

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

RICHARD GONZALEZ,
Plaintiff

V.

SUMMONS IN A CIVIL CASE

TOWN OF DOVER, ET AL.,
Defendant

CASE NUMBER: 2:14-CV-05132-KM-MAH

TO: *(Name and address of Defendant):*

Town of Dover & Dover Police Department
37 N. Sussex Street
Dover, NJ 07801

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States Agency, or an office or employee of the United States described in Fed. R. civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Dayna R. Katz, Esq.
DiFrancesco Bateman Coley Yospin Kunzman Davis Lehrer & Flaum, P.C.
15 Mountain Blvd.
Warren, NJ 07059

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

WILLIAM T. WALSH

CLERK

Christine Melillo

(By) DEPUTY CLERK



ISSUED ON 2014-08-18 15:01:12.0, Clerk
USDC NJD

Our File No.: C21775
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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

RICHARD GONZALEZ,

Plaintiff,

v.

TOWN OF DOVER and TOWN OF
DOVER POLICE DEPARTMENT,

Defendants.

Civil Action

COMPLAINT AND JURY DEMAND

Richard Gonzalez, residing at 5 Cambridge Court, Budd Lake, New Jersey 07828 by way of complaint against the Defendant, states as follows:

PRELIMINARY STATEMENT

This suit is filed in order to vindicate the rights of the Plaintiff to engage in activity protected by the First Amendment of the Constitution of the United States and the New Jersey Constitution without fear of reprisal, to secure this First Amendment right from future restraints by the Defendants, retaliation based on the exercise of protected speech and protected activity, and to seek economic redress for losses suffered by the Plaintiff at the hands of the Defendant.

JURISDICTION AND VENUE

1. This action arises under 42 U.S.C. §1983 and the First Amendment to the Constitution of the United States.

2. The jurisdiction of this Court over the claim arising under 42 U.S.C. §1983 is founded on 28 U.S.C. §§1343(a)(3) and (a)(4). The jurisdiction of the Court over the claims arising under the First Amendment is founded on 28 U.S.C. §§1331 and 1343(a)(3).

3. Venue lies in this district under 28 U.S.C.A. §1391(b).

PARTIES

4. Plaintiff, Richard Gonzalez, is a resident of the state of New Jersey residing in Budd Lake, New Jersey.

5. Defendant, Town of Dover Police Department, is an entity operating in the County of Morris, State of New Jersey.

6. Defendant, Town of Dover is a municipality organized by, and existing pursuant to, the laws of the state of New Jersey and is located in the County of Morris, New Jersey.

ALLEGATIONS COMMON TO ALL COUNTS

7. Plaintiff is currently employed as a Sergeant with the Dover Police Department. Plaintiff began his employment with the Dover Police Department (hereinafter "Police Department") in 1991.

8. In or around November 2010, Plaintiff was assigned to the Detective Bureau as Detective Sergeant. At the time Plaintiff was assigned to the Detective Bureau it was suffering from a lack of leadership, detectives' neglect of cases and a hostile environment between detectives due to a criminal investigation being conducted by the Morris County Prosecutor's

Office against the detective bureau. Plaintiff was ordered by Chief Harold Valentine (hereinafter "Chief Valentine" or "Chief") and Lieutenant Barry Young (hereinafter "Lt. Young") to motivate the detectives, properly work cases, change assignments and discipline or remove any detective as necessary with the exception of one detective who was untouchable.

9. In November 2010, Daniel Martinez announced that he was going to oppose Mayor James Dodd in the upcoming Dover mayoral election. Part of Martinez's political platform was that there was too much crime in the Town of Dover and that the Town's government needed to be more open.

10. In October 2010, Plaintiff was appointed as the Police Department's Press Information Officer ("PIO") and ordered to release all arrests and investigations conducted by the Detective Bureau and Police Department. Mayor Dodd responded to this protected activity by seeking Plaintiff's removal from the Detective Bureau and PIO position.

11. In or around August 2011, Administrator William Close and Mayor Dodd questioned Plaintiff's known support for Martinez including hanging signs in support. Mayor Dodd and Administrator Close suggested to Chief Valentine that Plaintiff was supporting Martinez, during work hours, thereby, stealing time from Dover. Administrator Close and Mayor Dodd were attempting to obtain information in order to discipline Plaintiff.

12. On or around August 21, 2011, several off-duty Dover police officers, including Plaintiff, attended a fundraiser promoting the election of Martinez. Administrator Close later questioned Chief Valentine regarding Plaintiff's protected first amendment activity in attending the fundraiser.

13. On or around October 18, 2011, a Dover fire official and close friend of Mayor Dodd complained to Lt. Young that Plaintiff was "driving in his truck putting signs out for Martinez." This fire official also warned Lt. Young that Lt. Young should "stay out of politics or his career would be in jeopardy" or words to that effect.

14. On or around November 30, 2011, while off duty, Plaintiff posted an article to his Facebook account concerning a man who was found with two loaded guns and crack cocaine at the Dover train station. Comments about the article were posted by Facebook friends of Plaintiff to which Plaintiff opined "and the mayor tells everyone Dover is as safer as can be, BS." This was speech, concerning a matter of public concern, engaged in by Plaintiff while off duty and an expression that public safety was not a priority in the Dover government.

15. In or around early December 2011, Administrator Close ordered Chief Valentine to a meeting during which he stated that multiple complaints had been made about Plaintiff's Facebook posting. This was unlikely as Plaintiff's Facebook post was not offensive, nor was it available to anyone other than Plaintiff's "friends" on Facebook.

