The Case Information Statement is available at www.njcourts.com.

Directory of Superior Court Deputy Clerk's Offices County Lawyer Referral and Legal Services Offices

ATLANTIC COUNTY:

Deputy Clerk of the Superior Court
Civil Division, Direct Filing
1201 Bacharach Blvd., First Fl.
Atlantic City, NJ 08401

LAWYER REFERRAL

(609) 345-3444

LEGAL SERVICES

(609) 348-4200

BERGEN COUNTY:

Deputy Clerk of the Superior Court
Civil Division, Room 115
Justice Center, 10 Main St.
Hackensack, NJ 07601

LAWYER REFERRAL

(201) 488-0044

LEGAL SERVICES

(201) 487-2166

BURLINGTON COUNTY:

Deputy Clerk of the Superior Court
Central Processing Office
Attn: Judicial Intake
First Fl., Courts Facility
49 Rancocas Rd.
Mt. Holly, NJ 08060

LAWYER REFERRAL

(609) 261-4862

LEGAL SERVICES

(800) 496-4570

CAMDEN COUNTY:

Deputy Clerk of the Superior Court
Civil Processing Office
Hall of Justice
1st Fl., Suite 150
101 South 5th Street
Camden, NJ 08103

LAWYER REFERRAL

(856) 964-4520

LEGAL SERVICES

(856) 964-2010

CAPE MAY COUNTY:

Deputy Clerk of the Superior Court
9 N. Main Street
Cape May Court House, NJ 08210

LAWYER REFERRAL

(609) 463-0313

LEGAL SERVICES

(609) 465-3001

CUMBERLAND COUNTY:

Deputy Clerk of the Superior Court
Civil Case Management Office
60 West Broad Street
P.O. Box 10
Bridgeton, NJ 08302

LAWYER REFERRAL

(856) 696-5550

LEGAL SERVICES

(856) 691-0494

ESSEX COUNTY:

Deputy Clerk of the Superior Court
Civil Customer Service
Hall of Records, Room 201
465 Dr. Martin Luther King Jr. Blvd.
Newark, NJ 07102

LAWYER REFERRAL

(973) 622-6204

LEGAL SERVICES

(973) 624-4500

GLOUCESTER COUNTY:

Deputy Clerk of the Superior Court
Civil Case Management Office
Attn: Intake
First Fl., Court House
1 North Broad Street
Woodbury, NJ 08096

LAWYER REFERRAL
(856) 848-4589
LEGAL SERVICES
(856) 848-5360

HUDSON COUNTY:

Deputy Clerk of the Superior Court
Superior Court, Civil Records Dept.
Brennan Court House--1st Floor
583 Newark Ave.
Jersey City, NJ 07306

LAWYER REFERRAL
(201) 798-2727
LEGAL SERVICES
(201) 792-6363

HUNTERDON COUNTY:

Deputy Clerk of the Superior Court
Civil Division
65 Park Avenue
Flemington, NJ 08822

LAWYER REFERRAL
(908) 735-2611
LEGAL SERVICES
(908) 782-7979

MERCER COUNTY:

Deputy Clerk of the Superior Court
Local Filing Office, Courthouse
175 S. Broad Street, P.O. Box 8068
Trenton, NJ 08650

LAWYER REFERRAL
(609) 585-6200
LEGAL SERVICES
(609) 695-6249

MIDDLESEX COUNTY:

Deputy Clerk of the Superior Court,
Middlesex Vicinage
2nd Floor - Tower
56 Paterson Street, P.O. Box 2633
New Brunswick, NJ 08903-2633

LAWYER REFERRAL
(732) 828-0053
LEGAL SERVICES
(732) 249-7600

MONMOUTH COUNTY:

Deputy Clerk of the Superior Court
Court House
P.O. Box 1269
Freehold, NJ 07728-1269

LAWYER REFERRAL
(732) 431-5544
LEGAL SERVICES
(732) 866-0020

MORRIS COUNTY:

Morris County Courthouse
Civil Division
Washington and Court Streets
P. O. Box 910
Morristown, NJ 07963-0910

LAWYER REFERRAL
(973) 267-5882
LEGAL SERVICES
(973) 285-6911

OCEAN COUNTY:

Deputy Clerk of the Superior Court
118 Washington Street, Room 121
P.O. Box 2191
Toms River, NJ 08754-2191

LAWYER REFERRAL
(732) 240-3666
LEGAL SERVICES
(732) 341-2727

PASSAIC COUNTY:

