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	:
MARC CAPONI,	: SUPERIOR COURT OF NEW JERSEY
ANDRES MEJIA,	: LAW DIVISION - MERCER COUNTY
SCOTT STEIN,	:
ANDREW LEE,	: DOCKET NO.: MER-L-1964-19
JOSEPH AMODIO	:
and HECTOR NIEVES,	:
	:
Plaintiffs,	:
	: CIVIL ACTION
Vs.	:
	:
LAWRENCE TOWNSHIP, POLICE	:
CHIEF BRIAN CALOIARO	: SECOND AMENDED COMPLAINT
INDIVIDUALLY AND IN HIS	: AND JURY DEMAND
OFFICIAL CAPACITY,	:
	:
Defendants.	:
	:
	:
	:

Plaintiffs Marc Caponi, Andres Mejia, Scott Stein, Andrew Lee, Hector Nieves, Joseph Amodio, by and through their attorneys, the Law Offices of Sciarra & Catrambone, L.L.C., as for a Second Amended Complaint, upon information and belief, alleges as follows:

PRELIMINARY STATEMENT

1. Plaintiffs are police officers who have been retaliated against for objecting to, reporting, and failing to engage in an illegal ticket quota system used to fund the operations of

Lawrence Township at the expense of motorists traveling through Lawrence Township.

2. Defendants have systematically developed a system to syphon as much money as possible from motorists by demanding cars be impounded by officers which costs a motorist over \$300 (which cannot be appealed to the municipal court judge) more than the motor vehicle ticket.
3. This is an action brought by Plaintiffs against their employers Lawrence Township. Plaintiffs seek judgment of this Court against Defendants for relief permitted under the New Jersey Civil Rights Act ("NJCRA"), N.J.S.A. 10:6-1, *et seq.*, and the New Jersey Conscientious Employee Protection Act, N.J.S.A. 34:19-1.
4. Plaintiff Marc Caponi is a Police Officer for Lawrence Township.
5. Plaintiff Andres Mejia is Police Officer for Lawrence Township.
6. Plaintiff Scott Stein is Police Sergeant for Lawrence Township.
7. Plaintiff Andrew Lee is a Detective for Lawrence Township.
8. Plaintiff Joseph Amodio is Police Lieutenant for Lawrence Township.
9. Plaintiff Hector Nieves is Police Officer for Lawrence Township.

10. Defendant Lawrence Township is a political subdivision in a public entity located in the county of Mercer, State of New Jersey.

11. Defendant Brian Caloiaro is the Chief of Police for Lawrence Township.

JURISDICTION

12. Jurisdiction is properly laid in this Court in that Defendants are subject to personal jurisdiction in the State of New Jersey, County of Mercer, and the events giving rise to the Complaint occurred in Mercer County, New Jersey.

STATEMENT OF FACTS

13. In June of 2018 the New Jersey Supreme Court issued a report on Municipal Court Operations, Fines and Fees. Attached as Exhibit A.

14. The report from the Supreme Court specifically stated, "The Committee 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.

15. Supreme Court further stated, "Central 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).

16. Chief Justice Stuart Rabner stated, "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

17. Despite the memo by the Supreme Court issuing a scathing rebuke of Municipal Courts being used to generate revenue for municipalities, Lawrence Township continued its practice of using the Municipal Court system as a "revenue generator" for Lawrence Township.

18. Defendant Caloiaro¹, in a September 2018 department meeting held in the Township's courtroom, emphasized the need for the officers to issue more tickets because "revenue was down".

19. Defendant Caloiaro also demanded officers issue additional tickets during in service training in March of 2019 while stating that "revenue was down".

20. During the budget meetings of the governing body of Defendant on February 5, 2019 and February 19, 2019, the

¹ The Lawrence Township Police Department is run by the trio of Caloiaros (Chief Brian Caloiaro, Lieutenant Joseph Caloiaro, Sergeant Scott Caloiaro) who act in concert imposing quotas on the police officers to prop up Township revenue.

council openly discussed how Municipal Court revenue increased and that increase was due to the pressure put on the Police Department by Chief Caloiaro.

21. During the February 5, 2019 meeting the minutes specifically reference that court revenue increased \$125,000 and the motor vehicle impound revenue increased \$61,000. The governing body also discussed the need to increase court revenues as they had decreased in the beginning of 2019. (Exhibit B page 2)

22. During the February 19, 2019 meeting at the Lawrence Township council, the council was presented with a budget presentation from Municipal Court Judge Lewis J. Korngut, JMC. During his presentation, Judge Korngut addressed how he believed some decrease in Municipal Court revenue in 2018 was an "aberrational year" and the future of the Lawrence Court system was on an "upswing" back to the levels they've seen in 2017. (Exhibit C)

23. Council members and municipal management questioned the municipal court judge about how their fines were imposed for contempt fees and fines.

24. At the same February 19, 2019 meeting, Defendant Chief Caloiaro advised the Township that the low productivity of the Department was due to decreased morale but that he would address it.

25. Defendant Chief Caloiaro's response to the officers in the Department regarding the decrease in revenue was to order his Department to write more tickets. Defendant Chief Caloiaro further had a listing and ranking of the officers posted in the police department including the number of tickets that each officer issued as a way to shame officers into writing additional tickets.

26. Lawrence Township developed a systematic way to use motor vehicle enforcement to generate revenue. The system is intricate and places a substantial financial burden on anybody that commits a motor vehicle offense in Lawrence Township.

27. Defendants employ a scheme to take away police officer discretion and require officers to write tickets in situations where officers may extend warnings in other circumstances.

28. The Department requires officers to issue tickets and impound vehicles whenever possible.

29. Impounded vehicles are taken to a municipal impound lot.

30. Regardless of the criminal or motor vehicle offense, motorists would then have to pay a \$300 fee in cash or money order to the police department order to get their vehicle back.

31. The \$300 fee is not part of any of the fine or sanction issued by the court and cannot be challenged by the individual seeking the return of their car.
32. As the police department only takes cash or money orders, often times they force motorists to use an ATM machine in the lobby of the building. The ATM machine has a limit of \$200 per transaction. The ATM collects a fee per transaction which pays additional money to the Municipality. Therefore, in order for a motorist to get their vehicle back when he/she pays cash, the motorist has to use the ATM twice and pay two fees for the use of the ATM before they have enough cash to pay for the impound fee.
33. Therefore, upon the issuance of a ticket, regardless of the guilt of a motorist, she/he is already required to pay the Township close to \$475 between impound fees and towing costs just to get his/her car back. This is prior to a motorist being found guilty of an offense by the Township's Municipal Court.
34. An impounded car cost a motorist \$300.00 for the impound fee, \$160 for the tow and tax. Also, if the vehicle is not picked up for five days then there is another tow of the vehicle to a different yard which costs the motorist an additional \$160 and additional storage fees.
35. The Defendant also charges a \$60 fee if the vehicle is towed by an outside towing business and stored on their lot.

