

ALTERMAN & ASSOCIATES, L.L.C.
8 South Maple Avenue
Marlton, NJ 08053
(856) 334-5737
Attorney for Plaintiff

RECEIVED & FILED
FEB 27 2013
SUPERIOR COURT OCEAN CO.
NEW JERSEY

PATROLMAN DENNIS DOWDEN
Plaintiff

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - OCEAN COUNTY

v.

DOCKET NO PW 2593-13

TOWNSHIP OF LAKEWOOD,
LAKEWOOD TOWNSHIP POLICE
DEPARTMENT, its Agents, Servants,
Employees, and /or representatives, and
JOHN or JANE DOES 1-10, those being
fictitious names of persons or entities
whose identities are not yet known,
who unlawfully disciplined the
Plaintiff and/or otherwise violated
her rights

COMPLAINT FOR DECLARATORY
JUDGMENT AND ACTION IN LIEU
PREROGATIVE WRIT

Defendants

Plaintiff, Dennis Dowden, who is a Patrolman in the Lakewood Township Police Department, located at 231 Third Street, Lakewood, Ocean County, New Jersey, hereby states the following:

FIRST COUNT

1. Plaintiff is a citizen of the State of New Jersey, and a Patrolman with the Lakewood Township Police Department.
2. Defendants are those individuals or entities employed or appointed by the governing body of the Township of Lakewood or the Lakewood Township Police Department, possessing managerial authority to discipline, carry out discipline and/or to render final Disciplinary Actions against employees, including plaintiff.

3. On or about September 28, 2012, plaintiff Ptl. Dennis Dowden was involved in a motor vehicle accident while responding to a call. Office of Professional Standards opened an internal investigation into the matter. On or about December 7, 2012, Ptl. Dowden was issued four day suspension. as a result of said investigation. The Notice contained a Violation of Regulation 3:4.6, unsafe operation of a patrol car. See Exhibit "A" attached hereto.

4. On or about January 24, 2013, a hearing was held in reference to same.

5. Following said hearing on January 24, 2013, the hearing officer, Michael F. Muscillo, for the Township of Lakewood, imposed a four day suspension without pay against plaintiff for the Violation of Regulation as contained in the December 7, 2012 Notice. See Exhibit "B" attached hereto.

6. On or about February 22, 2013, Chief of Police, Robert Lawson, Lakewood Township Police Department served Ptl. Dennis Dowden a suspension notice for a four day suspension commencing March 1, 2013 through March 4, 2013. See Exhibit "C" attached hereto.

7. The plaintiff is not guilty of the charge against him. Without the Court's intervention, plaintiff's employment record will be tarnished by the discipline imposed and the four day suspension without pay which will adversely affect plaintiff's chances for promotion and/or cause plaintiff to face more serious punishments for future alleged violations of the Violations Of Regulations. The disciplinary actions have caused and will continue to cause plaintiff to suffer financial, emotional and harm to his reputation for which he must be made whole.

8. Plaintiff brings this action pursuant to N.J.S.A. 40A:14-150 and N.J.S.A. 2A:16-52 for a Declaration of Rights, status and other legal license per Rule 4:69, Section 1 in lieu of Prerogative Writs. Plaintiff also brings this action pursuant to the case of Romanowski v. Brick Township, 185 N.J. Super. 197 (Law Div. 1982); aff'd 192 N.J. Super. 79 (App. Div. 1983). The Superior Court of New Jersey has Subject Matter Jurisdiction.


9. Plaintiff states that the disciplinary proceedings brought against him were prejudicial, arbitrary and capricious.

10. Plaintiff further states that the disciplinary action taken against him are legally defective and unwarranted.

11. Plaintiff states that he has exhausted all administrative remedies available to him and has only the Superior Court to turn to address this situation.

WHEREFORE, plaintiff requests judgment declaring the disciplinary actions null and void, reinstating plaintiff to his prior status, and awarding counsel fees and costs and any other relief to which plaintiff may be entitled in either law or equity.

ALTERMAN & ASSOCIATES, L.L.C.

BY: 
STUART J. ALTERMAN
Attorney for Plaintiff

CERTIFICATION PURSUANT TO RULE 4:5-1

Following my initial review of this matter, it appears that there are no other persons who should be joined as parties.

