

PATRICK P. TOSCANO, JR.
Attorney at Law, LLC
80 Bloomfield Ave.
Suite 101
Caldwell, NJ 07006
Phone: 973-226-1691
Facsimile: 973-226-1693
E-Mail: ptoscano@pptlawfirm.com
Attorney for Plaintiff, Springfield Police Sergeant James Fine

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Superior Court of New Jersey

MAR 13 2008

CIVIL CASE MANAGEMENT
UNION COUNTY

Springfield Police Sergeant James Fine :

Plaintiff, :

v. :

Township of Springfield, :

The Governing Body of the Twp. :

of Springfield and Chief William :

Chisholm :

Defendants. :

**SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - UNION COUNTY**

DOCKET NUMBER

UNN-L-0902-08

**COMPLAINT, JURY DEMAND,
DESIGNATION OF TRIAL COUNSEL
DEMAND FOR DISCOVERY OF
INSURANCE INFORMATION AND
CERTIFICATION**

THE PARTIES

1. Plaintiff, James Fine, at all relevant times mentioned herein, is a Sergeant with the Springfield, Union County, New Jersey Police Department (hereinafter referred to as "plaintiff").
2. Defendant, Township of Springfield, is a municipal subdivision organized pursuant to the laws of the State of New Jersey and operates by funding, staffing, supervising and otherwise controlling the operations of the Springfield Police Department (hereinafter referred to as "Township").

3. Defendant, Governing Body of the Township of Springfield is in fact the governing body for the Township and its members had or should have had knowledge of the events relevant to this Complaint (hereinafter referred to as "Governing Body").
4. Defendant Chisholm, at all times, was the Chief of Police with the Springfield Police Department and acting in his professional capacity.

FACTUAL AVERMENTS RELEVANT TO ALL CLAIMS FOR RELIEF

5. Plaintiff's work record is impeccable. He has been an esteemed member of the Springfield Police Department for years. He has earned the respect of law enforcement statewide. His reputation for honesty, truth and veracity is well known and unsurpassed. Plaintiff enjoys a stellar reputation among law enforcement. He has received myriad commendations over the years, too numerous to recite herein, but in fact attached hereto for easy reference.
6. Notwithstanding the above, all defendants, either individually or acting in concert, have waged a personal war against plaintiff. This consisted of, but was not limited to, the following:
 - a. All defendants have created an extremely terrible/unbearable hostile work environment. Defendant Chisholm has defamed plaintiff over and over again, in front of others, in a pure attempt to humiliate him and decimate his reputation. This included constant harassment of the plaintiff by Chisholm, calling the plaintiff "goofball and immature" and accusing the plaintiff of using illegal steroids. Essentially, by doing so, Chisholm has accused the plaintiff of Official Misconduct, in violation of NJSA 2C:30-2.
 - b. During the calendar year 2006, claimant has requested payment for classes he has attended at Seton Hall University. He has been denied payment, even though he was

paid by the Township for same two years prior. Claimant has filed proper grievances, and has been illegally retaliated against as a result thereof.

- c. To further punish plaintiff, the defendants sought to and succeeded in disadvantaging him in the terms and conditions of his employment so as to unsettle his personal and professional life, as well as to deny him promotional opportunities.
- d. Moreover, plaintiff has reported certain wrongs/conditions to his superiors during that period of time, properly believing he was protected by the New Jersey Conscientious Employee Protection Act. Nevertheless, the defendants have surreptitiously retaliated against him in myriad ways, and he has suffered negative consequences as a result thereof.
- e. During the month of June, 2007, while processing a DWI matter, defendant Chisholm "whipped" his hand (back-hand style) toward plaintiff's neck. Plaintiff was shocked, as this made no sense for a Chief of Police to do, and was humiliating to him. To date, defendant Chisholm never explained why he behaved in this bizarre manner that day, almost physically assaulting/striking the plaintiff.
- f. In December, 2007, plaintiff requested to review his "personnel" file. He was told that defendant Chisholm "held his own file" for plaintiff. Why Chisholm would hold plaintiff's file separate from all others remains a mystery. Moreover, upon review of the file, voluminous documentation, favorable to the plaintiff and his career advancement, was missing. Upon information and belief, defendant Chisholm was the only person who retained custody and control of that file all along.
- g. Plaintiff has applied for volunteer positions with the Springfield OEM and EMT. Upon information and belief, defendant Chisholm was responsible for interfering with and denying same. Of course, plaintiff's participation therein would have been very relevant/material to career promotional opportunities. Defendant Chisholm has

purposely interfered with plaintiff's proposed economic advantage relative thereto.

- h. Upon information and belief, defendant Chisholm has ordered/directed certain subordinates to illegally amend/change/forge/cut and paste certain of the plaintiff's performance evaluations prepared by plaintiff's superiors.

THE ABOVE IS MERELY MEANT TO BE ILLUSTRATIVE, NOT EXHAUSTIVE.

7. The plaintiff has suffered, and will continue to suffer, compensable injuries, including, but not limited to, humiliation, damage to reputation, mental anguish, physical pain and suffering, denial of true professional advancement, denial of increments and other losses recoverable at law.

SPECIFIC CAUSES OF ACTION

A. (DEFAMATION)

8. Many of defendant Chisholm's actions as described heretofore were defamatory statements, concerning the plaintiff, false in nature and communicated in front of /to third parties, with Chisholm's knowledge that his statements were false/made with reckless disregard of their truth or falsity/made with negligence in failing to determine the falsity of the statements.