Deputy Clerk of the Superior Court
Civil Division
Court House
77 Hamilton Street
Paterson, NJ 07505

LAWYER REFERRAL

(973) 278-9223
LEGAL SERVICES
(973) 523-2900

SALEM COUNTY:

Deputy Clerk of the Superior Court
Attn: Civil Case Management Office
92 Market Street
Salem, NJ 08079

LAWYER REFERRAL

(856) 935-5629
LEGAL SERVICES
(856) 451-0003

SOMERSET COUNTY:

Deputy Clerk of the Superior Court
Civil Division
P.O. Box 3000
40 North Bridge Street
Somerville, N.J. 08876

LAWYER REFERRAL

(908) 685-2323
LEGAL SERVICES
(908) 231-0840

SUSSEX COUNTY:

Deputy Clerk of the Superior Court
Sussex County Judicial Center
43-47 High Street
Newton, NJ 07860

LAWYER REFERRAL

(973) 267-5882
LEGAL SERVICES
(973) 383-7400

UNION COUNTY:

Deputy Clerk of the Superior Court
1st Fl., Court House
2 Broad Street
Elizabeth, NJ 07207-6073

LAWYER REFERRAL

(908) 353-4715
LEGAL SERVICES
(908) 354-4340

WARREN COUNTY:

Deputy Clerk of the Superior Court
Civil Division Office
Court House
413 Second Street
Belvidere, NJ 07823-1500

LAWYER REFERRAL

(973) 267-5882
LEGAL SERVICES
(908) 475-2010

MONMOUTH COUNTY
SUPERIOR COURT
PO BOX 1269
FREEHOLD

NJ 07728

COURT TELEPHONE NO. (732) 677-4240
COURT HOURS

TRACK ASSIGNMENT NOTICE

DATE: AUGUST 08, 2012
RE: BOTTI VS BOROUGH OF WEST LONG BRANCH ETAL
DOCKET: MON L -003327 12

THE ABOVE CASE HAS BEEN ASSIGNED TO: TRACK 3.

DISCOVERY IS 450 DAYS AND RUNS FROM THE FIRST ANSWER OR 90 DAYS
FROM SERVICE ON THE FIRST DEFENDANT, WHICHEVER COMES FIRST.

THE PRETRIAL JUDGE ASSIGNED IS: HON JOSEPH P. QUINN

IF YOU HAVE ANY QUESTIONS, CONTACT TEAM 001
AT: (732) 677-4262 EXT 4262.

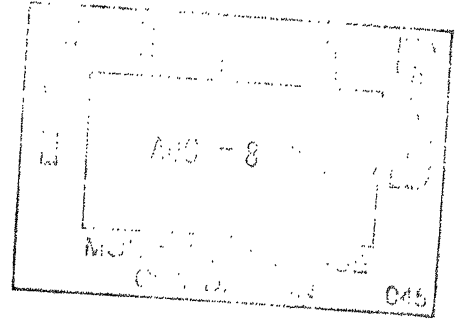
IF YOU BELIEVE THAT THE TRACK IS INAPPROPRIATE YOU MUST FILE A
CERTIFICATION OF GOOD CAUSE WITHIN 30 DAYS OF THE FILING OF YOUR PLEADING.
PLAINTIFF MUST SERVE COPIES OF THIS FORM ON ALL OTHER PARTIES IN ACCORDANCE
WITH R.4:5A-2.

ATTENTION:

ATT: CHARLES J. SCIARRA
SCIARRA & CATRAMBONE
1130 CLIFTON AVE STE 3
CLIFTON NJ 07013

JUNVILL

Sciarra & Catrambone, LLC
Matthew R. Curran, Esq.
1130 Clifton Avenue
Clifton, New Jersey 07013
(973) 242-2442
(973) 242-3118 [Facsimile]
Attorney for Plaintiff Marlowe Botti



MARLOWE BOTTI,

Plaintiff,

vs.

BOROUGH OF WEST LONG BRANCH,
BOROUGH OF WEST LONG BRANCH
POLICE DEPARTMENT, AND
CHIEF OF POLICE ARTHUR N.
COSENTINO, *individually and*
in his official capacity,

Defendants.

