

2. Plaintiff is an employee of the Town within the meaning of the NJCRA.

3. The Town is an employer within the meaning of the NJCRA.

4. The Town is public entity of the State of New Jersey and is a government actor under the NJCRA.

5. The Town is a municipality and/or a political sub-division of the State of New Jersey.

6. The Town is a "civil service jurisdiction" and is thus governed by statutes and regulations promulgated by the State Legislature and overseen by the Civil Service Commission, a New Jersey state agency.

7. Mayor Blackman is named as a defendant herein both individually and in her official capacity as Mayor of the Town of Dover.

8. Mayor Blackman was at all relevant times, and is currently, the duly-elected Mayor of the Town of Dover and is a government actor under the NJCRA.

JURISDICTION

9. Jurisdiction is properly laid in the Superior Court in that Defendants are subject to personal jurisdiction in the State of New Jersey.

10. Venue is proper in that the events giving rise to the Complaint occurred within the County of Morris.

STATEMENT OF FACTS

11. Plaintiff has been employed by the Town as a police officer for the Department since in or about January 2006.

12. Plaintiff was promoted to the rank of Police Captain in or about December 2018.

13. At that time, the Town promoted Jon Delaney to the rank of Police Captain and Justin Gabrys to the rank of Deputy Chief of the Department.

14. Anthony Smith was then Dover's Police Chief and head of the Department.

15. At that time, the Mayor of the Town was James Dodd, who held that position for approximately sixteen (16) years.

16. Timothy Downs had been the Town Attorney for Dover under Mayor Dodd.

17. Dodd while he was Mayor terminated Downs from his position as Town Attorney, in or about April 2018.

18. Downs in turn then organized a group of individuals to run as a "team" against Mayor Dodd in the Town's municipal elections to be held in November 2019, with that group including then Town Alderman Blackman, who had previously been a political ally of Mayor Dodd.

19. Downs is currently the Town Attorney for Dover under Mayor Blackman.

20. Then-Captain Delaney, who is currently the Chief for the Department, supported Blackman and her slate of political candidates during the 2019 municipal elections in Dover.

21. In or about September or October of 2019, the Town notified Plaintiff, Delaney and Gabrys that their promotions in December 2018 to Captain, Captain and Deputy Chief, respectively, required that they sit for a civil service test for those promotions.

22. There was purportedly to be held a Deputy Chief's test in 2019 and a Captain's test in 2020. Plaintiff and Delaney confirmed that the 2019 Deputy Chief's test could be utilized for the Captain's rank.

23. Plaintiff notified Deputy Chief Gabrys and Chief Smith via email on October 25, 2019 that he was going to sit for the Civil Service Test for Deputy Chief for the Dover Police Department.

24. Ultimately, only Plaintiff and Delaney took the test, Gabrys did not sit for it, and Plaintiff and Delaney "tied" as they received the same score on the test and thus both were ranked first on the applicable civil service promotional list[s].

25. As of October of 2019, Plaintiff was the Vice President and Delaney was the President of the Superior Officers Association for Policemen's Benevolent Association ("PBA"), Local 107 (hereinafter referred to as "SOA Local #107" or "the SOA").

26. SOA Local # 107 is the union and collective bargaining unit for members of the Dover Police Department who held the rank of

Sergeant, Lieutenant, Captain, and Deputy Chief, as well as the Police Chief often maintaining membership in the SOA.

27. At that time, SOA Local #107 intended to hold a vote at its October 25, 2019 meeting of its members to endorse Mayor Dodd for re-election during the November 2019 political campaign for Town's municipal elections.

28. Before the meeting, in fear of retaliation in the event Dodd lost and Blackman won, Delaney resigned as President of the SOA as he did not want his name attached to the endorsement of Dodd.

29. Plaintiff as a result became President of SOA Local #107.

30. Delaney told Plaintiff that he could also resign his position with the SOA; however, given its small size of 7-9 members and Plaintiff's concerns that the union may dissolve should he do so, Plaintiff remained in his position and became SOA Local #107 President.

31. Subsequently, a letter to then-Mayor Dodd dated October 25, 2019, which Plaintiff issued and signed as "President, S.O.A. Local # 107", stated that "[t]he members of the Dover Superior Officers Association (S.O.A.) Local #107 are honored to announce our endorsement of your candidacy for re-election of Mayor for the Town of Dover. We have the upmost confidence that you are the best and only choice to continue moving the Dover Police Department in the right direction".

32. Plaintiff's letter stated the members of the SOA "unequivocally and whole heartedly endorse your (Dodd's) reelection for Mayor".

33. Plaintiff's letter cited improvements and enhancements in law enforcement training, structure, hiring, policies and procedures, equipment, and programs, as well as the Department receiving accreditation by the New Jersey State Association of Chiefs of Police, "receiving a 100% compliance rating for the department's police standards of conduct, policies and procedures".

34. As a result of the November 2019 municipal elections for the Town of Dover, Blackman won and became the duly elected Mayor of Dover, defeating Dodd, whose term expired on December 31, 2019.

35. Blackman took office as the Mayor of Dover on or about January 1, 2020.

36. Fearing political retaliation, at the end of December 2019 just before Blackman took office as Mayor, Smith, the Department's Chief, retired, as did Deputy Chief Gabrys, even though he had only twenty (20) years of service and thus he forewent far more lucrative pension benefits, including 65% of his last year's salary annually as opposed to 50%, had he stayed through twenty-five (25) years of service.

37. Upon his retirement as Chief, Smith designated Plaintiff as the Officer in Charge of the Dover Police Department, by way of a Dover Police Department Special Order issued to all police

department personnel, effective January 1, 2020, specifically providing that as of that date "Captain William Newton will be the Chief Law Enforcement Officer of the Dover Police Department".

38. By way of Town of Dover Inter-Office Memo dated February 11, 2020 from Dover Public Safety Director Daniel DeGroot, Defendants immediately and summarily removed Plaintiff, who supported Dodd, Blackman's opponent in the Town's mayoral election, as the Officer in Charge of the Department.

39. Defendants replaced Plaintiff with Delaney as the Department's Chief Law Enforcement Officer; as outlined above, Delaney resigned from SOA Local #107 in October 2019 rather than support Dodd and Delaney instead supported Blackman for Mayor.

40. Defendants provided no explanation or rationale for this action, which was in fact an act of retaliation for which Plaintiff's constitutionally protected activity under the NJCRA was a motivating factor.

41. Defendants also in January 2020 permanently promoted Delaney, who had been in the rank of Police Captain along with Plaintiff, to the rank of Deputy Chief.

42. By way of memorandum dated May 18, 2020 from Carlos Sanchez, Dover's Deputy Town Administrator, Defendants provisionally promoted Captain Delaney to the rank of Deputy Chief instead of Plaintiff, who was the only other Captain in the Department.

43. The promotion of Delaney over Plaintiff was without legitimate basis and was in retaliation for Plaintiff's constitutionally protected activity, arising from Plaintiff's support for Dodd over Blackman during the 2019 mayoral campaign.

44. Additionally, during the initial months of the Blackman administration, the Town terminated several employees who did not support Blackman's mayoral campaign, with several other employees resigning in fear of retaliation.

45. Additionally, at relevant times, Defendants maintained a written "hit list" of Town employees who did not support Blackman's political campaign for Mayor in 2019, and targeted those individuals for termination, disciplinary action, and/or other adverse employment action.

46. Defendants promoted Delaney from Deputy Chief to the rank of Chief of Police effective April 13, 2021.

47. In addition to taking action with retaliatory intent to ensure that Delaney would become Chief of Police under Mayor Blackman instead of Plaintiff, who supported her opponent, Dodd, during the 2019 mayoral election, Defendants have also imposed a promotional freeze thereby denying Plaintiff a promotion to the rank of Deputy Chief.

48. This is a further act of retaliation by Defendants against Plaintiff, as the Department has consistently and traditionally had an officer in the rank of Deputy Chief, but has not since

Delaney's promotion to Chief, with Plaintiff remaining in the Captain's rank despite having taken the Deputy Chief's civil service test and achieving the same score as Delaney.

49. Plaintiff has several more years of experience and training in the Police Department than Delaney and is better qualified to be the Chief of Police.

50. Nonetheless, Defendants permanently appointed Delaney as the Chief of the Dover Police Department, after removing Plaintiff from the Officer in Charge position and replacing him with Delaney immediately upon Blackman taking office.

51. Thus, Defendants denied Plaintiff the opportunity to become the Chief of the Dover Police Department, in retaliation for his constitutionally protected activity, in violation of the NJCRA.

52. Defendants, including Blackman, were specifically aware of Plaintiff's support for Dodd's campaign for Mayor of Dover in 2019 and thus the fact that Plaintiff did not support Blackman during the 2019 election cycle, but instead advocated for the election of Blackman's opponent, then incumbent Mayor Dodd, was known to Defendants at all relevant times.

53. All of the illegal conduct and adverse actions outlined above instituted by Defendants against Plaintiff are in retaliation for Plaintiff's constitutionally protected free speech, and Plaintiff's political and union activity and affiliation, which were a motivating factor for Defendants' adverse actions against

Plaintiff, and are/were designed to interfere with Plaintiff's state constitutional rights in violation of the NJCRA.

COUNT ONE

**(Violation of New Jersey Civil Rights Act "NJCRA"
N.J.S.A. 10:6-1, et seq.)**

54. Plaintiff reasserts and re-alleges each and every previous paragraph as if set forth fully herein.

55. The above enumerated actions by Defendants are in violation of, interfere with, and are in retaliation for Plaintiff's exercise of his right to freedom of speech, association and right to petition for the redress of grievances, in violation of Article I, Paragraphs 1, 5 & 6 of the New Jersey State Constitution of 1947.