16. On or around January 13, 2012, Administrator Close sent a memorandum to Chief Valentine copying Mayor Dodd, Alderman James Visioli and the Town Labor Attorney, suggesting Plaintiff had made a Facebook posting that was undermining the office of the Mayor. Administrator Close requested that an internal affairs investigation into Plaintiff be conducted.

17. The Police Department conducted the internal affairs investigation into Plaintiff's Facebook activity, and on March 9, 2012, the investigation concluded that Mayor Dodd and Administrator Close's allegations against Plaintiff were unsubstantiated.

18. Administrator Close further pressured Chief Valentine to remove Plaintiff from the position of PIO because he was "making the Mayor furious."

19. On or around November 8, 2011, Ptl. Timothy Thiel (hereinafter "Thiel") conducted a traffic stop for a car driven by a campaign worker for Mayor Dodd. Also in the car at the time of the traffic stop was Dover Alderwoman Carolyn Blackman. During the traffic stop, Thiel was pressured not to write tickets because of who was in the car. Thiel, however, refused to disobey the law and issued two tickets to the driver.

20. On or around December 2011, Thiel was informed that the campaign worker was bragging that the tickets issued to him had been eliminated by Mayor Dodd. On or around December 28, 2011, Thiel reported the fact that the tickets had been improperly dismissed to Plaintiff, his superior officer.

21. Plaintiff then conducted an initial search into the summonses, through the Automated Traffic System, to assess whether the tickets had been dismissed. Plaintiff discovered that the tickets had been improperly dismissed in a nonexistent Courtroom in Dover Municipal court. On or around January 4, 2012, Plaintiff reported his findings to Captain Peter Ugalde.

22. More specifically, Plaintiff discovered that the tickets were dismissed without a trial being held, and without providing notice to the issuing police officer that the tickets and summons were being dismissed. It is standard practice within Dover to provide notice (and an opportunity to object) to the officer who issued the summons whenever a summons is dismissed. The dismissed tickets were assigned to a "Courtroom 2," which did not exist in the Dover municipal court.

23. Plaintiff, along with others, discovered that Dover, Mayor Dodd, and Administrator Close, were involved in a systematic dismissal of tickets issued to their friends, attorneys, and political connections.

24. Plaintiff reasonably believed that the dismissal of such tickets without a hearing or any notification to the issuing officer was a violation of the law and public policy. Plaintiff relayed the information to the Morris County Prosecutor's Office (hereinafter "MCPO").

25. The MCPO subsequently launched an investigation and confirmed the findings, but ultimately did not press criminal charges.

26. Information regarding the MCPO's investigation was documented frequently in the Star Ledger Newspaper.

27. As a direct and proximate result of Plaintiff's protected expression of political support to Martinez and other expressions concerning matters of public concern, Mayor Dodd and Administrator Close took deliberate retaliatory actions against him. As a direct and proximate result of Plaintiff's protected First Amendment speech and his objection to and reporting of the unlawful activities of Dover, Mayor Dodd and Administrator Close began a campaign of deliberate harassment and retaliation against him.

28. On or around January 20, 2012, Plaintiff sent a memorandum to Administrator Close copying Chief Valentine, Captain Ugalde and Young, contending that he was being retaliated against in violation of CEPA, for, among other things, reporting suspected unlawful activity of employees of the governing body. Plaintiff also reported the retaliatory actions being taken against him to the Morris County Prosecutor's Office. Assistant Prosecutor Robert Weber said Plaintiff "had to expect that for being on the losing team" or words to that effect.

29. In or around April 2012, Chief Valentine was ordered to a meeting with Administrator Close and the Town's Labor attorney at the instruction of Mayor Dodd. Lt. Young was also present at this meeting. During this meeting, Chief Valentine was instructed to remove Plaintiff from the post of PIO. Chief Valentine did not follow this instruction.

30. In June 2012, retirements in the Police Department created two vacancies in the Lieutenant position. Plaintiff was ranked number one on the certificate of eligibility list for promotions to the rank of Lieutenant within the Police Department. Chief Valentine recommended Plaintiff for the promotion. Subsequently, to prevent Plaintiff's promotion, Mayor Dodd and Administrator Close caused a Town Ordinance to be passed which eliminated the vacant Lieutenant positions.

31. Plaintiff was ranked number one for the Lieutenant position for the past three examinations. Previously, Plaintiff issued multiple tickets to a Dover Alderman and towed his work truck that was unregistered and unsafe. Plaintiff learned from that Dover Alderman that Mayor Dodd said "That f*cking spic will never be promoted as long as I'm in office. Who does he think he is f*cking with us" referring to Plaintiff because of his actions taken against the Dover Alderman.

32. Mayor Dodd has publicly discussed, inside and outside of the Police Department, that "as long as [he is] Mayor," Plaintiff will not become a Lieutenant. Administrator Close has made similar statements expressing disdain toward Plaintiff. This has ostracized Plaintiff in the Police Department and in the community.

33. A town official has suggested to or told Plaintiff, on multiple occasions, that Mayor Dodd "hates" him. For example, on or around December 5, 2012, the town official asked

Plaintiff in the presence of Timothy Thiel: "Why does the Mayor hate you? I know why he hates Butch [Chief Valentine], but I want to know why he hates you two specifically."