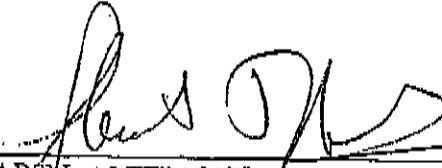
Following my initial review of this matter, I am not aware of any other actions or arbitrations related to this suit pending at this time.

The above statements are true and correct to the best of my knowledge, information and belief.


STUART J. ALTERMAN

DESIGNATION OF TRIAL COUNSEL

Please take notice that Stuart J. Alterman, Esquire is hereby designated as trial counsel in this matter.


STUART J. ALTERMAN

EXHIBIT

A

CONFIDENTIAL

Lakewood Township Police Department

Office of Professional Standards

Robert Lawson
Chief of Police



231 Third Street
Lakewood, NJ 08701
(732) 363-0200

December 7, 2012

OPS Case Number: AI2012-020
Department Case Number: 12-74402

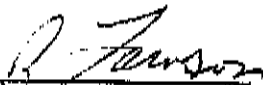
To: Ptl. Dennis Dowden #315

Please be advised that the allegation filed against you with the Office of Professional Standards of this Police Department has been investigated.

The Office of Professional Standards has found that the allegation unsafe operation of a patrol car a violation of regulation 3:4.6 is *sustained*.

As a result you will receive a *four-day suspension*.

Thank you for your cooperation in this matter.


Robert Lawson
Chief of Police
Lakewood Police Department

CONFIDENTIAL

EXHIBIT

B



Township of Lakewood

MUNICIPAL BUILDING
231 THIRD STREET
LAKEWOOD, NEW JERSEY 08701
732-364-2500 • FAX: 732-905-5991



OFFICE MUNICIPAL MANAGER

Michael F. Muscillo

HEARING OFFICER DECISION

Date of Hearing: January 24, 2013

The undersigned served as Hearing Officer relative to disciplinary charges brought against Patrolman Dennis Dowden, an employee of the Lakewood Township Police Department.

The Hearing Officer listened to testimony about the course of events related to the issue of a motor vehicle accident between Officer Dowden's cruiser and Officer Felder's cruiser, which was struck from behind. Both Officers were responding to a call looking for a perpetrator that was on foot.

According to document T2, produced at the hearing, Ptl. Felder indicated that he overshot Nolan Place during his pursuit and braked to stop; a few seconds later he was struck from behind. Ptl. Felder also indicated the streets were wet, and it took him a while to stop because he didn't want to lock-up the brakes.

Patrolman Dowden's testimony in document T2 showed that he thought the two factors that contributed to the accident was that he felt the ABS system on his car did not engage causing an immediate skid on the pavement, and that he did not expect Ptl. Felder to jump on the brakes. Patrolman Dowden was then asked whom he felt to be at fault in the accident, which he indicated "...Of course I would. I ran into the back of him."

Patrolman Dowden has received previous discipline regarding the unsafe operation of a patrol vehicle. In April 2012, Ptl. Dowden received a 3-day suspension, which was subsequently reduced to a 2-day suspension.

Since Ptl. Dowden stated that the accident was his fault while being questioned in document T2, and this being the second incident involving Ptl. Dowden and the unsafe operation of a police vehicle, and the fact that substantial damage was caused to two vehicles, I hereby impose a 4-day suspension, the means and matter to which will be determined by Chief Lawson.


Michael F. Muscillo
Municipal Manager

2-7-13
Date

C: Chief Robert Lawson
Steven Secare
Ptl. Dennis Dowden
file



EXHIBIT

C

Township of Lakewood

Municipal Building/P.O. Box 540/Lakewood, New Jersey 08701

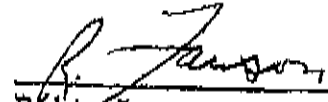
DEPARTMENT OF POLICE

(732)-363-0200

Elizabeth Barina
Lakewood Township Finance Dept.

As the result of an internal investigation, Ptl. Dennis Dowden will be suspended without pay for four (4) ten hour days. The suspension will be served starting March 1, 2013 through March 4, 2013.

Please adjust Ptl. Dowden's pay for that period.


