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SUMMONS

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Town, State, Zip Code Clifton, NJ 07013

Telephone Number 973-242-2442

Attorney(s) for Plaintiff _____

Policemen's Benevolent Association _____

Local No. 43

Plaintiff(s)

vs.

Township of Morristown _____

Defendant(s)

Superior Court of
New Jersey

Morris ☒ County

Chancery Division

Docket No: MRS-L-002435-20

CIVIL ACTION
SUMMONS

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

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (A directory of the addresses of each deputy clerk of the Superior Court is available in the Civil Division Management Office in the county listed above and online at http://www.njcourts.gov/forms/10153_deptyclerklawref.pdf.) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, P.O. Box 971, Trenton, NJ 08625-0971. A filing fee payable to the Treasurer, State of New Jersey and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee of \$175.00 and completed Case Information Statement) if you want the court to hear your defense.

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

If you cannot afford an attorney, you may call the Legal Services office in the county where you live or the Legal Services of New Jersey Statewide Hotline at 1-888-LSNJ-LAW (1-888-576-5529). If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A directory with contact information for local Legal Services Offices and Lawyer Referral Services is available in the Civil Division Management Office in the county listed above and online at http://www.njcourts.gov/forms/10153_deptyclerklawref.pdf.

Michelle Smith
Clerk of the Superior Court

DATED: 11/24/2020

Name of Defendant to Be Served: Township of Morristown c/o Margot G. Kaye, Town Clerk

Address of Defendant to Be Served: 200 South St., 1st Floor Morristown, NJ 07960

SCIARRA & CATRAMBONE, L.L.C.
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Attorney for Plaintiff

POLICEMEN'S BENEVOLENT
ASSOCIATION LOCAL NO. 43,

Plaintiff,

Vs.

TOWNSHIP OF MORRISTOWN

Defendant.

:
: SUPERIOR COURT OF NEW JERSEY
: CHANCERY DIVISION - MORRIS COUNTY
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: CIVIL ACTION
:
: DOCKET NO. MRS-L-002435-20
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: VERIFIED COMPLAINT IN LIEU
: OF PREROGATIVE WRIT
: PURSUANT TO R. 4:69
:
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Plaintiff Policemen's Benevolent Association Local No.: 43
("PBA 43"), by and through his attorneys, the Law Offices of
Sciarra & Catrambone, L.L.C., as for a Verified Complaint, alleges
as follows:

PRELIMINARY STATEMENT & PARTIES

1. Plaintiff, PBA 43, is the State of New Jersey Public
Employment Relations Commission duly recognized collective
bargaining agent for police officers employed by Morristown
Township

2. The members of PBA 43, the Morristown Police Officers, have been directed to engage in an illegal ticket quota system used to fund the operations of Morristown Township at the expense of citizens and motorists traveling through Morristown Township.
3. Defendant Morristown Township is a political subdivision in a public entity located in the county of Morris, State of New Jersey. The Morristown Police Department is a division within the Morristown Township and as such is not individually named.

JURISDICTION

4. Jurisdiction is properly laid in this Court in that Defendant is subject to personal jurisdiction in the State of New Jersey, County of Morris, and the events giving rise to the Complaint occurred in Morris County, New Jersey.

STATEMENT OF FACTS

5. In June of 2018, the New Jersey Supreme Court commissioned a committee, the Supreme Court Committee on Municipal Court Operations, Fines and Fees to issue a report related to same. This report is attached hereto as **Exhibit A**.
6. The Supreme Court Committee on Municipal Court Operations, Fines and Fees (the "Committee") specifically stated that it "is profoundly concerned with the excessive imposition of financial obligations on certain defendants, and what can be the never ending imposition of mandatory financial obligations

upon defendants that extend beyond the fine that is associated with the violation." Id. page 2

7. The Committee further stated, "[c]entral to this is the preservation of the independence of the Municipal Courts and ensuring that Municipal Courts and Municipal Court Judges are not affected by the **generation of revenue**, a concern repeatedly highlighted by the committee." Id. page 2 (emphasis added)

8. The Committee went on to stated that it "is the Court's responsibility, in every case, to ensure that justice is carried out without regard to any outside pressures. The imposition of punishment should in no way be linked to a Town's need for revenue." Id. page 3