34. Mayor Dodd and Administrator Close, on many occasions, have made statements to members of the public and to other officers in the Police Department to damage Plaintiff's reputation and standing in the community. By way of example, in April 2013, Mayor Dodd informed a fire official that Plaintiff would never be made Lieutenant.

35. In or around March 2013, a town official telephoned Plaintiff and told him Mayor Dodd was angry about the contents of a home invasion press release that Plaintiff had drafted, stating that Mayor Dodd was accusing Plaintiff of attacking him. Plaintiff only released truthful information about police activity as required in connection with his position.

36. Throughout his time in the Detective Bureau, Plaintiff engaged in protected whistleblowing and First Amendment activities by communicating with Lt. Young on multiple occasions regarding the manipulation of the internal affairs process based on the target of the investigation. Lt. Young serves as the Lieutenant of Internal Affairs, the highest ranking officer in the process. Specifically, Plaintiff questioned Lt. Young on actions taken or inaction by Lt. Young on multiple internal affairs investigations as well as the outcome of several internal affairs investigations. Lt. Young expressed irritation towards Plaintiff during these conversations.

37. In April 2013, Plaintiff sent an email to all detectives advising that all time off requests must be made to him and any switch or call out requires his authorization.

38. On or around May 15, 2013, Plaintiff met with Lt. Young in his office and Plaintiff engaged in protected whistleblowing and First Amendment activities by advising Lt.

Young of one of the detective's performance deficiencies, including, but not limited to, investigations with no follow up, letting cases sit, disappearing and saying he was on the road, but not being heard on the radio and no arrests. This was the detective that Plaintiff had been told was "untouchable". Plaintiff stated that he did not believe this detective should be in the Detective Bureau and that he wanted to remove him. Lt. Young assured plaintiff that he would speak with the detective; however, that conversation never occurred.

39. On or around June 14, 2013, Plaintiff met with the underperforming detective in the Detective Bureau. Plaintiff asked him if Lt. Young had spoken to him to which he replied no. Plaintiff advised the detective that he wanted him removed from the Detective Bureau because of his performance deficiencies and problems he caused for the bureau, but that he did not have the authority to do so because he was protected. Plaintiff further advised the detective that he was going to change the schedule so that he followed Thiel in an attempt to get him motivated and share his knowledge with Thiel.

40. On or around June 17, 2013, Plaintiff met Lt. Young in his office and advised him that he had spoken with the detective about his poor performance. Lt. Young become angry and stated he knew he had spoken to him. Lt. Young stated, "I would never throw him out, he is my best friend and I wouldn't do that" and further stated "He [pointing towards Chief Valentine's office] wouldn't allow it either." Plaintiff stated he couldn't properly run a Detective Bureau with one detective being untouchable while others were held accountable. Lt. Young replied "Work with what you have and don't worry about" the detective because "he is a lost cause."

41. On or around July 2, 2013, Plaintiff sent an email to the detectives, copying Lt. Young and Chief Valentine, advising them of new assignments and partnerships.

42. In or around August 2013, Thiel had a conversation with Chief Valentine. Chief Valentine informed Thiel that he spoke with the OEM Coordinator Richard Riley. Riley informed Chief Valentine that Mayor Dodd stated that he had 18 months to "get them." Upon information and belief, the Mayor's comment refers to Plaintiff, Thiel and Chief Valentine. Mayor Dodd's comments were a direct and proximate result of Plaintiff's protected First Amendment speech and protected whistleblowing activities.

43. On or around February 19, 2014, Plaintiff was informed by Thiel that Lt. Young and Lieutenant Francis Coppinger (hereinafter "Lt. Coppinger") had been working four (4) ten (10) hour days with three (3) days off in violation of the collective bargaining agreement. Plaintiff checked the schedule and confirmed that Lt. Young and Lt. Coppinger had been working this new schedule since December 2013. Plaintiff was never told about the new schedule. Plaintiff engaged in protected whistleblowing activity by sending Lt. Young a text that same day inquiring about Lt. Young's schedule, which was in violation of the collective bargaining agreement. Lt. Young did not respond.

44. On or around February 20, 2014, Lt. Young in the presence of other detectives, angered by the fact that Plaintiff found out about his schedule, demanded to know "Who told Rico [Plaintiff] about the 4 and 3 schedule."

45. Lt. Young never addressed the unauthorized schedule change with Plaintiff nor did he make Plaintiff aware of his workdays or off days. Lt. Young ignored Plaintiff for almost two full days after he inquired about the new schedule.

46. On or around February 28, 2014, Plaintiff was informed by Thiel that fellow officers in the Detective Bureau were "stealing time" from the Police Department by either

leaving work early and/or taking days off of work and not marking the day as a vacation day or other authorized time off. Plaintiff reasonably believed that such actions were a violation of law and public policy.

47. Shortly thereafter, Plaintiff began questioning detectives about their time in an attempt to investigate the "stealing time" issue. Subsequently, Plaintiff and Thiel became further ostracized from the Detective Bureau. By way of example, Plaintiff and Thiel were scheduled to attend a mandatory training at the Morris County Police Academy with Lt. Young and three other detectives. Both Plaintiff and Thiel were removed from the schedule and reassigned to attend the training on a different day than the other officers. Neither Plaintiff nor Thiel received any prior notification of the change in schedule. Upon information and belief, Lt. Young modified the schedule to further alienate Plaintiff and Thiel from the rest of the group.