Robert Lawson
Chief of Police
Lakewood Police Department

Received 2-22-13 RZ 3.5

Superior Court of New Jersey



CHAMBERS OF
JUDGE VINCENT J. GRASSO
ASSIGNMENT JUDGE
(732)-929-2176

OCEAN COUNTY COURT HOUSE
P.O. BOX 2191
TOMS RIVER, NJ 08754-2191

October 25, 2013

Stuart J. Alterman, Esq.
8 South Maple Avenue
Marlton, New Jersey 08053

Steven Secare, Esq.
Secare, Ryan & Hensel, P.C.
16 Madison Avenue
Suite 1A
Toms River; N. J. 08753

Re: Patrolman Dennis Dowden v.
Township of Lakewood, et als.
Docket No. OCN-L-593-13 PW

Dear Counsel:

Plaintiff, Dennis Dowden (Dowden), a patrolman in the Lakewood Township Police Department brings this action under N.J.S.A. 40A:14-150 against defendants Township of Lakewood (Township) and Lakewood Township Police Department (Police Department) to appeal the decision of a hearing officer. The hearing officer found that Dowden operated his police vehicle in an unsafe manner causing an accident with another police vehicle during the pursuit of an armed robbery suspect on September 28, 2012. Dowden also appeals the hearing officer's suspension of him for a period of four days without pay as a result of the accident.

The relevant statutes governing disciplinary proceedings for police officers in non-civil service municipalities, such as Lakewood, are N.J.S.A. 40A:14-147-151 and apply to the present matter. The statutory framework for the appeal reflects the legislative intent to provide police

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officers in non-civil service communities with an independent tribunal to review any disciplinary action by way of a *de novo* review. Matter of Bruni, 166 N.J.Super. 284 (App. Div. 1979)

In a disciplinary hearing, "it is necessary to establish the truth of the charges only by a preponderance of the evidence." Ruroede v. Hasbrouck Heights, 2013 N.J. LEXIS 598, 31 (2013) (citing In re Phillips, 117 N.J. 567, 575 (1990)), the court reviews the determinations of disciplinary hearings *de novo*. The legislative determination to provide for *de novo* review through the statute "provides [the Superior Court] with the opportunity to consider the matter 'anew, afresh [and] for a second time'" Id. (Phillips, *supra*, 117 N.J. at 578). In a *de novo* proceeding, a reviewing court does not use an 'abuse of discretion' standard, but makes its own findings of fact." Ibid.

On the trial date, plaintiff's counsel moved to supplement the record and offered the additional testimony of his client, Dennis Dowden, as well as the testimony of Patrolman Jeremy Felder (Felder) who was the police officer operating the other police vehicle involved in the accident. N.J.S.A. 40A:14-150 provides that "either party may supplement the record with additional testimony subject to the Rules of Evidence." Neither Dowden nor Felder testified below before the hearing officer. The officers were permitted by the court to supplement the record as follows.

Patrolman Jeremy Felder, a Lakewood Police Officer with eight (8) years experience testified that he was on duty and patrol on September 28, 2012 when he was dispatched at approximately 11:00 p.m. to a robbery in progress. He testified that he responded to a location near Atlas Welding with Dowden and learned that the person who had been the victim of an armed robbery was chasing the perpetrator. He left the location followed by Dowden who was operating another police vehicle. Felder activated his emergency lights and proceeded in his

vehicle to the area of Ridge Road and Nowlan Place. While driving, Felder searched for the suspects with his exterior mounted spotlight. Felder testified that he realized he had passed the street where he wanted to turn. As a result, he hit his brakes to turn around and as he came to a stop his vehicle was struck by the Dowden's police vehicle. Felder indicated that he did not look in the rear view mirror prior to hitting his brakes nor indicate on the radio that he was going to stop his vehicle. The road conditions were described as wet from rain. Felder indicated that the motor vehicle report prepared by Sergeant Butterworth was accurate where it stated that Felder "slowed to a stop when he noticed that he passed Nowlan Place."

