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Attorneys for Plaintiff, Michael Pier

MICHAEL PIER,

Plaintiff,

v.

TOWN OF DOVER, MAYOR JAMES P. DODD (IN HIS OFFICIAL AND INDIVIDUAL CAPACITIES), and DEPUTY CHIEF OF POLICE JOHNATHAN DELANEY (IN HIS OFFICIAL AND INDIVIDUAL CAPACITIES), JOHN DOES 1-10, AND XYZ CORP. 1-10.

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MORRIS COUNTY
DOCKET NO. MRS-L-

CIVIL ACTION

**COMPLAINT
AND JURY DEMAND**

Plaintiff, Michael Pier (“Plaintiff” or “Sergeant Pier”), by and through his attorneys, Schiller, Pittenger & Galvin, P.C., by way of Complaint against Defendants, Town of Dover, Mayor James P. Dodd, in his official and individual capacities, and Deputy Chief of Police Johnathan Delaney, in his official and individual capacities, John Does 1-10 and XYZ Corp. 1-10 (collectively “Defendants”), alleges as follows:

JURISDICTION AND VENUE

1. This is an action in a case of actual controversy and is brought pursuant to Rule 4:3-1(a)(5) of the *Rules Governing the Courts of the State of New Jersey* to recover for monetary damages incurred by Plaintiff as a result of Defendants’ retaliatory and statutorily unlawful conduct.

2. Venue is proper in this County pursuant to Rules 4:3-2 of the *Rules Governing the Courts of the State of New Jersey*, inasmuch as certain parties resided in this County at the time the claims alleged herein arose, and the claims arose in this County.

PARTIES

3. Plaintiff, at all relevant times, was and remains a Sergeant for the Dover Police Department (“Dover PD”).

4. Defendant, the Town of Dover (“Dover” or the “Town”), with an address of 37 N. Sussex Street in the Town of Dover, County of Morris, at all relevant times, employed Plaintiff as a Sergeant with the Dover PD. The Town is a public entity, organized under the laws of the State of New Jersey. The Town’s governing body includes the Mayor as the Chief Executive of the Town and a Board of Aldermen comprised of eight (8) elected officials. The Town, through the actions of the Mayor and Board of Aldermen, maintained a duty to supervise and protect the rights of its employees, including the Dover PD’s police officers, and to enforce all statutes, rules, and regulations promulgated by the State of New Jersey.

5. At all times relevant times, Dover is a “person” and Officer Pier’s “employers” as defined by the New Jersey Law Against Discrimination, N.J.S.A. 10:5-5(a) and (e).

6. Defendant, Mayor James P. Dodd (“Mayor Dodd”), with an address of 37 N. Sussex Street in the Town of Dover, County of Morris, at all relevant times, was the Mayor, Chief Executive, and apparent authority of the Town. Mayor Dodd maintained a duty to supervise and protect the rights of the Town’s employees, including the Dover PD’s police officers, and to enforce all statutes, rules, and regulations promulgated by the State of New Jersey.

7. Defendant, Deputy Chief of Police Johnathan Delaney (“Chief Delaney”), with an address of 37 N. Sussex Street in the Town of Dover, County of Morris, at all relevant times, was

and remains the Deputy Chief of Police and Officer in Charge (“OIC”) of Dover. Chief Delaney is the Chief Law Enforcement Officer for the Town. Chief Delaney maintained a duty to supervise and protect the Town’s employees, including the Dover PD’s police officers, and to enforce all statutes, rules, and regulations promulgated by the State of New Jersey.

8. Defendants, at all relevant times, were obligated to abide by the Attorney General Guidelines as well as the written directives of the Town and the Morris County Prosecutor’s Office.

9. At all relevant times, the Dover employees identified in this Complaint, including the individual defendants, acted within the scope of their employment and under the color of law.

FACTS COMMON TO ALL COUNTS

I. PRELIMINARY STATEMENT

10. Since February of 2006, Sergeant Pier has served as a police officer for Dover and has received numerous commendations for his exemplary service.

11. As a police officer for Dover, Sergeant Pier is a Civil Service employee.

12. On or about November 29, 2017, Pier sued the Town, Mayor Dodd, and Town Administrator Donald Trivisano (“Administrator Trivisano”) in a lawsuit brought before the United States District Court for the District of New Jersey, under Civil Action No.: 17-cv-12187 (hereinafter the “Federal Lawsuit”).

13. The ongoing Federal Lawsuit concerns the Town’s, Mayor Dodd’s, and Administrator Trivisano’s disparate and unlawful treatment toward Sergeant Pier because he outspokenly supported former Chief of Police Harold “Butch” Valentine’s 2014-2015 campaign to become the Town’s Mayor.

14. Chief Valentine ran but lost the June 2, 2015, mayoral primary election to the incumbent Mayor Dodd.

15. In the Federal Lawsuit, Sergeant Pier alleges, *inter alia*: that Mayor Dodd and Administrator Trivisano exercised a pattern and practice of retaliation against the “Butchie’s boys” – those officers, including Sergeant Pier, who openly supported Chief Valentine’s mayoral campaign against Mayor Dodd, and the Town, Mayor Dodd, and Administrator Trivisano retaliated against Sergeant Pier for his political activities and unlawfully denied him opportunities for training, promotions, and advancements within the Dover PD.

16. In the Federal Lawsuit, Sergeant Pier is seeking both monetary and equitable relief for: (1) violations of 42 U.S.C. § 1983 (unconstitutional restraints on speech and association); (2) violations of 42 U.S.C. § 1988; (3) violations of the New Jersey Conscientious Employee Protection Act, N.J.S.A. 34:19-1, *et seq.* (“CEPA”); (4) civil conspiracy; (5) breach of express contract; (6) breach of implied contract; (7) breach of implied covenant of good faith and fair dealing; (8) violations of the New Jersey Civil Rights Act, N.J.S.A. 10:6-1, *et seq.* (unconstitutional restraint of speech and association); (9) violations of the United States Constitution, XIV Amendment (Due Process Clause); and (10) violations of N.J.A.C. 4A:4-4.8. Attached as **Exhibit A** is copy of the April 23, 2019, First Amended Complaint and Jury Demand in the Federal Lawsuit.

17. In prosecuting the Federal Lawsuit, Sergeant Pier engaged in a protected activity and is a member of a protected class under the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1, *et seq.*

18. Defendants have and continue to retaliate against Sergeant Pier for prosecuting the Federal Lawsuit.

19. Following Sergeant's Pier's justified and proper use of force against an arrestee on or about May 19, 2019, a citizen's complaint, dated October 22, 2019, accused Sergeant Pier of using excessive force during the arrest.

20. Since May 20, 2019, Defendants have: (1) refused to support Sergeant Pier; (2) made unfounded prejudicial comments to the media designed to subject Sergeant Pier to an outraged court of public opinion; (3) engaged in public protests against Sergeant Pier; (4) failed to timely investigate and adjudicate the citizen's complaint against Sergeant Pier in accordance with the Attorney General Guidelines; (5) unlawfully attempted to hire an outside third-party to orchestrate the internal affairs ("IA") investigation into the citizens complaint; (6) unlawfully attempted to hire as the IA investigator a biased third-party who, without ever reviewing the IA case file, publicly aspersed Sergeant Pier; and (7) ignored three (3) separate recommendations from IA Officers that Sergeant Pier's conduct was lawful and refused to close out this IA matter and return Sergeant Pier to patrol.

21. Defendants, in retaliation against Sergeant Pier for bringing the Federal Lawsuit, have launched an unfounded public campaign intended to mislabel Sergeant Pier as a racist officer that committed police brutality and a pariah that will never regain the public's trust so long as he serves as an officer for Dover PD.

22. Defendants have exploited the May 19, 2019, arrest involving Sergeant Pier as a means to obtain leverage in the Federal Lawsuit, damage Sergeant Pier's reputation, and ultimately eliminate Sergeant Pier from the Dover PD.

II. THE MAY 19, 2019, ARREST OF CYPRIAN LUKE

23. At 1:43 a.m. on or about May 19, 2019, County Dispatch radioed Sergeant Pier that it received a report that Cyprian Luke, a fugitive wanted for aggravated assault involving strangulation, was located at the first floor of 2013 East Blackwell Street.

24. Prior to May 19, 2019, a Morris County Grand Jury had indicted Luke on a third-degree aggravated assault charge for grabbing the throat and/or blocking the nose or mouth of his former girlfriend, while punching, kicking, and shoving her during a February 2, 2019, altercation in Boonton.

25. Before May 19, 2019, Luke also had been charged with a fourth-degree offense for violating the Court's no contact order and placing his hands on his ex-girlfriend's neck.

26. Dispatch confirmed for Sergeant Pier that Luke had multiple outstanding arrest warrants in connection with these charges.

27. Sergeant Pier obtained a physical description of Luke from Dispatch and through Luke's driver's license photograph. Upon information and belief, Luke identifies as an African American/Latino male.

28. At approximately 2:08 a.m., Sergeant Pier drove to a Krauszer's convenience store where a disturbance had been reported.

29. Upon arrival, Sergeant Pier observed between seven (7) and ten (10) individuals in the parking lot, one of whom was Luke.

30. Officer Robert Fenske also reported to the Krauszer's.

31. Sergeant Pier identified Luke from the photograph and informed him that he was under arrest for outstanding warrants. Luke resisted arrest and both men engaged in a physical struggle on the ground.

32. While Luke grappled with and even tried to bite Sergeant Pier, Officer Fenske attempted but was unable to administer OC spray because he did not have a clear shot to Luke's face and would have sprayed Sergeant Pier as well.

33. At one point, Luke rolled onto his back, stretched his left arm across his body towards Sergeant Pier's duty belt, and attempted to grab Sergeant Pier's duty weapon located on the left side of his belt.

34. According to the Dover PD's Written Directives, which are promulgated in accordance with the Attorney General Guidelines (the "AG Guidelines"), physical force, which is defined as contact with a subject beyond that which is generally utilized to effect an arrest or other law enforcement objective, may be employed by a police officer when necessary, to overcome a subject's physical resistance to the exertion of the law enforcement officer's authority, or to protect persons or property.

35. According to the Dover PD's Written Directives, physical force includes wrestling a resisting subject to the ground, using wrist locks or arm locks, striking with the hands or feet, or other similar methods of hand-to-hand confrontation.

36. Given Luke's persistent physical resistance and the severity of the situation, Sergeant Pier implemented his training and, in accordance with the AG Guidelines, used his fist to strike Luke with five (5) to six (6) intermittent blows to the side of Luke's face and head and repeatedly directed Luke to stop resisting. Luke still refused to allow officers to handcuff him. These events shall collectively be referred to as the "Luke Arrest" or "Luke's Arrest."

37. Luke's accomplices crowded the responding officers. One person filmed and broadcasted Luke's Arrest on the internet.

38. After Luke's Arrest, Dylan Martell, an accomplice of Luke, approached Sergeant Pier outside Dover PD Headquarters, threatened him, and sneered that Sergeant Pier had "f***** up" and "[He] better watch [himself] when [he] [is] off duty because I am going to get mine." Martell continued to threaten Sergeant Pier even after Sergeant Pier had instructed him to leave the area.

III. MAYOR DODD RETALIATES AGAINST SERGEANT PIER THROUGH PUBLIC CONDEMNATION.

39. On or about May 21, 2019, Luke was charged with a third-degree offense of resisting arrest and hindering apprehension by providing a false name.

40. The internet publication of Luke's Arrest sparked tension among the Town's public. Some people gleaned from the footage, albeit mistakenly, that Sergeant Pier had unlawfully used excessive force and called for Dover to take action against him.

41. Within hours, Mayor Dodd, a defendant in Sergeant Pier's Federal Lawsuit, used Luke's Arrest to target Sergeant Pier.

42. On May 20, 2019, Mayor Dodd without any evidence that Sergeant Pier acted unlawfully, informed the press that he found Luke's Arrest to be "disturbing" and all but condemned Sergeant Pier by avowing, "I will not stand for or tolerate abuse of any kind from any officer towards a member of the public and if the investigation sustains that showing, swift action will be taken."

43. Mayor Dodd made no public statements in support of Sergeant Pier.

44. In response to Sergeant Pier's use of force and, upon information and belief, the public's indignation, at 7:00 a.m. on May 19, 2019, Dover PD placed Sergeant Pier on paid administrative leave.

45. One (1) week after Mayor Dodd's incendiary public remarks, the Morris County Prosecutor's Office reissued its Directive to all Morris County municipalities entitled "Conducting Police Use of Force Investigations." Under Section VI. MEDIA, the Prosecutor's Office emphasized in bold that **"Any press or media-related inquiries shall be directed to the Morris County Prosecutor's Office and/or the Division of Criminal Justice for the appropriate response,"** and **"There shall be no response to any press inquiries without consultation and approval from the Morris County Prosecutor, Morris County Chief of Investigations and/or the Division of Criminal Justice, or their designee."**

IV. DEFENDANTS VIOLATE THE AG GUIDELINES AND DOVER PD WRITTEN DIRECTIVES WHEN INVESTIGATING THE IA COMPLAINT AGAINST SERGEANT PIER.

46. The New Jersey Attorney General's Office (the "AG's Office") reviewed the events from Luke's Arrest and on October 18, 2019, advised the Dover PD it would not pursue criminal charges against Sergeant Pier and returned the matter to the Dover PD for administrative review. A true and accurate copy of this letter from the AG's Office is attached as **Exhibit B**.

47. On or about October 21, 2019, Sergeant Anthony Scinto telephoned Sergeant Pier and directed him to appear at headquarters the next day at 10:00 a.m.

48. On October 22, 2019, Sergeant Scinto served Sergeant Pier with an IA Complaint Notification. Sergeant Scinto represented that Luke had complained about Sergeant Pier's alleged use of excessive force during the arrest.

49. Sergeant Scinto's representation to Sergeant Pier was false, as Luke never filed an IA Complaint. Instead, Luke's mother, girlfriend, and approximately four (4) associates had filed the excessive force complaint (the "IA Complaint").

50. On or about that time, Chief Anthony W. Smith¹ of Dover informed Sergeant Pier that he would need to pass a fitness for duty exam before he could return to work with the Dover PD.

