

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

RECEIVED
NOV 10 2016
ADMINISTRATOR'S
OFFICE

FRANCIS J. COPPINGER,
Plaintiff

V.

SUMMONS IN A CIVIL CASE

TOWN OF DOVER, ET AL.,
Defendant

CASE NUMBER: 2:16-CV-07435-JMV-MF

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

Town Administrator Donald Trivisano
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:

John J. Zidziunas & Associates
33 Plymouth Street, Suite 202A
Montclair, NJ 07042

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

John Reilly

(By) DEPUTY CLERK



ISSUED ON 2016-10-18 13:55:08, Clerk
USDC NJD

RETURN OF SERVICE		
Service of the Summons and complaint was made by me(I)	DATE	
NAME OF SERVER (<i>PRINT</i>)	TITLE	
<i>Check one box below to indicate appropriate method of service</i>		
☐ Served personally upon the defendant. Place where served: _____ _____ ☐ Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. ☐ Name of person with whom the summons and complaint were left: _____ ☐ Returned unexecuted: _____ _____ ☐ Other (specify) : _____ _____ _____		
STATEMENT OF SERVICE FEES		
TRAVEL	SERVICES	TOTAL
DECLARATION OF SERVER		
I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct. Executed on _____ Date Signature of Server _____ Address of Server _____		

JS 44 (Rev. 07/16)

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

Francis J. Coppinger, Jr.

DEFENDANTS

Town of Dover, Mayor James P. Dodd, Donald Travisano, et al.

(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.

(c) Attorneys (Firm Name, Address, Email and Telephone Number)
John J. Zidzunas & Assoc., 33 Plymouth St., Ste. 202A, Montclair NJ
john@jjzlawfirm.com; 973-509-8500

Attorneys (If Known)

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 Patent ☐ 840 Trademark SOCIAL SECURITY ☐ 861 HIA (1395m) ☐ 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 ☐ 376 Qui Tam (31 USC 3729(a)) ☐ 400 State Reapportionment ☐ 410 Antitrust ☐ 430 Banks and Banking ☐ 450 Commerce ☐ 460 Deportation ☐ 470 Racketeer 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 - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

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:
Civil Rights Complaint, First Amendment Retaliation

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

10-18-16

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

JOHN J. ZIDZIUNAS & ASSOCIATES
JOHN J. ZIDZIUNAS, ESQ.: I.D. 036522005
33 PLYMOUTH STREET, SUITE 202A
MONTCLAIR, NEW JERSEY 07042
TELEPHONE (973) 509-8500
FACSIMILE (973) 509-1770
Attorneys for Plaintiff: Francis J. Coppinger, Jr.

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

FRANCIS J. COPPINGER, JR.,

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.

CIVIL ACTION NO.:

**COMPLAINT
AND
JURY DEMAND**

Plaintiff, Francis J. Coppinger, who resides at 14 Bent Street, Kenvil, New Jersey 07847 (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 (unconstitutional restraints on speech and association); (2) Conscientious Employee Protection Act, N.J.S.A. 34:19-1 et seq. ("CEPA"); (3) civil conspiracy; (4) breach of express contract; (5) breach of implied contract; (6) breach of implied covenant of good faith and fair dealing; (7) New Jersey Civil Rights Act, N.J.S.A.

- 10:6-1 et seq. (unconstitutional restraint of speech and association); and (8) violation of United States Constitution, XIV Amendment (due process clause).
2. This Court has original jurisdiction over Plaintiff's federal law claims pursuant to 28 U.S.C. § 1331, and the amount in controversy of the claims exceed one hundred thousand dollars (\$100,000).
 3. Further, this Court has supplemental jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. § 1367 as such claims form part of the same case or controversy as Plaintiff's federal law claims.
 4. Venue is appropriate in this Court pursuant to 28 U.S.C. § 1391 as Plaintiff resides in Northern New Jersey, Plaintiff works in Northern New Jersey; Defendants have an office and do business in Northern New Jersey; and some of the causes of action accrued in Northern New Jersey.
 5. Plaintiff has timely filed Tort Claims Act Notices.
 6. Thus, Plaintiff has satisfied all prerequisites to bringing these claims.

II. Parties

7. Plaintiff, Coppinger, is a "Desk Lieutenant" for the Dover Police Department ("Dover PD").
8. Defendant, The Town of Dover (the "Town" or "Dover"), whose address is 37 N. Sussex Street, Dover, New Jersey 07801, employs Plaintiff Coppinger to perform work duties as a police officer in the Town of Dover, New Jersey, and are subject to suit under the statutes plead herein.
9. 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.
10. 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.