Plaintiff, Dennis Dowden a Lakewood police officer for seven (7) years and eight (8) months, testified that he also responded to a dispatch of an armed robbery in an area by Atlas Welding when he arrived at that location he also learned that the victim was pursuing the armed robbery suspect. He described the conditions as cold and rainy as he activated his emergency lights, wig-wag lights, and siren. Dowden testified he was following Felder's vehicle in his police vehicle on East Seventh Street while using his spotlight to look for the suspects as well as for pedestrians. Dowden testified that the wig-wag lights on the Felder police vehicle caused a "muffled visual" of Felder's brake lights. Although he observed the Felder vehicle slow down, he was unable to see the brake lights and slid in the rain striking Felder's vehicle. During his testimony, he admitted that he was at fault which he had also acknowledged to Captain Daly at an earlier interview but felt the weather conditions were a factor. He felt that his ABS (braking system) did not activate and that his vehicle struck the Felder vehicle at approximately thirty-five (35) miles per hour. Dowden explained that the rain, weather, lights, wig-wags as well as his looking for pedestrians and listening to the radio were contributing factors to the accident.

At the hearing held before the municipal manager on January 24, 2013, Captain Paul Daly, a detective commander and unit head of the Office of Professional Standards, testified that he investigated the accident involving the Dowden and Felder vehicles. In conducting his investigation, Captain Daly reviewed a mobile video recording which was obtained from Felder's police vehicle. He stated Dowden's vehicle was not equipped with such a device on the evening of the accident. After reviewing the video, Captain Daly stated that he estimated the officers were travelling approximately sixty (60) miles per hour in rainy weather conditions on wet road surfaces. When asked how he determined that the officers were travelling at that rate of speed, Captain Daly indicated that it was based on his experience reviewing such records in the past but not on the basis of any scientific evidence or certification. He admitted that he could have obtained the actual speed of the officer's vehicles by reviewing the G.P.S. devices in their vehicles but that he did not do so. On *de novo* appeal, the court had the opportunity to view the dash cam video which demonstrates that the officers were travelling at a high rate of speed prior to the accident in rainy weather conditions. Further review of the video shows that the Felder police vehicle stopped abruptly and shifted into reverse at which time the Dowden vehicle struck the Felder vehicle from behind. The time between when the Felder vehicle stopped and the Dowden vehicle struck Felder was approximately twenty seconds.

The record establishes that following the accident, both officers gave a statement regarding the circumstances of the accident to Captain Daly. At the hearing below, Captain Daly related that Dowden's statement contained a claim that because of the weather conditions, the anti-lock brake system on his vehicle failed. According to Daly, no tests were conducted to confirm or disprove this assertion by Dowden. Dowden admitted in his statement that he considered himself at fault because he struck the Felder vehicle from behind. Nevertheless, he

maintains that the accident was unavoidable and that he thought Officer Felder was going to continue in a straight direction when he realized that Officer Felder hit the brakes.

Captain Daly testified before the hearing officer that in Felder's statement, he admitted that he missed his turn and stopped abruptly at which time Dowden struck his vehicle. Felder indicated in his statement that he was "spotlighting" with a hand-held spotlight in order to search for the victim and suspect of the robbery. Felder indicated that Dowden was approximately seventy-five (75) to one hundred feet (100) behind him prior to the accident.

The hearing officer inquired of Captain Daly regarding Dowden's claim that the brake system had failed. Captain Daly responded, "the only thing I found remarkable was that Patrolman Felder indicated that he did not brake that hard because he did not want to lose traction because of the weather conditions. And I felt that Officer Dowden should have been thinking the same way."

The matter of Dowden's conduct is governed by the Lakewood Police Department Manual which provides under Regulation 3:4.6 entitled:

"Police Vehicle, Operation of Emergency Vehicle. A police vehicle is an authorized emergency vehicle. The operator, when responding to an emergency or in the pursuit of actual or suspected violators of the law or fire alarm, may, while in motion display lighted red warning lamps and sound a siren as a warning to others, and:

- (a) Proceed past a red traffic light, signal, or stop sign, after bringing his vehicle to a full stop and then proceeding with all caution and due regard for the safety of person and property.
- (b) Exceed the prima facie speed limits.
- (c) The above exemptions will not protect the police operator from the consequences of any reckless or careless operation of a police emergency vehicle."

On appeal, Dowden argued that the circumstances attendant to his police vehicle striking that of Officer Felder were accidental and militate against any findings that Dowden operated his

police vehicle in a careless manner. The court was asked to consider the fact that Dowden was responding under emergent circumstances to an armed robbery in inclement weather conditions where the dispatch had advised that the victim was in pursuit of the perpetrator. Moreover, the situation was made more difficult by the activation of wig-wag lights impairing vision as well as Dowden's contention that his braking system did not operate properly. Therefore, Dowden submits that the mishap with the other police vehicle should be more properly viewed as accidental in nature. The court disagrees.