:
: SUPERIOR COURT OF NEW JERSEY
: LAW DIVISION: MONMOUTH COUNTY

:
: CIVIL ACTION

:
: DOCKET NO.: MON-L- 3327-12

:
: COMPLAINT & JURY DEMAND
:
:
:

Plaintiff Marlowe Botti, by and through her attorneys, Sciarra & Catrambone, LLC, by way of the within Complaint, alleges and says as follows:

PRELIMINARY STATEMENT

1. This is an action brought by Plaintiff Marlowe Botti ("Plaintiff" or "Botti") against her employers, the Borough of West Long Branch and the Borough of West Long Branch Police Department.
2. Plaintiff, a female and thus a member of a protected class, seeks judgment of this Court against Defendants for relief permitted under the New Jersey Law Against Discrimination ("LAD"), N.J.S.A. 10:5-1, et seq.

PARTIES

3. Defendants Borough of West Long Branch and the West Long Branch Police Department are located in the State of New Jersey, County of Monmouth.
4. Defendant Arthur N. Costentino ("Chief Costentino" or the "Chief"), who is being sued individually and in his official capacity, is Defendant West Long Branch Police Department's current Chief of Police.
5. On or about June 18, 2004, Defendants, specifically then Chief of Police John Demaree, hired Plaintiff as a Patrolman for the Borough of West Long Branch Police Department.
6. Plaintiff is an employee of Defendants within the meaning of the LAD and Defendants are employers within the meaning of the LAD.

JURISDICTION

7. Jurisdiction is properly laid in this Court in that Defendants are subject to personal jurisdiction in the State of New Jersey, and at the time that the events giving rise to the instant claim occurred, Plaintiff resided within the County of Monmouth.

STATEMENT OF FACTS

Background

8. Prior to being hired as a Patrolman for the Borough of West Long Branch Police Department, Plaintiff was a Special Class One and Class Two with Belmar Police Department and also a Class Two Patrolman with Sea Bright.
9. Throughout her tenure as an employee of Defendants, Plaintiff has performed her duties in a satisfactory and competent manner.
10. Despite her competent performance as a Patrolman, Plaintiff has suffered discriminatory, harassing and retaliatory actions at the hands of Defendants.
11. During the course of her employment, Plaintiff has received a merit award, unit citation and honorable service award.
12. Further, Defendants have never suspended Plaintiff.
13. Plaintiff's first assignment with the Department was Patrol Division. Plaintiff was assigned to normal patrol duties.
14. On patrol, Plaintiff has established her self as an aggressive officer who often leads the entire Department in arrests, DWI's and tickets.

Plaintiff's removal from the Detective Bureau

15. In or about January 2008, Plaintiff was placed into the Detective Bureau.
16. Plaintiff's partner in the Detective Bureau was William Lynch.
17. During Plaintiff's tenure in the Detective Bureau, she signed at least as many criminal complaints as Detective William Lynch even though it was her first year in the Bureau.
18. Detective Lynch had been working in the Detective Bureau for approximately six years at that time.
19. Plaintiff began dating her future husband, who also works for the Borough, and, at approximately the same time, Detective Lynch's attitude began to change negatively towards Plaintiff.
20. Despite Plaintiff's excellent performance, in or about March or April 2010, Defendants, with discriminatory intent, removed Plaintiff from the Detective Bureau.
21. Defendants cited as a basis an incident or incidents involving Plaintiff and Detective Lynch. In an act of disparate treatment, Defendants removed Plaintiff from the Detective Bureau and Lynch remained in that unit.
22. As a result of being removed from the Detective Bureau, this created a scheduling conflict where Plaintiff could not continue to attend the Monmouth County Emergency Response Team or respond to calls related thereto. Plaintiff was Crisis/Hostage Negotiator for this team.
23. Plaintiff was to take Michael Paolantonio's spot on the relief squad. The "relief squad" is a benefit that is offered to the

most senior officers wherein the officers do not have to work midnights.

24. Also prior to going back on the road, the Chief asked to have a talk with Plaintiff. The Chief stated that in the future she could find herself back in the Detective Bureau again. Further, he stated to Plaintiff, "what would make you stay in the Bureau", or words to that effect, even though it had already been decided with the approval of the Chief that Plaintiff would no longer be in the Bureau.
25. During this conversation, the Chief did not advise Plaintiff that they made the Detective Bureau a three patrolman Bureau. In addition to Michael Paolantonio, Defendants made Scott Rockhill a detective in the Detective Bureau.
26. As a result of this additional move by Defendants, Plaintiff did not get the relief squad spot. Instead, Defendants placed Plaintiff on a rotating squad which included midnight shifts despite her seniority.
27. As a result of being placed back on Patrol, Plaintiff was unable to continue her participation as a hostage negotiator team member.
28. Despite Chief Costentino's representations set forth above regarding the Detective Bureau, Plaintiff has remained on this patrol shift for two and a half (2 ½) years.