B. (INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS)

9. Chisholm's actions as against plaintiff as enumerated heretofore were extreme and outrageous, intentional and/or reckless, purposely intended to cause severe emotional distress to plaintiff and, in fact, caused that severe emotional distress, so much so that no reasonable person could be expected to endure such distress.

C. (HOSTILE WORK ENVIRONMENT)

10. All of the defendants' actions as enumerated above created a vicious and uninhabitable hostile work environment for the plaintiff, purposely intended to make life at the department unbearable and to force him to resign.

D. (NJ CONSCIENTIOUS EMPLOYEE PROTECTION ACT)

11. All of the defendants' actions as enumerated above were in direct violation of the New Jersey Conscientious Employee Protection Act, NJSA 34:19-1, et seq.

E. (UNLAWFUL INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE)

12. In keeping with his position as a sergeant with the Springfield Police Department, plaintiff enjoyed the existence of a reasonable expectation of economic advantage or benefit.
13. All defendants had knowledge of such expectancy of economic advantage.
14. All defendants wrongfully and without justification interfered with plaintiff's expectancy of economic advantage or benefit.
15. In the absence of the wrongful act of the defendants, it is reasonably probable that the plaintiff would have realized his economic advantage or benefit; to wit, a promotion to the rank of lieutenant earned long ago, along with resultant salary increase and increased pension benefits.
16. The plaintiff sustained damages as a result thereof.

F. (NEGLIGENT CONCEALMENT/ SPOILIATION)

17. Defendants' actions as enumerated above resulted in their negligent concealment/destruction of documentation favorable to the plaintiff in the within litigation.

G. (RESPONDEAT SUPERIOR-PALPABLY UNREASONABLE AND/OR GROSSLY NEGLIGENT CONDONATION/ RATIFICATION/ RETENTION/ALLOWANCE OF DEFENDANT CHISHOLM TO ACT IN THE FASHION IN WHICH HE DID)

18. Defendants, Township of Springfield and Governing Body of the Township of Springfield, were aware and/or should have been aware of the conduct exhibited by Chisholm toward plaintiff over the last two years. These defendants acted in a palpably unreasonable manner all along in not taking action to curb Chisholm's illegal conduct. These defendants both condoned what Chisholm has done, and have retained Chisholm in their employ.

PRAYER FOR RELIEF

WHEREFORE, plaintiff prays that this honorable Court:

- (a) accept jurisdiction over this matter;
- (b) empanel a jury to hear and decide this matter;
- (c) award against defendants compensatory and punitive damages in a manner determined by a jury, as well as an immediate promotion to the rank of Captain;
- (d) enjoin defendants from engaging in further retaliation, and purge plaintiff's files of each and every memorandum which reflects retaliation animus;
- (e) award to plaintiff the reasonable attorneys' fees and costs of this litigation; and
- (f) for such/any other relief that this Court deems equitable and just.

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 4:35-1, the plaintiff herein demands a trial by jury.

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:25-4 and Rule 4:5-1(c), Patrick P. Toscano, Jr., is hereby designated trial counsel for the plaintiff.

DEMAND FOR DISCOVERY OF INSURANCE INFORMATION

Pursuant to Rule 4:10-2(b), please comply with plaintiff's request for all insurance information.

CERTIFICATION

I hereby certify, upon information and belief, that the matter in controversy is not the subject of any other action pending in any Court or of a pending arbitration proceeding.

I also certify, upon information and belief, that at the present time no other action or arbitration with respect to the matter in controversy is contemplated.

On the basis of the present knowledge, I am aware of no other party or parties who should be joined in this action.

Dated: March , 2008

By: 

Patrick P. Toscano, Jr.

Explanation: This Resolution authorizes the settlement of the lawsuit entitled "Springfield Police Sergeant James Fine vs. Township of Springfield, the Governing Body of the Township of Springfield and Chief William Chisholm".

TOWNSHIP OF SPRINGFIELD

RESOLUTION NO. 2010-56

WHEREAS, Police Sergeant James Fine ("Fine") filed a lawsuit against the Township of Springfield, the Governing Body of the Township of Springfield and Chief William Chisholm (hereinafter the "Defendants") in the Superior Court, Law Division, Union County, bearing docket no. UNN-L-0902-08 (hereinafter the "Lawsuit"); and

WHEREAS, the Statewide Joint Insurance Fund (the "JIF") elected to settle this matter without the need for further litigation; and

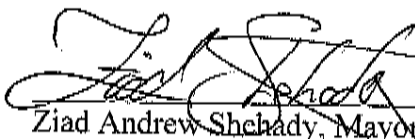
WHEREAS, the settlement by the JIF did not include the payment of any funds from the Township since all settlement funds are to be paid through the JIF; and

WHEREAS, none of the Defendants in the Lawsuit have admitted any liability or responsibility to Fine in regard to the above-entitled action; and

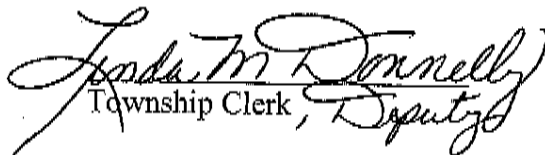
WHEREAS, without settlement and amicable Resolution of the Lawsuit, the JIF and the Township of Springfield would continue to incur legal expenses; and

WHEREAS, the Township Committee of the Township of Springfield believes it to be in the best interests of the taxpayers to resolve the Lawsuit.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Springfield, County of Union, State of New Jersey that it does hereby authorize the JIF to settle the Lawsuit for the total sum of \$22,500.00, (inclusive of attorney fees and costs), with all funds being paid by the JIF and not by the Township of Springfield.


Ziad Andrew Shehady, Mayor

Adopted:
March 23, 2010


Township Clerk, Deputy