Regulation 3:4.6(c) "would not protect the police operator from the consequences of any reckless or careless operation of a police agency vehicle." The language under subsection 3:4.6(a) informs as to the standard to be applied which requires that the operator of a police emergency vehicle to proceed "with all caution and due regard for the safety of person and property." The evidence is undisputed that the Dowden vehicle followed the Felder vehicle under emergent circumstances with the Felder vehicle activating its emergency lights and proceeding at a high speed to the area where the alleged victim of an armed robbery was in pursuit of the perpetrator. The pursuit occurred in the late evening after 11:00 p.m. on road conditions which were described as wet from the rain. Dowden acknowledged that the Felder wig-wag lights interfered with his visual of the brake lights on the Felder police vehicle. As a result, Dowden admitted that he was unable to see Felder's brake lights and later acknowledged that he was at fault by striking the rear of the Felder vehicle.

Captain Daly who reviewed the video dash cam and whose testimony was undisputed, testified that he estimated the officers were travelling approximately sixty (60) miles per hour in rainy weather conditions on wet road surfaces. Moreover, there is no evidence in the record that the braking system of the Dowden vehicle did not operate properly. The court finds that there is

sufficient and competent evidence to establish that Dowden did not proceed with proper caution and due regard for the safety of persons and property given the evening hour, rainy weather conditions, and wet road surfaces. Dowden testified that the rain, weather, lights, wig-wags as well as his looking for pedestrians and listening to the radio were contributing factors. If anything, these conditions should have heightened Dowden's care and caution as he followed the Felder vehicle. Therefore, the court in reviewing the evidence *de novo* finds sufficient credible evidence in the record as a whole to find that Officer Dowden violated Regulation 3:4.6(2) by his operation of a police emergency vehicle in a careless manner.

In its determination, the court also had the opportunity to review the video from the dash cam of the police vehicle as well as the police report and photographs depicting the vehicle damage.

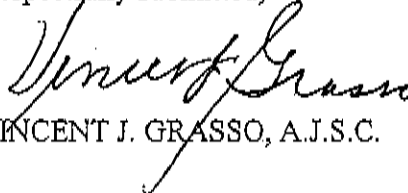
PENALTY PHASE

During summations, both counsel addressed the penalty imposed upon Officer Dowden by the hearing officer below. The Township indicated that Officer Dowden received a forty (40) hour suspension without pay. This represents a four (4) day suspension as each day is calculated at the rate of ten (10) hours. The Township also indicated that the discipline was issued as progressive discipline because Officer Dowden had previously received a two (2) day suspension for the same type of violation. Moreover, a four (4) day suspension is treated as a minor discipline rather than a major discipline which results with at least a six (6) day suspension. The hearing officer's decision dated February 7, 2013 indicated that Patrolman Dowden had received a previous discipline regarding the unsafe operation of a patrol vehicle in April, 2012, which resulted in a three (3) day suspension that was subsequently reduced to a two (2) day suspension. The hearing officer in the imposition of a four (4) day suspension considered the fact that it was

a second incident and the fact that substantial damage was caused to the two vehicles. Captain Paul Daly of the Office of Professional Standards of the Lakewood Police Department recommended a four (4) day suspension based on a previous discipline pertaining to an unsafe operation of a patrol car as well as the significant damage to both vehicles which resulted in removal of said vehicles from police service for a period of time as well as a financial loss to the Township.

On review, this court has considered the fact that this was a second accident by Officer Dowden within a year's time involving the unsafe operation of a police vehicle. The damage was substantial which required the vehicles to be out of public service for a period of time as well as a financial loss to the Township. The previous three (3) day suspension under the Township's aggressive discipline program had been reduced to a two (2) day suspension for the first accident. This court imposes a four (4) day suspension as warranted and reasonable under the Township's progressive discipline system. Mr. Secare is to prepare an order that comports with the within ruling.

Respectfully submitted,


VINCENT J. GRASSO, A.J.S.C.