So in addition to any fees the motorist would have to pay to the third party towing company for the tow and for the storage of the vehicle the Township of Lawrence collects an additional \$60 (must be cash or money order payable to the police department).

36. As the Township requires the payment of the fees to release the vehicle, motorists are required to pay the fees regardless of guilt and can only request reimbursement after the finding of not guilty. (Exhibit D).

37. The Township systematically uses ordinance plea deals for criminal and motor vehicle offenses in order to promote revenue. The Municipal Court Prosecutor pleads most matters to an ordinance violation for revenue purposes. Municipalities can raise more money from ordinance violations than they do on criminal statutes or motor vehicle statutes.

38. In 2017 Municipal Court gross revenue was \$1,456,460.00 and the net revenue was \$691,250.00.

39. In 2018 gross revenue was \$1,044,864.00 and net revenue was \$501,187.00.

40. As of May 2019, year to date gross revenue was \$513,753.00 and net revenue was \$226,747.00

41. The Defendants raised revenue for operations of the Township based upon their illegal police quotas. Those police quotas are enforced through the following means:

a. Police officers are threatened with discipline and negative performance evaluations;

b. Officers are ordered to write tickets and are not to use their discretion;

c. Cars are to be impounded every time they are eligible without discretion;

d. The Department posts a shame list in the briefing room and they use it to ridicule officers who do not issue enough tickets. (Exhibit E);

e. Lieutenant Joseph Caloiaro on March 9, 2019 gave a "2 Crew 2019 Expectation speech". (Exhibit F) Lieutenant Caloiaro specifically stated that all officers are required to make traffic stops and to issue citations. He specifically stated, "Not every stop is a catch and release". Id.;

f. During the speech Lieutenant Caloiaro specifically stated that "revenue is down and that they needed to address that immediately." The Lieutenant said that the Municipal Court Judge stated that, "the Court is busy and needs to stay that way."; and

g. In the same briefing Lieutenant Caloiaro advised his Sergeants that they needed to motivate the officers to write more tickets. He emphasized to the Sergeants that they were allowed to motivate the officers whichever way they needed to in order to write more tickets and increase revenue in the Department.

42. On March 18, 2019, Plaintiffs Caponi and Mejia met with the Chief to complain about Sgt. Simon's quota.

43. Plaintiff Caponi attempted to address the quota problems with the Police Department Administration on several other occasions.

44. On April 3, 2019, at approximately 0720 hours, Plaintiff Caponi complained to Acting Chief Tim Drew about the issues regarding the quotas that Sergeant Simon implemented on the D2 Squad.

45. Acting Chief Tim Drew responded, "I can tell you I'm not taking the fall for this."

46. Acting Chief Tim Drew then had a meeting with Plaintiff Mejia to understand what was going on with Sergeant Simon and the D2 Squad.

47. On April 4, 2019, at 0900 hours, Acting Chief Tim Drew met with Plaintiff Mejia and Plaintiff Caponi.

48. Plaintiffs Mejia and Caponi advised Acting Chief Tim Drew that Sergeant Simon has imposed a toxic supervisory scheme where officers were being ordered to issue more tickets without regard to officer discretion. In response to the meeting Acting Chief Tim Drew stated, "I would move Sergeant Simon, but I wouldn't want to do that to the other officers."

49. Acting Chief Tim Drew also indicated that if we move Simon, it would cost a lot of money in overtime and that is something he cannot do right now.

50. On April 9, 2019, Plaintiffs Caponi and Mejia filed a written internal affairs complaint to Acting Chief Tim Drew regarding the illegal ticket quotas in the Lawrence Police Department.

51. The letter stated, "I would like to formally report multiple incidents and on goings among departmental leadership that despite attempts to collaborate and resolve internally have continued to be observed and have escalated. We believe these actions are not only illegal; but some retaliatory in nature to several officers."

52. The memo stated in pertinent part the following:

To Acting Chief Tim Drew,

I would like to formally report multiple incidents and on-goings among department leadership that despite attempts to collaborate and resolve internally, have continued to be observed and have escalated. We believe these actions are not only illegal; but some retaliatory in nature to several officers. As the president of the PBA, I believe it is my obligation to:

1. Protect officers' pressured to comply with requests that are against state law
2. Protect citizens and residents of Lawrence Township from 'profiling, ticket quotas'
3. Maintain officer discretion and confidences to effectively patrol
4. Resolve escalating actions that can progress into a hostile work environment
5. Enforce the safety of the citizens and police officers
6. Prevent perception that actions are not adequately investigated or addressed due to internal bias and familiarity within parties and administration

7. Ensure adequate and appropriate measures are taken
8. Prevent public scrutiny that will foster community distrust and a divide between public safety and the community we serve
9. Protect the reputation of Lawrence Township to be one of integrity

On Sept 9th, 2018, Lieutenant Joseph Caloiaro #165 during dayshift roll call stated, "The advisement campaign needs to end, we need to write more summonses, revenue is down". The officers present during that roll call were Sgt. Caloiaro #175, Pt. Potter #196, Ptl. Podbielski #182, Pts. Everist #193, Pts. St. Clair #201, and Ptl. Laux #210.

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On March 9th, 2019, Lt. Caloiaro gave his squad expectations. In his expectations he stated, "the advisement campaign is over, no more catch and release, revenue needs to go up." Lt. Caloiaro then made remarks regarding the municipal court judge stating that the courts are busier and then Lt. Caloiaro stated that he wants this improvement to continue. This was in presence of the D2 Squad minus Ptl. Buchanan #176. This same speech was given to the evening shift.

On March 10th 2019, Sergeant Steven Simon #212 conducted a statistical analysis of the D2 squad versus the D1 squad. All the members of the D2 squad were present minus Ptl. Ronald Buchanan. In his statistical analysis he stated that he expects (3) three motor vehicle stops and (3) summonses per officer per shift working. Lt. Caloiaro was not present. Ptl. Carroll #192, Ptl. St. Clair #201, Ptl. Poveromo #209, Ptl. Mejia #214 and Ptl. Podbielski #182 were shocked by this comment; knowing this a violation of state law prohibiting quotas. After this meeting, Pts. Carroll, Ptl. St. Clair and Ptl. Poveromo expressed concerns over this quota. Sgt. Simon continued to insist that his quota was met and the officers on the D2 squad realized that this was a real expectation from Sgt. Simon. Lt. Caloiaro supported Sgt. Simon's request and continued to ask the squad to increase their enforcement.

