

CRESCI

A Limited Liability Company

Peter J. Cresci, Esq.
Attorney & Counselor at Law
830 Avenue A, PO Box 74
Bayonne, New Jersey 07002
Telephone: (201) 436-4126/7
Telecopier: (201) 436-9220

1 Rockefeller Plaza, Suite 1427
New York, New York 10020
Telephone: (212) 332-1346
Telecopier: (212) 332-1334

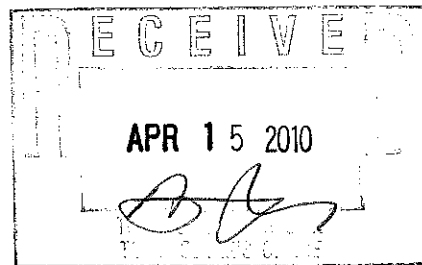
10175 Campbell Road
Sauquoit, New York 13456
Telephone: (315) 368-7764
Telecopier: (315) 737-0042

E-mail: Crescilegal@aol.com

April 13, 2010

Mr. Mathew Stechnauer
Town Clerk
Town of Morristown
200 South Street, Room 239
Morristown, NJ 07963

Re: **Richard J. Riley v. Morristown**
Docket No. 10-cv-1626 (JLL)(CCC)
Our File No. 09-5823

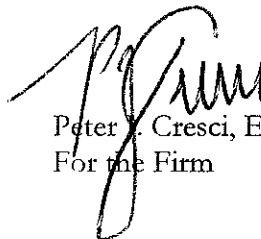


Dear Mr. Stechnauer:

Our firm previously served a complaint on your office on April 9, 2010. I have enclosed a letter from Judge Cecchi regarding the case. Please provide it to the assigned counsel in this case. I am unaware of the assigned counsel and the Judge requested this letter be sent without delay.

Thank you for your professional cooperation in this matter. If you have any questions, I may be contacted at my office, (201) 436-4126/4127.

Sincerely,


Peter J. Cresci, Esq.
For the Firm

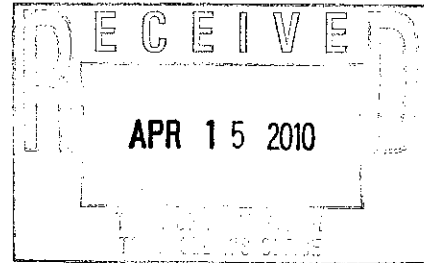
CF: Officer Richard Riley

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

Chambers of
Claire C. Cecchi
United States Magistrate Judge

Martin Luther King, Jr. Federal Bldg.
& U.S. Courthouse
50 Walnut Street, Room 2064
Newark, NJ 07102
(973) 645-6664

April 6, 2010



Peter J. Cresci, Esq.
Cresci & Black LLC
830 Avenue A
PO Box 74
Bayonne, NJ 07002

Re: **RILEY v TOWN OF MORRISTOWN et al**
Civil Action No. 10-1626 (JLL) (CCC)

Dear Cresci:

I have been assigned case management responsibilities in the above referenced matter initiated by you in this Court. This is intended to advise you of some requirements which I have established for the early stages of the litigation.

I would like to know the names of all counsel involved in this action and ask that you advise me of the names and addresses of all attorneys involved, when such information is available to you.

I call your attention to Rule 4(m) of the Federal Rules of Civil Procedure which requires that you serve a copy of the Summons and Complaint upon your adversaries within 120 days of the date of filing the Complaint. Otherwise, the action will be terminated.

Be advised that L. Civ. R. 26.1(b) requires counsel to confer and to submit a joint discovery plan prior to the initial Rule 16 conference. The initial conference will be scheduled as soon as all parties are joined. I draw counsel's attention to the voluntary disclosures mandated by Rule 26. Scheduling of all motions will be addressed at the Rule 16 conference. Prior to that time, no motions, including motions to dismiss or motions to transfer, shall be filed without leave of Court.

April 6, 2010

Page 2

Finally, all counsel are expected and required to be in Court on time and ready to proceed for any and all scheduled conferences. **A copy of this letter is to be supplied immediately to your adversaries.**

If you have any questions regarding any of these matters, please contact my deputy clerk, Nitza Creegan.

Very truly yours,

s/ Claire C. Cecchi

HON. CLAIRE C. CECCHI

United States Magistrate Judge

File copy

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

RICHARD J. RILEY,
Plaintiff

V.