VJG:dfm



**New Jersey Judiciary
Superior Court - Appellate Division
NOTICE OF APPEAL**

Type or clearly print all information. Attach additional sheets if necessary.	ATTORNEY / LAW FIRM / PRO SE LITIGANT			
TITLE IN FULL (AS CAPTIONED BELOW): PATROLMEN DENNIS DOWDEN, Plaintiff, v. TOWNSHIP OF LAKEWOOD, LAKEWOOD TOWNSHIP POLICE DEPARTMENT, its agents, servants, employees, and/or representatives, and JOHN OR JANE DOES 1-10, those being fictitious names of persons or entities whose identities are not yet known, who unlawfully disciplined the Plaintiff and/or . . . , Defendants.	NAME Alterman & Associates, LLC			
	STREET ADDRESS 8 South Maple Avenue			
	CITY Marlton	STATE NJ	ZIP 08053	PHONE NUMBER
	EMAIL ADDRESS kraatzs@alterman-law.com			

ON APPEAL FROM		
TRIAL COURT JUDGE Hon. Vincent J. Grasso, A.J.S.C.	TRIAL COURT OR STATE AGENCY Sup. Ct. of NJ, Law Division, Ocean County	TRIAL COURT OR AGENCY NUMBER OCN-L-593-13 PW

Notice is hereby given that Plaintiff Patrolman Dennis Dowden appeals to the Appellate Division from a Judgment or Order entered on 10/30/13 and 12/20/13 in the Civil Criminal or Family Part of the Superior Court or from a State Agency decision entered on _____.

If not appealing the entire judgment, order or agency decision, specify what parts or paragraphs are being appealed.

Have all issues, as to all parties in this action, before the trial court or agency been disposed of? (In consolidated actions, all issues as to all parties in all actions must have been disposed of.) Yes No

If not, has the order been properly certified as final pursuant to R. 4:42-2? Yes No

For criminal, quasi-criminal and juvenile actions only:

Give a concise statement of the offense and the judgment including date entered and any sentence or disposition imposed:

This appeal is from a conviction post judgment motion post-conviction relief.

If post-conviction relief, is it the 1st 2nd other _____
specify

Is defendant incarcerated? Yes No

Was bail granted or the sentence or disposition stayed? Yes No

If in custody, name the place of confinement:

Defendant was represented below by:

Public Defender self private counsel _____
specify

Notice of appeal and attached case information statement have been served where applicable on the following:

	Name	Date of Service
Trial Court Judge	Hon. Vincent J. Grasso, A.J.S.C.	December 30, 2013
Trial Court Division Manager	Jill Vito	December 30, 2013
Tax Court Administrator		
State Agency		
Attorney General or Attorney for other Governmental body pursuant to <u>R. 2:5-1(a), (e) or (h)</u>		
Other parties in this action:		

Name and Designation	Attorney Name, Address and Telephone No.	Date of Service
Township of Lakewood	Steven Secare, Esquire, Secare, Ryan & Hensel, P.C.	December 30, 2013
Lakewood Township Police Department	16 Madison Avenue - Suite 1A, Toms River, NJ 08753	December 30, 2013

Attached transcript request form has been served where applicable on the following:

	Name	Date of Service	Amount of Deposit
Trial Court Transcript Office			
Court Reporter (if applicable)			
Supervisor of Court Reporters	Susan Kelly (Acting)	12/30/13	500.00
Clerk of the Tax Court			
State Agency			

Exempt from submitting the transcript request form due to the following:

- No verbatim record.
- Transcript in possession of attorney or pro se litigant (four copies of the transcript must be submitted along with an electronic copy).
List the date(s) of the trial or hearing:
- Motion for abbreviation of transcript filed with the court or agency below. Attach copy.
- Motion for free transcript filed with the court below. Attach copy.

I certify that the foregoing statements are true to the best of my knowledge, information and belief. I also certify that, unless exempt, the filing fee required by N.J.S.A. 22A:2 has been paid.

12/30/13
DATE

Antonia...
SIGNATURE OF ATTORNEY OR PRO SE LITIGANT



**New Jersey Judiciary
Superior Court - Appellate Division
COURT TRANSCRIPT REQUEST**

Please type or clearly print all information.