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Throughout all of this Lt. Caloiaro has failed to supervise Sgt. Simon and control his illegal conduct and retaliation towards the members of his squad. Lt. Caloiaro has continued to insight enforcement go up and has not left off these comments. On April 2,

2019, Lt. Caloiaro stated, "let's get some enforcement in today" as he has on numerous occasions.

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I am recommending the following charges to be filed to both Lieutenant Joseph Caloiaro and Sergeant Steve Simon for the egregious violations:

1. 40A:14-182.2-Police ticket quota for motor vehicle violations prohibited
2. 40.11.2 Incompetency or Inefficiency
3. 40.11.11 Conduct Unbecoming an Employee in the Public Service
4. 31.17 Issuance of Unlawful Order - No command or supervisory officer shall knowingly issue any order which is in violation of any law, ordinance or departmental rule.
5. 40.01 Disciplinary Action - Employees, regardless of rank, shall be subject to disciplinary action, according to the nature or aggravation of the offense, for:
 - a. Committing the offense punishable under the laws or statutes of the United States, the State of New Jersey or any other State, or municipal ordinances.
 - b. Failure, either willfully or through negligence or incompetence, to perform the duties of their rank or assignment.
6. 40.13 Prejudicial Conduct
7. 40.29 Conduct Subversive to the good order of the department
8. Failure to Supervise
9. Neglect of Duty.

53. On April 29th, at approximately 1400 hours, Plaintiff Caponi asked to meet with Acting Chief Tim Drew regarding discipline issued to Sergeant Stein for allegedly loafing. Sergeant Stein's supervisor was using an allegation that Sergeant Stein was loafing as a method to intimidate and to force additional traffic enforcement revenue generation. Lieutenant Caloiaro considered Sergeant Stein's refusal to abide by the quota as loafing.

54. On May 24th, at approximately 0930 hours, Plaintiff Caponi met with Acting Chief Tim Drew to discuss Sergeant Simon's order that officers exercise no discretion and issue tickets to everybody. Sergeant Simon had advised the D2 Squad that there was a Click it or Ticket campaign and each officer was to issue tickets for every violation. The officers were to have no discretion for seatbelt violations for everyone working the campaign or not.

55. Plaintiff Mejia expressed in the May 24th roll call that only the patrolman working the overtime have to write tickets per the special order. Sgt. Simon said you still have to write tickets and Mejia stated "no you still have discretion".² Simon then said I am not going to argue with you in roll call. Simon then called Mejia in his office after roll call and reiterated that this is an enforcement campaign and that we are to write summonses.

56. Caponi spoke with Acting Chief Tim Drew in his office and he appeared upset that Sergeant Simon relayed the Click

² Under General Order 3.15 of the Laurence Township Police Department Rules and Regulation, Offices have and should exercise their discretion. The Policy specifically provides:

- 1. Officers are normally authorized to use their individual discretionary powers for these offenses. Officers may warn a violator instead of issuing a summons, even for multiple violations, when in the officer's judgment such action is reasonable and appropriate in achieving voluntary compliance with traffic law and regulations. The officer's decision should be based on a combination of training, experience, and common sense.**

It or Ticket campaign as a ticket issuing campaign and stated he would speak to Sergeant Simon.

57. Sergeant Simon did not change his orders to his squad regarding the issuance of tickets.

58. On May 30th, Mejia wrote a seatbelt ticket over Lt. Lech's FOP card. This infuriated Lt. Lech and this resulted in him ending the usage of his assigned unmarked police vehicle for enforcement activities during the click it or ticket campaign. Lech refused to speak with Mejia and ostracized him to the department. Officer Dimeglio spoke to Lech and explained to him that Mejia was forced to write the summonses by Sgt. Simon and that he had no discretion. Mejia did as he was told and was shunned as a result. Due to the mental anguish, Mejia took sick time. Several members of the department wanted him to resign as the Vice President of the PBA due to the influences of Lt. Lech.

59. On June 4th at approximately 1100 hours, Plaintiff Caponi met with Acting Chief Tim Drew. As a follow up to the May 24th meeting, Acting Chief Tim Drew advised that he spoke to Sergeant Simon and he expressed his displeasure with how Sergeant Simon addressed the Click it or Ticket campaign.

60. Statements were made by a municipal court judge in regards to pressure to increase revenue to PBA Delegate Dimeglio and Plaintiff Mejia on June 11, 2019.

61. In light of the repeated complaints about the improper quota, the Defendants have conspired to punish the Plaintiffs in contract negotiations. Plaintiffs were, at the time, leaders within the collective bargaining process on behalf of certain Lawrence township police officers.
62. Defendant negotiated with the superior officers union raises to the rank differential to award the superior officers with raises in excess of 4.9% per year while only offering the Plaintiff's 1.9%. This is deliberate retaliation, in addition to stonewalling requests and charging exurbanite copying costs against plaintiffs for objecting to participation in the illegal revenue generation scheme.
63. The Mercer County Prosecutor's Office was advised about the quota complaint and has not taken any action to this date.
64. A Mercer County Prosecutor's Office Assistant Prosecutor discussed, in a conversation recorded on a body camera September 10, 2019, how Lt. Amodio is going to need a lot of beef and beers. This was implying that the Prosecutor's Office or the Defendant were going to terminate Plaintiff Lt. Amodio and he would need to fund raise to support his family.
65. The Defendants want to remove Amodio for being a supporter of Plaintiffs and a member of PBA Local 119, the then collective bargaining agent for police officers in Lawrence Township. He is high on the list for promotion and

Defendants do not want to promote him and have retaliated to prevent his promotion.

66. Plaintiff Nieves is a member of Policemen's Benevolent Association Local 119 and a vocal supporter of the opposition to Defendant's revenue generating scheme.

67. Plaintiff Nieves filed IA complaints against Scott Caloiaro on or about April 18, 2019.

68. Defendants retaliated against Plaintiff Nieves by filing frivolous internal affairs investigations causing the early warning system to trigger.

69. Defendants have changed assignments for Plaintiff Mejia and Plaintiff Nieves taking away preferential assignments for 2020 in retaliation for their protected activity.

70. Defendants have served frivolous internal affairs complaints against Plaintiff Mejia in response to his whistleblowing and refusal to participate in the Defendants illegal revenue quotas.

71. Sergeant Stein was disciplined on multiple occasions for not subscribing to the revenue targets that Defendant illegally set.

72. In October of 2018, Sgt. Stein and his squad met at a Wawa to discuss patrol responsibilities for the shift. The meeting discussed materials usually covered in a briefing. Instead of a briefing in the department, the officers decided

to be a presence in the community while covering their shift responsibilities.

73. Sgt. Stein was disciplined for having the meeting because Defendants wanted those officers issuing motor vehicle summonses at that time.