48. Throughout March 2014, Plaintiff and Thiel were subjected to further retaliatory harassment in the form of various messages written on a dry-erase board in the Detective Bureau. The messages on the dry-erase board contained statements relating to trust, rumors and backstabbing. Upon information and belief, the messages were directed towards Plaintiff and Thiel's recent whistleblowing activity regarding officers stealing time. Plaintiff learned from one of the detectives that Lt. Young was the author of at least one of the writings.

49. On or around March 4, 2014, Plaintiff received an email from Lt. Young stating that evaluations for sworn officers were due the previous day. Subsequently, Plaintiff checked the computer system and his emails and discovered that Lt. Young never provided him with the sworn officer evaluation. While in the computer system, the 2014 sworn officer evaluation

popped up, but did not indicate a space for Plaintiff to sign unlike the civilian evaluation which Plaintiff had previously received.

50. On or around March 6, 2014, Plaintiff sent an email to Lt. Young advising him that he had attended training at the police academy as this is a required notification. Thiel also advised Lt. Young that he attended the training. Thiel returned to work that day and was confronted by Lt. Young who asked him if he attended the training and how was your sergeant? Thiel asked what he meant to which Lt. Young replied "How was sponge bob crazy pants?" referring to Plaintiff.

51. On or around March 13, 2014, Lt. Young assigned a case to a detective via email and did not include Plaintiff in the email per the chain of command. The email originated with Mayor James Dodd on March 10, 2013.

52. On or around March 19, 2014, Plaintiff emailed Lt. Young regarding a detective's request for time off. Specifically, the detective requested days off for days that he was on the on-call detective, which Plaintiff did not approve, but were showing up on the schedule as being granted. Plaintiff went to change the work schedule, but was unable to and asked Lt. Young why he wasn't able to access the schedule.

53. On or around March 20, 2014, Lt. Young replied stating that if he needs to he will change the work schedule to switch the weeks of call out so that Thiel would be on call the week there is a conflict. In the past, Plaintiff denied others time off if they were not able to get someone to cover whereas Lt. Young was creating an exception for this "untouchable" detective.

54. On or around March 21, 2014, Plaintiff again met with the underperforming detective and went over his performance deficiencies and his evaluation. During the meeting,

Plaintiff also brought up how the detective does not notify him of his time off despite his order. Plaintiff also questioned the detective regarding a day the detective was scheduled to work and put in time as worked so he got paid, but was not seen by Plaintiff at work. Plaintiff told the detective that he has been advising Lt. Young of his poor performance and problems he was causing in the Detective Bureau.

55. On or around March 25, 2014, Plaintiff received a text message from Lt. Young stating: "I'm leaving early today we need to talk tomorrow this shit is coming to an end I'm finished."

56. On or around March 26, 2014, Plaintiff received another text message from Lt. Young stating: "I need to speak with both you and Timmy [Thiel] today." Plaintiff responded he would be in later that day.

57. On or around March 26, 2014, Plaintiff was called into a meeting with Lt. Young. During the meeting Lt. Young informed Plaintiff that he was being thrown out of the Detective Bureau on that basis that he "could not be trusted." Lt. Young also advised that Thiel was being removed from the Detective Bureau. Plaintiff was removed from the Detective Bureau because of his protected whistleblowing activities and protected First Amendment speech and his objection to activities that created a danger to the public.

58. On or around March 26, 2014, Thiel was called into a meeting with Lt. Young. Lt. Young told Thiel that he was being removed from the Detective Bureau because he aligned himself with Plaintiff. Lt. Young specifically informed Thiel that his removal from the Detective Bureau had nothing to do with his work ethics and that he had the best record; it was because he "could not be trusted." Thiel was removed from the Detective Bureau because of his protected

whistleblowing activities and protected First Amendment speech and his objection to activities that created a danger to the public.

59. On or around March 27, 2014, Plaintiff received an email from Lt. Young regarding his reassignment. Lt. Young's email directed Plaintiff to provide his keys and any open cases to the underperforming detective who Plaintiff attempted to counsel. This directive was solely given to further embarrass and humiliate Plaintiff.

60. Plaintiff's position as Detective Sergeant was replaced by the officer who Plaintiff initially replaced in November 2010.

61. On or around March 28, 2014, Plaintiff responded to Lt. Young's email and asked the status of his duties as PIO and Internal Affairs Investigator. Lt. Young did not respond. Plaintiff later learned that he was also removed from these positions in retaliation for his protected whistleblowing and First amendment activities.

62. On or around March 27, 2014, Plaintiff engaged in additional protected whistleblowing activities in a telephone conversation with Chief Valentine. In that conversation, Plaintiff advised Valentine of multiple issues in the detective bureau negatively impacting public safety. Specifically, Plaintiff advised that he was investigating detectives stealing time, investigating an internal complaint regarding graffiti suspected to be made by an officer, investigating other graffiti in the detective bureau related to backstabbing, issues with an underperforming detective and Lt. Young's responses or lack thereof, Lt. Young's ten hour work schedule and Lt. Young's angry response when confronted by Plaintiff, suspicions that he was set up by Lt. Young with the evaluations and the hostile work environment created by Lt. Young. Chief Valentine stated that he had several meetings with Lt. Young regarding the removal of

Plaintiff and Thiel from the detective bureau and that he was "100 percent against it," however he stated that he "did not want to interfere with the detective bureau" because "everything there was handled within the bureau" or words to that effect.