Instructions:

1. Complete all information
2. File a separate request for each court reporter or court clerk who recorded a portion of the proceeding
3. Attach the Appellate Division or Supreme Court Clerk's copy to the Notice of Appeal (R. 2:5-1(f))
4. Attach transcript fee.

PLAINTIFF(S)

PATROLMAN DENNIS DOWDEN,

TRIAL COURT DOCKET NUMBER

OCN-L-593-13 P.W.

v.

TOWNSHIP OF LAKEWOOD, LAKEWOOD TOWNSHIP

POLICE DEPARTMENT, its agents, servants, employees, and/or

DEFENDANT(S) representatives, and JOHN AND JANE DOES 1-10, Defendants.

COUNTY / COURT

Sup. Ct. of NJ., Ocean County

REQUESTING PARTY

NAME

Kurt David Raatzs

EMAIL ADDRESS

kraatzs@alterman-law.com

PHONE NUMBER

(865) 334-5737

ADDRESS

Alterman & Associates, 8 South Maple Avenue

CITY

Marlton

STATE

NJ

ZIP

08053

TO

NAME / ADDRESS (COURT REPORTER or COURT CLERK (if sound recorded))

Susan Kelly, Acting Supervisor of Court Reporters

Superior Court of New Jersey, Ocean County

118 Washington Street

Toms River, NJ 08754

It is hereby requested that you prepare for use on (check one) appeal non-appeal* an original and 5 copies of the following:

DATE OF PROCEEDING

August 15, 2013

October 21, 2013

December 17, 2013

TYPE OF PROCEEDING (e.g., trial, sentencing, motion, etc.)

De novo hearing.

De novo hearing - summations

Hearing on Plaintiff's motion for reconsideration.

NAME OF JUDGE

Hon. Vincent J. Grasso, A.J.S.C

Hon. Vincent J. Grasso, A.J.S.C

Hon. Vincent J. Grasso, A.J.S.C

I agree to pay for the preparation and any copies ordered of the transcript(s) for the above date(s) pursuant to R. 2:5-3(d).


SIGNATURE OF REQUESTING PARTY

12/30/13
DATE

Transcript fees are set by New Jersey Statute 2B:7-4. An additional sum or reimbursement may be required prior to or at the completion of the transcript order.

DEPOSIT ATTACHED: \$ 500.00

* Only the Supervisor of Court Reporters should receive copies of non-appeal transcript requests.

- CC:
1. CLERK, Appellate Division, or CLERK, Supreme Court (see INSTRUCTIONS above)
 2. Supervisor of Court Reporters _____
 3. Trial Court Transcript Office _____
 4. Other attorneys / Pro Se parties _____



**New Jersey Judiciary
Superior Court - Appellate Division
CIVIL CASE INFORMATION STATEMENT**

Please type or clearly print all information.

TITLE IN FULL

TRIAL COURT OR AGENCY DOCKET NUMBER

Patrolman Dennis Dowden, Plaintiff/Appellant, v. Township of Lakewood, Lakewood Township Police Department, its agents, servants, employees, or representatives, and John or Jane Does 1-10, those being fictitious names of persons or entities whose identities are not yet known, who . . . , Defendants.

OCN-L-593-13

■ Attach additional sheets as necessary for any information below.

APPELLANT'S ATTORNEY EMAIL ADDRESS: kraatzs@alterman-law.com

PLAINTIFF DEFENDANT OTHER (SPECIFY)

NAME

Kurt David Raatzs, Esquire

CLIENT

Plaintiff/Appellant Patrolman Dennis Dowden

STREET ADDRESS

Alterman & Associates, LLC, 8 South Maple Avenue

CITY

Marlton

STATE

NJ

ZIP

08053

TELEPHONE NUMBER

(856) 334-5737

RESPONDENT'S ATTORNEY * EMAIL ADDRESS:

NAME

Steven Scarc, Esquire,

CLIENT

Defendants/Respondents Township of Lakewood

STREET ADDRESS

Scarc, Ryan & Hensel, P.C., 16 Madison Ave., Suite 1A

CITY

Toms River

STATE

NJ

ZIP

08753

TELEPHONE NUMBER

* Indicate which parties, if any, did not participate below or were no longer parties to the action at the time of entry of the judgment or decision being appealed.