Defendants' training for and designation of Field Training Officers

29. Defendants have a program wherein more senior patrolmen are designated as Field Training Officers ("FTO") who mentor and directly supervisor newly hired patrolmans for the first part of the new officer's probationary year. The Department picks the most aggressive and well rounded officers for this assignment.
30. Plaintiff was a FTO in 2008.
31. In 2011, the Department hired three Class Two Officers to train. Defendants designated Plaintiff's husband, Jason Moore, and Officer Buono as FTO's to train the new Class Two Officers.
32. Defendants did not designate Plaintiff as a FTO to train the three Class Two Officers hired in 2011.
33. In or about the end of November 2011 or the beginning of December 2011, Defendants sent Plaintiff's husband and Officer Moore, junior officers to Plaintiff, to FTO training school.
34. In or about Fall 2011, Plaintiff objected to the Chief about the fact that she was never sent to the FTO school while other junior officers were being trained. Further, Plaintiff noted the fact that she did not receive an officer for training.
35. In 2012, Defendants hired three additional patrolmans. Rumors within the Department indicated that Plaintiff's husband, Officer Burton, Officer Moore, and Officer Jason Buono (the officer that Plaintiff trained in 2008) would be designated as

FTO's to train these new officers.

The 2011-2012 promotional process

36. In or about the end of Summer 2011, Chief Costentino unsuccessfully attempted to unilaterally promote Detective Lynch, a male officer, to the rank of Sergeant without engaging in a testing procedure.
37. On or about September 7, 2011, Defendants announced by way of email that they will be engaging in a testing process for promotions to the ranks of Sergeant and Lieutenant.
38. There was no testing process for the Lieutenant's position.
39. In Defendants' email, Patrolmen who wished to be considered for promotion to the rank of Sergeant and who meet the ordinance criteria were directed to submit their resumes and detailed cover letter to the Captain no later than Friday September 16, 2011.
40. Additionally, Defendants stated the following in their email:

The Governing Body has determined that testing will be required for this promotion and it is their desire to make the resulting list good for two years from the date that this promotion is made.
41. Plaintiff met the eligibility requirements set forth in the Borough's ordinance.
42. After the promotional process was announced, Plaintiff had a conversation with Captain Mihlon wherein she expressed her doubts about being selected in light of Chief Costentino's prior recommendation of Detective Lynch for the promotion.

43. Captain Minlon responded that Plaintiff should take the examination if not for this round of promotions then for the next time.
44. A few days later, Plaintiff had a conversation with Chief Costentino regarding her resume which she had to submit as part of the promotional process. During the conversation, Chief Costentino stated to Plaintiff she should take the test "if not for this time then for next time", or words to that effect.
45. On or about September 21, 2012, Defendants forwarded a second email regarding promotions. Therein, Defendants set forth the purported testing criteria.
46. Specifically, Defendants determined that the first phase would be administered by the New Jersey State Association of Chiefs of Police ("Chiefs of Police oral examination"), an objective, independent entity, who would be conducting a forty (40) minute oral promotional examination.
47. The email indicated that "[s]eniority and an oral interview with a command staff and supervisors are other phases of the process", or words to that effect.
48. The phases of the promotional process were ranked accordingly:
Chiefs of Police oral examination: 35%
The command staff and supervisors oral examination: 60%
Seniority: 5%
49. Reference was also made to the top three candidates being interviewed by the West Long Branch Borough Council's police

committee.

50. Prior to the first oral examination, Plaintiff had a conversation with Chief Costentino in the presence of Detective Lynch.
51. Chief Costentino questioned Plaintiff about whether she was studying for the test and whether she was taking a study course. Chief Costentino asserted that Plaintiff would have to disclose if she was taking a study course to the NJSACOP panel.
52. During their conversation, Chief Costentino advised Plaintiff that he was taking out the pass or fail scoring system and, instead, all candidates were going to move on to the second testing phase.
53. Previous Sergeant examinations required a minimum score of 70% during the Chiefs of Police oral or written examination in order to advance to the second phase.
54. Notably, Detective Lynch failed at least two prior examinations when he did not attain a score of at least 70% on the Chiefs of Police oral examination.
55. On November 7, 2011, the Chiefs of Police oral examination was conducted. Six police officers tested during this phase of the promotional process: Jeffrey Hanlon, Kyle Kampf, Plaintiff, Michael Paolantonio, Scott Rockhill and William Lynch.
56. The Department sequestered candidates who had undergone the oral examination. At one point, Chief Costentino was observed approaching Lynch, who was sequestered, and the Chief asked if

he [Lynch] ever got around to cashing the birthday check Costentino had given him.