56. Plaintiff engaged in, *inter alia*, free speech activity and political activity, and suffered retaliation and interference with those rights and his rights based upon his political affiliation.

57. Political affiliation is not an appropriate requirement for Plaintiff's effective performance of the duties of Plaintiff's position pursuant to Plaintiff's employment with Defendants.

58. A municipality is explicitly prohibited under state statute, N.J.S.A. 40A:14-147, from taking adverse employment action against sworn members of law enforcement in the State of New Jersey for political reasons.

59. Further, Defendants' collective actions as enumerated above violate Plaintiff's rights to petition, to seek redress for grievances, and to organize and bargain collectively. Defendants

are thus in violation of the New Jersey State Constitution of 1947, including Article I, Paragraphs 18 & 19.

60. Article I (19) provides as follows: "Persons in private employment shall have the right to organize and bargain collectively. Persons in public employment shall have the right to organize, present to and make known to the State, or any of its political subdivisions or agencies, their grievances and proposals through representatives of their own choosing."

61. Plaintiff engaged in union activity protected under the New Jersey State Constitution, as cited above, and suffered retaliation and harassment by way of Defendants' adverse actions against Plaintiff outlined herein, for which Plaintiff's union affiliation and activity were a motivating factor.

62. Defendants have deprived Plaintiff of rights, privileges and/or immunities secured by the Constitution or laws of the State of New Jersey.

63. Through Defendants' illegal acts, Plaintiff's exercise and/or enjoyment of these rights, privileges or immunities have been interfered with or attempted to be interfered with, by threats, intimidation or coercion by a person acting under color of law.

64. The foregoing actions were taken pursuant to an official and extant policy or custom of Defendants to retaliate against individuals who engaged in constitutionally protected free speech, political, and union activity.

65. The foregoing retaliatory actions were taken by individuals with final policymaking authority over such actions either willfully or with deliberate indifference; Plaintiff is not required to provide documentation or direct evidence of a pre-existing policy or custom by Defendants of interfering with the constitutional rights of others and retaliating against individuals who engage in constitutionally-protected activity such as political affiliation and expression, free speech, and union activity.

66. The foregoing violations of law were overseen by individuals 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 any remedial action.

67. Defendants failed to implement practices, procedures and policies that would deter its employees from engaging in misconduct in violation of Plaintiff's statutory, civil and constitutional rights.

68. Specifically, with regard to any requirement that Plaintiff prove Defendants' liability under Monell v. Dept. of Social Services, 436 U.S. 658 (1978), Defendant Blackman has final policymaking authority such that her conduct in retaliating against Plaintiff based upon his protected political and union affiliation and activity represents an official policy or custom, or,

alternatively, Defendants' final policymaker rendered the conduct official for liability purposes by having delegated authority to act for the municipality, or by ratifying the conduct after it occurred; alternatively, liability is imposed upon Defendants herein as the final decision maker acted with deliberate indifference to Plaintiff's constitutional rights, specifically, the final decision maker had reason to suspect that Plaintiff's protected activities were a substantial motivating factor in the decision to initiate the adverse employment actions outlined, *supra*.

69. As a result of the illegal and continuing course of conduct by Defendants described herein, Plaintiff has suffered economic and non-economic/emotional distress damages, resulting in the loss of compensation, loss of earning power, loss of self-esteem, loss of standing in the community, physical injury, mental injury, the loss of opportunities for prospective employment, and is incurring legal expenses and other expenses as a result of Defendants' actions.

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

WHEREFORE, Plaintiff demands judgment against Defendants as follows:

a. Awarding Plaintiff damages, including, but not limited to, any and all equitable, punitive and compensatory damages, lost benefits, wages and rights, including but not limited to front and back pay, as well as all commensurate pension/retirement benefits, and other benefits with respect to Plaintiff's employment, and non-economic damages for emotional distress, any statutory fines, compensation for the adverse tax consequences of a lump sum award, together with both pre-judgment and post judgment interest and attorneys' fees and costs, as well as any enhancements pursuant to the case law, and all litigation-related costs and expenses;

b. For an Order of the Court instating Plaintiff to the rank of Chief and/or Deputy Chief; and

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

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, the Court is advised that **Jeffrey D. Catrambone, Esq. (#024491996)** is hereby designated as trial counsel for Plaintiff.

JURY DEMAND

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

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

By: /s/ Jeffrey D. Catrambone, Esq. - # 024491996

Dated: December 21, 2021

CERTIFICATION PURSUANT TO R. 4:5-1

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

1. The matter in controversy is not the subject of any other pending action before any Court.

2. No other action or arbitration proceeding is contemplated.

3. There are no other parties to be joined in this action at the present time.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the said statements made by me are willfully false, I am subject to punishment.

By: /s/ Jeffrey D. Catrambone, Esq. - # 024491996

Dated: December 21, 2021