74. Sgt. Stein advised administration that the revenue purpose behind the tickets was improper.

75. Sgt. Stein was then targeted for discipline and internal affairs investigations by Defendants.

76. On January 22, 2019, the Defendant advised Sgt. Stein that they were triggering the early warning system.

77. On March 4, 2019, Sgt. Stein was issued an internal affairs notice for allegedly failing to supervise.

78. That same day, Sgt. Stein was issued another internal affairs notice for loafing on duty. (Failing to write enough summonses).

79. During the internal affairs interviews, the investigators repeatedly chastised Sgt. Stein for not pushing for more motor vehicle summonses from himself and his squad. The internal affairs investigators, demonstrated they care about more traffic tickets than real criminal arrests. (Sgt. Stein's squad routinely arrested more than the departmental average for crimes).

80. Sgt. Stein was accused of holding a call for 53 minutes before a response was sent. The call came in while Sgt.

Caloiaro was available and working. Sgt. Stein was reprimanded for the call and Sgt. Caloiaro, who ignored a call that came in during his shift received no discipline.

81. Sgt. Stein is a 23 year veteran of the Lawrence Police. Prior to testing in the top three for Lieutenant, he had no disciplinary history. Due to Sgt. Stein's alignment with the PBA and his refusal to acquiesce to the Defendant's revenue generating scheme he was disciplined to prevent his promotion to lieutenant.

82. On July 3rd, 2019, Lieutenant Joseph Caloiaro was driving to the police department in an unmarked Lawrence Township police vehicle that he was afforded the ability to take home.

83. While driving into work, Lieutenant Caloiaro exited the ramp from 295 Northbound to Route 206 Southbound. While Lieutenant Caloiaro was entering Route 206 Southbound he nearly collided with a Hamilton resident who was driving down the road.

84. Lieutenant Caloiaro was upset that the vehicle operator had, after Lieutenant Caloiaro had passed him on the right hand side, raised his hands and gave the middle finger to Lieutenant Caloiaro due to his erratic driving.

85. Lieutenant Caloiaro, being incensed that this person had given him the middle finger, proceeded to start a traffic stop of the vehicle that was behind him. Lieutenant Caloiaro pulled over the motorist on the side of Interstate 295.

86. At the time, Lieutenant Caloiaro was wearing tactical pants, and a FOP t-shirt. Lt. Caloiaro was not carrying his badge or identification as a Lawrence Township Police Officer, but was carrying his duty weapon. Further, the Lieutenant was driving an unmarked vehicle that was equipped with emergency lights.
87. Lieutenant Caloiaro's vehicle was not equipped with any MVR camera in the vehicle and or a body camera to record the incident.
88. After pulling over the suspect, Lieutenant Caloiaro refused to get out of his vehicle to address the motorist. The motorist got out of his vehicle and tried to ascertain what was going on.
89. After waiting several minutes without any interaction with a uniformed police officer, the motorist got out of his vehicle again and attempted to confront Lieutenant Caloiaro about why he was pulled over and what was going on. Having not been confronted with a uniformed police officer the motorist rightfully got back in his vehicle and left the scene. At that point in time, without having met any of the requisite criminal offenses required for a high speed pursuit, Lieutenant Caloiaro started an illegal high speed pursuit of the individual merely for giving him the middle finger.

90. This resulted in the motorist being arrested and his vehicle being impounded. (Exhibit H).
91. Plaintiff Caponi spoke with Acting Chief Joe Lech on July 4, 2019 at approximately 1030 hours, complaining that Lieutenant Caloiaro had conducted an illegal vehicle pursuit.
92. Acting Chief Joe Lech responded, "I'm the substitute teacher until Brian (Caloiaro) gets back."
93. Acting Chief Joe Lech then went on in the July 4th, 2019 meeting to state how upset he was that Patrolman Mejia, under the orders of Sergeant Simon, wrote a ticket to one of Acting Chief Joe Lech's friends who had an FOP card during the Click it or Ticket campaign.
94. Acting Chief Joe Lech indicated that he believed that Lieutenant Joe Caloiaro should retire because of the illegal pursuit.
95. The motorist involved in the illegal high speed pursuit by Lt. Caloiaro, filed a complaint September 14, 2019 claiming a police abuse of power. To date, the department has ignored requests to investigate this miscarriage of justice for that civilian.
96. Defendant has created a "hit list" of officers in the department. The term is used to describe an overt attempt to end careers of officers.
97. Acknowledgement of the creation and existence of the hit list is documented in recorded phone conversations.

98. The hit list is composed of four names: Andrew Lee, Lt. Joseph Amodio, Marc Caponi, and Matthew Ubry.
99. Andrew Lee is another vocal member of PBA Local 119 who has filed complaints to the business administrator about the retaliation he is suffering. His complaints date back to July 13, 2018. (Exhibit I).
100. Plaintiff Andre Lee filed harassment in the workplace allegations in is performance evaluations dating back to 2015.
101. Based on those complaints and the Township's failure to adequately address the concerns, Plaintiff Lee wrote another formal complaint August 12, 2019. Plaintiff Lee complained about retaliation and character assassination from superiors in the police department. (Exhibit J).
102. In light of all the complaints that were filed by Plaintiffs, it had become known that the Lawrence Township Police Department had created a "hit list" to try to remove Plaintiffs and other PBA members that Defendant Caloiaro believe were undermining his authority.
103. This hit list was created in retaliation for all the whistleblowing and protected union activity done by Plaintiffs. The hit list and Chief Caloiaro's wishes to knock out the PBA that were relayed to retired police officer Bruce Miller.

104. Lt. Amodio was transferred out of the detective bureau and lost compensation in retaliation for his union activity and refusal to endorse the revenue scheme.

105. Plaintiffs are also targeted because of a prior lawsuit they filed against the Defendant, which was previously settled. (Exhibit K).

106. Plaintiff Officers on the "Hit List" are subjected to frivolous allegations and internal affairs complaints from defendants.

107. The Six Plaintiffs have suffered additional retaliatory acts and adverse employment actions since the filing of the complaint in further retaliation of their protected activities in addition to their protected activity of filing the within complaint, an example of which follows:

108. Plaintiff Lee has received numerous notices of meritless disciplinary matters and has been placed in the Early Warning System under the IA guidelines which Defendants are using to further scrutinize Lee in further acts of retaliation. He has also been ordered to engage in the Employee Assistance Plan under the pretext that he is emotionally unsound. Lee has been the target of false and defamatory rumors and has suffered falsely low performance evaluations.

109. Plaintiff Mejia has suffered meritless disciplinary actions commenced against him. He has been transferred from a preferred traffic assignment to the patrol division. He has

been placed in the Early Warning System which exposes him to additional discipline, all without merit

110. Plaintiff Nieves has been wrongly accused of "paranoia", acting "oddly and erratically", being "combative" and being "entitled and empowered to question supervisors." He was then sent to a Fitness for Duty but returned to work by the Defendant's own doctor. He has been the target of meritless disciplines and has been transferred. He has been denied the opportunity to be a Field Training Officer. (FTO)

111. Plaintiff Amodio was previously transferred and lost the opportunity for extra duty assignments. The administration does not even acknowledge his presence when he is in their company.