51. The Dover PD's Written Directives on Internal Affairs, which are developed in accordance with the AG Guidelines, require that all internal affairs investigations be completed, and all reports prepared, within thirty (30) calendar days of being assigned, and any authorization for additional time to complete investigations must be received from the Chief Law Enforcement Officer.

52. The Dover PD's Written Directives on Internal Affairs require that the Chief Law Enforcement Officer, upon receipt of the recommendation, must review the matter and make the final determination or return the case for further investigation. Once the Chief Law Enforcement Officer is provided with sufficient information to file a charge, the Chief Law Enforcement Officer has forty-five (45) days to do so (N.J.S.A. 40A:14-147).

53. The Dover PD's Written Directives on Internal Affairs require that when a final determination is reached in an internal investigation, the Chief Law Enforcement Officer must notify the officer that is the subject of the investigation of the determination.

54. The time for Dover PD to conduct its administrative investigation of the Luke Arrest and the IA Complaint commenced, at the latest, on or about October 22, 2019, and, unless additional time for investigation was authorized, should have been completed no later than November 21, 2019.

55. Defendants unlawfully disregarded the Dover PD's Written Directives on Internal Affairs.

¹ Chief Smith retired on or about December 31, 2019, and Chief Delaney filled the vacant role as OIC.

56. Defendants failed to prepare an Internal Affairs report on the Luke Arrest and/or the IA Complaint within thirty (30) calendar days of it being assigned and, upon information and belief, did not request additional time.

57. Additionally, the Chief Law Enforcement Officer failed and/or refused to make a final determination as to Luke's Arrest or the IA Complaint within forty-five (45) days of having sufficient information to close the complaint against Sergeant Pier.

58. Following Mr. Martell's threats and Mayor Dodd's public rebuke, Defendants failed and/or refused to provide Sergeant Pier with any level of security.

59. In November of 2019, Detective Joel Gotera of the Dover PD informed Sergeant Pier through a voicemail that an anonymous person had contacted the Dover PD and advised that on November 15, 2019, a group of people would target and protest in front of Sergeant Pier's residence. Despite knowing this, the Town made no attempt to secure Sergeant Pier's home or his family.

60. On or about March 10, 2020, Sergeant Pier completed his fitness for duty examination.

61. By March 29, 2020, Dover had permitted Officers Fenske and Ilmi Bojkovic, both of whom were involved in the Luke Arrest, to return to regular duties within the Dover PD.

62. Sergeant Pier, however, remained on administrative leave, under the pretextual guise that he would still require a psychological evaluation before returning to duty.

63. For approximately five (5) months, Dover PD failed to schedule Sergeant Pier's evaluation.

64. By that time, Defendants' investigation of the IA Complaint had remained open ninety-eight (98) days beyond the November 22, 2019, deadline set by the Dover PD Written Directives.

65. The Dover PD's Written Directive on Internal Affairs require that once a thorough and objective examination of the available factual information has taken place, a conclusion must be determined, and the employee shall be either exonerated or held responsible for the alleged misconduct.

66. The Dover PD's Written Directives on Internal Affairs also require the investigators to strive to conduct a thorough and objective investigation while respecting the rights of the principal, any other law enforcement officer, and all members of the public and to be thoroughly familiar with the Dover PD's Internal Affairs policy.

67. Under Subsection II. GUIDING PRINCIPLES of Dover PD's Written Directives on Internal Affairs, investigators must scrupulously adhere to the principle that all employees shall be afforded all rights to which they are entitled.

68. Under Subsection VII. REPORTING of Dover PD's Written Directives on Internal Affairs, the conclusion reached by the internal affairs investigator, based upon the facts developed during the investigation, must fall into one of four (4) dispositions: sustained, unfounded, exonerated, or not sustained.

69. Under Dover PD's Written Directives on Internal Affairs, a target officer should be "exonerated" when a preponderance of the evidence shows the alleged conduct did occur, but did not violate any law, regulation, directive, guideline, policy, or procedure issued by the Attorney General or County Prosecutor, agency protocol, standard operating procedure, rule, or training.

70. Under Dover PD's Written Directives on Internal Affairs, an internal affairs complaint against an officer should be "not sustained" when the investigation failed to disclose sufficient evidence to clearly prove or disprove the allegation.

71. On or about April 8, 2020, Sergeant Scinto conducted Sergeant Pier's internal affairs interview.

72. Upon information and belief, Sergeant Scinto conducted a meaningful review of the IA Complaint and the available evidence and reported his findings to Officer In Charge ("OIC") Deputy Chief Delaney.

73. Upon information and belief, Sergeant Scinto's IA Report to Defendant Delaney found the IA Complaint against Pier to be "unsustained."

74. Immediately after the interview, Chief Delaney personally informed Sergeant Pier that he was "all good" and could return to work.

75. Given Chief Delaney's representations, Sergeant Pier believed both Sergeant Scinto and Chief Delaney had concluded the internal affairs investigation in his favor and the matter had been closed.

76. Sergeant Pier informed Chief Delaney that he intended to return to work as a patrol sergeant the following Monday, April 13, 2020.

77. However, Chief Delaney reassigned Sergeant Pier to an administrative role when he returned to work on April 13, 2020.

78. Mayor Dodd's inflammatory public statement, which passed judgment without any evidence, and Chief Delaney's decision to remove Sergeant Pier from patrol in spite of Sergeant Scinto's finding of "unsustained," isolated Sergeant Pier from fellow officers, limited his job-place responsibilities, and gave Sergeant Pier grave concern that he would face unwarranted retribution

from the public if recognized by civilians while on patrol. Sergeant Pier was left with no option but to return to an administrative position and as a fill-in patrol sergeant.

79. As a fill-in patrol sergeant, Sergeant Pier maintained the occasional responsibility to supervise and ensure the safety of Dover PD officers. Chief Delaney evidently did not have concerns with Sergeant Pier's ability to properly supervise patrol officers.

80. Upon information and belief, Chief Delaney ignored the findings in Sergeant Scinto's IA report and directed Sergeant Oxmani Corona and Sergeant Charles Peterson to reinvestigate the IA Complaint.

81. Upon information and belief, Sergeant Peterson is a twenty-seven (27)-year veteran of the police force.

82. Upon information and belief, Sergeant Corona and Sergeant Peterson each conducted a meaningful review of the IA Complaint and the available evidence and reported their findings to Chief Delaney.

83. Sergeant Corona's IA Report found the IA Complaint to be "unsustained," while Sergeant Peterson's IA Report exonerated Sergeant Pier.

84. Still, Chief Delaney failed and/or refused to make a final determination on Luke's Arrest or the IA Complaint within forty-five (45) days of having sufficient information from Sergeant Scinto, Sergeant Corona, and Sergeant Peterson's IA Reports to do so.

85. Through May of 2020, the IA Complaint against Sergeant Pier remained open.

V. DOVER UNLAWFULLY ATTEMPTS TO HIRE AN OUTSIDE INVESTIGATOR WHO WILL DENIGRATE SERGEANT PIER, BUT ULTIMATELY REFER THE IA COMPLAINT BACK TO THE ATTORNEY GENERAL'S OFFICE *AFTER* ADMITTEDLY COMPLETING ITS ADMINISTRATIVE REVIEW.

86. Upon information and belief, shortly after Sergeant Peterson issued his IA Report, the Town's attorney, Timothy Downs, confronted Sergeant Peterson via telephone and informed him that the Town did not agree with both his and Sergeant Corona's findings.

87. Disregarding the use of force provisions in Dover PD's Written Directives, Downs questioned Sergeant Pier's conduct and asked Sergeant Peterson, "Why Pier couldn't just sit on Luke's chest until back up arrived."

88. In doing so, the Town unlawfully interfered in and attempted to influence the outcome of the IA Complaint.

89. Dissatisfied with IA Reports' findings in favor of Pier, the Town, in direct violation of the AG Guidelines, intended to hire civilian Rich Rivera to re-investigate the IA Complaint and ensure a finding against Sergeant Pier.

90. Both Section 4.2.7 of the AG Guidelines and Dover PD's Written Directives explicitly prohibit a law enforcement agency's internal affairs function to be contracted or delegated to a private entity. Instead, when necessary, the internal affairs complaint can be investigated by the County Prosecutor.

91. The Town never asked the Morris County Prosecutors' Office to investigate the IA Complaint.

92. Upon information and belief, Dover, acting through the Mayor and Board of Aldermen and in direct contravention to the Attorney General Guidelines, hired Rich Rivera on or about June 9, 2020, to re-do the investigation of the IA Complaint against Sergeant Pier. A true

and accurate copy of Dover's June 9, 2020, regular meeting minutes that identify Dover's hiring of Rich Rivera under Resolution for 162-2020 is attached as **Exhibit C**.

93. Upon information and belief, Alderman Edward Correa maintained a close friendship with Rich Rivera before Dover hired him.

94. Dover hired Rich Rivera, despite, and in all likelihood because of, his earlier biased comments to the media, wherein he condemned Sergeant Pier's conduct. Attached as **Exhibit D** is a true and accurate copy of a June 12, 2019, article from NorthJersey.com in which Rivera opined that from his review the arrest video posted on the internet, Luke was "not presenting an imminent danger."

95. Despite three (3) internal affairs findings in favor of Sergeant Pier, Mayor Carolyn Blackman intimated to the public on or about June 17, 2020, that Sergeant Pier's conduct during the Luke Arrest was improper, necessitated additional training, and from now on, Sergeant Pier would be "closely monitored." Attached as **Exhibit E** is a true and accurate copy of the June 17, 2020, Morristown Daily Record article quoting Mayor Blackman.

96. To date, Sergeant Pier has never been assigned additional training as a result of the Luke Arrest nor has he been advised that he is being closely monitored.

97. Once again, the Town remained steadfast in publicly chastising Officer Pier and ignored the results of no less than three (3) separate IA investigations.

98. Upon information and belief, Chief Delaney informed the Mayor and Board of Aldermen in or about July of 2020, that the Town would violate the AG Guidelines if he released the IA Complaint file to Rich Rivera for him to investigate.

99. Instead, Defendant Delaney continued the investigation against Sergeant Pier by providing the IA Complaint file to the New Jersey Attorney General's Office for a second administrative review.

100. Chief Delaney had no legal basis to refer the IA Complaint to the Attorney General for re-investigation.

101. Indeed, Chief Delaney admitted to the press on or about July 8, 2020, that the Attorney General did not take back the investigation due to any mishandling of the internal process in Dover.

102. Dover's Deputy Administrator, Carlos Sanchez, admitted to the press on or about July 8, 2020, that Dover had completed its administrative review of the Luke Arrest and IA Complaint *back on May 21, 2020* – nineteen (19) days before Dover hired Rich Rivera and approximately forty-eight (48) days before the IA Complaint was referred back to the Attorney General's Office for further administrative review.

103. Chief Delaney should have, but failed to, inform Sergeant Pier after May 21, 2020, of the Town's final determination on the IA Complaint.

104. In or around July of 2020, Sergeant Pier asked Chief Delaney when he would receive a written final determination of the IA Complaint. Chief Delaney responded that the IA Complaint was not closed but forwarded to the Attorney General's Office for them "to review" to "make sure Dover PD conducted a thorough investigation" and reiterated that Sergeant Pier "had nothing to worry about."

105. Despite three (3) separate findings by IA investigators that Sergeant Pier acted lawfully while arresting Luke and the Town ending the investigation on May 21, 2020, Chief Delaney and Dover re-opened the investigation nineteen (19) days later and attempted to appoint

civilian Rich Rivera as investigator and eventually referred the IA Complaint to the Attorney General's Office for a second administrative review.

106. Dover's agenda against Sergeant Pier is further evidenced by the fact that upon information and belief, sitting Alderman Adrian Ballesteros took part in a July 3, 2020, protest, where participants repeatedly chanted Sergeant Pier's name and demanded his badge and immediate termination.

107. For five hundred twenty-seven (527) days, Sergeant Pier has remained under investigation in connection with the Luke Arrest and the IA Complaint.

108. Despite three (3) different IA Reports providing Chief Delaney with sufficient information that Sergeant Pier acted lawfully, Dover and Chief Delaney refuse to close the IA Complaint.

109. In retaliation against Sergeant Pier for prosecuting his Federal Lawsuit, Defendants refuse to close the IA Complaint and persist in using the Luke Arrest to publicly disparage Sergeant Pier, ostracize him from both the Dover PD and his home community, and impede or otherwise end his career as a police officer in order to leverage him into resolving and/or dropping the Federal Lawsuit.

110. Defendants' retaliatory conduct of keeping the IA Complaint open has unlawfully denied Sergeant Pier the opportunity to be considered for promotion to Lieutenant and caused him to lose income derived from overtime and side jobs.

111. As a result of Defendants' public condemnation, Sergeant Pier has received harassing and threatening phone calls while at work and has had members of the public approach him and berate him in public while he is performing his duties. He is forced to hide from the public

and cannot work court details or security for town council meetings, out of fear that he will face further unwarranted verbal abuse that mislabels him as a racist and/or abusive police officer.

CAUSES OF ACTION

COUNT I

VIOLATIONS OF THE NEW JERSEY LAW AGAINST DISCRIMINATION (N.J.S.A. 10:5-1, *et seq.*)

112. Plaintiff repeats and realleges each and every allegation set forth in Paragraph 1 through 111 as if set forth at length herein.

113. By commencing the Federal Lawsuit against Defendants, Plaintiff engaged in a protected activity and, under the New Jersey Law Against Discrimination, is a member of a protected class.

114. Defendants did retaliate against Plaintiff by taking such actions that negatively or adversely impacted Plaintiff's employment, including, but not limited to: (1) refusing to support Sergeant Pier; (2) making unfounded prejudicial comments to the media designed to subject Sergeant Pier to an outraged court of public opinion; (3) engaging in public protests against Sergeant Pier; (4) failing to timely investigate and adjudicate the citizens complaint against Sergeant Pier in accordance with the Attorney General Guidelines; (5) unlawfully attempting to hire an outside third-party to orchestrate the internal affairs ("IA") investigation into the citizens complaint; (6) unlawfully attempting to hire as the IA investigator a biased third-party who, without ever reviewing the IA case file, publicly aspersed Sergeant Pier; and (7) ignoring three (3) separate recommendations from IA Officers that Sergeant Pier's conduct was lawful and refusing to close out this IA matter and return Sergeant Pier to patrol.