GIVE DATE AND SUMMARY OF JUDGMENT, ORDER, OR DECISION BEING APPEALED AND ATTACH A COPY:

October 30, 2013 Order finding that Patrolman Dowden had violated Lakewood Township Police Department Regulation 3:4-6 and imposing four (4) day suspension.

December 20, 2013 Order denying Patrolman Dowden's motion for reconsideration.

Are there any claims against any party below, either in this or a consolidated action, which have not been disposed of, including counterclaims, cross-claims, third-party claims and applications for counsel fees? YES NO

If so, has the order been properly certified as final pursuant to R. 4:42-2? (If not, leave to appeal must be sought. R. 2:2-4.2:5-6) YES NO

(If the order has been certified, attach, together with a copy of the order, a copy of the complaint or any other relevant pleadings and a brief explanation as to why the order qualified for certification pursuant to R. 4:42-2.)

Is the validity of a statute, regulation, executive order, franchise or constitutional provision of this State being questioned? (R. 2:5-1(h)) YES NO

GIVE A BRIEF STATEMENT OF THE FACTS AND PROCEDURAL HISTORY:

Plaintiff Patrolman Dennis Dowden appeals from the trial court's (1) October 30, 2013 Order sustaining the charge of unsafe operation of a patrol car in violation of Lakewood Township Police Department's Regulation 3:4-6 and suspension of Patrolman Dowden for a period of four days, and (2) December 20, 2013 Order denying his motion for reconsideration.

TO THE EXTENT POSSIBLE, LIST THE PROPOSED ISSUES TO BE RAISED ON THE APPEAL AS THEY WILL BE DESCRIBED IN APPROPRIATE POINT HEADINGS PURSUANT TO R. 2:6-2(a)(5). (Appellant or cross-appellant only.):

- I. There Was Insufficient Record Evidence to Sustain the Charge Against Patrolman Dowden.
- II. The Suspension of Patrolman Dowden Was Improper Because the Conduct Giving Rise to the Charge Bears No Relation to Prior Discipline Received by Patrolman Dowden.
- III. The Suspension of Patrolman Dowden Was Improper Because it Was Restitutory in Nature.

IF YOU ARE APPEALING FROM A JUDGMENT ENTERED BY A TRIAL JUDGE SITTING WITHOUT A JURY OR FROM AN ORDER OF THE TRIAL COURT, COMPLETE THE FOLLOWING:

1. Did the trial judge issue oral findings or an opinion? If so, on what date? _____ YES NO
2. Did the trial judge issue written findings or an opinion? If so, on what date? 10/25/13 and 12/17/ YES NO
3. Will the trial judge be filing a statement or an opinion pursuant to R. 2:5-1(b)? YES NO

Caution: Before you indicate that there was neither findings nor an opinion, you should inquire of the trial judge to determine whether findings or an opinion was placed on the record out of counsel's presence or whether the judge will be filing a statement or opinion pursuant to R. 2:5-1(b).

DATE OF YOUR INQUIRY: _____

1. IS THERE ANY APPEAL NOW PENDING OR ABOUT TO BE BROUGHT BEFORE THIS COURT WHICH:

- (A) Arises from substantially the same case or controversy as this appeal? YES NO
- (B) Involves an issue that is substantially the same, similar or related to an issue in this appeal? YES NO

2. WAS THERE ANY PRIOR APPEAL INVOLVING THIS CASE OR CONTROVERSY? YES NO

IF THE ANSWER TO EITHER 1 OR 2 ABOVE IS YES, STATE:

Case Name:

Appellate Division Docket Number:

Civil appeals are screened for submission to the Civil Appeals Settlement Program (CASP) to determine their potential for settlement or, in the alternative, a simplification of the issues and any other matters that may aid in the disposition or handling of the appeal. Please consider these when responding to the following question. A negative response will not necessarily rule out the scheduling of a preargument conference.

State whether you think this case may benefit from a CASP conference. YES NO

Explain your answer:

Plaintiff always is prepared to discuss settlement. A mediation before a neutral with a background in police procedure and collective bargaining could bring this matter to a resolution.

Patricia Dennis Darden

Name of Appellant or Respondent

Kurt David Reuter

Name of Counsel of Record
(or your name if not represented by counsel)

12/30/13

Date

[Signature]

Signature of Counsel of Record
(or your signature if not represented by counsel)