63. On or around April 1, 2014, Plaintiff was removed from the Detective Bureau and was placed in the patrol division.

64. On or around April 25, 2014, Plaintiff checked the police computer system and observed three items in red indicating that he failed to sign off by the deadline. One item was the sworn officer evaluation. The evaluation was changed so that it now had a place to sign unlike the original in an attempt to make it look like Plaintiff failed to read and sign the document in the time required. The evaluation was changed after Plaintiff communicated to Lt. Coppinger his belief that Lt. Young was retaliating against him.

65. On or around April 29, 2014, Plaintiff forwarded an email from a patrol officer to Lt. Coppinger and Lt. Young regarding training that the officer requested and never received a reply. Lt. Young replied stating, amongst other things, that the request had been denied, and that in the future Plaintiff should review the request first and make his recommendation for the necessity of the training. For other officers, the training request would go directly to Lt. Young with no recommendations being required by Sergeants. Other detectives have been sent to trainings that were unnecessary. Lt. Young applied this new procedure only towards Plaintiff to retaliate against Plaintiff.

66. On or around May 19, 2014, Plaintiff received an email from Lt. Young ordering him to complete two forms, Meaningful Review and Use of Force, in relation to an incident that were not attached to an officer's report.

67. On or around May 20, 2014, Plaintiff met Lt. Coppinger and advised him of Lt. Young's May 19, 2014 email. Plaintiff advised Lt. Coppinger that the report was signed off by an officer inappropriately and that there was a video where it was clear that he instructed the officer on what to do to which Lt. Coppinger admitted to viewing. Lt. Coppinger stated he would complete the forms for the incident. Plaintiff further expressed that he felt Lt. Young was intentionally coming after him even though he was no longer his immediate supervisor, and using his position to retaliate against him.

68. On or around May 20, 2014, Plaintiff forwarded Lt. Young's email to Lt. Coppinger along with his account of the incident, which explained that an officer had signed the report and it went forward incomplete without his review. Plaintiff further explained that he cannot complete the Meaningful Review form, which he discussed with Lt. Coppinger, who agreed that Plaintiff should not complete the form.

69. On or around May 21, 2014, Plaintiff viewed Lt. Coppinger and Lt. Young exiting headquarters together. Lt. Coppinger approached Plaintiff and asked if he completed the Meaningful Review to which Plaintiff advised him of their conversation the day before in which it was concluded that he would not have to complete the form. Lt. Coppinger now stated that Plaintiff had to complete it. It was evident that after conversing with Lt. Young, Lt. Coppinger recanted his previous statements and was requiring Plaintiff to complete the form.

70. On or around May 22, 2014, Plaintiff sent an email to Lt. Coppinger to document his prior conversations with Lt. Coppinger regarding his complaints against Lt. Young and how Lt. Young was using his superior position in the Police Department to retaliate against him for the violations of law he brought to light in the Detective Bureau.

71. Subsequently, on or around May 22, 2014, Lt. Young confronted Plaintiff in his office holding up a copy of his email to Lt. Coppinger that day regarding his complaints against Lt. Young. Plaintiff stated he did not want to discuss it with him and Lt. Young walked out of his office.

72. Lt. Coppinger is Plaintiff's immediate supervisor and an internal affairs officer. Lt. Coppinger violated the Internal Affairs process by giving Lt. Young a copy of Plaintiff's complaint. Lt. Coppinger never initiated an investigation to look into Plaintiff's complaints.

73. On or around June 18, 2014, Plaintiff was notified by Lt. Coppinger in an email that, effective June 23, 2014, a patrol officer was being removed from his squad and placed on another squad.

74. On or around June 20, 2014, Plaintiff responded to Lt. Coppinger's email stating that his squad would be short-handed if the officer was removed and requested that this transfer be reconsidered. Having received no reply, on or around June 24, 2014, Plaintiff followed-up on his email. Plaintiff was concerned with the adverse impact the transfer would have on the public safety if his squad did not have sufficient manpower.

75. On or around June 24, 2014, Lt. Coppinger replied and stated that the transfer would stand.

76. On or around June 25, 2014, Plaintiff filed a grievance with Chief Valentine regarding the removal of the officer from his squad. Plaintiff advised how this transfer would adversely affect his squad being left with only three officers. Plaintiff suggested reassigning an officer to his squad from another Sergeant's squad that had six officers.

77. On or around July 3, 2014, Plaintiff received an email from Lt. Coppinger that a different officer was being assigned to his squad and another officer was being transferred to another squad effective July 5, 2014. Chief Valentine was not copied on this email. Therefore, it was unclear to Plaintiff if this was in response to his grievance.

78. The officer being placed on Plaintiff's squad was removed early from re-training after being out on suspension to be placed on Plaintiff's squad. The other transfer taking place was one that Lt. Coppinger said could not be done. It was only after Plaintiff filed his grievance that this transfer took place.

79. On or around July 7, 2014, Chief Valentine denied Plaintiff's grievance.

80. Plaintiff has been routinely passed over for overtime since returning to the patrol division in April 2014. On or around April 3, 2014, Plaintiff sent an email to all squad sergeants advising that he was not being called for overtime. Overtime has been given out to other officers back to back, twice during a four day period or weekly.

81. On or around July 8, 2014, Plaintiff was called to a meeting with Chief Valentine, Lt. Young and Lt. Coppinger. The meeting was held in a Police Department interrogation room and Plaintiff was placed in the corner of the room thereby creating an atmosphere of intimidation. Plaintiff was told the meeting was being recorded. Plaintiff stated that he felt very uncomfortable because there is a monitor in the detective bureau that other officers can view and watch the meeting.