115. Defendants committed such actions to retaliate against Plaintiff for prosecuting a Federal Lawsuit against them or otherwise to gain leverage against Plaintiff in the Federal Lawsuit.

116. As a direct and proximate result of Defendants' conduct, Plaintiff was caused to suffer damages, including financial loss, emotional and mental anguish, and other economic and non-economic damages.

WHEREFORE, Plaintiff demands judgment against Defendants, jointly and severally, or in the alternative, for damages as follows:

- (1) Compensatory and exemplary damages;
- (2) Pain and suffering;
- (3) Emotional distress;
- (4) Punitive Damages;
- (5) Attorneys' fees and costs as provided by law; and
- (6) Such other and further relief as the Court may deem just and equitable.

COUNT II:

VIOLATIONS OF THE NEW JERSEY CIVIL RIGHTS ACT
(N.J.S.A. 10:6-1, *et seq.*)

117. Plaintiff repeats and realleges each and every allegation set forth in Paragraph 1 through 116 as if set forth at length herein.

118. Defendants, acting under the color of law, did violate Plaintiff's protected rights set forth in Article 1 of the New Jersey State Constitution, including, but not limited to, Plaintiff's right of due process. Same is enabled through the *New Jersey Civil Rights Act*, N.J.S.A. 10:6-1 *et seq.*

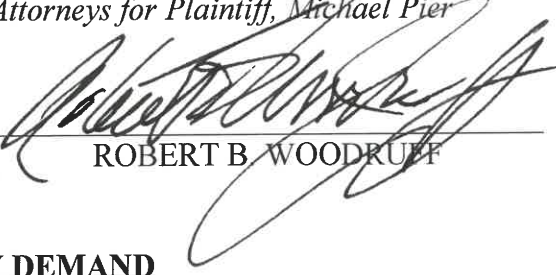
119. As a direct and proximate result of Defendants' conduct, Plaintiff was caused to suffer damages, including financial loss, emotional and mental anguish, and other economic and non-economic damages.

WHEREFORE, Plaintiff demands judgment against Defendants, jointly and severally, or in the alternative, for damages as follows:

- (1) Compensatory and exemplary damages;
- (2) Pain and suffering;
- (3) Emotional distress
- (4) Punitive Damages
- (5) Attorneys' fees and costs as provided by law; and
- (6) Such other and further relief as the Court may deem just and equitable.

SCHILLER, PITTENGER & GALVIN, P.C.
Attorneys for Plaintiff, Michael Pier

Dated: April 8, 2021

BY: 

ROBERT B. WOODRUFF

JURY DEMAND

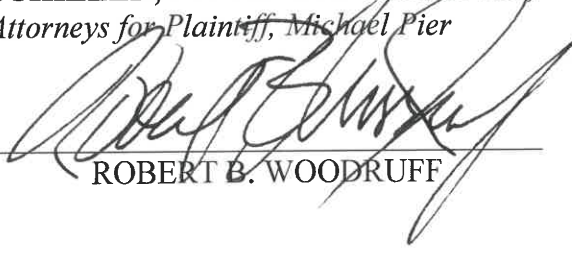
Plaintiff demands a trial by jury on all issues of the within Complaint.

DESIGNATION OF TRIAL COUNSEL

Plaintiff hereby designates Robert B. Woodruff as trial counsel in the above matter.

SCHILLER, PITTENGER & GALVIN, P.C.
Attorneys for Plaintiff, Michael Pier

Dated: April 8, 2021

BY: 

ROBERT B. WOODRUFF

RESERVATION OF RIGHTS

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

CERTIFICATIONS

1. I hereby certify that the matter in controversy is not the subject of any other action pending in any court nor other pending arbitration proceeding, with the exception of the matter *Michael Pier vs. Town of Dover, Mayor James P. Dodd (in his official and individual capacities), Town Administrator Donald Travisano (in his official and individuals capacities, John Does 1-10, and XYZ Corp. 1-10*, venued in the United States District Court for the District of New Jersey (Civil Action No.: 17-cv-12187) and no other action or arbitration is contemplated

2. I hereby certify that the confidential personnel 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 Rule 1:3B-7 (b).

SCHILLER, PITTENGER & GALVIN, P.C.
Attorneys for Plaintiff, Michael Pier

Dated: April 8, 2021

BY:

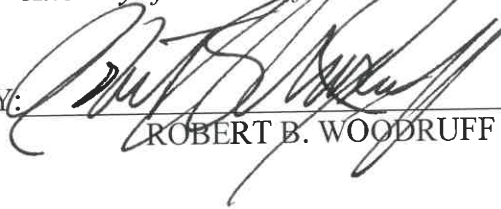

ROBERT B. WOODRUFF

EXHIBIT A

JOHN J. ZIDZIUNAS & ASSOCIATES
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Attorneys for Plaintiff: Michael Pier

MICHAEL PIER,

PLAINTIFF,

VS.

TOWN OF DOVER, MAYOR JAMES P. DODD (IN HIS OFFICIAL AND INDIVIDUAL CAPACITIES), TOWN ADMINISTRATOR DONALD TRAVISANO (IN HIS OFFICIAL AND INDIVIDUALS CAPACITIES), JOHN DOES 1-10, AND XYZ CORP. 1-10,

DEFENDANTS.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY,**

CIVIL ACTION NO.: 17-cv-12187

**FIRST AMENDED COMPLAINT AND
JURY DEMAND**

Plaintiff, Michael Pier, who resides at 103 Lynn Drive, Byram, New Jersey 07821 (hereinafter "Plaintiff"), by way of this Complaint against the Defendants, Town of Dover, (the "Town" or "Dover"), Mayor James P. Dodd ("Mayor Dodd"), Town Administrator Donald Travisano ("Travisano"), in their official and individual capacities, (hereinafter, collectively, the "Defendants"), hereby says:

I. Nature of Action, Jurisdiction, and Venue

1. This is an action seeking equitable and legal relief for: (1) a violation of 42 U.S.C. § 1983 - Monell v. City of New York (unconstitutional restraints on speech and association); (2) a violation of 42 U.S.C. § 1988; (3) Conscientious Employee Protection Act, N.J.S.A. 34:19-1 et seq. ("CEPA"); (4) civil conspiracy; (5) breach of express contract; (6) breach of implied contract; (7) breach of implied covenant of good faith and fair dealing; (8) New Jersey Civil Rights Act, N.J.S.A. 10:6-1 et seq.

(unconstitutional restraint of speech and association); (9) violation of United States Constitution, XIV Amendment (due process clause); and (10) violation of N.J.A.C. 4A:4-4.8.

2. This court has jurisdiction due to the nature of the action and the amount in controversy. Additionally, Plaintiffs have satisfied all prerequisites to bringing these claims.
3. Plaintiff has timely filed Tort Claims Act Notices.
4. Thus, Plaintiff has satisfied all prerequisites to bringing these claims.

II. Parties

5. Plaintiff, Pier, is a Sergeant for the Dover Police Department ("Dover PD").
6. Defendant, The Town of Dover (the "Town" or "Dover"), whose address is 37 N. Sussex Street, Dover, New Jersey 07801, employs Plaintiff Pier to perform work duties as a Sergeant in the Town of Dover, New Jersey, and are subject to suit under the statutes plead herein.
7. Defendant, Mayor Dodd, is currently the Mayor of Dover and an employee of Dover, who took actions to aid or abet in the illegal conduct complained of hereunder and/or who took actions that serve as the factual predicate for the illegal conduct complained of hereunder.
8. Defendant Travisano is currently the Town Administrator of Dover and employee of Dover, who took actions to aid or abet in the illegal conduct complained of hereunder and/or who took actions that serve as the factual predicate for the illegal conduct complained of hereunder.
9. The John Doe Defendants 1-10 are fictitiously named individuals whose identities are currently unknown to Plaintiff, and are also employed by the Dover Police Department ("Dover PD"). John Doe Defendants 1-10 are individuals who have either personally participated in the illegal conduct described herein, or who have been willfully indifferent to the illegal conduct inflicted on Plaintiff.
10. The XYZ Defendants 1-10 are fictitiously named individuals whose identities

are currently unknown to Plaintiff, and are also employed by the Dover Police Department. XYZ Defendants 1-10 are individuals who have either personally participated in the illegal conduct described herein, or who have been willfully indifferent to the illegal conduct inflicted on the plaintiff.

11. All Defendants are individually subject to the statutes referenced herein.
12. At all times referred to in this Complaint, employees of Dover, who are referred to herein, were acting within the scope of their employment at the workplace during working hours or the corporate and/or municipal defendant ratified, embraced and added to their conduct to the extent that their actions went beyond the scope of their employment.

III. Factual Allegations

13. Pier is a decorated police officer who was hired by the Town of Dover Police Department in February 2006.
14. In July or August 2005, Plaintiff interviewed for the position of police officer for the Dover Police Department with Chief Harold Valentine and Captain Robert Kerwick. Soon after the interview, Plaintiff was extended an offer of employment for the police officer position.
15. In February 2006, Plaintiff began his career as a police officer earning a salary of \$37,000 per year. Plaintiff was an intergovernmental transfer from the Sussex County Sheriff's Office. Plaintiff worked for the Sussex County Sheriff's Office from 2003 through his date of hire with the Dover Police Department.
16. As a police officer for the Dover Police Department, Plaintiff is considered a Civil Service employee.
17. Throughout Plaintiff's decorated career, Plaintiff received numerous commendations and promotions for his exemplary service.
18. Sometime in 2010, Plaintiff signed up for a test for a Sergeant position. Then, in 2013 or 2014 Plaintiff took the test for Sergeant. At that time, there was a delay with the promotions for Sergeant positions.

19. The Dover Police Department had written directives which were policies the department followed. One of the written directives titled "Promotion", dated January 4, 2013, set forth the rules governing promotions within the Dover Police Department. (See Ex. A attached)
20. Per the directive, the Dover PD's policy was to comply with the promotional processes established by N.J.A.C. 4A:4-2.4 et seq. – Civil Service Commission.
21. Plaintiff worked in the Patrol Division from 2006 through 2014. As a result of his exemplary performance in the Patrol Division, Plaintiff was recommended for a transfer to the Detective Bureau in June 2014. With this transfer came more opportunities for overtime pay and prestige within the department.
22. At the time, there were still no promotions for the Sergeant position. However, the Department was looking for a new detective because there were issues surrounding two (2) detectives including: Detective/Sergeant Gonzalez and Detective Timothy Thiel. Eventually, the two detectives were transferred back to the Patrol Division and then Plaintiff and Sgt. William Woodhull were transferred to the Detective Bureau.
23. As a Detective, Plaintiff's job duties included but were not limited to: following up on open investigations, performing arrest affidavits/warrants, and executing search warrants to further investigate crimes.
24. Since Plaintiff was in the Detective Bureau, Plaintiff became known as one of "Butchie's boys" from upstairs.
25. "Butchie's boys" was a term used throughout the department for the officers who worked under Chief Harold "Butch" Valentine (Chief Valentine), were closely affiliated with Chief Valentine and supported Chief Valentine's candidacy for Mayor against Defendant Mayor Dodd, and were outspoken in their free speech support/actions of Chief Valentine running for office against incumbent Mayor Dodd.
26. It was commonly known that Defendant Dover's head decision maker(s), Defendants Dodd and Travisano, exercised a pattern and practice of

retaliation against officers who were outspoken in their free speech support/actions of Chief Valentine running for office against incumbent Mayor Dodd. Defendants' customs and policies and deliberate indifference to re-train, prevent, end or abate this retaliation from the top down is well known, and is supported by the fact numerous other Dover police officers have filed suit and sought relief against Defendants for similar claims of retaliation/harassment for their protected speech and association, thus giving rise to municipal liability under Monell.

27. At that time, "Butchie's boys" included: Lt. Young, Lt. Coppinger, Detective McCarthy, Detective Sperry, Detective Camacho and Plaintiff.
28. Defendants Mayor Dodd and Travisano, and numerous officers within the department, observed Plaintiff's close personal and professional relationship with Chief Valentine in and out of the office, and thus viewed Plaintiff as one of Chief Valentine's "affiliated" guys.
29. Plaintiff's close affiliation with Chief Valentine, throughout his career to the present, would ultimately become a detriment to Plaintiff as discussed further herein.
30. In the beginning of January 2015, Plaintiff conducted an investigation involving a sexual assault with Sgt. Gonzalez.
31. During the investigation, Sgt. Gonzalez was cooperative and assisted in conducting a complete and thorough investigation, without any complications or obstructions.
32. Unfortunately for Plaintiff, things drastically changed as a result of an internal affairs investigation that was assigned to Plaintiff toward the latter part of January.
33. Specifically, Plaintiff was assigned to investigate a complaint made by Sergeant Metzgar against Lt. Young and Lt. Coppinger. As part of this investigation (as required in all investigations), Plaintiff familiarized himself with the case by reading all reports that were drafted, and listening to all of the interviews that were conducted thus far.

34. While reviewing an audio recording of an initial interview conducted by Sgt. Gonzalez, it became apparent to Plaintiff that Sgt. Gonzalez committed an act of misconduct that Plaintiff believed was unethical/illegal/improper/immoral and unjust.
35. Specifically, Plaintiff could hear that Sgt. Gonzalez asked Sgt. Metzgar a question, then there is a pause, a pen click and papers flip over. It appeared to Plaintiff that Sgt. Gonzalez had written down an answer to a question and Sgt. Metzgar read the answer out loud.
36. Soon after, on or about January 28, 2015, Plaintiff interviewed Sgt. Metzgar, because he was the Complainant in that subject investigation.
37. During that interview, Plaintiff asked Sgt. Metzgar if Sgt. Gonzalez assisted him in answering questions during the initial interview.
38. However, Sgt. Metzgar denied any knowledge of this conduct.
39. Within a few days of the interview, Sgt. Metzgar asked Plaintiff for a copy of the interview. Plaintiff provided same to Sgt. Metzgar in accordance with the Dover PD policy.
40. Plaintiff strongly believed that Sgt. Metzgar provided the copy to Sgt. Gonzalez, which was unethical/illegal/improper/immoral.
41. Eventually, Plaintiff reported the apparent act of misconduct to his supervisor, Lt. Young, and also noted same in the internal affairs file.
42. While Plaintiff found no violation by Lt. Young and Lt. Coppinger in the within investigation, Plaintiff recommended that an investigation be opened up into Sgt. Gonzalez's conduct.
43. On or about February 1, 2015, a few days after the interview with Sgt. Metzgar, Plaintiff was assigned to a suspicious death/overdose investigation.
44. As part of the investigation, Plaintiff called dispatch to get information from the initial investigation conducted by Sgt. Gonzalez. However, Sgt. Gonzalez instructed one of his subordinates not to give Plaintiff any information and direct him to use the computer only.
45. It was clear to Plaintiff that Sgt. Gonzalez was obstructing Plaintiff's

investigation. This obstruction caused a time delay in the investigation and hindered the investigation, specifically in determining who the victim purchased narcotics from. Sgt. Gonzalez also failed to make the proper notification within a timely manner to major crimes division (CIS). (Investigation case no. 2015-2360).