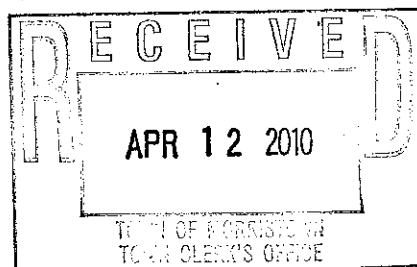
SUMMONS IN A CIVIL CASE

TOWN OF MORRISTOWN, ET AL.,
Defendant

CASE NUMBER: 2:10-CV-01626-JLL -CCC

TO: (Name and address of Defendant):

Town of Morristown
200 South Street
Morristown, New Jersey 07963



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:

Peter J. Cresci, Esq., Cresci Law Firm LLC
830 Avenue A, PO Box 74
Bayonne, New Jersey 07002

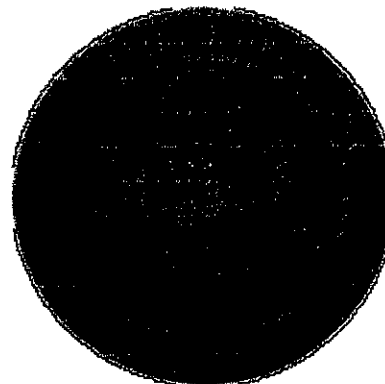
If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

WILLIAM T. WALSH

CLERK

DIANNE C. RICHARDS

(By) DEPUTY CLERK



ISSUED ON 2010-04-01 13:29:49.0, Clerk
USDC NJD

RETURN OF SERVICE

Service of the Summons and complaint was made by me (1)	DATE
NAME OF SERVER (PRINT)	TITLE

Check one box below to indicate appropriate method of service

- ☐ 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. 12/07, NJ 5/08)

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 THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS(b) County of Residence of First Listed Plaintiff MORRIS

(c) Attorney's (Firm Name, Address, Telephone Number and Email Address)

**CRESCI LLC, 830 AVENUE A
PO BOX 74, BAYONNE, NJ 07002
(201) 436-4126**

DEFENDANTSCounty of Residence of First Listed Defendant MORRIS

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

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 (Excl. 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 - Med. Malpractice ☐ 365 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	☐ 610 Agriculture ☐ 620 Other Food & Drug ☐ 625 Drug Related Seizure of Property 21 USC 881 ☐ 630 Liquor Laws ☐ 640 R.R. & Truck ☐ 650 Airline Regs. ☐ 660 Occupational Safety/Health ☐ 690 Other LABOR ☐ 710 Fair Labor Standards Act ☐ 720 Labor/Mgmt. Relations ☐ 730 Labor/Mgmt. Reporting & Disclosure Act ☐ 740 Railway Labor Act ☐ 790 Other Labor Litigation ☐ 791 Empl. Ret. Inc. Security Act IMMIGRATION ☐ 462 Naturalization Application ☐ 463 Habeas Corpus - Alien Detainee ☐ 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 (1395ff) ☐ 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	☐ 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 ☐ 810 Selective Service ☐ 850 Securities/Commodities/Exchange ☐ 875 Customer Challenge 12 USC 3410 ☐ 890 Other Statutory Actions ☐ 891 Agricultural Acts ☐ 892 Economic Stabilization Act ☐ 893 Environmental Matters ☐ 894 Energy Allocation Act ☐ 895 Freedom of Information Act ☐ 900 Appeal of Fee Determination Under Equal Access to Justice ☐ 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 ☐ 341 Voting ☐ 442 Employment ☐ 443 Housing/Accommodations ☐ 444 Welfare ☐ 445 Amer. w/Disabilities - Employment ☐ 446 Amer. w/Disabilities - Other ☐ 440 Other Civil Rights	PRISONER PETITIONS ☐ 510 Motions to Vacate Sentence Habeas Corpus: ☐ 530 General ☐ 535 Death Penalty ☐ 540 Mandamus & Other ☐ 550 Civil Rights ☐ 555 Prison Condition			

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

- ☒ 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
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

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

42 usc 1983; 29 usc 151

Brief description of cause:

Employment matter; hostile; retaliation**VII. REQUESTED IN COMPLAINT:**
☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S)**

(See instructions):

JUDGE

DOCKET NUMBER

Explanation:

3/30/10
DATE

SIGNATURE OF ATTORNEY OF RECORD

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading 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. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553
Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases. Provide a brief explanation of why the cases are related.