11. 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. 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 the plaintiff.
12. 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.
13. All Defendants are individually subject to the statutes referenced herein.
14. 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

15. Coppinger is a decorated police officer who was hired by the Town of Dover Police Department in 1993.
16. Plaintiff was born and raised in Dover and is the son of retired police officer, Frank Coppinger Sr.
17. Plaintiff's first cousin is the former head of the Dover PD, Chief Harold Valentine ("Chief Valentine"), who had held the position of Police Chief for many years on Dover and was a long time member of the Dover PD.
18. At all times thereto, it was widely known to Defendants that Plaintiff was blood related to Chief Valentine, and an open supporter of Chief Valentine's police, administrative and political activities.
19. Plaintiff was and is at all time, active in town politics in The Town of Dover.

20. Plaintiff's wife, Maria, presently works at the Town Clerk in Dover.
21. Throughout Plaintiff's decorated career, Plaintiff received numerous commendations and promotions for his exemplary service.
22. Plaintiff began his career as a Police Officer earning a salary of \$32,000 per year.
23. As a result of his exemplary performance, Plaintiff was recommended for promotion by Chief Valentine from Police Officer to Sergeant in 2001, and received a pay increase to \$95,000 per year, plus overtime opportunities and other benefits.
24. In August 2007, Plaintiff was recommended again for promotion again by Chief Valentine to Lieutenant, and received a pay increase to \$139,000 per year, plus overtime opportunities and other benefits.
25. In April 2015, Plaintiff was directly promoted by Chief Valentine to the title of Acting Chief in his absence.
26. 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.
27. Plaintiff was also highly trained on Internal Affairs procedures which are governed by 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.
28. At all times relevant thereto, and prior to the retaliation Plaintiff endured discussed herein, Plaintiff had an unblemished career and was never disciplined before the Dover PD.
29. In or around March 2015, Chief Valentine informally announced his intentions to run for mayor against the incumbent mayor of approximately 12 years, Defendant Mayor Dodd.
30. The primary for this election was to be held on June 2, 2015.
31. Unfortunately for Plaintiff, Chief Valentine's announcement to run for office against Defendant Dodd put all persons closely associated with Chief

Valentine in jeopardy of retaliation, particularly Plaintiff due to his familial relationship and open exercise of political speech for Chief Valentine.

32. During Chief Valentine's candidacy, Plaintiff worked closely with the Chief in police matters, frequently lunched together, and openly associated with one another and Chief Valentine's other close confidants who supported his political activities.
33. Further, Plaintiff often engaged in political arguments with other police officers who openly supported Defendant Dodd over Chief Valentine for mayor, and criticized Plaintiff for supporting Chief Valentine.
34. Plaintiff spoke openly to members within the Department that Mayor Dodd was corrupt and interfering with police assignments and departmental and rank structure, despite having no police experience himself.
35. Plaintiff expressed that Mayor Dodd's act of interfering with the command staff was detrimental to the community and put the public's safety in peril.
36. On several occasions, including May 2015, Plaintiff was specifically told by Defendant Travisano that "it would be wise" for his career to separate himself from Chief Valentine.
37. Plaintiff understood that Defendant Travisano was referring to the fact that Chief Valentine's chances of winning the election were not likely, and that Mayor Dodd would retaliate against those within the Department who openly supported Chief Valentine.
38. It was commonly known in the police department, and within the Town, that Defendant Mayor Dodd had a reputation for retaliation.
39. These instances include, but are not limited to, Dover police officers Sergeant Gonzalez and Police Officer Theil, who filed suit against the Town and Defendant Mayor Dodd alleging illegal retaliation by Mayor Dodd for not supporting his reelection for Mayor. Additionally, community activist Edward Correa sued the Town and Defendant Mayor Dodd alleging he was terminated because of his political support for Chief Valentine's candidacy for Mayor.