112. Plaintiff Stein, in the normal course soon due to be promoted, has been the subject of meritless disciplinary actions and the Early Warning System.

113. Plaintiff Caponi has been denied overtime opportunities due to the retaliatory hostilities of the administration and their minions.

114. Other officers, engaging in similar conduct as Defendants, have not been subject to disciplinary actions, transfers, and Fitness for Duty exams.

115. In the aftermath of the filing of the lawsuit, the Lawrence Township Manager posted a lengthy blog entry regarding the lawsuit. In it he avers to Plaintiffs as having

"gone astray of their oath..." However, he casually admits that the allegation of a storage unit designed for creating revenue is "true to a degree" because "residents demand officials find creative ways to keep taxes down" and the municipal impound lot "is an example of that." Defendants' statements amount to direct proof of Plaintiffs' claims.

116. A recently retired officer has come forward to report that a supervisor aligned with Defendants' schemes indicated the officer would get "ass raped" on his Performance evaluations as a result of an insufficient number of tickets issued.

117. On February 21, 2020, Plaintiffs filed their First Amended Complaint.

118. Since filing their First Amended Complaint, Plaintiff Nieves has suffered additional acts of retaliation at the hands of Defendants, including but not limited to the retaliatory actions set forth below.

119. Plaintiff Nieves was issued a counseling notice related to his reporting of a possible violation by another officer related to a bias based car stop.

120. Plaintiff Nieves was issued a Preliminary Notice of Disciplinary Action, including a suspension without pay, alleging that he engaged in criminal conduct by falsely documenting his location in CAD records, altering his in-car camera in an attempt to avoid improper conduct and misconduct,

violated Executive Order No 118, and violated the New Jersey Statutory Authority, the Administrative Code, and the rules and regulations stemming from the same alleged criminal conduct.

121. It was alleged that part of his violations included conduct with a fellow Police Officer who was also criminally and administratively charged.

122. A disciplinary hearing took place in Nieves' matter and a Final Notice of Disciplinary Action was issued to Plaintiff Nieves terminating him as a police officer with Defendants.

123. Defendants imposed this discipline with retaliatory intent in violation of Plaintiff Nieves' Civil Rights under the CRA and in violation of his common law wrongful discharge rights pursuant to Pierce v. Ortho Pharm. Corp., 84 N.J. 58 (1980).

124. During the pendency of the Nieves' criminal matter, the Mercer County Prosecutor's Office was disqualified for its improper conduct and the Middlesex County Prosecutor's Office was assigned the matter.

125. During the pendency of the Nieves criminal matter, the Lawrence Township Municipal Manager Kevin Nerwinski ("Lawrence Township Manager Nerwinski") engaged in an *ex parte* communication with the Hamilton Municipal Court, who called the contact "inappropriate.".

126. Lawrence Township Manager Nerwinski, seeking what he framed as "justice", also contacted the Assistant Prosecutor from the Middlesex County Prosecutor's Office who was prosecuting the matter, in a further attempt to influence the criminal matter. In the correspondence to the Middlesex County Prosecutor, Lawrence Township Manager Nerwinski attempted to utilize Plaintiff Nieves' whistleblowing complaint, that was filed prior to the criminal and administrative charges, as a means of influencing the Middlesex Prosecutor's Office. Lawrence Township Manager Nerwinski was attempting to use the criminal matter to gain an advantage in the civil case.

127. Lawrence Township Manager Nerwinski also contacted the New Jersey Office of Constituency Affairs, the New Jersey Office of Public Integrity and Accountability, the New Jersey Acting Attorney General, and New Jersey State Senator Shirley Turner in an attempt to influence Nieves' ongoing criminal matter.

128. Later, the Assistant Prosecutor responded to Lawrence Township Manager Nerwinski's letter on behalf of the Middlesex Prosecutor's Office and advised that the Mercer County Prosecutor's office had dismissed one of the criminal charges for "lack of evidence".

129. The Assistant Prosecutor further advised Lawrence Township Manager Nerwinski that it was Lawrence Police

Department that took the unusual step of proceeding with administrative charges against Nieves, prior to the resolution of criminal charges, terminating Nieves' employment.

130. The Assistant Prosecutor stated that he was advised by Lawrence Township Police Department, Police Chief Brian Caloiaro and Lieutenant Lech, that Lawrence Township Internal Affairs Lieutenant, Timothy Drew, was "compromised as a witness" from his participation in Nieves' disciplinary hearing. The Assistant Prosecutor pointed out that Lieutenant Drew would have been the most knowledgeable witness regarding the alleged criminal charges.

131. The Assistant Prosecutor further stated that issues had been raised with regard to the disparate treatment and selective prosecution against Nieves.

132. Lawrence Township Manager Nerwinski responded to the Assistant Prosecutor by again attacking his professional evaluation and skills, diminishing his evaluation of the issues regarding disparate treatment, selective prosecution, and the compromised Lieutenant Drew of Lawrence Township Internal Affairs.

133. Lawrence Township Manager Nerwinski again pressed that the dismissed criminal charge had nothing to do with lack of evidence and reiterated that Nieves was having a "private

liaison" with a "married police officer" as if that was an element of a crime.

134. Police Chief Brian Caloiaro attempted to influence the disposition of Nieves' criminal matter by sending a correspondence to the Middlesex County Prosecutor.

135. Police Chief Brian Caloiaro likened Plaintiff Nieves to that of Derek Chauvin who was convicted of the murder of George Floyd. Indeed, in the eye of the chief of police, Whistleblower and union official Nieves was the same as a murderer. These activities show how defendants have lost all sensibility in there vindictive campaign against plaintiffs.

136. Since filing their First Amended Complaint, Plaintiffs Lee, Stein, Mejia, and Caponi have also suffered additional acts of retaliation at the hands of Defendants, including but not limited to the retaliatory actions set forth below.

137. On January 27, 2021, Plaintiff Lee was issued a Preliminary Notice of Disciplinary Action for allegedly violating the rules and regulations by providing documents to fellow Police Officer Mejia who had been suspended.

138. On February 2, 2021, Plaintiff Lee was issued a Final Notice Disciplinary Action pertaining to the January 27, 2021 Preliminary Notice of Disciplinary Action and was issued a six day suspension without pay. Defendants also transferred Lee out of the detective/investigative bureau which also resulted in a loss of pay.

139. The February 2, 2021 Final Notice of Disciplinary Action resulted in Plaintiff Lee incurring a penalty related to his scoring for promotional examinations for the Sergeant's test.