Date and Attorney Signature. Date and sign the civil cover sheet.

Peter J. Cresci, Esq. (PC7693)
CRESCI, LLC
PO Box 74, 830 Avenue A
Bayonne, New Jersey 07002-0074
(201) 436-4126 Tel.
Attorneys for the Plaintiff

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

RICHARD J. RILEY,

PLAINTIFF,

V.

TOWN OF MORRISTOWN,
and KARL PETER DEMNITZ,
Individually

DEFENDANTS.

§
§
§
§
§
§
§
§
§
§
§

CAUSE NO. 10: CV: 01626

PLAINTIFF'S ORIGINAL COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

1. COMES NOW, Richard J. Riley, Plaintiff in the above entitled lawsuit, and states the following as his complaint against the Defendant, Town of Morristown and Defendant Karl Peter Demnitz, Individually.

I. PARTIES

2. Plaintiff, Richard J. Riley, is an individual who is a citizen of the State of New Jersey and resides in Cedar Knolls, New Jersey.

3. Defendant, Town of Morristown, is an incorporated town in New Jersey, authorized to do business in the State of New Jersey and may be served with process by

serving a copy of the Summons and Complaint to: Matthew Stechanuer, Clerk, 200 South Street, Morristown, New Jersey 07963-0914. Defendant Karl Peter Demnitz is an individual who is a citizen in the State of New Jersey and may be served with process by serving a copy of the Summons and Complaint to 23 Academy Road, Morris Plains, NJ 07950.

II. JURISDICTION

4. The Court has jurisdiction over the lawsuit, according to 28 U.S.C. §1331, because this action arises under 28 U.S.C. §1331, as this action is pled under the First Amendment of the U.S. Constitution, 42 U.S.C. §1983 for reprisal for free speech, and conspiracy to violate civil rights of Plaintiff and retaliate against Plaintiff by Defendants Town of Morristown and Karl Peter Demnitz; the National Labor Relations Act (NLRA) 29 U.S.C. §151-169, the Fair Labor Standards Act (FLSA) , 29 U.S.C. §218; pendent jurisdiction for the Conscientious Employee Protection Act (CEPA), N.J.S.A. § 34:19-1, and several common law claims described herein.

III. EXHAUSTION OF ADMINISTRATIVE PROCEDURES

5. All administrative procedures have been exhausted.

IV. STATEMENT OF FACTS

6. Plaintiff, Richard J. Riley, has been an employee of the Town of Morristown for over twenty-five (25) years. Plaintiff is a police officer for Defendant Town of Morristown.

7. Plaintiff has always been and continues to be a hard working, dedicated employee. Throughout his numerous years at the Town of Morristown his qualifications and performance have been exemplary. Despite his superior performance on the job, Plaintiff is subject to discrimination and harassment, defamation, hostile working

environment, and infliction of emotional distress.

8. Plaintiff's participation in protected Union activities also played a significant role in the discrimination Plaintiff endured. Plaintiff is a known participator in the Union, and as such is subjected to discrimination and harassment at the hands of Defendant Demnitz and superiors.

9. Plaintiff is also subjected to a practice and pattern of reprisal. When Plaintiff came forward with complaints of inappropriate conduct and/or harassment, he was immediately subjected to retaliatory and discriminatory actions.

10. When Plaintiff sought remedy through the chain of command regarding the inappropriate conduct of the Defendant, Karl Peter Demnitz, he was not given fair and unbiased treatment. Plaintiff had come forward with complaints against the Defendant on several occasions. Plaintiff voiced his concern that that he was very uncomfortable and intimidated while in the presence of Defendant, Karl Peter Demnitz.

11. Plaintiff filed a complaint with Defendant Morristown regarding the violent and abusive outburst by Defendant Demnitz. As a result of Plaintiff's complaints, the Defendant retaliated against the Plaintiff by fabricating internal investigations involving the Plaintiff.

12. In furtherance of the unfair and biased treatment that Plaintiff endures, when allegations of misconduct are brought against Plaintiff, he is often subjected to incomplete investigations, premature judgments, and disregarded of witnesses. He is also ostracized at work and no longer feels comfortable in his position.

13. The conclusion of the investigation, dated June 2, 2009, done by attorney David M. Paris (hereinafter Paris Investigation) was that Defendant Morristown had a workplace of hostility and retaliatory practices. Defendant Demnitz's behavior was violative of the §10-02.01 Town Policy.