40. Specifically, Sgt. Gonzalez alleged, *inter alia*, he was retaliated against for refusing to shake Mayor Dodd's hand at a Town function.
41. Theil alleged, *inter alia*, one of the reasons he was removed from the Detective Bureau was for lawfully stopping one of Mayor Dodd's campaign workers for a traffic violation.
42. On or about April 22, 2015, Chief Valentine formerly announced his political intentions to run for Mayor against Defendant Mayor Dodd.
43. In order to run for this position in a serious fashion, Chief Valentine took a leave of absence.
44. Because Plaintiff was the Patrol Lieutenant at this time, Chief Valentine intentionally made Plaintiff the Acting Chief at this time.
45. Chief's Valentine's decision to make Plaintiff the Acting Chief angered Defendant Mayor Dodd.
46. However, within just weeks after Chief Valentine formally announcing his political intentions, Defendants Dodd and Travisano and former Public Safety Director Richard Rosell ("Director Rosell") caused Chief Valentine to be illegally suspended from the Dover PD, effectively removing him from his employment as Chief of Police.
47. The pre-textual reason for Chief Valentine's suspension was because Chef Valentine allegedly did not receive the permission of the Morris County Prosecutor's Office ("MCPO") to run for the Mayor's office, in contravention of a Town ordinance.
48. Upon learning this, Plaintiff knew Defendants actions were unlawful and retaliatory, and taken in direct violation of Attorney General Guidelines and Dover PD's policies and procedures manual governing suspensions.
49. Plaintiff knew, as did most members of the department, that Defendants Mayor Dodd and Travisano performed this suspension in retaliation for Chief Valentine's decision to run for Mayor against Defendant Dodd.
50. Plaintiff knew, as did most members of the department, that Chief Valentine had in fact complied with the Town's regulation and requested permission

from the MCPO to run for Mayor.

51. Additionally, Plaintiff became aware that Defendants were also harassing and investigating other officers for their free speech activities and open support for Chief Valentine, which seriously worried Plaintiff.
52. Specifically, Defendants were investigating Lt. Barry Young ("Lt. Young") of the Dover PD, who was a close constituent and open political supporter of Plaintiff's cousin, Chief Valentine.
53. Notably, in late April 2015 after Chief Valentine's suspension was announced, both Plaintiff and Lt. Young were called by Defendant Trivisano to meet in his office.
54. Defendant Trivisano told Plaintiff and Lt. Young that Chief Valentine was being suspended, that he was no longer permitted in headquarters, and that he would be naming someone new as the Officer in Charge ("OIC").
55. Plaintiff then openly stated to Defendant Trivisano that he believed "it was unlawful to suspend Chief Valentine for running for office", and further joined in Lt. Young's remarks that Chief Valentine "would be back in a few days after the courts decide this" during an emergent hearing.
56. At all times relevant, Plaintiff reasonably believed that the actions of Defendant in causing this retaliation violated a clear mandate of public policy and internal rules and regulations, and was pure political payback for Chief Valentine's decision to run against the incumbent, Defendant Mayor Dodd.
57. Defendant Trivisano responded that "there's no court in the land that will rule against me."
58. Following his suspension, Chief Valentine retained legal counsel and commenced a lawsuit against the Town to fight his suspension.
59. Upon information and belief, the Court determined that the suspension of Chief Valentine was an unlawful act in violation of Chief Valentine's constitutional rights under the New Jersey Constitution. Following this ruling, Chief Valentine was reinstated to the position of Chief of Police of the Dover PD.

60. Upon information and belief, Lt. Young was eventually charged with numerous disciplinary violations of departmental rules and guidelines, which blemished his impeccable career.
61. Upon information and belief, these charges are currently pending against Lt. Young and the actions of Defendants are the subject of a federal civil lawsuit.
62. On June 2, 2015, Chief Valentine lost the primary election in which he ran against Defendant Mayor Dodd.
63. On or about June 8, 2015, Lt. Young informs Plaintiff that he received a phone call from Defendant Travisano making a request to have documents and information provided to him that would be unlawful to disclose and deliver to Defendant Travisano.
64. More specifically, Defendant Travisano demanded that Lt. Young deliver documents relating to Police Sergeant Richard Gonzalez's private medical information and fitness for duty evaluations that were held confidentially within the Internal Affairs Department.
65. On or about June 10, 2015, Plaintiff Coppinger, who knew and understand Attorney General Guidelines that must be followed by the Dover PD's Internal Affairs unit, immediately objected to this request and told Lt. Young that same was illegal and could not be done.
66. As Lt. Young's supervisor, Plaintiff Coppinger directed Lt. Young to confirm this fact and belief with the MCPO.
67. Thereafter, Lt. Young then told Defendant Travisano it would be illegal to turn over such confidential materials to Defendant Travisano because Travisano was not a member of law enforcement, because it violated Sgt. Gonzalez's HIPAA rights, and because the MCPO and Plaintiff Coppinger confirmed same was illegal.
68. As a consequence for Lt. Young's open refusal to perform such an illegal act, Defendants immediately retaliated and brought charges and suspended him from his duties.
69. Within weeks of Lt. Young's suspension, Defendant Travisano called Plaintiff

into his office and again requested that he provide him with Sgt. Gonzalez's medical records/fitness for duty evaluations.