57. On the following day, on or about November 8, 2011, Chief Costentino approached Plaintiff in the police headquarters parking lot. Chief Costentino advised Plaintiff that she scored "around a 92", or words to that effect.
58. When Plaintiff asked Chief Costentino what her ranking was in relation to the other candidates, Chief Costentino stated Plaintiff had the highest score.
59. Plaintiff's official score on the Chiefs of Police oral examination was 93.61.
60. Upon information and belief, Patrolman Hanlon scored an 88%, Detective Lynch scored an 82%, Patrolman Palantonio scored a 73%, Patrolman Rockhill scored a 62% and Patrolman Kampf scored in the low 50% or 40% range.
61. More than two months passed between the phase one oral examination and the phase two oral examination.
62. On or about January 17, 2012, Defendants conducted the command staff oral interviews of candidates. The interviewers consisted of Captain Mihlon, Lieutenant Habermann, Sergeant Gomez and Sergeant Ellis.
63. Defendants excluded Sergeant Kramer from the interview process purportedly due to the fact that his brother-in-law, Patrolman Rockhill, was going to be interviewed.
64. Before the command staff oral interviews, Patrolman Rockhill advised that he was no longer participating in the Sergeant

examination process.

65. Notwithstanding the foregoing, Defendants continued to exclude Sergeant Kramer from the testing process because they forced Patrolman Rockhill to continue with the Sergeant's examination because Kramer wanted to be a part of the interview process.
66. Plaintiff was the last officer to be interviewed.
67. During the interview, Sergeant Gomez changed the testing environment by walking over to and raising the thermostat during Plaintiff's examination.
68. The temperature was so high that at one point during the examination Sergeant Gomez was ordered to turn down the heat. Both Lieutenant Habermann and Sergeant Ellis shook their heads in dismay when Gomez was ordered to turn down the heat.
69. During the interview, the interviewers covered areas such as leadership and her ability to engage in problem solving.
70. In Plaintiff's performance evaluations, her supervisors have consistently ranked her as "exceeds standards" in the above areas.
71. On the following day, on or about January 18, 2012, Captain Mihlon approached Plaintiff in the report-writing area of police headquarters. During their conversation, Captain Mihlon stated to Plaintiff that she did very well on the command staff oral examination.
72. Notwithstanding the foregoing representation by the Captain, by way of an email from Chief Cosentino sent later that day, Plaintiff received her ranking as of the second phase of the

- promotional process. Plaintiff received a score of 71.60.
73. Plaintiff then ranked number two on the list and Detective Lynch skipped two spots to then be first on the list.
74. By way of a separate email on January 18, 2012, Chief Cosentino advised that the following names would be forwarded to the Police Committee for the next phase in the selection process: Lynch, Plaintiff and Hanlon.
75. In an email, Chief Cosentino advised Plaintiff her combined overall score was 77.47.
76. On the same day, Plaintiff spoke to Chief Consentino in his office regarding the promotional process. Plaintiff advised Chief Consentino of Captain Mihlon's representation that Plaintiff had done very well during her command staff interview.
77. Chief Consentino responded that he had heard Plaintiff had gave an "excellent interview" and she should not be disappointed with her score.
78. Plaintiff expressed her confusion and dismay between the representations that she had done "very well" on the examination and her barely-passing score of 71.60.
79. Plaintiff asked Chief Consentino how she could receive a better score in the future. Plaintiff also requested a copy of the exam, her responses and her scores so that she could improve in the future.
80. Chief Consentino responded that he would have to check on a few things before releasing any information.

81. Plaintiff then advised the Chief that she had no problem reviewing the material after the testing process had finished.
82. Chief Consentino then stated, "I don't think there is any way to improve or study for this phase because it is all subjective", or words to that effect.
83. On February 9, 2012, Chief Cosentino advised that instead of three names being forwarded to the police committee all five remaining candidates would be interviewed contrary to the Chief's original email outlining the testing procedure.
84. Upon information and belief, there were multiple mathematical issues related to the scoring of the candidates arising out of the command staff oral examination which were not rectified.
85. Plaintiff was once again designated as the last person to be interviewed.
86. During her interview with the police committee, Plaintiff explained her training and experience. She also advised the committee about why she would be the best candidate for the promotion.
87. On or about March 7, 2012, with discriminatory intent, Defendants promoted Lynch to the position of Sergeant.