14. Specifically, the Paris Investigation concluded that Plaintiff was subjected to a hostile work environment, and that Defendant Demnitz retaliated against the Plaintiff. Moreover, Defendant Demnitz's demeanor and conduct was personally offensive and impaired morale. Defendant Demnitz also engaged in threatening conduct by striking a fighting posture and in name calling and using offensive language to demean individual co-workers by repeatedly referring to Plaintiff as a "do nothing" in the presence of others.

V. STATEMENT OF CLAIMS

A. THE CIVIL RIGHTS ACT OF 42 U.S.C. §1983.

15. Plaintiff hereby re-alleges and incorporates by reference paragraphs 1 through 14 as if fully set forth herein. This cause of action is pled against Defendants Town of Morristown and Defendant Demnitz.

16. Plaintiff is a public employee of the Town of Morristown. Defendant Karl Peter Demnitz is Chief of Police. The Defendants deprived Plaintiff of his rights under the First and Fourteenth Amendments of the United States Constitution in violation of 42 U.S.C. §1983 by failing to take action, creating a hostile work environment, retaliating against the Plaintiff, and essentially constructively discharging the Plaintiff.

17. Plaintiff was acting under the color of the state laws and regulations of the State of New Jersey and the Town of Morristown. Town of Morristown has developed a custom and policy that Defendant Demnitz, as Chief of Police, may violate the town ordinances, departmental rules and regulations, as well as retaliation for union activity, despite the fact the Town of Morristown has several findings of violations of these ordinance, statutes, and violence in the workplace allegations against Defendant Demnitz. Defendant Morristown discouraged employees from publicly discussing any matter that would cast the Town of Morristown and specifically the Police Department in a negative

light. This was accomplished by taking or threatening to take adverse employment action.

18. During times of Plaintiff employment, Defendants attempted to constructively discharge and wrongfully punish plaintiff because he spoke publicly and at times criticized management's actions. Defendant Demnitz is and was at the time the Chief of Police and acted within and without the scope of his assignment and acted under the color of the laws and regulations under the State of New Jersey. Plaintiff's actions and statements involved matters of political, social, or other concern and are constitutionally protected under the First Amendment. Furthermore, plaintiff's interest in his actions to represent his colleagues before the Police Department, and prevent it from incurring liability far outweighs any interest of the Town of Morristown in promoting the efficient operation and administration of government services.

19. Plaintiff's speech was a substantial and motivating factor in defendants' decision to harass and retaliate against the Plaintiff. Defendants acted to discredit him by damaging his reputation, and punish him for exercising his free-speech rights.

B. THE NATIONAL LABOR RETALIATIONS ACT (NLRA) 29 U.S.C § 151-169

20. Plaintiff hereby re-alleges and incorporates by reference paragraphs 1 through 19 as it fully set forth herein. This cause of action is pled against Defendants, Town of Morristown and Karl Peter Demnitz, individually.

21. Plaintiff belongs to a class protected under the National Labor Retaliations Act by virtue of the fact Plaintiff is a qualified person with an intricate role in a worker's union. The NLRA protects all members of a union from any and all discrimination from their employers or any term or condition of employment to encourage or discourage membership in any labor organization.

22. Plaintiff alleges that his involvement in the union and its organizing activities while being an employee of the Town of Morristown is a determining factor in his discrimination, subject to a hostile work environment, and reprisal.

23. Defendants wrongly discriminated against Plaintiff for his protected union activities. Through this illegal discrimination, Defendants violated the National Labor Retaliations Act, as well as Plaintiff's civil rights.

C. THE FAIR LABOR STANDARDS ACT OF 1938, 29 U.S.C. 201, ET SEQ.

24. Plaintiff hereby re-alleges and incorporates by reference paragraphs 1 through 23 as it fully set forth herein. This cause of action is pled against Defendant, Town of Morristown.

25. Plaintiff belongs to a class protected under the Fair Labor Standards Act by virtue of the fact Plaintiff qualified person employed by the Town of Morristown.

26. Plaintiff alleges that Defendant Town of Morristown unlawfully withheld work hours, compensatory time, which resulted in a withholding of pension payments to be made on behalf of the Plaintiff to the New Jersey State Division of Pension and Benefits for Police and Fire.

27. Plaintiff alleges Defendants Town of Morristown wrongly withheld working benefits to include overtime assignments, payment for court assignments, etc.