140. On March 5, 2020, an Internal Affairs Investigation was initiated against Plaintiff Lee for allegedly making inappropriate comments to a fellow police officer in the presence of an arrestee.

141. Plaintiff Lee was passed over for a position with the Detective Bureau although his experience on the job surpasses that of any of the candidates chosen.

142. On July 17, 2020, an Internal Affairs Complaint was filed against Plaintiff Stein for failure to report a rule and regulations violation by Plaintiff Mejia.

143. On February 19, 2021, an Internal Affairs Investigation was initiated against Plaintiff Stein for alleged violations of the rules and regulations related to COVID-19 protocols and failure to supervise.

144. On March 25, 2021, Plaintiff Stein was issued a Preliminary Notice of Discipline for the alleged violations.

145. On June 11, 2021, Plaintiff Stein received a Final Notice of Disciplinary Action related to the March 25, 2021 Preliminary Notice of Disciplinary Action assessing a ten (10) day suspension.

146. Plaintiff Stein, after receiving the June 11, 2021 Final Notice of Disciplinary Action, was transferred from the night

shift to the day shift and advised he would no longer be permitted to work the night shift. This prohibition includes Plaintiff Stein being barred from working any available overtime night shifts thus resulting in a loss of income to him.

147. On April 13, 2020, Plaintiff Mejia received an Internal Affairs Complaint Notification alleging he had an offensive demeanor.

148. On August 13, 2020, Plaintiff Mejia was issued a Preliminary Notice of Disciplinary Action for allegedly providing information to the Trentonian pertaining to an employee roster.

149. On October 14, 2020, Defendants issued Plaintiff Mejia a Final Notice of Disciplinary Action pertaining to the August 13, 2020 Preliminary Notice of Disciplinary Action and issued him a fifteen (15) day suspension.

150. On September 16, 2020, Plaintiff Mejia was issued an Internal Affairs Complaint notification regarding alleged violations related to Covid-19 travel restrictions.

151. Plaintiff Caponi has been harassed and intimidated by Defendants since the filing of the First Amended Complaint.

152. On or around May 25, 2020, Lt. Chris Longo followed Plaintiff Caponi in his personal vehicle while he was on the job conducting a fixed post at Village Park.

153. On or around January 22, 2021, during Plaintiff Caponi's weekly car check he identified that there was an insufficient number of rounds for his shot gun. He filed a car check sheet and a memo regarding this incident.

154. On or around February 5, 2021, Plaintiff Caponi had called out sick. At 1430 hours his fiancé took his vehicle to run an errand. At 1438 hours Lt. Tim Drew sent Plaintiff Capoini a text to pop his head out the front door for a sick check. This was approximately eight minutes after his fiancé left their home with his vehicle and eight and half hours into Plaintiff Capoini's shift.

155. On or around March 24, 2021, at 1143 hours, Sgt. Steve Simon drove past Plaintiff Caponi's house, which is located at the end of a cul-de-sac, although there was no call to service on his street.

156. On or around May 28, 2021, Plaintiff Caponi was assigned the school post on Princeton Pike and Gainsboro Road. During the morning post, which lasted for two hours, Lt. Longo and Lt. Caloiaro both drove past his patrol vehicle.

157. In the afternoon of the May 28, 2021 school post, Plaintiff requested relief from Patrolman Laux. While Plaintiff Caponi was taking a bathroom break, Lt. Longo again drove past the post and hit a traffic cone set out by Plaintiff Caponi. Lt. Longo, in attempting to provide an explanation for the cone being stuck under his car at

Plaintiff Caponi's post, falsely stated he was cut-off by another vehicle.

158. Defendants imposed these continued disciplines and harassment against Plaintiffs with retaliatory intent in violation of their Civil Rights and CEPA.

COUNT ONE

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

159. Plaintiffs reassert and re-allege each and every previous paragraph as if fully set forth and reiterated herein.

160. Defendants have continued to retaliate against the Plaintiffs by way of discipline and harassment.

161. After a disciplinary hearing, Defendants, with retaliatory intent, issued a Final Notice of Disciplinary Action terminating Plaintiff Nieves.

162. During the pendency of Nieves' criminal matter, the Mercer County Prosecutor's Office was disqualified for its improper conduct and the Middlesex County Prosecutor's Office was assigned to Nieves' matter.

163. During the pendency of Nieves criminal matter, Lawrence Township Manager Nerwinski engaged in an *ex parte* communication with the Hamilton Municipal Court, who called the contact "inappropriate".

164. Lawrence Township Manager Nerwinski, seeking what he framed as "justice", also contacted the Assistant Prosecutor from the Middlesex County Prosecutor's Office who was prosecuting the matter, in a further attempt to influence the criminal matter. In the correspondence to the Middlesex County Prosecutor, Lawrence Township Manager Nerwinski attempted to utilize Plaintiff Nieves' whistleblowing complaint, that was filed prior to the criminal and administrative charges, as a means of influencing the Middlesex Prosecutor's Office. Lawrence Township Manager Nerwinski was attempting to use the criminal matter to gain an advantage in the civil case.

165. Lawrence Township Manager Nerwinski also contacted the New Jersey Office of Constituency Affairs, the New Jersey Office of Public Integrity and Accountability, the New Jersey Acting Attorney General, and New Jersey State Senator Shirley Turner in an attempt to influence Nieves' ongoing criminal matter.

166. Later, the Assistant Prosecutor responded to Lawrence Township Manager Nerwinski's letter on behalf of the Middlesex Prosecutor's Office and advised that the Mercer County Prosecutor's office had dismissed one of the criminal charges for "lack of evidence".

167. The Assistant Prosecutor further advised Lawrence Township Manager Nerwinski that it was Lawrence Police

Department that took the unusual step of proceeding with administrative charges against Nieves, prior to the resolution of criminal charges, terminating Nieves' employment.

168. The Assistant Prosecutor stated that he was advised by Lawrence Township Police Department, Police Chief Brian Caloiaro and Lieutenant Lech, that Lawrence Township Internal Affairs Lieutenant, Timothy Drew, was "compromised as a witness" from his participation in Nieves' disciplinary hearing. The Assistant Prosecutor pointed out that Lieutenant Drew would have been the most knowledgeable witness regarding the alleged criminal charges.

169. The Assistant Prosecutor further stated that issues had been raised with regard to the disparate treatment and selective prosecution against Nieves.

170. Lawrence Township Manager Nerwinski responded to Assistant Prosecutor by again attacking his professional evaluation and skills, diminishing his evaluation of the issues regarding disparate treatment, selective prosecution, and the compromised Lieutenant Drew of Lawrence Township Internal Affairs.