70. In response, Plaintiff directly objected to this request and advised Defendant Travisano again that he was not allowed to see these records for the reasons set forth above.
71. Further, Plaintiff told Defendant Travisano that Sgt. Gonzalez's medical and mental health records were "private and protected" by standard HIPAA laws that prevented others, particularly non-members of law enforcement such as Defendant, from viewing such private/confidential information.
72. Moreover, Plaintiff knew the true reason why Defendant Travisano wanted this information – which was to find negative information and mental fitness issues against Sgt. Gonzalez for his lawsuit against him and the Town – whom Defendant Travisano desired to discipline and retaliate against.
73. As such, Plaintiff exercised his rights to free speech, and his rights under the Conscientious Employee Protection Act, N.J.S.A. 34:19-1 *et. seq.*, to object to this illegal request by Defendant Travisano.
74. During his exchange with Plaintiff, it became apparent that Defendant Travisano was visibly angry, agitated and upset with Plaintiff's objections
75. In September 2015, Defendant Mayor Dodd hired Dominick Saldida ("Saldida") to the position of Police Director.
76. At all times relevant thereto and up to the present, Director Saldida was a civilian and not a civil servant police officer.
77. Within just months of his hire, in or around November 2015, Director Saldida confided Plaintiff and told him that Mayor Dodd and Travisano told him they could not trust Plaintiff because he was "loyal to Valentine", and therefore would not be promoted.
78. Director Saldida further shared to Plaintiff that Defendants Mayor Dodd and Travisano had premeditated plans to make "their boy", Lt. Anthony Smith, the new OIC in replace of Plaintiff, despite the fact he had seven (7) years less experience as a Lieutenant than Plaintiff. .

79. As a consequence of this promotion, Lt. Smith would become the highest ranking official in the Department and reducing Plaintiff to a lower position and remove his power as the head of law enforcement within the Dover PD.
80. Plaintiff knew and believed the act of promoting Lt. Smith over Plaintiff was in **direct retaliation** for his free speech/association/open political support of Chief Valentine to Defendants; for his free speech/whistleblowing/protected activities for speaking out against Chief Valentine's suspension to Defendants; and for his disclosure/refusal to participate/free speech activities in refusing to violate law and turn over Sgt. Gonzalez's records to Defendant Travisano.
81. For the next 4 months, Plaintiff reasonably feared retaliation at any instance, trivial infraction or pre-textual reason Defendants could find to reprimand, discipline and/or terminate Plaintiff.
82. In March 2016, Director Saldida, speaking openly for his support of Plaintiff, confronted Defendants Mayor Dodd and Travisano and told them he unequivocally believed Coppinger has more experience and is more qualified and suited for the position of OIC instead of Lt. Smith.
83. Director Saldida even went so far as to say that he believed Lt. Smith does not have experience and is not suited for the job.
84. Shortly after, Director Saldida reached a mutual agreement with Defendants to leave his employment with the Town.
85. On May 17, 2016, Defendants made Lt. Smith the new OIC of the Dover PD.
86. This decision was circulated *via* email to all members of the Dover PD.
87. That same day, Defendant Travisano called Plaintiff to his office and told him in an arrogant manner, that he was stripped of his title and rank; that Lt. Smith would now become the new OIC; and that Plaintiff was being demoted to the title of "Desk Lieutenant" – a title that is not even promulgated by law or recognized.
88. Defendant Travisano then asked Plaintiff, with a smile on his face, "How do you feel about that?"