**D. THE CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA),
N.J.S.A § 34:19-1**

28. Plaintiff hereby re-alleges and incorporates by reference paragraphs 1 through 27 as if fully set forth herein. This cause of action is pled against Defendant Town of Morristown and Defendant Demnitz to the extent that he conspired to act to retaliate against Plaintiff.

29. Plaintiff belongs to a class protected by the Conscientious Employee Protection Act (CEPA), N.J.S.A. 34:19-1, as an employee of the Town of Morristown.

30. Defendant, the Town of Morristown, is an employer within the meaning of CEPA (N.J.S.A §34:19-1 et seq.) and as such is prohibited in discriminating in employment due to an employee disclosing or coming forth with inappropriate or illegal actions of an employer or employee. Defendant Demnitz is a supervisor who directs work of the Plaintiff and in these instances conspired to retaliate against Plaintiff for successfully making a complaint against the Defendants.

31. Plaintiff possesses a *prima facie* case under the Conscientious Employee Protection Act (CEPA), N.J.S.A. §34:19-1 et seq., as he engaged in an activity protected by CEPA which promptly caused several retaliatory disciplinary actions.

32. Under CEPA, Plaintiff is entitled to report methods and manners being used by the Town of Morristown that he believes are not proper or appropriate and be protected from any retaliatory actions. In the workplace, Plaintiff complained of violence in the workplace.

33. Plaintiff complained of the discrimination and harassment he experienced from his superiors within the Morristown Police Department. These complaints were met with retaliation and increased discrimination and harassment. Once the Paris Report was established that Defendant Demnitz had indeed been "found" to have committed these acts, the reprisal and retaliation continued into the Fall of 2009, with false allegations and unfounded investigations.

34. Plaintiff is treated less favorably than other similarly situated employees who do not participate with Plaintiff's attempts to come forward and report inappropriate behavior and retaliatory and hostile actions. These circumstances give rise to a clear violation of CEPA due to discrimination by the Defendant.

35. As a target of retaliatory discrimination Plaintiff is entitled to trial by jury. Plaintiff has suffered damages due to the Defendants' actions. In addition to compensatory damages, Plaintiff is entitled to punitive damages and attorney's fees.

V. COMMON LAW CLAIMS

36. Plaintiff hereby re-alleges and incorporates by reference paragraphs 1 through 35 as if fully set forth herein. The Defendant Demnitz continues to make defamatory statements about Plaintiff, and Plaintiff continues to be harmed by such. The harassment and retaliatory acts that Plaintiff is subjected to are often a source of emotional distress and embarrassment to Plaintiff, both at work and at home. Further, Defendants breached their contract with Plaintiff to work in a work environment free from violence, harassment, and reprisal. Even after the complaint was investigated and found, the reprisal and retaliation continued. Defendant Town of Morristown refuses to take the necessary action to prohibit the actions of Chief Demnitz.

37. Tortious Interference with Prospective Economic Advantage. This count is alleged against Defendant Demnitz. Plaintiff received a prospective economic advantage by being a police officer for the Town of Morristown. Defendant Demnitz's interference caused financial and non-monetary damage to the Plaintiff. Defendant Demnitz limited the opportunities to make money in different aspects of the position as police officer.

VI. JURY DEMAND

38. Plaintiff hereby demands a trial by jury of his peers.

VII. PRAYER

39. WHEREFORE, Plaintiff, Richard J. Riley, requests judgment against Defendants, Town of Morristown and Karl Peter Demnitz, Individually, for:

- a. Presentation of a hostile free workplace, free from any and all discrimination and retaliation from co-workers, supervisors, and management;
- b. Compensatory damages to compensate for the humiliation, degradation, embarrassment, mental anguish and emotional distress Plaintiff endured both at work and outside of work, in the amount of \$500,000.00;
- c. Damages for loss of income, pension contributions, out of pocket expenses;
- d. Attorneys fees, costs and expenses incurred as a result of the Defendants' acts, as provided for by Civil Rights Act, CEPA, NLRA, common law, and other applicable statutes;
- e. Any and all other general or specific relief, both at law and in equity, to which Plaintiff may be justly entitled;

Respectfully submitted,

CRESCI, LLC

PO Box 74, 830 Avenue A

Bayonne, New Jersey 07002-0074

Telephone: (201) 436-4126/4127

Telecopier: (201) 436-9220

By: Peter J. Cresci, Esq. /s/
PETER J. CRESCI, ESQ. (PJC 7693)
ATTORNEYS FOR PLAINTIFF