46. Notably, Sgt. Gonzalez had just been transferred out of the Detective Bureau to the Patrol Division so he clearly knew the important role a timely notification played in an investigation.
47. Then again, on or about February 8, 2015, Sgt. Gonzalez violated another practice within the department when he called Plaintiff in the middle of the night to assign him an investigation without providing him any initial investigatory information. The Patrol Division is required to conduct an initial investigation before calling a detective to the scene of the investigation.
48. Without conducting the initial investigation and properly relaying the initial information to Plaintiff, Sgt. Gonzalez clearly made the investigation more difficult for Plaintiff and hindered the investigation. (Investigation case no. 2015-2881).
49. On or about February 27, 2015, Sgt. Gonzalez yet again complicated and hindered an investigation. Sgt. Gonzalez conducted the initial investigation into a sexual assault call, and when Plaintiff took over the investigation Plaintiff inquired into whether the call had any relation to a prior call earlier in the day. Sgt. Gonzalez notified Plaintiff that the calls were not related, but as it turned out, they were.
50. Once more, Sgt. Gonzalez did not properly conduct the initial investigation, thereby hindering the investigation. (Investigation file no. 2015-3674)
51. Later that same day, Plaintiff was contacted by Sgt. Gonzalez regarding a serious motor vehicle crash involving a pedestrian. Sgt. Gonzalez informed Plaintiff of some initial information but requested that Plaintiff respond to the scene of the accident so that he could transport the driver to headquarters to be interviewed by Plaintiff in the department's interview room.

52. Upon arriving at the scene of the accident, Plaintiff located Sgt. Gonzalez who was assigning the crash investigation to Police Officer Oxmani Corona. Plaintiff transported the driver to the hospital. Afterwards, Plaintiff contacted Officer Corona to ask if he would conduct the interview with him since he was the investigating officer on scene and he had valuable crash investigation training. Officer Corona agreed to conduct the investigation with him.
53. After the hospital, Plaintiff transported the driver to the Police headquarters where the driver met his attorney. Plaintiff located Officer Corona who was in the "Sergeant's office" with Sgt. Gonzalez. Plaintiff advised Officer Corona that the driver and his attorney were ready for the interview.
54. However, Sgt. Gonzalez advised Plaintiff that he was to perform the interview alone. Plaintiff responded that he and Officer Corona agreed to perform the interview together. Sgt. Gonzalez responded to Plaintiff that Plaintiff did not need Officer Corona to perform the interview with him and that he was to perform the interview alone.
55. Plaintiff explained to Sgt. Gonzalez that since Officer Corona had numerous hours of crash investigation training, that his knowledge would be valuable to the interview. After the back and forth between Plaintiff and Sgt. Gonzalez, Officer Corona asked Sgt. Gonzalez if he could be a part of the interview, and Sgt. Gonzalez finally allowed him.
56. During Plaintiff's entire career as an officer and extensive training how to properly conduct investigations, he had never heard of detective being assigned to a crash investigation accident, by himself, without assistance from the investigating officer or an officer with crash investigation training.
57. It became evident to Plaintiff that he was being retaliated against by Sgt. Gonzalez for disclosing/objecting/refusing to participate in Sgt. Gonzalez's acts of misconduct in January 2015 to his supervisor, Lt. Young.
58. In February and early March 2015, Plaintiff submitted memorandums to Chief Valentine to continue addressing concerns he had with Sgt. Gonzalez and his illegal/unethical/immoral/inappropriate actions in the Department.

59. Specifically, Plaintiff addressed how Sgt. Gonzalez was hindering his investigations. The memorandums were given to Lt. Young and Lt. Coppinger who then forwarded the memorandums to Chief Valentine.
60. During this same time, in March 2015, Chief Valentine informally announced his intentions to run for mayor against the incumbent mayor of approximately twelve (12) years, Defendant Mayor Dodd.
61. Unfortunately for Plaintiff, Chief Valentine's announcement to run for office against Defendant Mayor Dodd put all persons closely affiliated with Chief Valentine in jeopardy of retaliation.
62. It was commonly known in the police department, and within the Town, that Defendant Mayor Dodd had a reputation for retaliation.
63. Then, on March 20, 2015, Plaintiff submitted another memorandum to Chief Valentine regarding unethical concerns and issues he had surrounding Sgt. Gonzalez's conduct. (See Ex. B attached)
64. In the memorandum, Plaintiff explained that officers under Sgt. Gonzalez's supervision were told not to give Plaintiff investigatory information if he called after being assigned to an investigation. Apparently, if and when subordinates did provide information to Plaintiff, Sgt. Gonzalez got upset.
65. More importantly, Plaintiff expressed that he feared for his safety and well-being, as well as his family's safety and well-being. He explained that Sgt. Gonzalez has a history of using his supervisory position to retaliate against officers he does not like and who have made complaints against him. Plaintiff refers to his February 10, 2015 and March 2, 2015 memorandums.
66. Further, Plaintiff expressed in detail reasons for his concerns. Plaintiff listed at least seven or eight incidents and/or reasons to support his serious and imminent concerns.
67. First, Plaintiff noted that he observed Sgt. Gonzalez conduct unauthorized departmental training with duty weapons. Plaintiff described a game that Sgt. Gonzalez made his subordinates play that entailed unholstering their weapon, removing ammunition, and then drawing their weapons as fast as

possible and pointing it at the opposing officer. Plaintiff noted that he was always trained to never aim and/or point a weapon at someone unless that plan was to use it.

68. Plaintiff reasonably and accurately believed Sgt. Gonzalez was violating a rule or regulation by performing this training.
69. Next, Plaintiff described that he heard that Sgt. Gonzalez was undertaking non-work related investigations of other officers on his own time, specifically mentioning one (1) investigation into Officer Walter Michalski. This, too, would not be permitted by the Dover PD Directives.
70. Third, Plaintiff described that Sgt. Gonzalez carried a fixed six (6) inch blade that he would throw against the wall in the department.
71. Plaintiff next described a wrestling incident that involved Sgt. Gonzalez cutting another officer in the hand which required him to get stitches.
72. Next, Plaintiff described that Sgt. Gonzalez admitted to having "visions" which made Plaintiff question Sgt. Gonzalez's mental health status.
73. Plaintiff's sixth concern was that he learned of some previous, uncomfortable exchange between Sgt. Metzgar and Sgt. Gonzalez about a Lieutenant position. Plaintiff learned that soon after the exchange, an investigation through internal affairs was suddenly opened into Sgt. Metzgar and his alleged extramarital affair. It was discussed throughout that department that Sgt. Gonzalez directed a subordinate to text Sgt. Metzgar's wife inquiring into why her husband was at another woman's house during business hours.
74. Additionally, Plaintiff noted that he heard that Sgt. Gonzalez had a breakdown while President of the Dover PBA 107, which made Plaintiff uneasy about his current mental health status.
75. Lastly, Plaintiff described that Sgt. Gonzalez referred to himself as having three (3) different personalities including: Sgt. Richard Gonzalez, Rico and Ricky.
76. In the conclusion of his memorandum, Plaintiff asked that the Town of Dover take action to protect Plaintiff and his family from Sgt. Gonzalez.

77. Plaintiff also asked that Sgt. Gonzalez be *immediately suspended* and that he undergo a fitness for duty examination.
78. In sum, Plaintiff wrote a memorandum to Chief Valentine because he reasonably believed that Sgt. Gonzalez was violating laws and several rules and practices of the department, and was greatly concerned with the mental health status of Sgt. Gonzalez.
79. After submitting the memorandum to Chief Valentine of March 20, 2017, Plaintiff was directed to bring the memorandum to Defendant, Administrator Trivisano.
80. On March 23, 2015, Plaintiff brought the memorandum to Defendant Trivisano. Defendant Trivisano asked what was in the memorandum and Plaintiff gave him a brief synopsis. Defendant Trivisano asked Plaintiff, "Are you really concerned for your safety and well-being?" and Plaintiff responded, "Yes."
81. Unprovoked and out of nowhere, Defendant Trivisano brought up "CEPA" (New Jersey's whistleblower protection statute) and told Plaintiff that "CEPA doesn't apply here" and "CEPA will not protect you because I didn't authorize Gonzalez's actions and I didn't direct him to act in that manner."
82. Defendant Trivisano showed no concern or compassion toward Plaintiff and his safety, nor addressed the substance of the legal issues underlying the problem at hand.
83. Defendant Trivisano never discussed initiating a legal investigation to end of abate the alleged illegal conduct disclosed by Plaintiff – a highly respected and ranked officer in the department.
84. On that same date, Officer Michalski and Detective Camacho also submitted complaints to Defendant Trivisano about Sgt. Gonzalez.
85. On April 9, 2015, Plaintiff received an Inter-Office Memo from Chief Valentine which stated that Sgt. Gonzalez was put on a paid leave of absence pending a fitness for duty evaluation. The memorandum further stated that since the Town of Dover removed the immediate threat of

retaliation and harm, the Town considered Plaintiff's complaints appropriately responded to and closed. (See Ex. C attached)

86. Shortly after, on or about April 22, 2015, Chief Valentine formally announced his political intentions to run for Mayor against Defendant Mayor Dodd.
87. Within weeks of this announcement, Defendants Dodd and Travisano and former Public Safety Director Richard Rosell caused Chief Valentine to be illegally suspended from the Dover PD, effectively removing him from his employment as Chief of Police.
88. The pre-textual reason for Chief Valentine's suspension was because Chief Valentine allegedly did not receive the permission of the Morris County Prosecutor's Office to run for the Mayor's Office, in contravention of the Town Ordinance.
89. During this time, Plaintiff became aware that Defendants were harassing and retaliating against other officers for their protected free speech activities and association with Chief Valentine, particularly "Butchie's boys."
90. In April or May 2015, Sgt. Anthony Smith (now Deputy Chief) confronted Plaintiff and stated, "Things are going to come back and haunt those guys who wrote a memorandum about Sgt. Gonzalez and gave it to the Town Administrator."
91. ***This statement was a direct threat of retaliation to Plaintiff,*** and Plaintiff began to fear that his career would be derailed as a result of the March 20th memorandum he submitted to Defendant Travisano.
92. During this time, Plaintiff learned that Officer Michalski was transferred from a shift where he was the Officer in Charge to a shift where he was not, which was essentially a demotion. This adverse employment action occurred after Officer Michalski submitted the memorandum with complaint about Sgt. Gonzalez. This was a clear retaliatory act towards Officer Michalski.
93. On June 2, 2015, the primary election for Mayor was held. Chief Valentine lost the election.
94. Sometime in June 2015, Sgt. Smith was promoted to Lt. Smith.

95. Suddenly and without warning, Plaintiff was transferred out of the Detective Bureau back to the Patrol Division in June 2015, along with Detective Camacho. Ironically, both Plaintiff and Camacho had submitted memorandums about Sgt. Gonzalez to Defendant Travisano.
96. It was clear that Lt. Smith's previous statement that the memorandum(s) would "haunt the guys who wrote" was true, and that retaliation was occurring for making disclosing/objecting the aforementioned illegal conduct.
97. Plaintiff's transfer to the Patrol Division was inherently a retaliatory demotion. The transfer caused Plaintiff to lose extra overtime hours and pay, as well as the prestige that came along with being a detective for the Dover PD.
98. To date, Plaintiff was never given a reason for the transfer out of the Detective Bureau.
99. Shortly thereafter, Plaintiff was replaced by Officer Justin Gabrys and Officer Oscar Suarez in the Detective Bureau.
100. Lt. Coppinger, who also filed a lawsuit against the Defendant Town of Dover for whistleblower retaliation/free speech claims, eventually told Plaintiff that the transfer was what Defendant Town Administrator Travisano wanted.
101. In December 2015, as Plaintiff was walking into the headquarters building, Director Dominick Saldida pulled him aside to discuss upcoming promotions. Director Saldida notified Plaintiff that the "Town Officials", which included Defendants Travisano and Mayor Dodd, were concerned about promoting Plaintiff.
102. Director Saldida told Plaintiff that he would go to bat for him because he knew his work performance/track record as a police officer was excellent.
103. On or about February 8, 2016, Plaintiff was notified by Director Saldida that he was being denied promotion for the Sergeant position. Lt. Smith and Lt. Coppinger were present for this meeting.
104. They informed Plaintiff of the individuals who would receive the promotions. Plaintiff responded that it wasn't right because he's done more than the individuals named. Plaintiff asked the Director if he could speak to the

Mayor. The Director assisted in setting up a meeting for the Mayor and Plaintiff.