89. Plaintiff responded "Not good", and bit his tongue to avoid further demotion, retaliation and disciplinary charges.
90. It was evident to Plaintiff that Defendant Travisano was looking to find Plaintiff insubordinate.
91. As a consequence of OIC Smith's promotion, Plaintiff suffered further adverse employment action by removing him from his office space in the Captain's area to an open desk space; by requiring that he return to wearing a uniform and not plain clothes; by repeatedly changing his shift schedule to undesirable hours and that of a less senior officer. As such, Defendants' retaliatory actions to change Plaintiff's shift schedule interferes with, and makes near impossible, his opportunity for overtime shifts.
92. Further, Plaintiff became the subject of intense ridicule by his co-workers and local officials in Dover who were aware of the fact that he was openly retaliated against by Defendants for the conduct complained of herein.
93. Since becoming the OIC, OIC Smith has earned approximately 200 hours of overtime, equaling roughly \$25,000 in overtime compensation.
94. Further, Plaintiff has been required to retain an attorney to assist Plaintiff in asserting Plaintiff's claims and protecting Plaintiff's rights.
95. Notably, Defendants actions in arbitrarily promoting Lt. Smith to OIC blatantly violates N.J.S.A. 40A:14-118(1)(e).
96. N.J.S.A. 40A:14-118(1)(e) governs the creation of police forces, and provides in relevant part:

"In the absence of the chief of police, the next highest ranking sworn police officer shall be responsible for the efficiency and routine day to day operations of the police force, including carrying out the duties..."
97. Pursuant to N.J.S.A. 40A:14-118(1)(e), Defendants are acting *ultra vires* in blatantly refusing to reinstate Coppinger to the OIC position. Since the position of chief of police is not established within the Dover PD, Coppinger is/was the highest ranking sworn police officer in the Department, not Lt. Smith, and therefore is/was entitled to the rank of OIC and responsible for

the day to day operations of the Dover PD.

98. Upon learning of Lt. Smith's illegal promotion to OIC, Plaintiff contacted the MCPO to inform them of this illegal act by the Town– which the MCPO confirmed was improper and illegal.
99. Plaintiff further advised Defendants of this fact – yet no corrective action was taken to date by Defendants to reinstate Plaintiff to the OIC position.
100. Plaintiff's career has been willfully and maliciously derailed by Defendants, and his reputation and legacy as a second generation Dover police officer with integrity is forever tarnished by Defendants' actions.
101. Prior to being retaliated against and demoted to Desk Lieutenant with a schedule change, Plaintiff earned approximately \$10-15,000 per year in overtime compensation and benefits which included, health insurance, 25 vacation days per year, paid holidays, 15 personal/sick days per year, short term/long term disability, pension and other fringe benefits.
102. These benefits of employment make up Plaintiff's claim for economic damages.
103. 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.
104. Plaintiff now seeks immediate reinstatement to the OIC position, compensatory damages, damages for lost wages, interest, emotional distress damages, attorneys' fees, statutory damages, and punitive damages, *inter alia*.

Count I

(42 U.S.C. § 1983 – First Amendment Violations, Free Speech & Association)

105. Plaintiff repeats, and incorporates herein the above referenced paragraphs verbatim.
106. 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.
107. Plaintiff's speech to his co-workers and his objections/disclosures/refusals to his supervisors was political in nature and concerned the public's interest and welfare. Plaintiff exercised his free speech rights and openly spoke out against Mayor Dodd's corrupt political activities and interference with the Department, objected to the illegal removal of Chief Valentine, objected to requests to gain illegal information to cause retaliation, *inter alia*. This speech is a matter of public concern since corruption and illegal activities within police departments concerns the welfare of the community, police officers and the public at large.
108. Plaintiff was retaliated against for his free speech and association activities, which proximately caused his demotion and derailed his career, thus causing him significant damages.
109. 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.
110. 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)

111. Plaintiff repeats, and incorporates herein the above referenced paragraphs verbatim.
112. Defendants conspired to violate Plaintiffs' constitutional rights as set forth in the United States Constitution by denying them 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.
113. As a direct and proximate result of Defendants' actions, Plaintiffs have 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, Plaintiffs have suffered lost wages, a diminished ability to earn a living, and a diminished capacity to enjoy Plaintiffs' lives. Moreover, Plaintiffs have and/or may have to incur expenses for medical, psychiatric, and/or psychological counseling and care. Plaintiffs' damages have been experienced in the past, and they will continue into the future.
114. Further, Plaintiffs have been required to retain an attorney to assist Plaintiffs in asserting Plaintiffs' claims and protecting Plaintiffs' rights.

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

115. Plaintiff realleges and incorporates herein the paragraphs set forth in this Complaint, unless noted below.
116. Further and separately, Plaintiff objected to Defendants engaging in illegal, immoral, and/or offensive actions pertaining to Defendants' illegal removal of Chief Valentine, and request for illegal information regarding Sgt. Gonzalez's medical file to be given to a non-member of law enforcement which was done for retaliatory reasons and civil rights deprivations.