171. Lawrence Township Manager Nerwinski again pressed that the dismissed criminal charge had nothing to do with lack of evidence and reiterated that Nieves was having a "private liaison" with a "married police officer" as if that was an

element of a crime.

172. Police Chief Brian Caloiaro attempted to influence the disposition of Nieves' criminal matter by sending a correspondence to the Middlesex County Prosecutor.

173. Police Chief Brian Caloiaro likened Plaintiff Nieves to that of Derek Chauvin who was convicted of the murder of George Floyd. Indeed, in the eye of the chief of police, Whistleblower and union official Nieves was the same as a murderer. These activities show how defendants have lost all sensibility in there vindictive campaign against Plaintiffs.

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

175. Article I (19) of the New Jersey Constitution 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."

176. Plaintiffs engaged in protected union activities.

177. Defendants' collective actions as enumerated above also violate Plaintiffs' rights to freedom of speech, freedom of association, freedom of assembly, procedural due process and/or substantive due process. Defendants are thus in

violation of the New Jersey State Constitution of 1947, including Article I, (1), (5), (6), (18), and (19).

178. Defendants have deprived Plaintiffs of rights, privileges, and/or immunities secured by the New Jersey State Constitution. Through Defendants' illegal acts, Plaintiffs' 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.

179. Defendants have deprived, interfered, and/or attempted to interfere by threats, intimidation, or coercion with the exercise or enjoyment of Plaintiffs' rights under the New Jersey State Constitution.

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

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

182. As a result of the illegal and continuing course of conduct by Defendants, described herein, Plaintiffs have suffered economic damages related to Defendants' adverse actions as well as non-economic/emotional distress damages from these adverse actions and a hostile work environment, 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.

183. The foregoing actions were knowing, willful and deliberate violations of law and deprivations of Plaintiffs' civil rights, and Plaintiffs are therefore entitled to punitive damages under applicable law.

WHEREFORE, Plaintiff demands judgment against Defendants as follows:

- a. Pursuant to the applicable provisions New Jersey Civil Rights Act, N.J.S.A. 10:6-1 et seq., awarding Plaintiffs all relief under the law such as damages, including, but not limited to, equitable, punitive and compensatory damages on all lost benefits, wages and rights, including but not limited to front and back pay, as well as all commensurate pension benefits, and other benefits with respect to Plaintiff's employment, and

non-economic damages for emotional distress, any statutory fines, together with both pre-judgment and post judgment interest, compensation for the adverse tax consequences of a lump sum award, and attorneys' fees and costs of court;

- b. Awarding Plaintiff attorneys' fees and costs;
- c. For remedial and equitable relief of the Court;
- d. For an Order of the Court retaining jurisdiction over this action until Defendants have fully complied with the Orders of this Court, and that the Court require Defendants to file such reports as may be necessary to supervise such compliance; and
- e. For such other, further, additional and different relief as this Court deems just and proper.

COUNT TWO

(Violation of CEPA, N.J.S.A. 34:19-1, et seq.)

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

171. Plaintiffs engaged in "whistle-blowing" activities in that they disclosed, refused to participate in, and/or objected to, conduct which he reasonably believed was in violation of law and/or public policy, and/or rules or regulations promulgated pursuant to law and/or public policy, including, but not limited to the following: official misconduct, false arrest, police

misconduct, violations of N.J.S.A. 40A:14-181.2, violations of the New Jersey Civil Rights Act, and hostile work environment.

172. In retaliation for their whistle-blowing activities, Plaintiffs suffered adverse employment action(s) and other retaliatory acts at the hands of Defendants, as outlined above.

173. Defendants' collective actions against Plaintiffs, including but not limited adverse employment actions such as disciplinary actions against Plaintiffs as well as a course of many separate acts directed at Plaintiffs that combine to make up a pattern of retaliatory conduct against Plaintiffs. Same was done by Defendants in retaliation for Plaintiff's whistle-blowing activities described herein are violations of CEPA.

174. Defendants' adverse employment actions against Plaintiffs were without any legitimate and/or lawful purpose. The purported rationale for Defendants' adverse employment actions were pretextual and were advanced in order to mask Defendants' retaliatory intent.

175. Defendants' collective retaliatory actions against Plaintiffs constitute violations of CEPA.

176. As a result, Plaintiffs' statutory rights have been violated and their protections under the law have been eviscerated.

177. Plaintiffs have suffered damages resulting in the loss of compensation and benefits, loss of earning power, physical injury, mental injury, the loss of opportunities for prospective

employment, the loss of fringe benefits, and are incurring legal expenses and other expenses as a result of Defendants' actions. 178. The foregoing actions were knowing, willful and deliberate violations of law and deprivations of Plaintiffs' statutory and civil rights, and Plaintiffs are entitled to punitive damages under applicable law.

WHEREFORE, Plaintiffs demands judgment against Defendants as follows:

- a. Awarding Plaintiffs damages, including, but not limited to, equitable, punitive and compensatory damages on all 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 Plaintiffs 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 costs of court;
- b. Awarding Plaintiffs instatement with Defendants with all requisite salary, seniority, pension/retirement benefits and other benefits with regard thereto had it not been for Defendants' retaliatory conduct;

- c. For an Order of the Court directing Defendants to dismiss with prejudice and /or expunge Plaintiffs' personnel records of all disciplinary matters and any penalties assessed, including but not limited to any suspensions, which are the subject of this Complaint;
- d. For an Order of the Court retaining jurisdiction over this action until Defendants have fully complied with the Orders of this Court, and that the Court require Defendants to file such reports as may be necessary to supervise such compliance; and
- e. For such other, further, additional and different relief as this Court deems just and proper.

COUNT THREE

(Violation of N.J.S.A. 40A:14-181.2, et seq.)

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

180. **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.

181. Defendants use ticket quotas to discipline officers and extort revenue from the taxpayers of Lawrence and the motorists traveling through Lawrence.

182. Despite repeated complaints from Plaintiffs, Defendants refuse to conform to the law and the recommendations of the New Jersey Supreme Court.

WHEREFORE, Plaintiffs demand judgment against Defendants as follows:

- a. An order from the Court declaring Defendants have violated this statutory section and ordering a cessation of quota activities by Defendants;
- b. Awarding Plaintiffs damages, including, but not limited to, equitable, punitive and compensatory damages on all 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 Plaintiffs' 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 costs of court;

- c. Awarding Plaintiffs instatement with Defendants with all requisite salary, seniority, pension/retirement benefits and other benefits with regard thereto had it not been for Defendants' retaliatory conduct;
- d. For an Order of the Court directing Defendants to dismiss with prejudice and /or expunge Plaintiffs' personnel records of all disciplinary matters and any penalties assessed, including but not limited to any suspensions, which are the subject of this Complaint;
- e. For an Order of the Court retaining jurisdiction over this action until Defendants have fully complied with the Orders of this Court, and that the Court require Defendants to file such reports as may be necessary to supervise such compliance; and
- f. For an Order of this Court finding the activities of Defendant violates N.J.S.A. 40A:14-181.2 and ordering the Defendant to cease and desist using summonses as an improper municipal revenue generator.
- g. For such other, further, additional and different relief as this Court deems just and proper.