Incidents after the March 7, 2012 promotion

88. Thereafter, Chief Consentino called Plaintiff. During the conversation, Plaintiff asked Chief Consentino about the final ranking of candidates.
89. Chief Consentino asserted that the Borough Council never provided him with the list. Instead, the Chief asserted he was merely directed to promote Lynch.
90. Plaintiff also expressed her confusion about how the Borough Council could reorder the ranking of candidates if the police committee interview was not scored.
91. Chief Consentino was unable to provide a responsive answer and instead stated that the Council does the hiring and promotions.
92. Notwithstanding the September 21, 2011 email referenced above wherein the promotional list is in effect for two years, Chief Consentino has not released the final ranking order of the candidates.
93. On March 28, 2012, Jayson Moore, President of Police Benevolent Association ("PBA") Local 141, wrote a correspondence to Administrator John Kennedy requesting a copy of the final list for the Sergeant promotional process.
94. On April 11, 2012, Borough Attorney Gregory S. Baxter, Esq. responded to the PBA's correspondence. Therein, Baxter stated in part as follows:

[T]here is no list being maintained by the borough for future promotions to the rank of Sergeant. Neither was there any 'list' established by the governing body for the most recent

promotion ... Once the appointment is made, the process is over ...

95. On or about April 25, 2012, at approximately 9:00pm, Captain Mihlon approached Plaintiff in the report-writing room. After greeting Plaintiff, Captain Mihlon asked Plaintiff if she was mad.
96. Plaintiff responded that she was unhappy with the Borough's email referencing its position that there now is no promotional list. In response, Captain Mihlon said he had some insight for Plaintiff.
97. The conversation then moved into Captain Mihlon's office wherein he stated to Plaintiff that he understood why she was upset.
98. During this conversation, Captain Mihlon stated "the exam was a joke and the way it was administered was a joke", "I am partially to blame because I was part of the process", and "Marlowe, there is a list".
99. Captain Mihlon referenced a correspondence from Chief Consentino to the Borough Council responding to the Council's demand to remove now-Sergeant Lynch from the Detective Bureau.
100. Captain Mihlon further stated about the correspondence that the Chief referenced Plaintiff's gender and the promotional process. Specifically, the Captain represented that the Chief stated in his letter to the Council, "[s]hame on you for not taking this opportunity to promote the first female officer to the rank of Sergeant", or words to that affect.

101. On May 8, 2012, Chief Costentino requested over the radio that Plaintiff report to his office.
102. Plaintiff reported to the Chief's office as ordered. During this meeting, the Chief referenced Plaintiff's conversation with the Captain. Further, Chief Costentino lost his professionalism, screamed at Plaintiff, pounded his desk, pointed his finger in Plaintiff's face, and threw a radio receiver at his wall. Chief Costentino's conduct was so extreme that Plaintiff felt threatened.
103. During his tirade, Chief Costentino asked Plaintiff "where [her] sense of self-entitlement came from".
104. Chief Costentino stated in part as follows:
- Five years on the job you want to be a detective. Ten years on the job you want to be a Sergeant. Well you know what it took me twenty-three years to make Sergeant. I kept getting passed up even though I knew I was better than them. That's just the way it is in this job. When it's not your time it's not your time, or words to that effect.
105. While pointing his finger at Plaintiff's face, Chief Costentino stated to Plaintiff, "[i]f I find out who is leaking information to the Council I am going to chop them off at the knees! I am going to make their lives miserable because I'm the Chief and I can! What you don't think I can? You think this is a joke?"
106. At another point, Chief Costentino inappropriately questioned Plaintiff, "[y]our father never yelled at you" and "[y]ou couldn't take it when your father yelled at you".
107. Chief Costentino denied Plaintiff's request to be dismissed

from the Chief's office due to his behavior. Specifically, the Chief pointed a finger at Plaintiff's face and threatened, "if you walk out that door that's the way its going to be between me and you, do you understand that?"

108. During the meeting, Chief Cosentino also ordered Plaintiff to "just sit down" and threatened "don't you dare do anything to embarrass me".

109. Chief Cosentino attempted to goad Plaintiff into engaging in an insubordinate act and the purpose of his conduct was to bully and intimidate Plaintiff.

Defendants' change of Plaintiff's husband's schedule

110. On or about May 17, 2012, Plaintiff's counsel wrote to Defendants to advise that Plaintiff had retained counsel and was in the process of drafting a Superior Court Complaint against the Borough and Chief Cosentino alleging violations of the New Jersey Law Against Discrimination.