9. This rebuke of raising funds through ticket quotas is essentially a restatement of New Jersey statutory law.

10. N.J.S.A. 40A:14-181.2 provides:

a. A State, county or municipal police department or force engaged in the enforcement of Title 39 of the Revised Statutes or any local ordinance adopted pursuant to this title shall not establish any quota for arrests or citations. The department or force may, however, collect, analyze and apply information concerning the number of arrests and citations in order to ensure that a particular officer or group of officers does not violate any applicable legal obligation.

b. The department or force shall not use the number of arrests or citations issued by a law enforcement officer as the sole criterion for promotion, demotion, dismissal, or the earning of any benefit provided by the department or force. Any such arrests or citations, and their ultimate

dispositions, may be considered in evaluating the overall performance of a law enforcement officer.

11. Despite this judicial admonition and statutory prohibition, Morristown Police Department has enacted a ticket quota policy.
12. In or around late September / early October, 2020, Business Administrator Jillian Barrick commented in words and effect that municipal revenue was down and the Police Bureau needed to increase revenue generating activity.
13. On October 7, 2020, the Captain of the department forwarded an email entitled "**productivity**" to a patrol Lieutenant, obtained through an OPRA request, attached here to as **Exhibit B**, and restated as follows:

Lt. Tissot,

What is being done by you and the Sgt to ensure that your squad is starting to be productive like the other squads. I need to ensure that productivity is increasing or I will be in next week to begin addressing. Please develop a plan with your Sgt. to ensure the men are being productive in an enforcement manner; local ordinance violations on the green, parking tickets, mv enforcement, foot posts and bicycle posts. Please ensure that you address this in roll call training in guardian tracking.

Captain Buckley

Michael J. Buckley, Captain

Patrol Division Commander

Morristown Bureau of Police

14.The focus on local ordinances and parking tickets is especially germane as those fines go primarily to the township and are not shared with the State of New Jersey.

15.The edict that members should engage in quotas was met by resistance from PBA 43 members.

16.In response, shortly thereafter, on October 9, 2020, the Captain targeted particular shifts with a new policy of walking posts in an email, attached hereto as **Exhibit C** and restated as follows:

Lt,

Post 1 and Post 3 are to be dropped off at their respective posts from 2030 to 0215 without a vehicle. I am doing this at night and will be looking at doing the same during the day. Bicycle officers may be supplemented in lieu of foot patrol in those respective assignments. Thanks.

Captain Michael Buckley

17.The Lieutenant indicated he would comply but indicated the practice was "unsafe", the officers would be hindered and be slow to respond if there was a "call of substance", they would not have "emergency equipment such as AED, Narcan, or O2" and they could be overtaken by "an aggressive group." The full email is also attached in **Exhibit D**.

18.The Captain responded that he understood the Lieutenant's "perception is that it is not safe" but that he would check on how busy the shift was "over the next several weeks and I

will evaluate your concern." The full email is also attached in **Exhibit D**.

19. The implication of the Captain checking on "how busy" the shift was from time to time was a clear implication that if **"productivity"** (the title of the initial email) in the issuances of money-generating enforcement increased, the punitive and objectively unsafe walking posts might be rescinded.

20. Police officers have discretion when to issue tickets. In this trying time of a pandemic the defendant is seeking to punish the residents of Morristown to balance their budget. The residents of Morristown are also saddled with a reduction of police presence and response ability due to three officers being ill equipped to respond to emergencies.

21. Attached hereto as **Exhibit E** is a photograph of a PBA 43 member and sworn law enforcement officer attempting to conduct his walking post while at the same time having at the ready department-issued life saving equipment.

22. PBA 43 publically resisted the illegal actions of Defendant.

On October 11, 2020, they posted online the following:

Morristown community,

It is with regret that we have to inform you of some recent changes within our agency. As of recent, our members have been extremely hesitant to write tickets outside of mandatory, flagrant, or unusual circumstances. Our community has been hit hard during this pandemic where many are unemployed and struggling to get by. Many of our local

businesses have been crippled. We didn't feel it was necessary to add to those already difficult financial circumstances.