COUNT FOUR

(Pierce v. Ortho Pharm. Corp., 84 N.J. 58 (1980))

183. Plaintiffs reassert and re-alleges each and every previous paragraph as if fully set forth and reiterated herein.

184. Defendants' actions are in violation of Plaintiff Nieves' common law wrongful discharge rights pursuant to Pierce v. Ortho Pharm. Corp., 84 N.J. 58 (1980).

185. Plaintiff Nieves complained about Defendants engaging in conduct which was in violation of a clear mandate of public policy.

186. In retaliation for Plaintiff Nieves engaging in this protected activity, Defendants terminated his employment.

187. Plaintiff Nieves was issued a counseling notice related to his reporting of a possible violation by another officer related to a bias based car stop.

188. Plaintiff Nieves was issued a Preliminary Notice of Disciplinary Action, including a suspension without pay, alleging that he engaged in criminal conduct by falsely documenting his location in CAD records, altering his in-car camera in an attempt to avoid improper conduct and misconduct, violated Executive Order No 118, and violated the New Jersey Statutory Authority, the Administrative Code, and the rules and regulations stemming from the same alleged

criminal conduct.

189. It was alleged that part of his violations included conduct with a fellow Police Officer who was also criminally and administratively charged.

190. A disciplinary hearing took place in Nieves' matter and a Final Notice of Disciplinary Action was issued to Plaintiff Nieves terminating him as a police officer with Defendants.

191. Defendants imposed this discipline with retaliatory intent in violation of Plaintiff Nieves' Civil Rights under the CRA and in violation of his common law wrongful discharge rights pursuant to Pierce v. Ortho Pharm. Corp., 84 N.J. 58 (1980).

192. During the pendency of the Nieves' criminal matter, the Mercer County Prosecutor's Office was disqualified for its improper conduct and the Middlesex County Prosecutor's Office was assigned the matter.

193. During the pendency of the Nieves criminal matter, Lawrence Township Municipal Nerwinski engaged in an *ex parte* communication with the Hamilton Municipal Court, who called the contact "inappropriate."

194. Lawrence Township Manager Nerwinski, seeking what he framed as "justice", also contacted the Assistant Prosecutor from the Middlesex County Prosecutor's Office who was prosecuting the matter, in a further attempt to influence the criminal matter. In the correspondence to the Middlesex County

Prosecutor, Lawrence Township Manager Nerwinski attempted to utilize Plaintiff Nieves whistleblowing complaint, that was filed prior to the criminal and administrative charges, as a means of influencing the Middlesex Prosecutor's Office. Nerwinski was attempting to use the criminal matter to gain an advantage in the civil case.

195. Lawrence Township Manager Nerwinski also contacted the New Jersey Office of Constituency Affairs, the New Jersey Office of Public Integrity and Accountability, the New Jersey Acting Attorney General, and New Jersey State Senator Shirley Turner in an attempt to influence Nieves' ongoing criminal matter.

196. Later, the Assistant Prosecutor responded to Lawrence Township Manager Nerwinski's letter on behalf of the Middlesex Prosecutor's Office and advised that the Mercer County Prosecutor's office had dismissed one of the criminal charges for "lack of evidence".

197. The Assistant Prosecutor further advised Lawrence Township Manager Nerwinski that it was Lawrence Police Department that took the unusual step of proceeding with administrative charges against Nieves, prior to the resolution of criminal charges, terminating Nieves' employment.

198. The Assistant Prosecutor stated that he was advised by Lawrence Township Police Department, Police Chief Brian Caloiaro and Lieutenant Lech, that Lawrence Township

Internal Affairs Lieutenant, Timothy Drew, was "compromised as a witness" from his participation in Nieves' disciplinary hearing. The Assistant Prosecutor pointed out that Lieutenant Drew would have been the most knowledgeable witness regarding the alleged criminal charges.

199. The Assistant Prosecutor further stated that issues had been raised with regard to the disparate treatment and selective prosecution against Nieves.

200. Lawrence Township Manager Nerwinski responded to Assistant Prosecutor by again attacking his professional evaluation and skills, diminishing his evaluation of the issues regarding disparate treatment, selective prosecution, and the compromised Lieutenant Drew of Lawrence Township Internal Affairs.

201. Lawrence Township Manager Nerwinski again pressed that the dismissed criminal charge had nothing to do with lack of evidence and reiterated that Nieves was having a "private liaison" with a "married police officer" as if that was an element of a crime.

202. Police Chief Brian Caloiaro attempted to influence the disposition of Nieves' criminal matter by sending a correspondence to the Middlesex County Prosecutor.

203. Police Chief Brian Caloiaro likened Plaintiff Nieves to that of Derek Chauvin who was convicted of the murder of George Floyd. Indeed, in the eye of the chief of police,

Whistleblower and union official Nieves was the same as a murderer. These activities show how defendants have lost all sensibility in there vindictive campaign against Plaintiff Nieves.

204. Defendants' adverse employment action against Plaintiff Nieves was without any legitimate and/or lawful purpose. The purported rationale for Defendants' adverse employment action was pre-textual and was advanced in order to mask Defendants' retaliatory intent.

205. Plaintiff Nieves has suffered damages resulting in the loss of compensation and benefits, loss of earning power, physical injury, mental injury, the loss of opportunities for prospective employment, the loss of fringe benefits, and he is incurring legal expenses and other expenses as a result of Defendants' actions.

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

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.,
Attorneys for Plaintiffs

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

Dated: May 5, 2022

JURY DEMAND

Plaintiffs hereby demand a trial by jury on all issues involved herein.

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

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

Dated: May 5, 2022

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.
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.

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

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

Dated: May 5, 2022

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May 5, 2022

Via eCourts

New Jersey Superior Court
Mercer County Superior Court
175 South Broad Street
Trenton, New Jersey 08650-4200

Re: Marc Caponi, et als. v. Lawrence Township, et als.
Docket No. MER-L-1964-19
Our File No.: 19-216

Dear Sir or Madam:

Pursuant to the Court's Order please file the Second Amended Complaint.

I thank the Court for its attention and courtesies.

Very truly yours,
Sciarra & Catrambone, L.L.C.

By: Deborah Masker Edwards /s/
Deborah Masker Edwards, Esq.

DME/d

Enclosures

Cc: Michael D. Jones, Esq. (Via eCourts & Email w/ Encls.)
Client