105. Later that day, Plaintiff met with Defendant Mayor Dodd. Defendant Mayor Dodd told Plaintiff that they were looking to go a "different direction" with the police department.
106. Plaintiff knew that, but for his written disclosures and reporting of illegal/unethical/immoral workplace conduct to his supervisor(s), he would not be withheld for promotion.
107. However, after extensively pleading his case to Defendant Mayor Dodd why he believed he deserved the promotion to Sergeant, Plaintiff was given the promotion to Sergeant on February 9, 2016.
108. Months later, on or about May 17, 2016, Defendants made Lt. Smith the new Office in Charge ("OIC") of the Dover PD. Soon after, Plaintiff noticed that it became extremely difficult to communicate with Lt. Smith.
109. For example, on or about June 5, 2016, Plaintiff sent an email to Lt. Smith requesting some direction on a defected duty weapon. (See Ex. D attached)
110. On that same date, Lt. Smith responded that the responsibility to deal with the issue falls on Plaintiff since he is now a part of the accountability process. Lt. Smith further explained that Plaintiff's original email should have been directed to Lt. Coppinger.
111. On or about July 13, 2016, Plaintiff drafted an Inter-Office Memo addressed to Lt. Smith, with a Cc: to Lt. Coppinger, regarding an issue with the evidence heat sealer.
112. In the Inter-Office Memo, Plaintiff explained that the Department's evidence heat sealer was not properly working. In fact, Plaintiff explained that during the heating process to seal both ends of the evidence bag, the sealer burned a hole in the bag and/or was not sealing the ends smoothly.
113. Plaintiff further explained that he attempted to adjust the settings on the evidence heat sealer, but the sealer did not properly seal the bag, the seal became undone and allowed evidence to come out of the evidence bag.

(See Ex. E attached)

114. Later that day, Lt. Smith responded back to Plaintiff via email that he was "...sure that the attached memo was addressed in error." Lt. Smith further requested that Plaintiff address his correspondence to Lt. Coppinger in the future, with a Cc to Lt. Smith. Lastly, Lt. Smith advised Plaintiff to address the problem with the evidence sealer or seek assistance from Lt. Coppinger. Lt. Smith requested to know the outcome of the problem by that Friday, only two (2) days later, without offering any assistance or direction to Plaintiff.

(See Ex. E attached)

115. On July 15, 2016, Lt. Coppinger wrote an email to Lt. Smith notifying him that Plaintiff did in fact reach out to Lt. Coppinger first but that he asked Plaintiff to reach out to Lt. Smith on the issue because it dealt with spending money. In that same email, Lt. Coppinger inquired into whether there was money in the budget to purchase a new evidence heat sealer, and if so, he would see that it got ordered. (See Ex. E attached)
116. Later that day, on July 15, 2016, Lt. Smith responded to Lt. Coppinger via email explaining that he had a previous conversation with Plaintiff but would not be revisiting at this time. In his email, he stated that he has asked for a solution to the problem and that "[i]s there money for the machine" is not a solution. (See Ex. E attached)
117. Plaintiff followed up with Lt. Smith and provided him costs for a new evidence heat sealer and costs for replacement parts. Eventually, the parts were ordered and the sealer was fixed.
118. During this time, it was clear that Lt. Smith wanted little to no communication with Plaintiff and that he was looking to give him a difficult time.
119. At or around this time period, Plaintiff had knowledge through the Department that the Civil Service Commission sent a notice to the Town regarding eligibility for a Lieutenant's test. Plaintiff was advised that the Town originally responded that it wasn't interested in the Lieutenant's test but then it apparently followed up with a request to relax the rules under Civil

Service since only one (1) Sergeant had been in the Sergeant position for a year to be eligible for the promotion.

120. Then, in August 2016, Plaintiff had another unusual interaction with Lt. Smith. Lt. Smith confronted Plaintiff at a road job and inquired into why Plaintiff gave three (3) officers off for the day, one (1) of which had just been transferred to Plaintiff's squad. Lt. Smith further told Plaintiff that "some guys will be promoted, others will stay in current position."
121. In September 2016, Plaintiff decided that he wanted to attend the State of New Jersey Certified Public Manager Program to better himself as a leader and supervisor in the Dover PD, and ultimately progress to Lieutenant. Plaintiff asked Lt. Coppinger to sign and verify that at that time Plaintiff was a police officer who had supervisory level experience for a governmental entity for his application to the program. Lt. Coppinger signed the paperwork.
122. Shortly after, Plaintiff submitted the application to the Civil Service Commission to participate in the program through the School of Public Affairs and Administration at Rutgers University-Newark. (See Ex. F attached)
123. In early October 2016, Plaintiff received a letter from the State of New Jersey Civil Service Commission approving Plaintiff's application to participate in the Certified Public Manager Program. (See Ex. G attached)
124. After receiving approval, Plaintiff drafted a memorandum to Lt. Coppinger seeking to use some "training time" provided by Dover PD to attend the course. The request would have approximated to about thirty (30) – forty (40) training hours. Plaintiff figured that the program offered extensive training that would benefit him in his Sergeant position and for the future in the department as Lieutenant. Lt. Coppinger forwarded Plaintiff's request to Director Degroot. At the time, Director Degroot had taken over for Director Saldida.
125. Upon receipt of the request, Director Degroot involved Lt. Smith and Lt. Smith called Civil Service Commission to inquire about the necessary approval to attend the program.

126. In November 2016, Plaintiff and Lt. Coppinger were requested to attend a meeting in Director Degroot's office regarding Plaintiff's request to attend the Certified Manager Program. During this meeting, Director Degroot notified Plaintiff that he had a problem with how the "whole thing went down" and that Plaintiff didn't follow the "training policy." However, the so-called "training policy" that Director Degroot referred to was not yet in effect.
127. In late November 2016, Plaintiff received notification from Director Degroot that he was denied permission to attend the program *altogether*. Plaintiff wasn't even permitted to attend the program on his own time, using his own earned benefit time. Director Degroot told Plaintiff that it sounded "bizarre" that Plaintiff wanted to attend this program because in the Director's own experience, not many employees sought to attend this program at their own free-will.
128. Within a day or two of being denied permission to attend the program, Plaintiff called the Civil Service Commission at the direction of Director Degroot. Plaintiff inquired into whether he was required to have both supervisory and departmental approval for the program. Civil Service told Plaintiff that based upon the unusual circumstances of his supervisors disagreeing to the approval, departmental approval would be necessary.
129. After this call, Plaintiff advised Director Degroot of the outcome of the conversation with Civil Service. At the direction of Director Degroot, Plaintiff also relayed the information to Lt. Smith.
130. The New Jersey Certified Public Manager Program is a program that equips participants with the skills and competencies needed to impact their organization's efforts to meets its missions and performance goals. In the program, participants gain knowledge needed to tackle complex organizational challenges, manage their day-to-day operations more effectively, and grow as leaders.
131. By applying for the program, Plaintiff was trying to better himself as a leader for the Dover PD. At the time, Plaintiff was in a leadership/supervisory role

and sought to grow as a leader with the extra skills he could obtain through the program.

132. This denial to Plaintiff to attend the New Jersey Certified Public Manager Program was another example of the continuing retaliatory acts by the supervisors and Administration to Plaintiff for Plaintiff's March 20th memorandum about Sgt. Gonzalez and for his free speech/association/affiliation with Chief Valentine
133. Plaintiff was never provided a valid reason why Lt. Smith and Director Degroot denied his request to attend the program.
134. In fact, and quite upsetting to Plaintiff, around the same, Plaintiff had knowledge that Sgt. Peterson and Sgt. Gabrys had approval to attend college courses with reimbursement by the Town. Additionally, Sgt. Delaney had approval to attend law school, which was partially reimbursed by the Town. Therefore, three (3) other Sergeants were approved to attend various programs, with reimbursements for same.
135. During this same time period in November 2016, Plaintiff also took the exam for the position of Lieutenant.
136. Of most importance, the Sergeants were never even properly notified in a timely fashion that the Lieutenant's test was being offered, in violation of the Civil Service Commission rules.
137. Additionally, Plaintiff found out after the fact through discussions in the department that Sgt. Delaney and Sgt. Gabrys took a study course for the Lieutenant's exam in or about July 2016. This seemed unusual to Plaintiff since these two (2) Sergeants took a study course in July but as of July 2016, no information was posted regarding a Lieutenant's test.
138. A few months passed and there were still no promotions for the Lieutenant position.
139. Then, on February 15, 2017, Plaintiff received an Employee Evaluation Report for the evaluation period of July 1, 2016 through December 31, 2016. In this evaluation, Plaintiff was rated that his work was "above standards" in

leadership and other areas and also “meets standards” in others. (See Ex. H attached)

140. In the evaluation, Lt. Coppinger explained that Plaintiff accepted added responsibility with enthusiasm and drive; took training very seriously; led the crossing guards and traffic counter smoothly as the department liaison; assisted younger patrolmen; continued to handle a case load and was first on the scene for a serious incident; and did not shy away from work.
141. Further, in the evaluation, Lt. Coppinger noted that ***“I feel Pier has performed well in his new role and is well prepared to move up in rank if and when the opportunity opens.”***
142. Thus, Plaintiff’s evaluation for the 2016 year end was clearly very strong and documented accordingly.
143. On the same date as his evaluation, Plaintiff received notice from Civil Service Commission with his test score for the Lieutenant position. The test scored revealed that Plaintiff scored number three (3) on the list. (See Ex. I attached)
144. Sometime after the test results came out, in late February or March 2017, Lt. Smith made an unprofessional and unwarranted comment to Plaintiff that he will soon be ***“the veteran Sgt. downstairs.”***
145. Plaintiff did not respond.
146. Plaintiff was shocked and upset by this comment since Plaintiff knew he scored third on the eligible list for the Lieutenant position and his work performance was strong.
147. It was apparent to Plaintiff and numerous officers within the department that Plaintiff would not get the promotion for the Lieutenant position due to the ongoing retaliatory acts towards him by Lt. Smith and Defendants Travisano and Dodd because of his whistleblower actions, and his free speech/support/close affiliation with Chief Valentine.
148. Months passed, and the promotions for the Lieutenant position were delayed.

149. On July 14, 2017, Plaintiff received a text message from Director Degroot requesting that Plaintiff see him before starting his shift.
150. Per his request, Plaintiff went to the Director's office, at which point he was notified by Director Degroot that he was being skipped for the Lieutenant position.
151. Director Degroot gave Plaintiff a pre-textual reason that he was being skipped because his "numbers are higher than your guys." In referring to "numbers" and "your guys", Director Degroot meant that Plaintiff's numbers for arrests, service calls, charges, citations, and motor vehicle stops were higher than Plaintiff's subordinates.
152. Plaintiff explained to the Director that his numbers were higher than his subordinates' numbers because one (1) officer was in the process of retiring and did retire; two (2) other senior officers used their benefit time so were out of work often; one (1) junior officer took off two (2) weeks per month and previously took off (1) full month for military leave.
153. Director Degroot told Plaintiff that the department was looking for leaders who were motivators and that they were concerned that since Plaintiff's numbers were so high that he was not motivating his subordinates to perform the work.
154. The reason provided to Plaintiff for skipping him was not a legitimate reason under the Civil Service Rules. It was clear that Plaintiff was skipped for the Lieutenant position for a reason not related to his test score, merit or performance, but rather for his protected whistleblower actions and his free speech activities/support/close affiliation with Chief Valentine.
155. On July 25, 2017, there were three (3) appointments made from Sergeant to Lieutenant.
156. The promotions were given to William Newton, Jonathan Delaney, and Justin Gabrys.
157. William Newton tested first on the list of eligibles. Jonathan Delaney tested second on the list of eligible. Justin Gabrys tested fourth on the list of

eligible.

158. William Newton and Jonathan Delaney both had blemished careers with having received one (1) day suspensions in the past.
159. Plaintiff, on the other hand, at all times during his career for the Dover PD ***had an unblemished career, with no disciplinary history***. Plaintiff also tested higher than Justin Gabrys. However, Plaintiff was bypassed for the promotion for Justin Gabrys.
160. After the promotions were given, Plaintiff reached out to the previous Director, Director Saldida. Plaintiff had a very open and informative conversation with Saldida. In the conversation, Saldida informed Plaintiff that the only reason Plaintiff originally was going to be skipped for the Sergeant promotion in 2016 was because the officer, (Officer Peterson) who scored lower than Plaintiff on the Sergeant's test, provided the Administration with information on Chief Valentine to help get Chief Valentine removed from the Chief position.
161. Saldida also informed Plaintiff that "they (referring to Administration) are setting Gambrys up for Chief position."
162. It was clear the Administration, Dodd and Travisano, had an agenda in mind when making promotions.
163. It was obvious that the Dover PD promoted individuals who could further the Administration's own personal objectives, a direct violation of the Civil Service rules and regulations. It became apparent that promotions within the Dover PD were not based upon test scores, merit and performance.
164. As of date, despite being scored as number three on the eligibility list for a Lieutenant position, having an unblemished career with no disciplinary history, and great performance evaluations, Plaintiff was illegally skipped for the promotion as Lieutenant and still remains a Sergeant at the Dover PD in contravention of the Rule of 3.
165. More than just the rank and titles he achieved, Plaintiff is a highly skilled and respected police officer by his peers for his integrity, hard work, knowledge of

police work, and leadership.

166. Plaintiff was also highly trained on the New Jersey State Attorney General Guideline ("AG Guidelines") and the policies and procedures adopted by municipalities in New Jersey which mirror the requirements set forth in the AG Guidelines.
167. As a direct result of Plaintiff's protected whistleblower actions, his free speech/support/close affiliation with Chief Valentine, Plaintiff's career has been willfully and maliciously derailed by Defendants, and he has faced a constant battle with progressing in the department.
168. Further, as a direct and proximate result of the actions of Defendants, Plaintiff has suffered mental anguish, physical discomfort, pain and suffering, shame and embarrassment, humiliation and/or aggravation of a previously existing mental or emotional condition. Moreover, Plaintiff has had to incur expenses for medical care and medication. Plaintiff's damages have been experienced in the past, and they will continue into the future.
169. Plaintiff now seeks equitable relief in the appointment to Lieutenant's position, as well as compensatory damages, damages for lost wages, lost overtime, interest, emotional distress damages, attorneys' fees, statutory damages, and punitive damages, *inter alia*.

Count I

(42 U.S.C. § 1983 - Monell v. City of New York – violations of First Amendment, Free Speech & Association)

170. Plaintiff repeats and incorporates herein the above referenced paragraphs verbatim.
171. Defendants conspired to violate Plaintiff's constitutional rights as set forth in the United States Constitution by denying him the rights and protections conveyed by the Constitution to include but not be limited to freedom of speech, freedom of association, in violation of 42 U.S.C. § 1983.
172. Plaintiff's complaints to his supervisor and Administration were an exercise of his free speech and he openly spoke out about a supervisor's unethical, immoral and possibly illegal conduct. This speech was a matter of public concern since police

departments concern the welfare of the community, police officers and the public at large.