82. During the meeting, Chief Valentine told Plaintiff that he is "disrupting the operations of the police force" and he has to stop. Chief Valentine stated "if you keep going we are going to go to a place that nobody wants to go to. This is my official warning to you...There

are no more warnings.” The Chief also ordered Plaintiff to disclose the allegations of harassment made by another officer, stating that “you are going to suffer the penalty” if he failed to disclose the details. The Chief also told Plaintiff that he was subject to discipline if he failed to follow his direct orders in this interrogation. The Chief then questioned Plaintiff on his complaints of retaliation and harassment, which Plaintiff stated he felt uncomfortable expressing because his complaints were against the two Lieutenants in the room. Plaintiff and Chief Valentine continued the conversation in the Chief’s office. Chief Valentine again told Plaintiff he could not verbalize his complaints “because it is really undermining the police department.” Chief Valentine also stated “I can’t deal with this nonsense anymore.” There was no purpose for this meeting except to harass and intimidate Plaintiff; nevertheless, Plaintiff complied with attending and speaking at the meeting so as not to risk facing discipline.

FIRST COUNT

83. Plaintiff repeats and incorporates the allegations as set forth in Paragraphs 1 through 82 as if set forth at length herein.

84. The foregoing actions of the Defendants constitute retaliation in violation of the Conscientious Employee Protection Act (“CEPA”), N.J.S.A. 34:19-1, et seq.

85. Plaintiff engaged in protected whistleblowing activities in that he reported to the Morris County Prosecutor’s Office that Dover Municipal Court was improperly dismissing tickets pursuant to instruction by Mayor Dodd and Dover’s administration. Plaintiff reasonably believed that such activity was in violation of law, rule or regulation promulgated pursuant to law and or incompatible with a clear mandate of public policy concerning the public safety of the citizens of Dover, including, but not limited to, Official Misconduct, Title 2C:30-2, Crime of

pattern of official misconduct, Title 2C:30-7, Bribery in official and political matters, Title 2C:27-2, Acceptance or receipt of unlawful benefit by public servant for official behavior, Title 2C:27-10, Local Government Ethics Law, Title 40A:9-22.1 et seq., duties of municipal prosecutor, Title 2B:25-5 and the New Jersey Rules Governing Practice in Municipal Courts. The activities of Plaintiff as identified in Paragraphs 21 through 24 constitute this protected activity.

86. Plaintiff engaged in further protected whistleblowing activities when he informed his superior officers of improper conduct in the Detective Bureau, internal affairs process and Dover Police Department. Plaintiff reasonably believed that such activity was in violation of law, rule or regulation promulgated pursuant to law and or incompatible with a clear mandate of public policy concerning the public safety of the citizens of Dover, including, but not limited to, the Attorney General Guidelines, neglect of duty, Dover Police Department's rules and regulations, Dover's policies and procedures and Official Misconduct, Title 2C:30-2. The activities of Plaintiff as identified in Paragraphs 28, 36, 38, 40, 43, 47, 62, 74 and 76 constitute this protected activity.

87. Plaintiff engaged in further protected whistleblowing activities when he inquired with his superior officer about the change in schedule of that superior officer and another superior officer. Plaintiff reasonably believed that such activity was in violation of law, rule or regulation promulgated pursuant to law and or incompatible with a clear mandate of public policy, including, but not limited to, the collective bargaining agreement between the Town of Dover and the association representing superior officers in the Dover Police Department. The activities of Plaintiff as identified in Paragraphs 43 and 62 constitute this protected activity.

88. In retaliation for Plaintiff's whistleblowing activities, Plaintiff has suffered adverse employment actions, including failure to promote and retaliatory harassment on a continued and repeated basis as outlined in Paragraphs 29-34, 40, 42, 44-45, 44-52 and 55-82.

89. As a direct and proximate result of Defendants' actions, Plaintiff has suffered damages including severe emotional distress, humiliation, embarrassment, bodily injury, coupled with physical manifestation of emotional distress, loss of income and benefits and other severe financial losses.

WHEREFORE, Plaintiff, Richard Gonzalez, demands judgment against Defendants for compensatory damages, punitive damages, back pay, front pay, emotional distress, attorneys' fees, interest, costs and such other and further relief as this court deems equitable and just.

SECOND COUNT

90. Plaintiff repeats and incorporates the allegations as set forth in Paragraphs 1 through 89 as if set forth at length herein.

91. The conduct of the Defendants as outlined in Paragraphs 10-12, 15-16, 18, 27, 29-35, 40, 42, 44-45, 47-52, 55-82 was retaliatory in contravention of his First Amendment rights, in violation of 42 U.S.C. 1983, the First Amendment of the United States Constitution, and Article I of the New Jersey Constitution, Paragraphs 5 and 6.

92. The retaliatory actions committed by Defendants against Plaintiff was a direct response to the protected right of engaging in free speech and political support of Martinez, who opposed Mayor Dodd and free speech regarding improper conduct occurring within the Town of Dover and Police Department as well as protesting his hostile work environment and retaliation.

The activities of Plaintiff as identified in Paragraphs 10-12, 14, 21, 24, 28, 35-36, 38, 43, 47, 62, 74 and 76 constitute this protected activity.

93. Said acts of retaliation are a violation of state and federal law, as well as running afoul of the public policy of the State of New Jersey.

94. As a direct and proximate result of Defendant's wrongful actions, Plaintiff has suffered damages including severe emotional distress, humiliation, embarrassment, bodily injury, coupled with physical manifestation of emotional distress, loss of income and benefits and other severe financial losses.