However our town administration has chosen to retaliate against us for doing so. Often to levels that are nothing short of irresponsible. For instance they have implemented mandatory walking posts at night but not during the day. Usually a walking post would be a good way for officers to interact with the community. But in this case, the foot posts are at night. There aren't many people out between 8pm and 2am in the cooler weather yet we have officers, often three, on foot with no vehicles to respond to emergencies. These posted officer have no medical equipment such as narcan for overdoses, oxygen, defibrillator (AED for cardiac arrests), and other tools commonly used. At times, we only have six officers working during those hours and only half of them have patrol vehicles. This potentially leaves three vehicles to respond to emergencies while three officers are confined to a one block area depending on staffing levels. Until this is rectified, please be patient with us as calls may potentially need to be prioritized to accommodate your needs.

We aren't going to succumb to these tactics. We will not unnecessarily burden our residents who are already struggling from the pandemic. Our members will gladly stand out on foot all winter long before we are bullied into being revenue generators for a town that admittedly has a large surplus of money on hand and at their disposal.

23. The PBA attempted to address this illegal scheme by way of communications with Defendant Morristown prior to resorting to litigation, but those attempts were futile.

COUNT ONE

DEFENDANT'S ACTIONS WERE ARBITRARY, UNREASONABLE, AND CAPRICIOUS, AS WELL AS WITHOUT ADEQUATE BASIS IN LAW OR FACT

24. Plaintiff reincorporates all of the preceding paragraphs as if set forth again in full.
25. Notwithstanding both statutory prohibitions and the above referenced judicial admonition from the Supreme Court Committee on Municipal Court Operations, Fines and Fees, Defendant Morristown has established a ticket policy quota.
26. Defendant Morristown's enactment of a ticket quota policy was arbitrary, capricious, unreasonable and in violation of law.
27. Further, in violation of state law, Defendant Morristown has enforced its illegal ticket quota policy by disciplining members of PBA 43 including but not limited to ordering them to engage in walking posts and taking away their police vehicles.
28. These orders are not only illegal but admittedly "unsafe" to both the members of PBA 43 but also the citizens of Morristown as outlined above.

COUNT TWO

(VIOLATION OF N.J.S.A. 40A:14-181.2, *et seq.*)

29. Plaintiff reincorporates all of the preceding paragraphs as if set forth again in full.
30. N.J.S.A. 40A:14-181.2 provides as follows:

a. A State, county or municipal police department or force engaged in the enforcement of Title 39 of the Revised Statutes or any local ordinance adopted pursuant to this title shall not establish any quota for arrests or citations. The department or force may, however, collect, analyze and apply information concerning the number of arrests and citations in order to ensure that a particular officer or group of officers does not violate any applicable legal obligation.

b. The department or force shall not use the number of arrests or citations issued by a law enforcement officer as the sole criterion for promotion, demotion, dismissal, or the earning of any benefit provided by the department or force. Any such arrests or citations, and their ultimate dispositions, may be considered in evaluating the overall performance of a law enforcement officer.

31. Defendant used ticket quotas to discipline members of PBA 43 in contradiction to applicable law and the recommendations of the New Jersey Supreme Court.

WHEREFORE, Plaintiff demands judgment against Defendant as follows:

- a. An order from the Court declaring Defendant has violated N.J.S.A. 40A:14-181.2 and ordering a cessation of quota activities by Defendant;
- b. For an Order of this Court ordering the Defendant to cease and desist using the police department as an improper municipal revenue generator;
- c. For an Order of the Court directing Defendant to cease engaging in disciplinary actions against members of PBA 43 by way of ordering sworn law enforcement

officers to engage in walking posts for failing to comply with its illegal ticket quota scheme;

d. For an Order of the Court directing Defendant to dismiss with prejudice and / or expunge PBA 43's members' personnel records of all disciplinary matters and any penalties assessed, including but not limited to any suspensions, or guardian tracking entries which are the subject of this Complaint; and

e. For an Order of the Court retaining jurisdiction over this action until Defendant has fully complied with the Orders of this Court, and that the Court require Defendant to file such reports as may be necessary to supervise such compliance;

f. For an award of counsel fees under N.J.S.A. 40A:14-155.

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

DESIGNATION OF TRIAL COUNSEL

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

Respectfully submitted,
SCIARRA & CATRAMBONE, L.L.C.,
Attorney for Plaintiffs

By: *Charles J. Sciarra /s/*
Charles J. Sciarra, Esq.

Dated: November 23, 2020