173. Plaintiff was retaliated against for his free speech and association activities, which proximately derailed his career, thus causing him significant damages.
174. It was commonly known that Defendant Dover's head decision maker(s), Defendants Dodd and Travisano, exercised a pattern and practice of retaliation against officers who were outspoken in their free speech support/actions of Chief Valentine running for office against incumbent Mayor Dodd. Defendants' customs and policies and deliberate indifference to re-train, prevent, end or abate this retaliation from the top down is well known, and is supported by the fact numerous other Dover police officers have filed suit and sought relief for similar claims of retaliation/harassment for their protected speech and association, giving rise to municipal liability under Monell.
175. As a direct and proximate result of Defendants' actions, Plaintiff has suffered the deprivation of precious Constitutional rights, mental anguish, physical discomfort, pain and suffering, shame and embarrassment, and/or aggravation of a previously existing mental or emotional and physical condition. Furthermore, Plaintiff has suffered lost wages, a diminished ability to earn a living, and a diminished capacity to enjoy Plaintiff's life. Moreover, Plaintiff has and/or may have to incur expenses for medical, psychiatric, and/or psychological counseling and care. Plaintiff's damages have been experienced in the past, and they will continue into the future.
176. Further, Plaintiff has been required to retain an attorney to assist Plaintiff in asserting Plaintiff's claims and protecting Plaintiff's rights.

Count II
(42 U.S.C. § 1988)

177. Plaintiff repeats and incorporates herein the above referenced paragraphs verbatim.
178. Defendants conspired to violate Plaintiff's constitutional rights as set forth in the United States Constitution by denying him the rights and protections conveyed by

the Constitution to include but not be limited to freedom of speech, freedom of association and freedom to vote, in violation of 42 U.S.C. § 1988.

179. As a direct and proximate result of Defendants' actions, Plaintiff has suffered the deprivation of precious Constitutional rights, mental anguish, physical discomfort, pain and suffering, shame and embarrassment, and/or aggravation of a previously existing mental or emotional and physical condition. Furthermore, Plaintiff has suffered lost wages, a diminished ability to earn a living, and a diminished capacity to enjoy Plaintiff's life. Moreover, Plaintiff has and/or may have to incur expenses for medical, psychiatric, and/or psychological counseling and care. Plaintiff's damages have been experienced in the past, and they will continue into the future.
180. Further, Plaintiff has been required to retain an attorney to assist Plaintiff in asserting Plaintiff's claims and protecting Plaintiff's rights.

Count III

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

181. Plaintiff realleges and incorporates herein the paragraphs set forth in this Complaint, unless noted below.
182. Further and separately, Plaintiff objected to and reported in writing on numerous occasions to supervisory level employees and the Administration that a supervisor's conduct was arising to the level of immoral, offensive, and illegal and violating laws and/or rules and regulations of the department.
183. Additionally, Defendants retaliated against Plaintiff because Plaintiff did one or more of the following:

(a) *disclosed or threatened to disclose to a supervisor or a public body an activity, policy or practice of the employer or another employer, with whom there is a business relationship, that the Plaintiff reasonably believed is in violation of a law, or a rule or regulation promulgated pursuant to law;*

(b) *Provided information to, or testified before, any public body conducting an investigation, hearing or inquiry into any violation of law, or a rule or regulation promulgated pursuant to law by the employer or another employer, with whom there is a business relationship; or*

(c) *Objected to, or refused to participate in an activity, policy or practice which Plaintiff reasonably believed:*

(1) *is in violation of a law, or a rule or regulation promulgated pursuant*

to law or

(2) is fraudulent or criminal; or

(3) is incompatible with a clear mandate of a public policy concerning the health, safety, or welfare or protection of the environment.

184. As a direct result of the memorandum submitted by Plaintiff that a supervisor was violating practices, rules and/or laws, Defendants acted in harassing and retaliatory manner towards Plaintiff which is in direct violation of CEPA.
185. As a direct and proximate result of Defendants' actions, Plaintiff has suffered the deprivation of precious Constitutional rights, mental anguish, physical discomfort, pain and suffering, shame and embarrassment, and/or aggravation of a previously existing mental or emotional and physical condition. Furthermore, Plaintiff has suffered lost wages, a diminished ability to earn a living, and a diminished capacity to enjoy Plaintiffs' lives. Moreover, Plaintiff has and/or may have to incur expenses for medical, psychiatric, and/or psychological counseling and care. Plaintiff's damages have been experienced in the past, and they will continue into the future.
186. Further, Plaintiff has been required to retain an attorney to assist Plaintiff in asserting Plaintiff's claims and protecting Plaintiff's rights.

Count IV (Common Law Conspiracy)

187. Plaintiff repeats and incorporates herein the above referenced paragraphs verbatim.
188. Plaintiff is informed and believes, and thereon alleges, that Defendants, Dodd and Travisano, entered into an agreement under which Defendants, acting in concert, agreed to willfully or knowingly violate, among other things, Plaintiff's constitutional rights and cause illegal retaliation in the form of promotions, or lack thereof, denials to attend schooling, demotions, and other adverse illegal actions.
189. The acts of Defendants, and each of them, were in furtherance of a conspiracy to violate a legal duty for their own personal gain.
190. Defendants had an independent duty to Plaintiff and all others similarly situated not to engage in said conduct and their conduct involves a conspiracy to violate a legal duty in furtherance of Defendants' own personal gain.

191. Defendants at all times did the acts and things herein alleged pursuant to, and in furtherance of, the conspiracy and agreement alleged above.
192. As a direct and proximate result of defendants' actions, Plaintiff has suffered the deprivation of precious Constitutional rights, mental anguish, physical discomfort, pain and suffering, shame and embarrassment, and/or aggravation of a previously existing mental or emotional and physical condition. Furthermore, Plaintiff has suffered lost wages, a diminished ability to earn a living, and a diminished capacity to enjoy Plaintiff's life. Moreover, Plaintiff has had to incur expenses for medical, psychiatric, and/or professional psychological counseling and care, with medication. Plaintiffs' damages have been experienced in the past, and they will continue into the future.
193. Further, Plaintiff has been required to retain an attorney to assist Plaintiff in asserting Plaintiff's claims and protecting Plaintiff's rights.

Count V
(Breach of Express Contract)

194. Plaintiff repeats and incorporates herein the above referenced paragraphs verbatim.
195. Plaintiff is a member of Police Benevolent Association Local 107 ("PBA Local 107").
196. Through such membership, Plaintiff is a party to the Collective Bargaining Agreement ("CBA") entered into between PBA Local 107 and the Town of Dover, which requires proper discipline and promotional procedures, rules and regulations which must be followed at all times.
197. The actions of defendants were in direct violation of the terms of the CBA entered into by the parties, which prohibits illegal conduct and retaliation in the workplace.
198. Defendants' actions give rise to the claim of breach of express contract.
199. As a direct and proximate result of the actions of Defendant, Plaintiff has been damaged.

Count VI
(Breach of Implied Contract)

200. Plaintiff repeats and incorporates herein the above referenced paragraphs verbatim.
201. Defendants entered into an implied contract with Plaintiff and other similarly situated co-workers to take remedial actions based on such individuals engaging in protected whistleblower activity.
202. Defendants breached this implied contract by failing to take such remedial actions, and instead retaliating against Plaintiff, for engaging in protected whistleblower activity.
203. Accordingly, Defendant's actions give rise to the claim of breach of implied contract.
204. As a direct and proximate result of the actions of Defendant, Plaintiff has been damaged.

Count VII
(Breach of the Implied Covenant of Good Faith and Fair Dealing)

205. Plaintiff repeats and incorporates herein the above referenced paragraphs verbatim.
206. Implied in each and every contract is a covenant that the parties thereto engage in good faith and fair dealing.
207. The actions of Defendants give rise to the claim of breach of the implied covenant of good faith and fair dealing.
208. As a direct and proximate result of Defendants' actions, Plaintiff has suffered the deprivation of precious Constitutional rights, mental anguish, physical discomfort, pain and suffering, shame and embarrassment, and/or aggravation of a previously existing mental or emotional and physical condition. Furthermore, Plaintiff has suffered lost wages, a diminished ability to earn a living, and a diminished capacity to enjoy Plaintiff's life. Moreover, Plaintiff has and/or may have to incur expenses for medical, psychiatric, and/or psychological counseling and care. Plaintiff's damages have been experienced in the past, and they will continue into the future.
209. Further, Plaintiff has been required to retain an attorney to assist Plaintiff in asserting Plaintiff's claims and protecting Plaintiff's rights.

Count VIII
(New Jersey Civil Rights Act, N.J.S.A. 10:6-1 et seq.,)
(Political Affiliation Discrimination/Harassment)

210. Plaintiff repeats, and incorporates herein the above referenced paragraphs verbatim.
211. Defendants conspired to cause a hostile work environment and discriminate and harass Plaintiffs because of his political affiliation to Chief Valentine, thus violating the New Jersey Civil Rights Act, N.J.S.A. 10:6-1 et seq.
212. As a direct and proximate result of Defendants' actions, Plaintiff has suffered the deprivation of precious Constitutional rights, mental anguish, physical discomfort, pain and suffering, shame and embarrassment, and/or aggravation of a previously existing mental or emotional and physical condition. Furthermore, Plaintiff has suffered lost wages, a diminished ability to earn a living, and a diminished capacity to enjoy Plaintiffs' lives. Moreover, Plaintiff has and/or may have to incur expenses for medical, psychiatric, and/or psychological counseling and care. Plaintiff's damages have been experienced in the past, and they will continue into the future.
213. Further, Plaintiff has been required to retain an attorney to assist Plaintiff in asserting Plaintiff's claims and protecting Plaintiff's rights.

Count IX
(United States Constitution, 14th Amendment)
(Procedural Due Process Clause)

214. Plaintiff repeats and incorporates herein the above referenced paragraphs verbatim.
215. Plaintiff has a legitimate claim of entitlement to the position of Lieutenant pursuant N.J.S.A. 40A:14-118(1)(e) that cannot be 'arbitrarily undermined', which is the essence of a protected property interest under the 14th Amendment of the U.S. Constitution, and New Jersey's mirror constitutional laws regarding same.

- 216. Defendants have been and continue to deprive Plaintiff of such protected property interests and rights, and refuse to allow and follow proper procedural due process in promoting Plaintiff to Lieutenant.
- 217. As a direct and proximate result of Defendants' actions, Plaintiff has suffered the deprivation of precious Constitutional rights, mental anguish, physical discomfort, pain and suffering, shame and embarrassment, and/or aggravation of a previously existing mental or emotional and physical condition. Furthermore, Plaintiff has suffered lost wages, a diminished ability to earn a living, and a diminished capacity to enjoy Plaintiffs' lives. Moreover, Plaintiff has and/or may have to incur expenses for medical, psychiatric, and/or psychological counseling and care. Plaintiff's damages have been experienced in the past, and they will continue into the future.
- 218. Further, Plaintiff has been required to retain an attorney to assist Plaintiff in asserting Plaintiff's claims and protecting Plaintiff's rights.

Count X

Violation of N.J.A.C. 4A:4-4.8 Disposition of a Certification

("Rule of Three")

- 219. Plaintiff repeats and incorporates herein the above referenced paragraphs verbatim.
- 220. Plaintiff has a legitimate claim to have been considered for the Lieutenant position that was available in July 2017. Plaintiff properly tested as one (1) of the top three (3) interested eligibles from an open and competitive list for one of the open Lieutenant positions with the Dover PD, and was arbitrarily denied the promotional appointment.
- 221. By illegally skipping Plaintiff for the Lieutenant position, Defendants actions were in direct violation of Plaintiff's rights under the PBA 107 Superior Officers CBA and the Civil Service Commission Rules and Regulations.
- 222. Defendants acted arbitrarily by bypassing Plaintiff for the Lieutenant position.
- 223. As a direct and proximate result of Defendants' actions, Plaintiff has suffered damages.
- 224. Further, Plaintiff has been required to retain an attorney to assist Plaintiff in asserting Plaintiff's claims and protecting Plaintiff's rights.

WHEREFORE, as to each and every count, Plaintiff demands judgment on each and all of these Counts against the Defendants jointly and severally, as follows:

- A. Appointment to the Lieutenant position;
- B. Compensatory damages;
- C. Damages for lost wages and benefits, back pay, front pay (or promotion);
- D. Damages for humiliation, mental and emotional distress;
- E. Statutory damages, if applicable;
- F. Punitive damages and or liquidated damages where permitted by law;
- G. Attorneys' fees and costs of suit;
- H. Lawful interest - including pre-judgment interest on lost wages;
- I. Lawful interest - including pre-judgment interest on any wages not paid in a timely manner; and
- J. Such other, further and different relief as the Court deems fitting, just and proper.

Plaintiff hereby reserves the right to amend this Complaint to supplement or modify the factual obligations and claims contained herein, based upon information received from the defendants, witnesses, experts, and others in the course of discovery in this matter.

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 4:35-1(a) and (b), Plaintiff respectfully demands a trial by jury on all issues in the within action so triable.

DESIGNATION OF TRIAL COUNSEL

In accordance with Rule 4:25-4, JOHN J. ZIDZIUNAS, ESQ. is hereby designated as trial counsel on behalf of Plaintiff.

R. 4:5-1(b)(2) CERTIFICATION OF NO OTHER ACTIONS OR PARTIES

I hereby certify that the matter in controversy is not the subject of any other action pending in any court or of a pending arbitration proceeding, that no other action or arbitration proceeding is contemplated, and that there are no other parties known to me at

this time who should be joined as parties to this action.

DEMAND FOR PRODUCTION OF INSURANCE AGREEMENTS

Pursuant to R. 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, please attach a copy of each, or in the alternative state, under oath and certification: (A) policy number; (b) name and address of 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.