117. Defendants failed to stop their actions and failed to take remedial action.
118. 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 Plaintiffs 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 Plaintiffs 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.
119. The above actions of Defendants demonstrate that they are in violation of CEPA.
120. 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.
121. 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)

122. Plaintiff repeats, and incorporate herein the above referenced paragraphs verbatim.
123. Plaintiff is informed and believe, and thereon allege, 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, demotions, terminations, punishment and other adverse illegal actions.

124. The acts of Defendants, and each of them, were in furtherance of a conspiracy to violate a legal duty for their own personal gain.
125. 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.
126. Defendants at all times did the acts and things herein alleged pursuant to, and in furtherance of, the conspiracy and agreement alleged above.
127. 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.
128. 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)

129. Plaintiffs repeat, and incorporate herein the above referenced paragraphs verbatim.
130. Plaintiff is a member of Police Benevolent Association Local 107 ("PBA Local 107").
131. 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.

- 132. 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.
- 133. Defendants' actions give rise to the claim of breach of express contract.
- 134. As a direct and proximate result of the actions of Defendant, Plaintiffs have been damaged.

Count VI
(Breach of Implied Contract)

- 135. Plaintiffs repeat, and incorporate herein the above referenced paragraphs verbatim.
- 136. Defendants entered into an implied contract with Plaintiffs and other similarly situated co-workers to take remedial actions based on such individuals engaging in protected whistleblower activity.
- 137. Defendants breached this implied contract by failing to take such remedial actions, and instead retaliating against Plaintiffs, for engaging in protected whistleblower activity.
- 138. Accordingly, Defendant's actions give rise to the claim of breach of implied contract.
- 139. As a direct and proximate result of the actions of Defendants, Plaintiffs have been damaged.

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

- 140. Plaintiffs repeat, and incorporate herein the above referenced paragraphs verbatim.
- 141. Implied in each and every contract is a covenant that the parties thereto engage in good faith and fair dealing.
- 142. The actions of Defendants give rise to the claim of breach of the implied covenant of good faith and fair dealing.
- 143. As a direct and proximate result of Defendants' actions, Plaintiffs have 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, Plaintiffs have suffered lost wages, a diminished ability to earn a living, and a diminished capacity to enjoy Plaintiffs' lives. Moreover, Plaintiffs have and/or may have to incur expenses for medical, psychiatric, and/or psychological counseling and care. Plaintiffs' damages have been experienced in the past, and they will continue into the future.

144. Further, Plaintiffs have been required to retain an attorney to assist Plaintiffs in asserting Plaintiffs' claims and protecting Plaintiffs' rights.

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

145. Plaintiff repeats, and incorporates herein the above referenced paragraphs verbatim.
146. Defendants conspired to cause a hostile work environment and discriminate and harass Plaintiffs because of their political affiliation to Chief Valentine and open political protected speech supporting Chief Valentine's candidacy and speech concerning Defendants' illegal actions taken toward Chief Valentine, thus violating the New Jersey Civil Rights Act, N.J.S.A. 10:6-1 et seq.
147. As a direct and proximate result of Defendants' actions, Plaintiffs have 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, Plaintiffs have suffered lost wages, a diminished ability to earn a living, and a diminished capacity to enjoy Plaintiffs' lives. Moreover, Plaintiffs have and/or may have to incur expenses for medical, psychiatric, and/or psychological counseling and care. Plaintiffs' damages have been experienced in the past, and they will continue into the future.
148. Further, Plaintiffs have been required to retain an attorney to assist Plaintiffs in asserting Plaintiffs' claims and protecting Plaintiffs' rights.

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

149. Plaintiff repeat, and incorporate herein the above referenced paragraphs verbatim.
150. Plaintiff has a legitimate claim of entitlement to his position as OIC 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.
151. 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 removing Lt. Smith and reinstating Plaintiff to the OIC position he is entitled to.
152. 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.
153. 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, Plaintiffs demands judgment on each and all of these Counts against the Defendants jointly and severally, as follows:

- A. Reinstatement to the OIC 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.

Plaintiffs 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, plaintiff respectfully demands a trial by jury on all issues in the within action so triable.

DESIGNATION OF TRIAL COUNSEL

JOHN J. ZIDZIUNAS, ESQ. is hereby designated as trial counsel on behalf of plaintiff.

CERTIFICATION OF NO OTHER ACTIONS OR PARTIES

I hereby certify 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 rule, 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: October 18, 2016

JOHN J. ZIDZIUNAS & ASSOCIATES
Attorneys for Plaintiff, Francis J. Coppinger

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