WHEREFORE, Plaintiff, Richard Gonzalez, demands judgment against Defendants for compensatory damages, punitive damages, back pay, front pay, emotional distress, attorneys' fees, interest, costs and such other and further relief as this court deems equitable and just.

THIRD COUNT

95. Plaintiff repeats and incorporates the allegations as set forth in Paragraphs 1 through 94 as if set forth at length herein.

96. The foregoing actions of the Defendants are in violation of the New Jersey Civil Rights Act ("NJCRA"), N.J.S.A. 10:6-1 et seq.

97. Defendants, at all times, were acting under "color of law".

98. Defendants interfered with Plaintiff's exercise of his constitutional rights to engage in free speech, free assembly, free association and political activities during his non-working hours and retaliated against him for his exercise of his civil rights in violation of the New Jersey Constitution.

99. Defendants created a hostile work environment for Plaintiff in retaliation for Plaintiff's free speech and political support of Martinez, who opposed Mayor Dodd as well as Plaintiff's free speech regarding improper conduct occurring within the Town of Dover and Dover Police Department as outlined in Paragraphs 10-12, 14, 21, 24, 28, 35-36, 38, 43, 47, 62, 74 and 76. To interfere with Plaintiff's exercise of free speech and political activities, Mayor Dodd and Administrator Close denied Plaintiff a promotion to Lieutenant by intentionally changing the Town's Table of Organization so that Plaintiff would not be promoted as he was first on the civil service list. Defendants have also imposed adverse employment actions against Plaintiff as outlined in Paragraphs 10-12, 15-16, 18, 27, 29-35, 40, 42, 44-45, 47-52 and 55-82 in retaliation for Plaintiff having engaged in protected activities.

100. Defendants have deprived Plaintiff of rights, privileges and or immunities secured by the New Jersey State Constitution. Through Defendant's illegal acts, Plaintiff's exercise and enjoyment of these rights privileges or immunities has been interfered with by threats, intimidation or coercion by a person acting under color of law.

101. The foregoing actions were taken pursuant to an official and extant policy and practice of Defendants, and were taken by individuals with final policy making authority over such actions.

102. These violations of law were overseen by agents, officials, employees and/or other individuals acting on Defendants' behalf who ratified such violations by Defendants' actions, which were retaliatory and violations of law, and being in a position to stop the illegal behavior Defendants failed to take remedial action in willful indifference to the violations of Plaintiff's civil rights.

103. As a direct and proximate result of Defendants' actions, Plaintiff has suffered economic and non-economic damages, including emotional distress, humiliation, embarrassment, bodily injury, coupled with physical manifestation of emotional distress, loss of income and benefits and other severe financial losses.

WHEREFORE, Plaintiff, Richard Gonzalez, demands judgment against Defendants for compensatory damages, punitive damages, back pay, front pay, emotional distress, attorneys' fees, interest, costs and such other and further relief as this court deems equitable and just.

FOURTH COUNT

104. Plaintiff repeats and incorporates the allegations set forth in Paragraphs 1 through 103 as if fully set forth at length herein.

105. The conduct of Defendants constitutes violations of the New Jersey Law Against Discrimination ("NJLAD"), N.J.S.A. 10:5-1, *et seq.*

106. The actions of Defendants as outlined in Paragraphs 10-12, 15-16, 18, 27, 29-35, 40, 42, 44-45, 47-52 and 55-82 were severe or persuasive enough to make Plaintiff believe that the conditions of his employment had been altered and that the working environment was hostile and/or abusive based on Plaintiff's protected activities. The activities of Plaintiff as identified in Paragraphs 10-12, 14, 21, 24, 28, 35-36, 38, 40, 43, 47, 62, 74 and 76 constitute this protected activity.

107. As a direct and proximate result of Defendants' actions, Plaintiff has suffered economic and non-economic damages, including emotional distress, humiliation, embarrassment, bodily injury, coupled with physical manifestation of emotional distress, loss of income and benefits and other severe financial losses.

WHEREFORE, Plaintiff, Richard Gonzalez, demands judgment against Defendants for compensatory damages, punitive damages, back pay, front pay, emotional distress, attorneys' fees, interest, costs and such other and further relief as this court deems equitable and just.

FIFTH COUNT

108. Plaintiff repeats and incorporates the allegations set forth in Paragraphs 1 through 107 as if fully set forth at length herein.

109. The actions of the Defendants are in direct violation of the public policy of the State of New Jersey.

110. Defendants failed to promote Plaintiff and engaged in retaliatory harassment against Plaintiff as outlined in Paragraphs 10-12, 15-16, 18, 27, 29-35, 40, 42, 44-45, 47-52 and 55-82 on a continued and repeated basis in violation of the public policy of New Jersey.

111. As a direct and proximate result of Plaintiff's protected activities, Defendants undertook retaliatory and adverse employment actions against Plaintiff resulting in damages to Plaintiff.

112. As a direct and proximate result of Defendants' actions, Plaintiff has suffered economic and non-economic damages, including emotional distress, humiliation, embarrassment, bodily injury, coupled with physical manifestation of emotional distress, loss of income and benefits and other severe financial losses.

WHEREFORE, Plaintiff, Richard Gonzalez, demands judgment against Defendants for compensatory damages, punitive damages, back pay, front pay, emotional distress, attorney's fees, interest, costs of suit and such other and further relief as the court deems equitable and just.