111. On June 1, 2012, fifteen days after being notified via Lieutenant Habermann of the within impending discrimination lawsuit, Chief Cosentino notified Plaintiff's husband that he was being moved to the opposite side of the Department's schedule.

112. By way of background, the West Long Branch Police Department has a modified Pittman twelve hour schedule.

113. The Department, which is comprised of four squads, is split in half for scheduling purposes.

114. Two squads work one side of the schedule with one squad relieving the other squad with each squad having the same days off. The two other squads relieve each other and they work when the first two squads' off days.
115. Based upon the foregoing, if two officers are on opposite sides of the schedule, they will never have the same scheduled days off.
116. In December 2011, Chief Cosentino addressed the issue of the impact of Plaintiff's impending marriage to her fiancé which occurred on December 9, 2011 and the impact that could have on their schedules.
117. In light of the fact that Defendants do not have a policy regarding the issue, Chief Cosentino contacted the Middletown Police Chief to determine that Police Department's practice.
118. Chief Cosentino reported back to Plaintiff and her husband that, consistent with the Middletown Police Department's practice, Plaintiff and her husband could be on the same side of the schedule on different squads so that one spouse's squad relieves the other spouse's squad. Plaintiff and her husband could also work overtime together if the situation arose.
119. During this exchange on the issue, Chief Cosentino acknowledged that placing Plaintiff and her husband on opposite sides of the schedule would lead to "no family life" for Plaintiff and her husband.

COUNT ONE

(Gender Discrimination under the LAD)

120. Plaintiff reasserts and realleges each and every previous paragraph as if fully set forth and reiterated herein.
121. Defendants' actions are in violation of New Jersey Law Against Discrimination ("LAD") under N.J.S.A. 10:5-1 et seq.
122. Defendants' adverse employment actions and harassing activity against Plaintiff were with discriminatory intent against Plaintiff because of her female gender and her resulting membership in a protected class, in violation of the New Jersey Law Against Discrimination under N.J.S.A. 10:5-1 et seq.
123. Defendants' actions and/or inactions constitute a severe or pervasive, and continuing, course of conduct in violation of the LAD.
124. As a result, Plaintiff's statutory and constitutional rights have been violated and her protections under the law have been eviscerated.
125. Plaintiff has suffered damages resulting in the loss of compensation, loss of earning power, loss of self-esteem, physical injury, mental injury, the loss of opportunities for prospective employment, and is incurring legal expenses and other expenses as a result of Defendants' actions.
126. The foregoing actions were knowing, willful and deliberate violations of law and deprivations of Plaintiff's statutory and civil rights, and Plaintiff is entitled to punitive

damages under applicable law.

COUNT TWO
(Disparate Treatment Under the LAD)

127. Plaintiff reasserts and realleges each and every previous paragraph as if fully set forth and reiterated herein.
128. Defendants' actions against Plaintiff outlined above constitute disparate treatment of and against Plaintiff based upon her female gender and/or her protected activity, in violation of the New Jersey Law Against Discrimination under N.J.S.A. 10:5-1 et seq.
129. As outlined above, Defendants, with harassing, retaliatory and discriminatory intent, harassed Plaintiff and took adverse employment actions against Plaintiff, while similarly situated employees, who engaged in conduct similar to that which Plaintiff allegedly engaged in, did not otherwise suffer any adverse employment action.
130. Defendants' actions and/or inactions constitute a severe and/or pervasive, and continuing, course of conduct in violation of the LAD.
131. As a result, Plaintiff's statutory and constitutional rights have been violated and her protections under the law have been eviscerated.
132. Plaintiff has suffered damages resulting in the loss of compensation, loss of earning power, loss of self-esteem, physical injury, mental injury, the loss of opportunities for

prospective employment, and is incurring legal expenses and other expenses as a result of Defendants' actions.

133. The foregoing actions were knowing, willful and deliberate violations of law and deprivations of Plaintiff's statutory and civil rights, and Plaintiff is entitled to punitive damages under applicable law.

COUNT THREE

(Hostile Work Environment Under the LAD)

134. Plaintiff reasserts and realleges each and every previous paragraph as if fully set forth and reiterated herein.

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

136. Defendants' actions against Plaintiff created a hostile work environment against Plaintiff, because of her female gender and her resulting membership in a protected class, in violation of the New Jersey Law Against Discrimination under N.J.S.A. 10:5-1 et seq. These actions and activities were unwarranted and uninvited. Despite repeated requests for these activities to cease, Defendants took no action with regard to ceasing these activities.

137. Defendants' actions and/or inactions constitute a severe or pervasive, and continuing, course of conduct in violation of the LAD.

138. As a result, Plaintiff's statutory and constitutional rights have been violated and her protections under the law have been

eviscerated.

139. Plaintiff has suffered damages resulting in the loss of compensation, loss of earning power, loss of self-esteem, physical injury, mental injury, the loss of opportunities for prospective employment, and is incurring legal expenses and other expenses as a result of Defendants' actions.
140. The foregoing actions were knowing, willful and deliberate violations of law and deprivations of Plaintiff's statutory and civil rights, and Plaintiff is entitled to punitive damages under applicable law.

COUNT FOUR
(Retaliation Under the LAD)

141. Plaintiff reasserts and realleges each and every previous paragraph as if fully set forth and reiterated herein.
142. Defendants' actions are in violation of New Jersey Law Against Discrimination ("LAD") under N.J.S.A. 10:5-1 et seq.
143. Defendants' actions against Plaintiff outlined above constitute retaliation against Plaintiff as a result of Plaintiff's protected activity, in violation of the New Jersey Law Against Discrimination under N.J.S.A. 10:5-1 et seq., including but not limited to Plaintiff's complaints regarding Defendants' discriminatory and harassing acts constituting a hostile work environment.
144. Defendants' actions and/or inactions constitute a severe or pervasive, and continuing, course of conduct in violation of

the LAD.

145. As a result, Plaintiff's statutory and constitutional rights have been violated and her protections under the law have been eviscerated.

146. Plaintiff has suffered damages resulting in the loss of compensation, loss of earning power, loss of self-esteem, physical injury, mental injury, the loss of opportunities for prospective employment, and is incurring legal expenses and other expenses as a result of Defendants' actions.

147. The foregoing actions were knowing, willful and deliberate violations of law and deprivations of Plaintiff's statutory and civil rights, and Plaintiff is entitled to punitive damages under applicable law.

WHEREFORE, Plaintiff demands judgment against Defendants as follows:

a. Awarding Plaintiff damages, including, but not limited to, equitable, punitive and compensatory damages on all lost benefits, wages and rights, including but not limited to front and back pay, as well as all commensurate pension benefits, and other benefits with respect to Plaintiff's employment, an offset for the negative tax consequences of a lump-sum award, and non-economic damages for emotional distress, equitable relief of instatement, together with both prejudgement and post judgement interest and attorneys' fees and costs of court;

b. Awarding Plaintiff damages, including, but not limited

to, equitable, punitive and compensatory damages on all lost benefits, wages and rights, including but not limited to front and back pay, as well as all commensurate pension benefits, and other benefits with respect to Plaintiff's employment, an offset for the negative tax consequences of a lump-sum award, and non-economic damages for emotional distress, equitable relief of instatement, together with both prejudgement and post judgement interest and attorneys' fees and costs of court with regard to hostile work environment, retaliation, disparate treatment, and with regard to adverse employment action(s) and other retaliation and harassment as a result of Plaintiff's protected activities and status;

c. Awarding Plaintiff damages, including, but not limited to, equitable, punitive and compensatory damages on all lost benefits, wages and rights, including but not limited to front and back pay, as well as all commensurate pension benefits, and other benefits with respect to Plaintiff's employment, an offset for the negative tax consequences of a lump-sum award, and non-economic damages for emotional distress, equitable relief of instatement, together with both prejudgement and post judgement interest and attorneys' fees and costs of court; for Defendants' violation of Plaintiff's rights to be free from the injuries which she has suffered due to the Defendants' actions;

d. Awarding Plaintiff equitable relief by way of instatement to her former position and/or promotion, with all requisite seniority, salary, pension and other benefits with regard thereto;

e. 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

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

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, the Court is advised that **Charles J. Sciarra, Esq.**, is hereby designated as trial counsel.

JURY DEMAND

Plaintiff hereby demands a trial by jury on all issues involved herein.

Respectfully submitted,
SCIARRA & CATRAMBONE, L.L.C.,
Attorneys for Plaintiff

By: _____

Matthew R. Curran, Esq.

Dated: August 7, 2012

CERTIFICATION PURSUANT TO R. 4:5-1

The undersigned, of full age, hereby certifies as follows:

1. The matter in controversy is not the subject of any other pending court action or arbitration.
2. No other court action or arbitration proceeding is contemplated.
3. There are no other parties to be joined in this action at the present time.

Respectfully submitted,
SCIARRA & CATRAMBONE, L.L.C.,
Attorneys for Plaintiff

By: _____

Matthew R. Curran, Esq.

Dated: August 7, 2012