DATED: April 23, 2019

JOHN J. ZIDZIUNAS & ASSOCIATES
Attorneys for Plaintiff, Michael Pier

By: s/ John J. Zidziunas
JOHN J. ZIDZIUNAS, ESQ.
For the Firm

EXHIBIT B



Philip D. Murphy
Governor

Sheila Y. Oliver
Lieutenant Governor

State of New Jersey
OFFICE OF THE ATTORNEY GENERAL
DIVISION OF CRIMINAL JUSTICE
OFFICE OF PUBLIC INTEGRITY AND ACCOUNTABILITY
PO BOX 085
TRENTON, NJ 08625-0085
TELEPHONE: (609) 376-3310

Gurbir S. Grewal
Attorney General

Thomas Eicher
Director

October 18, 2019

Chief Anthony Smith
Dover Police Department
37 North Sussex Street
Dover, New Jersey 07801

Re: Investigation into Use of Force by Sgt. Pier and Ofcs. Fenske and
Bojkovi against Cyprian Luke, CJ# 2019-07268

Dear Chief Smith:

The Division of Criminal Justice has completed its investigation into the above referenced matter. We have determined that the actions taken by Sergeant Michael Pier, Officer Robert Fenske, and Officer Ilmi Bojkovic on Sunday, May 19, 2019 in the course of the arrest of Cyprian Luke do not rise to the level of criminal acts warranting presentation to the State Grand Jury for indictment, and we therefore decline to prosecute this case criminally.

Accordingly, we will return this matter to you for a review of the facts and circumstances of that arrest and a determination as to any administrative measures you deem appropriate to take with the involved officers. Once you make a decision as to what administrative measures are appropriate and will be administered, we kindly request that you notify us of that decision.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "S. McCluskey".

Samantha K. McCluskey
Deputy Attorney General

Cc: Chief Assistant Prosecutor John McNamara
Morris County Prosecutor's Office

EXHIBIT C



TOWN OF DOVER MAYOR & BOARD OF ALDERMEN

REGULAR MEETING MINUTES DOVER TOWN HALL 37 N. SUSSEX ST., DOVER, NJ 07801 JUNE 9, 2020

Mayor Carolyn Blackman called the June 9, 2020 Regular Meeting of the Mayor and Board of Alderman to order at 7:07p.m. and read the Sunshine Statement that the meeting was being held in accordance with the Open Public Meetings Act, also known as the Sunshine Law, N.J.S.A. 10:4-6. Notice of the meeting was sent to the Daily Record and Star Ledger on January 4, 2020 and published in the Record and Ledger on January 10, 2020. Notice was also posted on the Bulletin Board in Town Hall.

The Mayor then led those in attendance in the salute to the flag. Following the flag salute, Mayor Blackman asked for a moment of silence for the Floyd family and for all those in our community who have passed from COVID-19 and who have battled COVID-19, which has seen roughly 700 cases.

Acting Clerk Schmidt then conducted the roll which resulted in the following:

Name	Present	Absent	Excused	
Alderman Correa	X			
Alderman Tapia	X			
Alderman Ballesteros	X			
Alderwoman Rugg	X			
Alderwoman Cruz	X			Joined Meeting at 7:12 p.m.
Alderman Valencia	X			Joined Meeting at 7:40p.m.
Alderman Quinones	X			
Alderwoman Wittner	X			
Mayor Blackman	X			

Following the roll, the Clerk announced that all seven (7) members of the Governing Body were present and there was a quorum. Also present at the meeting was Acting Municipal Clerk John P. Schmidt, Deputy Town Administrator Carlos Sanchez and Town Attorney Timothy P. Downs.

Mayor Blackman asked for a motion to approve the minutes of May 26, 2020. Alderman Correa made a motion to approve the minutes, seconded by Alderwoman Wittner.

APPROVAL OF MINUTES

May 26, 2020 Regular Monthly Meeting – Alderman Correa made a motion to approve the minutes, seconded by Alderwoman Wittner.

	A.M. Correa	A.M. Tapia	A.M. Ballesteros	A.M. Rugg	A.M. Cruz	A.M. Valencia	A.M. Quinones	A.M. Wittner	Mayor Blackman
Motion	X								
Second								X	
Yes	X	X	X	X			X	X	X
No									
Abstain									

The minutes were approved by a vote of 7-0.

Alderwoman Cruz joined the meeting at 7:12p.m.

Following the approval of the minutes, the Board of Aldermen continued with business on the agenda.

ORDINANCES FOR FIRST READING AND INTRODUCTION

The Mayor and Board of Aldermen then considered Ordinance 15-2020, an Ordinance Authorizing the Conveyance of Municipal Property to Penrose – Block 1219, Lot 2. A motion was made by Alderwoman Wittner to introduce the Ordinance, seconded by Alderman Ballesteros.

Ordinance 15-2020

	A.M. Correa	A.M. Tapia	A.M. Ballesteros	A.M. Rugg	A.M. Cruz	A.M. Valencia	A.M. Quinones	A.M. Wittner	Mayor Blackman
Motion								X	
Second			X						
Yes	X	X	X	X	X		X	X	X
No									
Abstain									

The Ordinance was introduced by a vote of 8-0.

The Mayor and Board of Aldermen then considered Ordinance 16-2020, an Ordinance of the Town of Dover, County of Morris, State of New Jersey Authorizing Modification of Restrictive Covenant on Municipal Property for Parking with NJ Transit. A motion was made by Alderman Correa to introduce, seconded by Alderwoman Cruz.

Ordinance 16-2020

	A.M. Correa	A.M. Tapia	A.M. Ballesteros	A.M. Rugg	A.M. Cruz	A.M. Valencia	A.M. Quinones	A.M. Wittner	Mayor Blackman
Motion	X								
Second					X				
Yes	X	X	X	X	X		X	X	X
No									
Abstain									

The Ordinance was introduced by a vote 8-0.

H) ORDINANCES FOR SECOND READING, PUBLIC HEARING AND ADOPTION

1) Ord. 13-2020 – Ordinance of the Town of Dover, County of Morris, State of New Jersey to Exceed the Municipal Budget Appropriation Limits and to Establish a Cap Bank. A motion was made by Alderman Ballesteros to open the Public Hearing on the Ordinance, seconded by Alderwoman Cruz. By Voice Vote, all members present were in favor by a vote of 8-0.

Open the Public Hearing for Ord. 13-2020

	A.M. Correa	A.M. Tapia	A.M. Ballesteros	A.M. Rugg	A.M. Cruz	A.M. Valencia	A.M. Quinones	A.M. Wittner	Mayor Blackman
Motion			X						
Second					X				
Yes	X	X	X	X	X		X	X	X
No									
Abstain									

The meeting was open to the public. No public wished to comment and Alderwoman Wittner made a motion to close the public hearing, seconded by Alderwoman Rugg. By Voice Vote, all members present were in favor by a vote of 8-0.

Close the Public Hearing for Ord. 13-2020

	A.M. Correa	A.M. Tapia	A.M. Ballesteros	A.M. Rugg	A.M. Cruz	A.M. Valencia	A.M. Quinones	A.M. Wittner	Mayor Blackman
Motion								X	
Second				X					
Yes	X	X	X	X	X		X	X	X
No									
Abstain									

The Board then considered the adoption of Ordinance 13-2020. A motion was made by Alderman Correa to adopt, second by Alderwoman Rugg.

Adoption of Ord. 13-2020

	A.M. Correa	A.M. Tapia	A.M. Ballesteros	A.M. Rugg	A.M. Cruz	A.M. Valencia	A.M. Quinones	A.M. Wittner	Mayor Blackman
Motion	X								
Second				X					
Yes	X	X	X	X	X		X	X	X
No									
Abstain									

The Ordinance was adopted 8-0.

APPROVAL OF BILLS

The Governing Body then considered the approval of the bill list / Res. 157-2020.

Alderwoman Cruz made a motion to adopt, seconded by Alderman Ballesteros.

Bills List / Res. 157-2020

	A.M. Correa	A.M. Tapia	A.M. Ballesteros	A.M. Rugg	A.M. Cruz	A.M. Valencia	A.M. Quinones	A.M. Wittner	Mayor Blackman
Motion									
Second			X		X				
Yes	X	X	X	X	X		X	X	X
No									
Abstain									

The Bills List / Res. 157-2020 was passed as amended 8-0.

APPROVAL OF RESOLUTIONS

Acting Municipal Clerk Schmidt then read by title the Consent Agenda Resolutions.

- 1) Res. 158-2020 – Resolution Consenting to the Installation of two Fiber Optic Cabinets on Turner Street and Chestnut Street (Right of Way Opening).
- 2) Res. 159-2020 – Resolution Extending the Designation of Towpath Realty as Redeveloper of Bassett Highway
- 3) Res. 160-2020 – Resolution Approving Amendment Authorizing Use of Affordable Housing Trust Funds
- 4) Res. 161-2020 – Resolution Approving Amendment to RDA with Penrose UR, LLC
- 5) Res. 162-2020 – Authorizing the Mayor and Acting Municipal Clerk to enter into a Temporary Contract with Richard Rivera of Richard Rivera, LLC as Police Consultant for the Town of Dover in an amount not to exceed \$17,500.00.
- 6) Res. 163-2020 – Declaring the Month of June as Pride Month

Alderman Ballesteros asked about Resolution 162-2020 and what the work would entail. It was explained that this position was advertised via RFQ earlier in the year but the Town did not receive any responses. Mr. Rivera was on the call and Mayor Blackman asked him to explain what he would be doing for the Town of Dover and the Police Department. Following the explanation, a motion was made by Alderwoman Wittner, to adopt Resolutions 158-2020 to 163-2020, which was seconded by Alderman Quinones.

Resolutions – 158-163 2020

	A.M. Correa	A.M. Tapia	A.M. Ballesteros	A.M. Rugg	A.M. Cruz	A.M. Valencia	A.M. Quinones	A.M. Wittner	Mayor Blackman
Motion								X	
Second							X		
Yes	X	X	X	X			X	X	X
No									
Abstain									

The Consent Agenda Resolutions were approved by a vote of 7-0.

The Board then considered Resolution 164-2020, a resolution to join the Government Alliance on Race and Equity (G.A.R.E.) which was read in full into the record by the Acting Municipal Clerk. A motion was made by Alderwoman Correa, seconded by Alderwoman Wittner to adopt the resolution.

Resolutions – 164-2020

	A.M. Correa	A.M. Tapia	A.M. Ballesteros	A.M. Rugg	A.M. Cruz	A.M. Valencia	A.M. Quinones	A.M. Wittner	Mayor Blackman
Motion	X								
Second								X	
Yes	X	X	X	X	X		X	X	X
No									
Abstain									

Resolution 164-2020 was approved by a vote of 8-0.

OLD BUSINESS

Acting Clerk Schmidt reminded everyone that FDS forms needed to be filed by April 30th. Clerk Schmidt reminded everyone to complete the forms. He also said he would try to provide a report on the FDS filing status for the Town of Dover to be included in the next meeting agenda.

NEW BUSINESS

-PROCLAMATIONS – Recognizing the Volunteer Work of Dover Residents Enrique Roibal and Maria Borda to the Community During COVID-19.

Mayor Blackman then spoke about the two individuals from the Dover community who were being recognized with a proclamation this evening. Both individuals worked tirelessly to assist and help others during the COVID-19 pandemic. Mayor Blackman commented that at times Enrique Roibal was not feeling well, but he continued the journey to help others. Aldermember Correa commented about their efforts from picking up food, coordinating with restaurants and delivering hundreds of meals per week for six weeks. The Mayor expressed thanks to both Mr. Roibal and Ms. Borda. Acting Clerk Schmidt then read the Proclamations in full into the record. Following the reading, a motion was made by Alderman Correa, seconded by Alderwoman Rugg.

	A.M. Correa	A.M. Tapia	A.M. Ballesteros	A.M. Rugg	A.M. Cruz	A.M. Valencia	A.M. Quinones	A.M. Wittner	Mayor Blackman
Motion	X								
Second				X					
Yes	X	X	X	X	X		X	X	X
No									
Abstain									

The Proclamations were unanimously approved. The proclamations will be prepared and individually signed by the Mayor and each Aldermember and will then be presented to Ms. Borda and Mr. Roibal.

PUBLIC COMMENT

Mayor Blackman read a statement regarding public comment and then opened the meeting to the public.

(Alderman Valencia joined the meeting).

Mary Washington - 218 Park Heights Ave., Dover NJ – Ms. Washington spoke about COVID-19 and the high number of cases and deaths. Ms. Washington wanted to know why testing did not occur in Dover as some people could not access testing.

Deputy Administrator Sanchez stated that the Town has been in constant communication about testing and protocols and was working with the ZuFall Clinic, which is located in Dover who has testing capabilities. He also mentioned that the Town is speaking with a private company about testing. Deputy Administrator Sanchez also spoke about the high number in Dover and the challenges Dover faced with having a high density population.

Antonio Acosta – 130 Madison St., Dover, NJ. – Mr. Acosta spoke about how some things are not equal and Dover is not always treated the same be it our residents or businesses. He commented that the playing field needs to be leveled. He also mentioned that every child who lives here is as important as a child in Mountain Lakes and other municipalities.

Mayor Blackman thanked Mr. Acosta for her comments. She said that the administration is working on items and have been in contact with NJ Transit regarding the Dover station. The Mayor stated there is plenty of work to be done.

There being no one else who wished to address the Governing Body, Mayor Blackman closed the Public Portion of the meeting.

Following public comment, Mayor Blackman reported that this coming Saturday – June 13th from 8am to 11am, there will be a cleanup in the 4th Ward. The Mayor also mentioned that the Table of Hope will return on Friday at the same location at 12:30 for the food pantry. Mayor Blackman also announced that this year, the Town will not be holding a Recreation summer camp for the safety of the children, parents and staff, however the staff is working on another type of program.

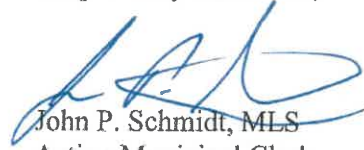
Mayor Blackman then spoke about COVID-19 and mentioned that our community has been through a lot and that the Health and Safety of our residents is important. She reminded everyone of the importance to continue to wear masks when they are out and to protect themselves. The Mayor mentioned that the Town is working with local businesses regarding re-opening.

In closing the Mayor spoke about the Town of Dover and said that it more than the Mayor and Board but everyone. Mayor Blackman spoke about the power of kindness and that we need kindness and respect. She encouraged everyone to reach out to other people and do an act of kindness, which can make difference and help someone.

Mayor Blackman then opened the meeting up for Board comments. Alderman Ballesteros thanked Mayor Blackman for sharing her story about what her family faced. He spoke about his feelings about current events facing our society and how public officials can help.

With no other comments, Mayor Blackman then entertained a motion to adjourn. Alderwoman Wittner moved to adjourn, seconded by Alderwoman Rugg. On voice vote, 9-0 (Aldermembers Correa, Tapia, Ballesteros, Rugg, Cruz, Valencia, Quinones, Wittner and Mayor Blackman in favor) the meeting was adjourned at 8:02p.m.

Respectfully Submitted,



John P. Schmidt, MLS
Acting Municipal Clerk

EXHIBIT D

northjersey.com

DOVER

Dover police officer seen repeatedly punching suspect at the center of several lawsuits

Abbott Koloff NorthJersey

Published 5:45 a.m. ET Jun. 12, 2019 | Updated 4:44 p.m. ET Jun. 12, 2019

A Dover police sergeant seen on a recent video repeatedly punching a teenage suspect in the face has been embroiled in several lawsuits — including one involving a similar incident several years ago when he was accused of breaking a man's jaw during an arrest.

Sgt. Michael Pier and two other Dover officers have been placed on paid administrative leave as state law enforcement authorities investigate their actions during the arrest on May 19.

Pier is seen in a video yelling “stop resisting” as he punched a 19-year-old suspect who was pinned to the ground and had covered his face with his hands.

Several years ago, Pier was accused of striking a Dover man about eight times while yelling “stop resisting.” The suit alleged that Pier jumped on the man's back after he'd fallen to the ground. The man later dismissed his complaints against Pier and other Dover police officers, and the lawsuit was settled by Morris County.

Pier was accused in another lawsuit of negligence in the death of a motorcyclist who led police on a high-speed chase. Dover settled the lawsuit, but the former chief of the department, Harold “Butch” Valentine, said Pier was not at fault.

And Pier has filed his own lawsuit against Dover officials, including Mayor James Dodd, alleging that Pier was passed over for a promotion in retaliation for reporting another police officer's misconduct and for backing Valentine in his unsuccessful bid to become mayor.

The recent arrest raises questions about how much force police officers may use to restrain

suspects and the accountability of law enforcement officials who conduct internal affairs investigations, often without making them public.

Story continues after gallery

The May 19 arrest is being investigated by a unit of the state attorney general's office created to handle "sensitive matters" that include allegations of civil rights' violations made against police officers.

On May 19, police had been looking for Cyprian Luke, a Morristown man for whom there was an arrest warrant, after receiving a tip that he was in Dover. Luke had previously been charged with assault and violating a restraining order. Dover police additionally charged him with resisting arrest.

PBA WEIGHS IN: Police union criticizes Dover officials' response to allegations of cops' excessive force

EARLIER: Video of Dover police arrest latest in line of footage showing alleged excessive force

Whenever police officers use force on the job — discharging a weapon or using physical coercion — they must file a "use-of-force report," which is a public document.

When asked by NorthJersey.com for use-of-force reports related to the May 19 arrest, the Morris County Prosecutor's Office said that "specific threats" had been made "concerning the officers' safety" — and redacted their names from the reports. It declined to provide details about the threats.

The office also declined, along with Dover officials, to provide information about any prior investigations into incidents involving Pier.

Pier's attorney, Bob Galantucci, said his client's actions during the recent arrest were justified, adding that there were "serious threats to the police officers."

"They took what actions they needed to take in order to protect themselves," Galantucci said. "They used as much force as they needed to — the video shows there was a need."

The video shows Pier punching Luke as he is being held on the ground by several officers. The video was taken by one of Luke's friends and posted on social media. One of the officers appeared to be sitting on Luke as Pier instructed the teenager to roll over.

"I don't think he was a threat to the officer," said Mary Luke, Cyprian's mother. "He can't roll over because one person is on his stomach, and the other one's holding his hands, and then Officer Pier's punching him."

Some onlookers taunted the officers. When Pier yelled at Luke to stop resisting, someone in the crowd said, "He's not resisting." Pier responded: "Look at his hands."

Luke had his right hand clenched in a fist and held it at times with his left hand. In video clips posted online, he did not attempt to strike the officers, and instead put his hands in front of his face to block Pier's punches.

"He's not resisting, and he has no means to turn over because an officer's on top of him," said Richard Rivera, a former West New York police officer who is an expert on law enforcement practices. "It's physically impossible to comply with the officer's command — and the officers don't realize that because this is an intense situation."

He said it is "not uncommon" for police officers not to realize in the heat of the moment that a suspect is unable to comply with their commands. He said he does not believe it was necessary to punch Luke, based on the video footage he viewed, although he added that "obviously we don't have the whole story."

"You see the guy's two hands out in front of him," Rivera said of Luke. "He's not presenting an imminent danger. Officers are trained that it's the hands that will kill you. If the hands are a danger, then control the hands."

Rivera said "the priority should be de-escalating" such confrontations. The state attorney general's use-of-force guidelines "are very broad strokes" that give officers some leeway, he said. But they are required to justify their actions, noting that blows to the head can cause "serious bodily injury," he said.

Under the guidelines, "striking with the hands or feet" is in the same category as wrist and arm locks or wrestling someone to the ground — physical force that is allowed "when necessary to overcome a subject's physical resistance."

However, officers are further guided by "overarching principles of policing," said Wayne Fisher, a senior policy adviser with Rutgers University's Center on Policing. He said he could not comment on the Dover case because he had not seen the video.

"Only the minimum amount of force necessary should be used," Fisher said. "An

intentional strike to the head has to be judiciously used because the potential for injury goes beyond wrestling someone to the ground."

Valentine, who retired in 2015, defended Pier's actions, and said that he is "a stand-up guy, well-mannered, a good cop."

"I believe Michael was effecting a lawful arrest and acted appropriately," Valentine said. "You're allowed to use force to effect an arrest. Mike used enough force to overcome the resistance."

The results of internal affairs investigations into use of force often are not available to the public.

A Morris County Prosecutor's Office spokesman said the agency "does not provide dispositions" in response to a request for information about prior investigations of Pier. Law enforcement officials declined to say whether investigations were conducted or what was determined, and did not provide records related to the incidents.

Pier said in an arrest affidavit about the May 19 incident that Luke initially tried to run away and attempted to bite him.

"I felt his teeth come in contact with a couple of fingers," Pier wrote. "I then yelled at him not to bite me."

Luke was still standing at that point. Pier wrote that officers pulled him to the ground and that Luke continued to resist by keeping "his arms tensed and under his body." The videos posted online only show Luke when he is already on the ground.

In the affidavit, Pier did not mention punching Luke. He wrote that he and another officer suffered abrasions to their hands and knees, and that he had elbow pain.

Four officers were involved in restraining Luke, according to reports released by the Prosecutor's Office.

Three Dover officers reported using hands or fists, including Pier, who was the only officer seen punching Luke in the video. One patrol officer reported that he used pepper spray, while another used a knee.

A Morris County park police officer, seen on video giving his badge number when asked by an onlooker, reported using a "compliance hold."

Pier has been at the center of lawsuits related to two other incidents.

In 2007, he was involved in an accident that killed a motorcyclist who had been leading police on a high-speed chase. Pier was accused in a lawsuit of running a stop sign. Dover reportedly paid \$75,000 to settle the suit.

Valentine, Pier's boss at the time, said he didn't run a stop sign, but was heading back to headquarters when he pulled his police SUV onto Route 46 after another department called off the pursuit. The motorcycle, he said, struck Pier's vehicle's on the driver's-side rear door.

The Prosecutor's Office determined that there were no skid marks and the impact lifted Pier's cruiser off the ground, indicating the motorcyclist, whose headlights were off, made no attempt to stop, according to a report published in the Daily Record.

"There was no administrative action taken against Michael in that case because he wasn't at fault," Valentine said.

Years later, Pier was accused in a federal lawsuit of repeatedly punching a Dover man who was being arrested in 2015 as a suspect in a burglary.

The suit alleges that after falling to the ground, the man, Christopher Kotz, "gave himself up ... and put his hands behind his back." At that point Pier jumped on his back and began punching him, the suit says. Kotz was not resisting arrest when other officers arrived and struck him "on other parts of his body," according to the suit.

Kotz suffered a broken jaw, a shattered cheekbone and a fracture of bones around an eye, according to court papers. He was treated in an emergency room but suffered "permanent facial disfigurement" after Morris County jail officials waited three weeks before transporting him to a hospital for needed surgery, the suit alleged.

The suit was settled in 2017 by Morris County. Months earlier, Kotz had dismissed his complaints against Pier, the other officers and the town of Dover.

Kotz, now in the Morris County jail after allegedly violating drug court probation, declined to discuss the lawsuit. Attorneys who have represented him did not respond to messages seeking comment.

In 2017, Pier filed suit against Dover, alleging he was the subject of retaliation by police and town officials for reporting another officer's misconduct and for supporting

Valentine's challenge to Dodd in the 2015 Democratic primary election.

Pier said in court documents that he was known as "one of 'Butchie's boys from upstairs" and was skipped over for a promotion to lieutenant.

"The town looks forward to adequately defending this case," Dover's administrator, Donald Travisano, said last week, adding that he could not comment further about a pending lawsuit.

In recent years Dover has settled at least four other federal lawsuits brought by members of the police department who alleged retaliation by superiors, according to court records. It paid a little more than \$800,000 to settle two of them, according to published reports.

EXHIBIT E

Daily Record

NEWS

Dover police officers reinstated after year on paid leave for violent arrest

Jessie Gomez Morristown Daily Record

Published 1:18 p.m. ET Jun. 17, 2020 | Updated 5:44 p.m. ET Jun. 21, 2020

DOVER — Three Dover police officers are back on the job following a year on paid leave after their violent arrest of a teenager was caught on camera.

The two police officers and one sergeant, investigated and cleared by the state Attorney General's Office shortly after the video went viral last May, returned to the department in late March and early April. They returned just a month before George Floyd was killed in Minneapolis, sparking nationwide outrage over police brutality and the lack of consequences for officers who use unjustified force.

Last October, Attorney General Gurbir Grewal's office investigated the May 2019 arrest of Cyprian Luke, 19, and decided it would not criminally prosecute Sgt. Michael Pier and Officers Robert Fenske and Ilmi Bojkovic. The matter was sent back to the Dover Police Department, which launched its own administrative investigation and reinstated the officers.

Newly appointed Deputy Chief Jonathan Delaney said Bojkovic and Fenske returned to their normal duties in the patrol division on March 29. Pier, who was recorded punching Luke in the head as the other officers held him down, was reassigned to an administrative role on April 13. Additional training or policy amendments within the department are under consideration and may be adopted after completion of the town's internal investigation.

"The internal investigation is pending an administrative review to identify any potential training, policy or other deficiencies," Delaney said.

Last week, Mayor Carolyn Blackman and town aldermen approved a resolution to contract Richard Rivera as a police consultant for the town and to audit the department. In

an emailed statement provided by Dover Public Relations Officer Timothy P. Downs, Blackman said the town would implement and develop any plans "if deficiencies in police operations or officer performances" were identified after the audit.

"The arrest of Mr. Luke occurred last year under the previous town administration and different police department leadership," Blackman wrote. "I want to assure our community the officers involved in the force incident and arrest of Mr. Luke have received additional training and are closely monitored."

On May 19, 2019, at 2:15 a.m., Luke was confronted by Pier, Fenske and Bojkovic near a convenience store. According to reports, the officers approached Luke due to a warrant for his arrest based on domestic violence charges from February 2019. In the video, Pier, a 16-year veteran of the department, is shown punching Luke in the head multiple times while Fenske and Bojkovic held and handcuffed him. Pier, who yelled at Luke to "stop resisting," was the only identifiable officer in the video.

State law requires officers to report any use of force, including firing their weapons. All three officers checked off boxes in their reports indicating that Luke "resisted police officer control" and that they "attempted to place arms behind back." They all wrote that the suspect was "combative" and that they used their hands or fists.

After the arrest video was shared on social media last May, a crowd of nearly 50, including Luke's friends and family members, gathered to protest across the street from the Police Department. Initial reports cite Luke's family, which said he wasn't a threat and couldn't obey a command to roll onto his stomach because an officer was sitting on him.

The death of George Floyd while in police custody in Minnesota continues to spark nationwide protests and raise questions about police use of force. In Morris County, Black Lives Matter Morristown and immigrant rights group Wind of the Spirit are launching a 2020 summer action series and demanding an overhaul of local law enforcement practices and reform in police oversight, among other things. Kisha Pinnock is a lawyer and activist involved with the groups and planned last year's protest after Luke's arrest. The group demanded the removal of Pier from the force and urged the department to create a civilian oversight board.

"We know full well the injustice built into policing; the blue wall of silence, the immunity, impunity. We know police officers literally get away with murder here," Pinnock said.

The state attorney general's guidelines allow police officers to strike a person with their hands or feet to "overcome a subject's physical resistance," putting it in the same category as wrestling someone to the ground or wrist and arm locks. This month, the attorney general prohibited New Jersey police officers from using chokeholds and neck restraints except when deadly force is necessary.

"The day of reckoning has come for our country, our state, our county and our small towns. When we chant 'no justice, no peace' it is a truth, not a threat. We fight for justice so we can live in peace," Pinnock added.

Wind of the Spirit co-president and Dover resident Karol Ruiz said "change is slow, but change is coming." After last year's protests, the Dover Police Department equipped its officers with body cameras in January.

In 2009, Pier was sued for the death of 23-year-old Alan Seitz during a high-speed police chase. His mother, Kara Seitz, filed the lawsuit and claimed the officer's failure to stop at a stop sign caused him to crash into her son's motorcycle and kill him, according to the report. Dover settled the case in March 2012.

"Dover's Sgt. Pier keeping his job despite causing a person's death, despite numerous complaints, despite numerous lawsuits, despite viral video evidence of him beating a teenager already subdued, despite protest, is one more example of the pandemic racism and abuse in the country's policing system," Ruiz said.

The Dover Police Department is one of six departments involved in the attorney general's pilot program on use of force, involving an electronic reporting system for law enforcement officers to report any force they use on members of the public.

Jessie Gomez is a local reporter for DailyRecord.com and NorthJersey.com. For unlimited access to the most important news from your local community, please subscribe or activate your digital account today.

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