JURY DEMAND

Plaintiff, Richard Gonzalez, demands a trial by Jury.

NOTICE OF DESIGNATION OF TRIAL COUNSEL

Plaintiff hereby designates Dayna R. Katz, Esq. as his trial counsel in this matter.

DIFRANCESCO, BATEMAN, COLEY, YOSPIN,
KUNZMAN, DAVIS, LEHRER & FLAUM, P.C.
Attorneys for Plaintiff, Richard Gonzalez

s/ Dayna R. Katz

Dayna R. Katz

Dated: August 15, 2014

JS 44 (Rev. 12/12)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
RICHARD GONZALEZ

DEFENDANTS

TOWN OF DOVER and TOWN OF DOVER POLICE DEPARTMENT

(b) County of Residence of First Listed Plaintiff Morris
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Morris
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

(c) Attorneys (Firm Name, Address, Email and Telephone Number)
Dayna R. Katz, Esq., DiFrancesco Bateman
15 Mountain Blvd., Warren, NJ 07059
dkatz@newjerseylaw.net / tel: 908-757-7800 ext. 213

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | ☐ 1 | ☐ 1 | Incorporated or Principal Place of Business in This State | ☐ 4 | ☐ 4 |
| Citizen of Another State | ☐ 2 | ☐ 2 | Incorporated and Principal Place of Business in Another State | ☐ 5 | ☐ 5 |
| Citizen or Subject of a Foreign Country | ☐ 3 | ☐ 3 | Foreign Nation | ☐ 6 | ☐ 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
☐ 110 Insurance ☐ 120 Marine ☐ 130 Miller Act ☐ 140 Negotiable Instrument ☐ 150 Recovery of Overpayment & Enforcement of Judgment ☐ 151 Medicare Act ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans) ☐ 153 Recovery of Overpayment of Veteran's Benefits ☐ 160 Stockholders' Suits ☐ 190 Other Contract ☐ 195 Contract Product Liability ☐ 196 Franchise	PERSONAL INJURY ☐ 310 Airplane ☐ 315 Airplane Product Liability ☐ 320 Assault, Libel & Slander ☐ 330 Federal Employers' Liability ☐ 340 Marine ☐ 345 Marine Product Liability ☐ 350 Motor Vehicle ☐ 355 Motor Vehicle Product Liability ☐ 360 Other Personal Injury ☐ 362 Personal Injury - Medical Malpractice	PERSONAL INJURY ☐ 365 Personal Injury - Product Liability ☐ 367 Health Care/Pharmaceutical Personal Injury Product Liability ☐ 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY ☐ 370 Other Fraud ☐ 371 Truth in Lending ☐ 380 Other Personal Property Damage ☐ 385 Property Damage Product Liability	☐ 625 Drug Related Seizure of Property 21 USC 881 ☐ 690 Other LABOR ☐ 710 Fair Labor Standards Act ☐ 720 Labor/Management Relations ☐ 740 Railway Labor Act ☐ 751 Family and Medical Leave Act ☐ 790 Other Labor Litigation ☐ 791 Employee Retirement Income Security Act IMMIGRATION ☐ 462 Naturalization Application ☐ 465 Other Immigration Actions	☐ 422 Appeal 28 USC 158 ☐ 423 Withdrawal 28 USC 157 PROPERTY RIGHTS ☐ 820 Copyrights ☐ 830 Patents ☐ 840 Trademark SOCIAL SECURITY ☐ 861 HIA (1395f) ☐ 862 Black Lung (923) ☐ 863 DIWC/DIWW (405(g)) ☐ 864 SSID Title XVI ☐ 865 RSI (405(g)) FEDERAL TAX SUITS ☐ 870 Taxes (U.S. Plaintiff or Defendant) ☐ 871 IRS—Third Party 26 USC 7609	☐ 375 False Claims Act ☐ 400 State Reapportionment ☐ 410 Antitrust ☐ 430 Banks and Banking ☐ 450 Commerce ☐ 460 Deportation ☐ 470 Reckless Influenced and Corrupt Organizations ☐ 480 Consumer Credit ☐ 490 Cable/Sat TV ☐ 850 Securities/Commodities/Exchange ☐ 890 Other Statutory Actions ☐ 891 Agricultural Acts ☐ 893 Environmental Matters ☐ 895 Freedom of Information Act ☐ 896 Arbitration ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision ☐ 950 Constitutionality of State Statutes
REAL PROPERTY ☐ 210 Land Condemnation ☐ 220 Foreclosure ☐ 230 Rent Lease & Ejectment ☐ 240 Torts to Land ☐ 245 Tort Product Liability ☐ 290 All Other Real Property	CIVIL RIGHTS ☐ 440 Other Civil Rights ☐ 441 Voting ☒ 442 Employment ☐ 443 Housing/Accommodations ☐ 445 Amer. w/Disabilities - Employment ☐ 446 Amer. w/Disabilities - Other ☐ 448 Education	PRISONER PETITIONS Habeas Corpus: ☐ 463 Alien Detainee ☐ 510 Motions to Vacate Sentence ☐ 530 General ☐ 535 Death Penalty Others: ☐ 540 Mandamus & Other ☐ 550 Civil Rights ☐ 555 Prison Condition ☐ 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. 1983

Brief description of cause
Plaintiff has been retaliated against by the Defendants

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

8/15/14

SIGNATURE OF ATTORNEY OF RECORD

Dayna R. Katz

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE