

The Douglass Law Firm, L.L.C.

Michelle J. Douglass, Esq.

1601 Tilton Road, Suite 6

Northfield, NJ 08225

Phone 609 788-3595

Facsimile 609 788-3599

Email: mjd@douglasslawfirm.com

Attorneys for Thomas J. Hunt and Barbara Hunt

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

<p>THOMAS J. HUNT and BARBARA HUNT,</p> <p style="text-align: right;">Plaintiffs,</p> <p style="text-align: center;">vs.</p> <p>BOROUGH of WILDWOOD CREST, Mayor CARL GROON, Chief of Police THOMAS DEPAUL, Doctor GARY M. GLASS, individually and in their official capacities, JOINTLY , SEVERALLY and the ALTERNATIVE, and, INDEPENDENTLY,</p> <p style="text-align: right;">Defendants.</p>	<p>Civil Action No. 1:12-cv- 06887 (JEI)(AMD)</p> <p style="text-align: center;">AMENDED COMPLAINT & DEMAND FOR JURY TRIAL</p>
--	---

Thomas J. Hunt and Barbara, residing in Cape May County, do hereby state against the Defendants:

JURISDICTION

This Complaint presents Federal claims for which this Court has jurisdiction under 28 U.S.C. §1331 and 42 U.S.C. §1983, and State law claims for which this Court has supplemental jurisdiction under 28 U.S.C. §1367.

VENUE

Venue lies with the United States District Court, Camden County, New Jersey, for the Federal and State claims presented.

THE PARTIES

a. The Plaintiffs, Thomas and Barbara Hunt are individuals residing together as husband and wife in the Borough of Wildwood Crest.

b. The Defendant, Carl Groon, is the Mayor of the Borough of Wildwood Crest and at all times relevant, was the appropriate authority and agent on behalf of the Borough of Wildwood Crest. The Defendant, Carl Groon, is sued in his individual capacity and in his official capacity for all acts asserted in this Complaint.

c. The Defendant, Thomas DePaul, is the Chief of Police of the Borough of Wildwood Crest, and, as such, is a department head of the Borough of Wildwood Crest empowered to establish policy, rules, and regulations for the

Borough of Wildwood Crest. The Defendant, Thomas DePaul, is sued in his individual and in his official capacity for all acts asserted in this Complaint.

d. The Defendant, the Borough of Wildwood Crest is a municipal entity which has enacted by Ordinance a full time police department known as the Wildwood Crest Police Department responsible for law enforcement activities within the jurisdiction of the Borough of Wildwood Crest.

e. At all times relevant, the above named Defendants have acted under color of state law and in violation of state and federal laws.

f. The Defendant Gary M. Glass, is a medical doctor purporting to specialize in the practice of psychiatry and is at all times relevant bound by the canons of medical ethics and obligations.

g. The Borough of Wildwood Crest Police Department is governed pursuant to Civil Service Rules and Regulations, and the Plaintiff, Thomas Hunt, was protected by Civil Service Rules and Regulations at all times, and for all events, set forth in this Complaint.

h. The Plaintiff, Sergeant Thomas Hunt, is a dedicated, lifetime public servant who was initially appointed to the position of police officer pursuant to New Jersey Statutes [specifically NJSA 40A:14-147], and has for most of his adult life performed as a permanent member of the Borough of Wildwood Crest Police Department, having through industrious, conscientious; and meritorious service,

advanced within the Borough of Wildwood Crest, ranking No. 1 of the eligibility list for the rank of lieutenant, having been by-passed later, and after contract negotiations had concluded, for promotion to Officer Michael Hawthorne, who, at all times relevant, is a business partner with Chief DePaul in a side business unrelated to the Wildwood Crest Police Department.

i. The Plaintiff, in his position within the Borough of Wildwood Crest Police Department has civil service protection and may not be suspended, removed, fined, reduced in rank, or otherwise disciplined - directly or indirectly - by way of a transfer for discipline or punishment in retaliation for exercising his right to speech in support of union activity, or for any other cause, other than incapacity or disobedience to the rules and regulations of the Borough of Wildwood Crest Police Department, or the rules and regulations of the Borough of Wildwood Crest, or the laws of the State of New laws.

j. The defendant, the Borough of Wildwood Crest at all times relevant, had an unconstitutional policy when it failed to train its employees and agents, and policy makers because the failure to train amounts to deliberate indifference to an obvious need for such training, and the failure train has resulted in Defendants DePaul and Groon illegally implementing an abusive system of fitness for duty evaluations conducted for retaliatory and disciplinary reasons, as well as the selective enforcement of discipline imposed for retaliatory reasons. Additionally,

the unconstitutional policies were caused to exist when Defendants DePaul and Groon, as "final policymakers," engaged in violations of Plaintiff's First and Fourteenth Amendment rights as more fully described below.

STATEMENT OF FACTS

I.) Sergeant Thomas J. Hunt

a.) Constitutional Violations for Protected Union Activity and Reporting FSLA Violations

i.) Twenty One (21) Years Dedicated Employment as a Wildwood Crest Police Officer (1991- 2012).

- 1.) The Plaintiff, Thomas J. Hunt, ("Hunt"), is a forty-four (44) year old male. He is happily married to his wife, Barbara, of fifteen (15) years. They, together, have three (3) school age children dependant on Hunt for economic and emotional support.
- 2.) In 1991, Hunt was hired as a Class II officer; and, on or about January 30, 1994 he was appointed as a permanent full time police officer for the Defendant, Borough of Wildwood Crest ("Wildwood Crest").
- 3.) On or about April 5, 2012, Hunt had been employed for twenty one (21) years of dedicated police service, eighteen (18) of which were full time service, until his employment was terminated as a result of the illegal collective actions by the Defendants.

- 4.) Prior to Hunt engaging in constitutionally protected union activities, he had never been the subject of any major disciplinary action in his career.
- 5.) In 2009, however, Hunt became the lead contract negotiator for the members of PBA Local No. 59 (Wildwood Crest unit) for purposes of negotiating terms for the Collective Bargaining Agreement between PBA Local 59 and the Borough of Wildwood Crest.
- 6.) In or about November 2009, union contract negotiations began between the Borough of Wildwood Crest management and the PBA Local 59. The Wildwood Crest collective bargaining management team included Defendant, the Chief of Police Thomas DePaul (“Chief DePaul”), Borough Administrator, Kevin Yecco (“Yecco”), Borough Chief Financial Officer, Steve Ritchie (“Ritchie”) and the Borough’s Legal Counsel, Larry Pepper, Esq. (“Pepper”). The collective bargaining union team included Hunt, Corporal Richard D’Amico (“D’Amico”), Corporal Anton Smolka (“Smolka”), Corporal Mark Tomlin (“Tomlin”) and the PBA legal counsel, Charles Schlager, Esq. (“Schlager”), Captain (at the time, Lieutenant Mayer) David Mayer (“Mayer”), who regularly consulted with Defendant DePaul.
- 7.) Prior to November 2009, Hunt had enjoyed a career record completely devoid of any major disciplinary matters. Indeed, the only disciplinary action implemented against Hunt were a handful of warnings between 1991 and 1999

and a minor two (2) day suspension sixteen (16) years ago in 1996. For over ten (10) years, that is, from 1999 to 2009, the disciplinary record of Hunt is pristine. In 2009, after becoming the lead union contract negotiator, Defendants selectively imposed disciplinary action against Hunt.

- 8.) Over the course of Hunt's career, he has enjoyed many rewarding experiences, including his involvement and Certification as a Statewide School Resource Officer Trainer, I-Safe Instructor, as the School Resource Officer (NASRO), as a GREAT Instructor, a State Certified Methods Instructor and a DARE Officer and Instructor and participant in the Adopt-a-Cop Program.
- 9.) Hunt was promoted to the rank of Sergeant in or about 2005. Hunt has provided exemplary service in both his professional and civic affairs. He has served as the Statewide Instructor for the Certification of School Resource Officers. He formed the Crest Memorial School's critical Incident Response Team. He developed and implemented the School Safety Plan which included four (4) lockdown drills per year. He developed the Departmental SOP for Responding to Active Shooters. He conducted yearly in-service training for all teachers in the District. He was the Project Supervisor for the Safe Schools and Communities Initiative Grant from NJ Department of Law and Public Safety Division of Criminal Justice which was successfully renewed for three (3) years as a result of Hunt's performance. He was a member of the Cape May

County Fatal Accident Team. He was the recipient of the Chief's Commendation Award.

- 10.) In or about 2007, Hunt successfully scored No. 1 on the competitive examination for the rank of Lieutenant; (the list expired and Hunt was eliminated from the pool of candidates for the rank of lieutenant). Thereafter, DePaul promoted his business partner, Sergeant Michael Hawthorne, the only other candidate for the rank of lieutenant. Hunt has also attended numerous continuing educational courses and seminars over the years of his career as a police officer.
- 11.) Hunt is also actively involved in his community. He coaches sports, regularly interacts with youth organizations and serves as a role model and mentor and participates in all of his school age children's sport and recreational events and activities.
- 12.) Hunt, prior to his constitutionally protected union activity, was engaged for years as an Instructor at the Cape May County Police Academy where he has taught such subjects as motor vehicle law, juvenile law, Meghan's law, and issues related to the Alcoholic Beverage Commission.
- 13.) Hunt has received numerous commendations over his career from members of the public, including commendations for his work and commitment to the local schools and community.

- 14.) Significantly, Hunt has absolutely no history of mental impairment, personality disorder, emotional or mental impediment of any kind. Indeed, his health has always been optimal. Hunt enjoyed a healthy, active, productive and rewarding personal and professional life until it was wrongfully, maliciously and illegally taken from him by Defendants.
- 15.) Moreover, Hunt's mental and/or personality status was without blemish until the Defendants falsely and maliciously claimed he was unfit for duty as a result of a "personality" disorder. The false light and negative stigma created by the Defendants labeling and/or characterizing Hunt in this manner caused irreparable damage to his reputation, emotional unrest, fear for his future, disrupted his stable family environment, disrupted his equilibrium and physical well being and has forever and irreparably damaged his career in law enforcement.
- 16.) Had it not been for the Defendants' combined unlawful, wrongful, malicious and reckless conduct, Hunt would have, and should have continued to engage in a rewarding career as a police officer with the ability to earn a living, provide for his family and earn the requisite twenty five (25) years of vested service credit with the NJ PFRS.
- 17.) Instead, due to the Defendants' wrongful acts, which will be described in more detail below, Hunt was terminated from employment as a police officer with

the Borough of Wildwood Crest on April 5, 2012, due to “mental” unfitness to perform duties, thereby effectively preventing him from continued employment in law enforcement and from ever vesting his pension service credit with the NJ PFRS. The damage caused by Defendants is significant and beyond repair, and worse, it was caused and carried out in such a manner, that had the Defendants sincerely believed Hunt to be mentally impaired, their concerted conduct was inexcusably reprehensible in that the Defendants exacerbated the mental status of Hunt by antagonizing him, dredging up old and stale events to manufacture and selectively enforce continued retaliatory discipline, treated Hunt as an outcast, belittled him, defamed his good name and reputation in the community with the intent of permanently ruining the man and ending his long term career and ambition to remain a police officer.

ii.) Union Contract Negotiations Begin

- 18.) In or about November 2009, Hunt, as the lead union contract negotiator, began to identify issues and concerns to be addressed at the bargaining table for discussion with the management team.
- 19.) At all times relevant, Sergeant Michael Hawthorne (“Hawthorne”) was a business partner with Chief DePaul. The two were co-owners and operators of a local Carvel Ice Cream Store, for-profit franchise. Hawthorne and Chief DePaul are good friends.

- 20.) At all times relevant, Mayer is the next in line for the position of Chief of Police and is the right hand man to Chief DePaul. Mayer and DePaul are good friends.
- 21.) Defendant Chief DePaul (“DePaul”) is, at all times relevant, the policy maker and decision maker for all things relevant to the affairs and operations of the police department of the Defendant the Borough of Wildwood Crest. DePaul is responsible for his and all acts of his subordinates.
- 22.) Defendant Carl Groon (“Groon”) is, at all times relevant, the mayor of the Borough of Wildwood Crest elected by the populace to serve the citizens of the Borough of Wildwood Crest. Groon is, at all times relevant, the policy maker and decision maker for all operations of the Borough of Wildwood Crest, including the police and is charged with knowledge of and responsibility for the lawful operation and affairs of the police department. Groon is responsible for all acts of his and/or the Borough of Wildwood Crest’s agents, employees, supervisors and department heads. Groon signed the bogus disciplinary actions against Hunt and/or permitted and/or condoned and/or ratified the unlawful actions of all Defendants against Hunt.
- 23.) Defendant the Borough of Wildwood Crest is a legally recognized municipal entity operating under the laws of the State of New Jersey and is directly and vicariously liable and/or responsible for all acts of its employees, agents,

supervisors, department heads and independent contractors jointly, severally and independently. The Borough of Wildwood Crest is a civil service community.

iii.) The December 7, 2009 Letter Faxed to the PBA Rep from the Union Attorney and Hawthorne's Unethical and Dishonest Conduct in Intercepting and Disclosing it to Borough Management

- 24.) In or about December 7, 2009, PBA Local 59 attorney, Chuck Schlager prepared a letter addressed to Mr. Richard D'Amico, Jr., Unit Representative. The letter set forth confidential strategy regarding the union's responses to the Borough's contract proposals as well as insight by Schlager regarding the proposed contract by the union. The December 7, 2009 letter was intended to provide legal guidance to D'Amico and the union contract negotiation committee for the next scheduled contract negotiation session which was scheduled for December 18, 2009.
- 25.) On or about December 7, 2009, Hawthorne (who was considered to be aligned with management and Chief DePaul as opposed to the union members) intercepted the December 7, 2009 confidential letter from Schlager. He unethically and inappropriately placed the letter on the desk of Kevin Yecco, the Borough Administrator (internal video surveillance later confirms Hawthorne in possession of the December 7, 2009 letter and walking with it to the second floor police administration office).

- 26.) To the credit of Yecco, when he discovered the letter on his desk, he realized that he was not the intended recipient, and notified D'Amico that he had the letter and thereafter provided the letter to D'Amico. D'Amico advised Hunt and Tomlin that the letter had been given to Yecco.
- 27.) Shortly thereafter, union negotiator, Corporal Tomlin went to the home of Hunt to discuss whether Hawthorne had taken the confidential December 7, 2009 union letter to management and thereby breached the trust and confidentiality of the union membership. Hunt telephoned Hawthorne from his home to ask Hawthorne if he had permitted any unauthorized persons to view the letter. Hawthorne became irate and yelled, "How dare you accuse me of something like that!" Hunt attempted to explain that he was not accusing, rather he wanted to determine exactly the number of unauthorized people Hawthorne turned the faxed letter over to. Hawthorne used the expletive "fuck" several times while on the phone with Hunt. Hunt asked Hawthorne to stop acting like an ass---- before Hawthorne hung up the phone on Hunt.
- 28.) Hawthorne, after the exchange described above, went to Tomlin, a subordinate officer, while at the Police Department and disparaged Hunt by stating that Hunt had a "short man's disease" and provided further degrading comments such as "I wonder what color panties" [Hunt] had on when he made the call to Hawthorne, and wondered whether Hunt "had his skirt on today?"

- 29.) The unethical and inappropriate conduct of Hawthorne in providing a legal document (not intended for his eyes nor, for certain, the eyes of the Borough's management team), directly to the management team, including Defendant DePaul and Mayer, was never sanctioned nor the subject of any investigation. Borough Defendants therefore, condoned and ratified the actions of Hawthorne failing to honor the code and rules requiring integrity in all police affairs, honesty, ethics and fair dealing. It further establishes that the Defendants engage in illegal selective enforcement of the rules, regulations and discipline.
- 30.) Hunt had gone to Dispatch and pulled the video from December 7, 2009 which showed Hawthorne with the letter in hand. Hawthorne lied to Hunt when he denied giving the letter to management. In order to play the video, Dispatcher DiLossi was requested to assist in the play back of the video.
- 31.) Hawthorne later admitted that he did get the letter. Despite Defendants knowledge of Hawthorne's unethical conduct, Defendants did not commission an internal affairs investigation, and, needless to say, Hawthorne was not disciplined for dishonesty in violation of Police Department Rules and Regulations.

*iv.) Hunt Discloses FSLA-Overtime Violations at December 18, 2009
Collective Bargaining Session*

- 32.) On or about December 18, 2009, Hunt attended a contract negotiation meeting at Borough Hall with Borough management. In attendance at the meeting were:

Schlager, Tomlin, Smolka, D'Amico and Hunt for the union; and, Pepper, Yecco and Ritchie for the Borough. During this meeting, Hunt disclosed that Chief DePaul maintains two (2) separate books of records to document time worked by police officers. One set of books maintained actual hours worked and compensated by the Borough to the police officers. The other set of books, however, recorded the time that officers were required to work which actually constituted over time hours. This set of books was used to keep track of the hours off the record since the officers were not compensated for over time in accordance with the mandates of the FLSA. Instead, the Chief, to stay within budget, but nonetheless required overtime details, did not compensate over time hours at the required 1.5% rate, nor did he compensate the officers at all in money, rather he banked "time owed" hours to the respective officers who worked overtime allowing them to later take time off at straight pay commensurate with the number of overtime hours worked. Hunt argued that this practice was in violation of Federal laws. Yecco and Ritchie indicated that they had no knowledge of this practice implemented by Chief DePaul.

v.) After Disclosure of FLSA Violations, and at Lunch Break During December 18, 2009 Collective Bargaining Meeting, Defendants DePaul and Mayer Advise Hunt That He is Under IA Investigation for Dredged Up Event Five (5) Months Prior.

- 33.) During the lunch break to the December 18, 2009 collective bargaining unit meeting with Borough management, Hunt was summoned into the Defendant, Chief DePaul's office in the presence of Mayer.
- 34.) Defendants DePaul and Mayer, obviously, after having been informed by Yecco, Ritchie and/or Pepper that Hunt had raised the overtime issues and FSLA violations, proceeded to inform Hunt that he was the subject of an internal affairs investigation for something that happened five (5) months prior.
- 35.) Defendants, for the very first time, on December 18, 2009, had advised Hunt that he was being investigated for violation of rules and or regulations with respect to his involvement in an arrest on or about July 19, 2009. It was not as if the Defendants first learned of the purported rule violations regarding the arrest for the first time on December 19, 2009, coincidentally, within an hour of being informed of their violations of the FSLA. Defendants were aware at the time of the July 2009 arrest of all facts and details. Indeed, Hunt was not even the arresting officer. Officer Flynn was the arresting officer. There were three officers involved in the motor vehicle stop which resulted in an arrest for illegal possession of a small amount of marijuana. A new legal decision had been recently issued which required an officer to obtain a warrant to search a motor vehicle following a stop even when the aroma of marijuana (eliminated the plain view exception in motor vehicle stops) was apparent in the absence of

exigent circumstances. Officer Flynn made the arrest without obtaining a warrant and the municipal prosecutor dismissed the summons).

vi.) Defendants Retaliate by Selectively Enforcing a 4 Day Suspension for Purported Rule Violation Dredged Up Five Months Before Hunt's Disclosure of FSLA Violations.

36.) Hunt received a four (4) day suspension for not activating a video recorder to capture the arrest. The arresting officer, Flynn, did not obtain a warrant to search a motor vehicle he legally stopped for arresting the occupant of the car for illegal possession of a small amount of marijuana. The municipal court prosecutor decided to not prosecute the charges. Apparently, the law had recently changed requiring the arresting officer to obtain a warrant for all motor vehicle searches in the absence of exigent circumstances even when the illegal drug was in "plain view." Hunt was singled out for not advising Flynn of the proper arrest procedures in light of the recent change in the law. Indeed, Chief DePaul, who is the chief law enforcement officer within the Wildwood Crest Police Department who is charged with the responsibility of briefing and advising all officers of developments in the criminal justice laws, never advised the Department of the recent change in the law nor was there a briefing conference or any other form of communication by, or on behalf of the Police Department, to advise the police officers, including Hunt, of the recent change to the law.

vi.) Union Grievances for Unfair Labor Practices.

37.) In or about October 2009-January 2010, on behalf of the union members, Hunt actively participated in a set of union grievances filed by PBA Representative, D'Amico. The grievances sought to address the following issues: 1. Sergeants being denied the opportunity for overtime. (Contrary to the CBA, overtime was not being equitably distributed); 2. The Chief changed the shifts from 12 hour to 8 hour shifts. (The general consensus was that the officers liked the 12 hour/3 day shifts better than 8 hour/5 day shifts. The Chief advised the officers that due to the actions and statements of the members of the union contract committee that he was required to implement the 8 hour shifts, in an attempt to shift responsibility for an unpopular operating procedure onto Hunt, D'Amico, Smolka and Tomlin; this action also became the subject of a formal unfair labor charge); and, 3. Improper compensation for police academy instruction.

vii.) January 29, 2010 Threat by Hawthorne to Hunt: "Last Man Standing Buddy;" Hunt's Report to Capt. Bradley of Threat and Same Day Retaliatory Removal of Hunt from School Resource Duties.

38.) On or about January 29, 2010, Hunt was in the process of checking roll call in the squad room, while working dayshift, when Hawthorne entered the room. Hawthorne walked over to the sign in sheet where Hunt was sitting and said to Hunt, "It's a shame that we have to hate each other." Hunt replied, "It's a shame some people have to think that way." Hawthorne then threatened Hunt

by stating, “Last man standing buddy.” Feeling threatened by Hawthorne’s comments, Hunt prepared a memorandum documenting the conversation and submitted it to Captain Bradley (copy to Yecco).

39.) The Borough Defendants determined that Hunt would not be permitted to return to his assignment to the School Resource position. Apparently, a memo dated January 23, 2010, which contains the name of Captain Bradley as the author, was forwarded to Chief DePaul, and requests Chief DePaul to remove Hunt from the School Resource duties purportedly because of “recent suspension” regarding the “Flynn matter.” In *July 2009*, some six (6) months prior, the “Flynn incident” took place in which an internal affairs investigation notice was given to Hunt in *December 2009*, but for which no internal affairs investigation had even commenced as of *January 19, 2010*. (Hunt received notice of an internal affairs investigation on December 18, 2009, was interviewed on January 19, 2010, issued a PNDA on February 14, 2011 and a FNDA on April 1, 2010). The so-called July 2009 “Flynn incident” involved a charge against Hunt for purported failure to supervise the arresting officer (Officer Flynn). It was not until April 2010 that the Borough Defendants issued a four (4) day suspension against Hunt. Although two (2) other officers, including Flynn were involved in the arrest, no one other than Hunt was singled out for discipline. It is uncertain how Captain Bradley could have

known, in January 2010, that Hunt had “recently received a suspension” regarding the July 2009 “Flynn incident” when Hunt had not been disciplined until *April 2010*. Clearly, the January 23, 2010 Memo did not contain a typographical error involving the year, that is, the memo was not prepared by Captain Bradley in January *2011*, since Captain Bradley had opted to retire in November 2010 following his arrest for DUI in October 2010. It is widely known in the Department that DePaul and Bradley are very good friends. Hunt did not learn of the Memo from Bradley until the fall 2010.

- 40.) The Borough Defendants never advised Hunt that he had been removed from the School Resource duties. Despite having already imposed a retaliatory disciplinary penalty for the “Flynn incident, however, the Borough Defendants also decided to implement an additional disciplinary penalty in removing Hunt from the School Resource Duty ostensibly for his involvement in the July 2009 arrest. Hunt did not learn of his removal from the School Resource duty until November 2010. Nonetheless, the added disciplinary action was taken by Defendants without notice to Hunt, and without a hearing in violation of due process statutes requiring notice and hearing when such disciplinary penalties are taken against an officer.
- 41.) Moreover, the above memorandum by Captain Bradley establishes that DePaul published and broadcast to all members of the Police Department false

statements about Hunt and, worse, the fact that disciplinary action had been taken against Hunt, in violation of confidentiality provisions with respect to disciplinary actions, with the motive and intent to poison the police force against Hunt.

- 42.) In or about November 2010, Defendant DePaul improperly and illegally permitted the punitive action against Hunt and removed him from his School Resource duties knowing that Hunt valued this duty and indeed, had implemented the program. DePaul intended to set about on a course to crush Hunt by selective enforcement of discipline, defamation of his reputation and intimidation in retaliation for Hunt's constitutionally protected union activities and disclosures of FSLA violations.
- 43.) The Borough Defendants, all of whom were aware that Defendant Hawthorne bore his own grudge against Hunt, encouraged implicitly and explicitly, Hawthorne to monitor Hunt, report all of Hunt's activities and to retaliate against Hunt.
- 44.) At all times relevant, Hawthorne was in charge of the Detective Bureau.
- 45.) In or about 2009-early 2010, the union contract negotiating committee was attempting to negotiate for the over time payment to officers assigned to the Cape May Police Academy while on off-duty hours.

- 46.) Hunt, believing that Detective Officer Edward Gorski (“Gorski”) to be a personal friend, while off duty, asked Gorski to join the Petition initiated at the suggestion of PBA attorney, Chuck Schlager, for the officers who had been voluntarily assigned as Instructors, to decline the assignments in Petition for the union’s claim that the assignments should be associated with overtime pay when the assignments occurred after and/or over and above the officer’s regularly assigned shift. Hunt attempted to persuade Gorski to sign the Petition reasoning that in order for the detectives to monetarily benefit from contract negotiations, they too should cooperate with the union Petition and grievance. Gorski refused to sign the Petition. Hunt was not pleased but he chalked Gorski off as not being on board with the Petition.
- 47.) Gorski and Hawthorne discussed the Petition while in the Detective Bureau. Gorski and Hawthorne, apparently concerned that the union contract committee would not negotiate salary and benefits to their liking, concocted a story that Hunt had intimidated Gorski into an attempt to sign the Petition. Hawthorne filed an official report even though he had no first hand knowledge of the telephone conversation between Hunt and Gorski while off duty and in the privacy of their respective homes.
- 48.) Hunt had telephoned Gorski again, while both were off duty, to ask his friend why he betrayed their friendship by reporting his off duty private conversation

about the Petition to Hawthorne, who in turn reported it to Chief DePaul. Gorski claimed that Hawthorne requested that Gorski write a report and submit it to Hawthorne for Hawthorne's "eyes only" and that he did not know the report would come before the Chief of Police. Angrily, Hunt told Gorski he was a "pu—y" (a coward) and for him to forever lose Hunt's cell phone number as their friendship was over. Gorski reported this too to Hawthorne!

49.) On January 30, 2010, Hunt was ordered to report to the office of Chief DePaul where he was met by the Chief and Mayer. Hunt was not provided with an opportunity to have a PBA representative present. Hunt was directed to sit at a table and answer questions that were to be recorded. Chief DePaul advised Hunt that he had received the report from Hunt about Hawthorne. Chief DePaul threatened that if Hunt attempted to move forward with his complaints against Hawthorne, that he would order a formal internal affairs investigation against Hunt regarding Hawthorne and Gorski's reports. DePaul stated that if Hunt pursued anything he "would have no choice but to go forward with the other complaints." Hunt responded that those "reports" were viewed by him as suspect since the events allegedly complained about occurred more than four (4) weeks prior. Chief DePaul did not show Hunt any report or written complaint filed by either Hawthorne or Gorski.

- 50.) The above meeting was intended to intimidate and single out Hunt. Hunt, who had initiated a formal complaint through the proper channels, was treated as the target of an investigation and interrogated rather than treated as the complainant in accordance with the New Jersey Attorney General Guidelines governing internal investigations.
- 51.) On or about February 2, 2010, Hunt met with Borough Administrator, Kevin Yecco at a pre-arranged meeting at the C-View Inn to discuss the situation with Chief DePaul and the harassment he had been experiencing in the Police Department. Yecco informed Hunt that he had notified the Chief about the pre-arranged meeting. During the meeting, the following was discussed: 1.) Hunt told Yecco that he felt intimidated by Chief DePaul because he had been ordered into the Chief's Office with Mayer and the conversation was audio-taped outside the presence of any witness for Hunt; and, because the Chief threatened to discipline Hunt for reporting Hawthorne's threats and Hawthorne's unethical, dishonest disclosures of union material because Hawthorne and Gorski supposedly made a complaint about Hunt. 2.) Hunt reported that Chief DePaul's hostility towards Hunt was motivated by Hunt having disclosed the FSLA violations and because of his Complaint against Hawthorne, his business partner.

52.) On or about February 4, 2010, Hunt met with Hawthorne and Gorski in the Detective Office as previously directed by Chief DePaul. The meeting was a further attempt to belittle Hunt by subjecting him to the animosity of Hawthorne and Gorski together in their office. The meeting started by Hawthorne asking Hunt if he was recording the conversation. Hunt replied that he was not and Hawthorne immediately threatened Hunt by stating that he had a “nice family and would hate to see them leave town.” To which Hunt responded that he wasn’t going anywhere. Hawthorne sarcastically replied “good.”

viii.) May 2010 Hunt Reports Violations of Law to CMCPD; June 2010 Selective Enforcement of Discipline Against Hunt; July 2010 Department Meeting Chief Broadcasts to Members he Knows Who Filed the Complaint with the CMCPD; and, Defendants’ Continued Harassment and Retaliation of Hunt.

53.) In or about May 2010, Hunt sent to the Cape May Prosecutor’s Office a complaint and materials to review in connection with the falsification of an accident report by Hawthorne for the son of the Borough’s Solicitor.

54.) In or about May 3, 2010, at a Staff Meeting, Chief DePaul stated to the entire membership that:

The Attorney General and the Prosecutor's Office received a complaint letter from someone inside our department alleging numerous "wrong-doings". Both agencies investigated and determined all complaints were untrue.

Chief DePaul also said that he "welcomed" these type of complaints and further stated, "I take it as a challenge". Finally, he said that "if anyone does not like it here they can quit."

55.) On or about May 12, 2010, Hunt was advised that he would have to work alone without internal back up because the PBA representative was going to attend a Local PBA meeting. Defendants, however, should have scheduled another officer to work in D'Amico's absence. On this date, Hunt handled a domestic violence disturbance alone, and ultimately, a police officer from the neighboring town, the City of Wildwood, responded as a back up (case #10-8618). The response time was slow since the call location was at the South end of town. Although the matter was handled without incident, Hunt found it very disturbing because in the seventeen years as a full time police officer, he has never been purposefully left to work alone on the streets without internal back up coverage.

56.) On or about May 19, 2010, the Borough Defendants changed the Firearms Policy requiring for the first time that an officer suspended for a disciplinary matter must turn over their police issued Firearm. The change in the Firearms policy came right after Hunt had been charged with a suspension and right before he was to serve it. Defendants suspended Hunt for four (4) days beginning June 2, 2010. Defendants required Hunt to turn over his service revolver to Hawthorne. This was the first time a police officer ever had to surrender his service weapon to an officer of the same rank and not a Superior officer. Defendants intentionally orchestrated the gun hand over so that Hunt was required to turn in the weapon to Hawthorne. Hawthorne required Hunt to turn over his service revolver and police badge in front of Detective Gorski. The change in the Firearms Policy and the requirement that Hunt turn over his service weapon and police badge was intended to demoralize, retaliate against and belittle Hunt.

57.) In or about May 2010, Defendant Chief DePaul orchestrated the removal of D'Amico as the PBA union leader for the police department and was able to install Officer Becker as the PBA president so that Chief DePaul could pass and implement his terms to the union contract.

- 58.) On June 7, 2010, as part of a continued pattern of harassment, Hunt was written up again for failure to supervise subordinates for the period of January through April 2010. The letter of reprimand was unwarranted and was simply placed in Hunt's bin for anyone to see and was accompanied by no explanation, offer of counseling or offer for discussion.
- 59.) On July 23, 2010, at a Departmental meeting, Chief DePaul, obviously annoyed at the fact that Hunt had filed a formal complaint with the Cape May County Prosecutor's Office regarding Hawthorne, made an announcement before the entire department and said, while looking at Hunt, that he knew who filed the Complaint, and that it had been dismissed because it was "false."
- 60.) At the July 23, 2010 Departmental meeting, Chief DePaul explained that while the Complaint to the Prosecutor's office was anonymous, he had determined who was responsible for sending it by researching the Department's archives. DePaul stated that the Cape May County Prosecutor's office found the complaint to be without merit and actually "laughed" at the allegations. DePaul looked at Hunt the entire time he was addressing the audience which caused several officers following the meeting to ask Hunt if he was the person who filed the complaint. DePaul also inappropriately stated at the meeting that it was because of the actions of the union representatives (Hunt and D'Amico) that the officers were now on

eight (8) hour shifts and not twelve (12) hour shifts. Hunt commented at the meeting that it was inappropriate for the Chief to have made such a comment because it undermined the integrity of the contract negotiations. Additionally, the comments were intended to cause discord between Hunt, D'Amico and the members of the Department. It was common knowledge that the members of the Department were in favor of the twelve hour shifts.

- 61.) On or about September 4 through September 6, 2010, the Borough Defendants denied Hunt's previously submitted time off requests to use accrued time to celebrate an anniversary with his wife. Hunt attempted to resolve the issue by securing adequate coverage but was still denied his request. Ultimately, Hunt was required to seek PBA union intervention, and the time off was granted.
- 62.) On or about September 8, 2010, Defendants continued to ignore Hunt's requests to be approved to teach his regularly scheduled classes for recruits at the Cape May Police Academy. The Cape May Police Academy had requested Hunt to return to teach. Hunt had been teaching the classes for the last five (5) years and had received compliments from the Police Academy Director and staff.
- 63.) On or about November 7, 2010, Hunt notified the Borough Defendants that he had injured his right hand while off duty.

- 64.) On November 10, 2010 Hunt sent a letter to Chief DePaul requesting a reasonable accommodation for short term modified duty due to the hand injury.
- 65.) On or about November 11, 2010, Hunt received a letter from Mayer that his request for modified duty was denied.
- 66.) Defendants refused to participate in the interactive process as required under the laws of the State when an employee makes a request for a reasonable accommodation for an actual or perceived temporary disability. Therefore, Hunt brought to the attention of Mayer that there was an opening and available position that he could fill as a dispatcher on a temporary basis. Hunt inquired why his request was denied when past practice had established a regular and consistent practice of accommodating officers for short term disability needs.
- 67.) On or about November 18, 2010, Hunt received an email from Hawthorne indicating that Hunt could perform dispatch duties on November 22 and November 23, 2010. However, by this time, Hunt had received notice that he was scheduled for a CAT scan of his hand and requested Chief DePaul to be relieved of work until after the CAT scan had been completed. Initially, the Chief responded that he understood and instructed Hunt to contact him following receipt of the CAT scan results. Mayer, however, delivered the

later message from the Chief that he had changed his mind and that Hunt's request had been denied and Hunt was ordered to work. Mayer indicated that the Chief had consulted with Business Administrator Yecco and that Hunt's request was denied. Hunt therefore placed a call to Yecco to ask about modified duty and why it was being applied differently to him as compared to others as was past practice. Yecco explained that he had not stated to Chief DePaul that he had said that Hunt should be ordered back to work. Hunt advised Yecco that he believed that Chief DePaul was denying him a reasonable accommodation because of the recent incidents involving the union activities and Hawthorne.

- 68.) On or about November 19, 2010, Mayer informed Hunt that he would not be permitted to teach as an Instructor at the Cape May Police Academy. Defendants offered no explanation for his reason to deny Hunt's regular Police Academy Instructor requests. The only actual reason was in retaliation for Hunt's union activities.
- 69.) On or about December 4, 2010, Hunt withdrew his requests to work as a dispatcher as a reasonable accommodation for his hand injury so that he would not be required to work as a dispatcher until after he had completed treatment.

70.) On or about December 5, 2010, Defendant DePaul denied Hunt's request to withdraw his request to work dispatch as a reasonable accommodation and instead advised that he would utilize his accrued sick leave instead. That is, Hunt was ordered to work. On or about December 7, 2010 Mayer issued an email to Hunt tersely stating:

As per the doctors note certifying that you are able to perform modified duty, which the department has accommodated you with, you are assigned as previously advised. This matter is closed for discussion.

71.) On or about December 8, 2010, Hunt attended the funeral services for retired and deceased Police Officer Robert Stevenson. Hunt attended the services in full police attire, including his service weapon. The newly enacted Firearms policy did not prevent Hunt from attending the funeral service in full police attire with service gun. Hunt was able to use his injured hand and was not medically restricted from carrying or using it. In fact, Mayer noted that Hunt's doctor permitted Hunt to perform light duty. Defendants made no attempt to determine that status of Hunt's hand as of December 8, 2012. Indeed, had the Borough Defendants truly believed that Hunt was not able, or should not possess a firearm, it should have specifically stated so. Previously did not hesitate to remove from Hunt his service gun in July 2010 when he had been improperly suspended for four (4) days in accord with the new Firearms Policy, which was evidently enacted as a further retaliatory measure against Hunt. Indeed, the policy had never before been enforced. In

November 2010, Defendants did not remove Hunt's service weapon nor did they indicate that he was to turn it in to the Police Department; nor did the Defendants direct that he not carry his weapon. Moreover, the new Firearms policy is not in keeping with the New Jersey Attorney General Guidelines Firearm Directive, (nor is it in keeping with any of the Firearms Policies in effect for any of the Southern New Jersey Police Departments), and, worse, the Borough's new Firearms policy, drafted by DePaul so that he could impose it against Hunt, is ambiguous, poorly drafted and unclear in its terminology

72.) On or about December 12, 2010, Hunt was ordered to write a report about his attendance at the funeral of Officer Stevenson and about his conversation with Yecco concerning the reasonable accommodation as described above. This order was illegal and in direct violation of the New Jersey Attorney General Guidelines because it was subsequently part of an Internal Affairs Investigation against Hunt, and Hunt had not been advised of the Internal Affairs Investigation until *after* he was ordered, and in fact, did write the report. Hunt was not advised of his right to seek counsel, was not advised of his *Weingarten* rights, and was not advised of his *Garrity* warning rights in advance.

73.) On or about Christmas Eve, December 24, 2010, in celebration of the holiday season, Defendants rejoiced by giving Hunt an Internal Affairs Investigation Notice that he was under departmental investigation for wrongdoing in attending a funeral of a fellow officer and for attempting to engage in the interactive process under the New Jersey disability law and the Borough's policies with Borough Administrator Kevin Yecco about the reasonable accommodation process. Indeed, the IA complaint notification form identifies: "violations of policies and/or procedures pertaining to *fitness for duty*, which occurred on or about December 12, 2010." It is clear that Defendants intended to punish Hunt for exercising his lawful rights under the disability provisions of the NJLAD; *and*, they were scheming to send Hunt at this time for a "fitness for duty examination."

74.) The Borough Defendants disingenuously claimed that Hunt should not have attended the funeral with his service weapon because of he was "medically unfit." Yet, Defendants took no affirmative steps to remove the service weapon despite their full knowledge that Hunt had a hand injury. Indeed, despite the hand injury, Defendants ordered Hunt to work. Defendants knew too, or should have known, that Hunt was *not* medically restricted from using the service weapon.

75.) The Borough Defendants also disingenuously claimed and charged Hunt for violating the chain of command by discussing a reasonable accommodation and sick leave concerns with the Borough's Administrator, who, in essence, is the Human Resource Director for the Borough. What better person to consult when faced with a question regarding reasonable accommodation under the disability laws? Clearly, it was not Chief DePaul. Moreover, the policy of the Borough and the law do not require a police officer to follow a "chain of command" when inquiring about reasonable accommodations under the disability laws. While requests for light duty are reserved for final decision to the Chief of Police, discussions regarding light duty, reasonable accommodation, and sick leave policies are expressly provided for by Borough policy to be directed to Yecco, the Borough Administrator.

76.) On or about January 3, 2011, Hunt was directed by Defendant Hawthorne to go to the Detective's Office. Hunt was met by Hawthorne and Detective Sergeant Joseph McGrath ("McGrath"). (McGrath is related to DePaul by marriage. McGrath's sister is married to DePaul's brother-in-law). McGrath was, at all relevant times, the Department's Firearms Instructor. Hawthorne handed Hunt a note from Mayer in the presence of McGrath. The note stated:

"Due to the fact that you did not attend the semi-annual range qualifications in the fall of 2010, and also due to a decision received today from the Police Academy, you are not authorized to possess your department issued weapon until you qualify successfully with it. In reference to this issue, note the following:

- You cannot work in the capacity of a Police Officer for today's 4:00pm 12:00 mid. Shift.
- In an effort to accommodate your situation, you have the option to expend accrued time, *OR* go home and change into civilian clothes and work the assigned shift conducting administrative squad activities and assisting in communications duties as needed.
- You are to report to the range at 4:00 p.m. on Wednesday, January 4, 2011, at which time Sgt. McKenna will conduct range qualifications with you.” [sic].

77.) It should be noted that Hunt was on leave at the time of the semi-annual range qualification in November 2010. However, on January 3, 2011, Hunt read the memo from Mayer as described above, and thereafter walked into the squad room. Hunt opted to use his accrued sick time in accordance with the memo. He therefore reported to Corporal Tomlin that he would be going home and that Tomlin was to be in charge of the squad in Hunt's absence. Hunt proceeded to walk to the front foyer of the police department when he was stopped by Defendant Hawthorne. Hawthorne asked Hunt whether he had seen the directive in the memo that required Hunt to turn over his service weapon to Det. Sgt. McGrath. Hunt replied that the memo did not direct him to turn over the weapon to McGrath. Hawthorne stated to Hunt that he should speak to Mayer about turning in his service weapon. Hawthorne was not superior or commanding officer to Hunt. Hunt responded to Hawthorne by stating that he had already clocked out sick in accordance with the memo and that the weapon could be picked up from his home. While at home, Hunt called Cpl. Tomlin to ask that Tomlin come to his house and pick up the patrol keys. When Tomlin arrived at Hunt's home, Hunt turned over the keys

and the service weapon to Tomlin. After the weapon had been delivered, Hunt received information from Cpl. Tomlin and from Cpl. D'Amico that Lt. Mayer had falsely advised them that Hunt had disobeyed a direct order to turn in his service weapon. Mayer ordered Tomlin to pick up the weapon but it had already been delivered to Tomlin. Mayer attempted, once again, to discredit Hunt to subordinate officers by telling them, untruthfully, that Hunt had disobeyed a direct order.

78.) On or about January 5, 2011, Hunt qualified at the firearms range for use of his service weapon. However, in an attempt to continue to harass and embarrass Hunt, while Defendants had notified Sgt. Joseph McKenna ("McKenna"), as of January 3, 2011, to accompany Hunt to the firearms range, they never notified Hunt that he could re-qualify on January 5, 2011. Instead, Defendants knowing that Hunt was scheduled to return to work on January 3, 2011 allowed him to drive from his home in full police attire, including his service weapon to report to work so that Hawthorne could deliver the message that Hunt had not qualified at the range while he was out in November 2010 and that he was not permitted to work as a police officer and was not permitted to possess his firearm. Had the Defendants been so genuinely concerned that Hunt had not qualified and possessed his service weapon, why had they not simply afforded him the same courtesy they

provided McKenna on January 3, 2011 and notified Hunt before he reported to work that he would had not qualified and would be permitted to qualify as of January 5, 2011? Indeed, had the Defendants been genuinely concerned that Hunt had not previously qualified and continued to possess his firearm which may have created safety, liability or any other legitimate concern, then why have him drive all the way into the police department with his service weapon to tell him to go home and hand in his service weapon? The answers to these questions are apparent: Defendants wanted to inconvenience Hunt by having him drive the police department in order to send him home and wanted to maliciously embarrass Hunt in front of his subordinates and in front of Hawthorne, by having Hawthorne deliver the message to Hunt upon his arrival to the police department that he had to go home and was not permitted to possess his firearm.

ix. Abuse of the FFDE Process; Defendants Forced Hunt to Undergo a Psychiatric Examination for Non-Psychiatric Reasons; Dr. Glass Violated his Ethical Duties and Misuse of Psychiatry.

79.) On January 18, 2011, DePaul and Mayer summoned Hunt to meet with them in the office of Chief DePaul. DePaul ordered Hunt to attend a Fitness For Duty Examination (FFDE). DePaul disingenuously explained that he and Mayer had compiled a memo detailing the purported concerns that they had regarding Hunt's fitness to perform his police duties and therefore had

contacted Defendant Dr. Gary M. Glass to conduct a FFDE. Later, Hunt learned (through the discovery process on the disciplinary matters) that Mayer had prepared a memo dated January 7, 2011 in which a skewed rendition of many events that had occurred years in the past were identified and given to Glass. These events had been dredged up by DePaul and Mayer, which had never before resulted in any comment, concern nor, importantly, any disciplinary matter. Some of the other events were recent in history but were so un-objective and unchecked for corroboration and/or veracity, that any reasonable professional should have known that the memo was tainted, and/or should have had reason to suspect the reliability and accuracy of same. Mayer, together with Defendant DePaul, manufactured a FFDE situation by compilation of the January 7, 2011 Memo containing a written list of events they describe as constituting a “pattern of episodes” requiring Hunt to undergo a FFDE. Significantly, only those episodes that are not time barred and/or stale, relate to Hunt’s involvement in the constitutionally protected activity of union contract negotiation.

80.) In referring an employee for an FFDE, it is imperative that the integrity of the process be maintained and not abused for personal gain or for improper purposes. There must be an objective and reasonable basis for believing that the

employee may be unable to safely and/or effectively perform his duties due to a psychological condition or impairment.

- 81.) FFDEs necessarily intrude on the personal privacy of the examinee and, therefore, are most appropriately conducted when the employer has determined that other options are inappropriate or inadequate in light of the facts of a particular case. The FFDE is not to be used as a substitute for disciplinary action.
- 82.) It is incumbent upon the medical professional conducting the FFDE to inquire and gather facts from the employer in advance of the personally intrusive examination to determine the context, necessity and objectivity of same.
- 83.) According to the IACP-PPSS *Psychological Fitness-for-Duty Evaluation Guidelines (Guidelines)*, an FFDE is “a formal, specialized examination of an incumbent employee that results from (1) objective evidence that the employee may be unable to safely or effectively perform a defined job; and (2) a reasonable basis for believing that the cause may be attributable to a psychological condition or impairment. The central purpose of an FFDE is to determine whether the employee is able to safely and effectively perform his or her essential job functions.”

- 84.) The American Academy of Psychiatry and the Law (AAPL), requires the examiner to be fully familiar with AAPL guidelines before undertaking such forensic evaluations. Many DSM diagnoses include a criterion requiring that the symptoms cause clinically significant distress or impairment in social, occupational, or other crucial areas of functioning. The current DSM provides no simple definition or explanation of what constitutes psychiatric impairment.
- 85.) Clinicians are directed to use the Global Assessment of Functioning (GAF) scale or other such scales as a practical (albeit imperfect) way of quantifying the severity of functional impairment. Although these scales enable quantification by arriving at scores, *they are not specifically designed to measure occupational function*. In addition, the scores assigned have an element of subjectivity and may vary depending on the psychiatrist's experience and perspective. However, AAPL has published ethics guidelines that apply to all types of forensic evaluations.
- 86.) It is recognized in the field of forensic psychiatry, and under the AAPL, that oftentimes an employer may attempt to force an employee to undergo a psychiatric examination for non-psychiatric reasons. In the event of workplace conflict, an employer, such as the employer Defendants herein, may attempt to discredit or even terminate an employee by claiming that the employee is

mentally unstable. In the course of such a conflict, as is the case herein, the employee who poses a problem for reasons other than mental health may be forced to undergo a fitness-for-duty evaluation. The stigma attached to a psychiatric evaluation may itself be used to discredit the employee.

87.) Such employer practices are damaging to the employee and represent a misuse of psychiatry. According to the AAPL, psychiatrists should be sensitive to the possibility that their expertise may be misused in this way. The use of a psychiatric examination as retaliation or as a deterrent against participation in constitutionally protected activity is inappropriate. An individual may feel stigmatized and wounded by having to undergo a psychiatric evaluation. The nature of such an evaluation is often intrusive and distressing. Moreover, such referrals raise questions of ethics, given that assessments under these circumstances may be inherently unethical, analogous in many respects to the performance of unnecessary surgery. Defendants are guilty of all of the above, including a misuse of psychiatry, and requiring him to undergo a FFDE as retaliation and as a deterrent against Hunt participating lawfully in constitutionally protected union activity and from exercising his rights under the laws governing wage and hour employment practices and the reasonable accommodation provisions under the disability laws.

- 88.) According to the AAPL, the psychiatrist who identifies a forced evaluation arising from an employment conflict or an attempt to discredit an employee should refuse the referral. Alternatively, the psychiatrist could conduct the evaluation and note the non-psychiatric nature of the referral, stating, “This referral appears to have been generated by an unresolved workplace conflict rather than any change in the evaluatee's psychiatric or mental status,” in addition to offering an opinion regarding the employee's fitness for duty. Although this statement may discomfit the referral source, the psychiatrist cannot ethically justify ignoring the context of the evaluation.
- 89.) On January 20, 2011, Hunt met with Defendant Dr. Glass per the forced FFDE directive by the Defendants. Dr. Glass was approximately one (1) hour late for the appointment due to a medical reason. At this time, Dr. Glass unequivocally learned that the FFDE was ordered during the pendency of a union contract negotiation process which was heated and controversial. Glass knew too that Hunt was the lead union contract negotiator. Nonetheless, Dr. Glass ignored largely the context for which the evaluation was ordered and did not identify in the body of any written report his consideration that the FFDE may have been generated for the sole purpose of eliminating Hunt’s freedom of speech, freedom of expression and

participation as the lead union negotiator during the ongoing union contract negotiation process.

- 90.) Defendant Dr. Glass has been retained on numerous occasions by the Defendants and/or by labor counsel for the Defendants, William G. Blaney, Esq. on behalf of the Defendants and/or by attorney Blaney on behalf of other municipal police employers.
- 91.) On January 24, 2011, Hunt attended a scheduled appointment at Dr. Glass' office to complete an MMPI-2 test. On this date, Hunt was again scheduled to meet with Dr. Glass so that Dr. Glass could continue the FFDE but the meeting was cut short by Dr. Glass due to Dr. Glass' medical condition. On or about February 1, 2011, Hunt met with Dr. Glass so that Dr. Glass could complete the FFDE. During the FFDE process, Dr. Glass became adversarial and accusatory. Defendant Glass did not maintain objectivity, impartiality or neutrality during the FFDE with Hunt. At times, Defendant Glass became agitated, antagonistic and asked Hunt questions such as: "why have [you] been acting like a child?"; and, "why do [you] make excuses for everything?"; and, "why would the Lieutenant and Chief not tell the truth?" It was clear that Dr. Glass was predisposed to the Defendants' position and inclined not to believe and/or be receptive to anything that Hunt told him or conveyed about his version of events. Defendant Glass did not

take into consideration that Mayer and DePaul may have distorted facts (and did in fact distort facts) in an effort to place Hunt in a negative psychiatric light. Defendant Glass should have, but did not consider the very same question he posed to Hunt, “Why would the Lieutenant and Chief not tell the truth?” Glass *assumed* that everything he received from Mayer and DePaul was “the truth.”

- 92.) Indeed, Defendant Glass did not consider as credible or worthy of consideration anything that Hunt had to say about the events which were detailed in the January 7, 2011 memo from Lt. Mayer. Glass displayed agitation, was short tempered and antagonistic throughout the FFDE process toward Hunt. Dr. Glass angrily concluded the FFDE by advising Hunt that he was placing Hunt on medical leave pending treatment with a course of psychological/psychiatric treatment.
- 93.) On or about February 14, 2011, Defendant Glass prepared and released a written report which indicated that based on his psychiatric evaluation of Hunt, he was not releasing Hunt to return to work until he underwent counseling with a psychiatrist/psychologist. The report of Dr. Glass contained factual errors and misstatements from Hunt and was not based on reliable third party independent sources. The *objective* testing, however, revealed that Hunt had no psychiatric/psychological disorder or impairment.

Indeed, the MMPI-2 clinical testing was well within normal limits. Because of Defendant Glass' predisposition and animosity towards Hunt, however, Defendant Glass subjectively and unethically determined that Hunt had a "personality disorder." Glass could not find, medically, that Hunt had any type of mental illness or disorder. Instead, Defendant Glass diagnosed:

AXIS V: GLOBAL ASSESSMENT OF FUNCTIONING: 65, MILD TO MODERATE SYMPTOMS AND/OR MILD TO MODERATE IMPAIRMENT IN SOCIAL OR OCCUPATIONAL FUNCTIONING.

The **Global Assessment of Functioning (GAF)** is a numeric scale (0 through 100) used by mental health clinicians and physicians to rate subjectively the social, occupational, and psychological functioning of adults, e.g., how well or adaptively one is meeting various problems-in-living. The scale is presented and described in the [DSM-IV-TR](#) on page 34. The score is often given as a range, as outlined below:

91 - 100 No symptoms. Superior functioning in a wide range of activities, life's problems never seem to get out of hand, is sought out by others because of his or her many positive qualities.

81 - 90 Absent or minimal symptoms (e.g., mild anxiety before an exam), good functioning in all areas, interested and involved in a wide range of activities, socially effective, generally satisfied with life, no more than everyday problems or concerns (e.g., an occasional argument with family members).

71 - 80 If symptoms are present, they are transient and expectable reactions to psychosocial stressors (e.g., difficulty concentrating after family argument); no more than slight impairment in social, occupational, or school functioning (e.g., temporarily falling behind in schoolwork).

61 - 70 Some mild symptoms (e.g., depressed mood and mild insomnia) OR some difficulty in social, occupational, or school functioning (e.g.,

occasional truancy, or theft within the household), but generally functioning pretty well, has some meaningful interpersonal relationships.

51 - 60 Moderate symptoms (e.g., flat affect and circumstantial speech, occasional panic attacks) OR moderate difficulty in social, occupational, or school functioning (e.g., few friends, conflicts with peers or co-workers).

41 - 50 Serious symptoms (e.g., suicidal ideation, severe obsessional rituals, frequent shoplifting) OR any serious impairment in social, occupational, or school functioning (e.g., no friends, unable to keep a job).

31 - 40 Some impairment in reality testing or communication (e.g., speech is at times illogical, obscure, or irrelevant) OR major impairment in several areas, such as work or school, family relations, judgment, thinking, or mood (e.g., depressed man avoids friends, neglects family, and is unable to work; child frequently beats up younger children, is defiant at home, and is failing at school).

21 - 30 Behavior is considerably influenced by delusions or hallucinations OR serious impairment, in communication or judgment (e.g., sometimes incoherent, acts grossly inappropriately, suicidal preoccupation) OR inability to function in almost all areas (e.g., stays in bed all day, no job, home, or friends)

11 - 20 Some danger of hurting self or others (e.g., suicide attempts without clear expectation of death; frequently violent; manic excitement) OR occasionally fails to maintain minimal personal hygiene (e.g., smears feces) OR gross impairment in communication (e.g., largely incoherent or mute).

1 - 10 Persistent danger of severely hurting self or others (e.g., recurrent violence) OR persistent inability to maintain minimal personal hygiene OR serious suicidal act with clear expectation of death.

94.) As can be professionally and judicially noted, the GAF is a subjective rating scale. However, in this case, the worst rating Glass could possibly provide for Hunt was a score of 65, and, even at this rating, there was no real basis to prevent Hunt from engaging in his duties as a police officer. Nonetheless, Hunt was forced to utilize accrued personal time due to Glass' prohibition

from returning to work. Interestingly, Defendant Glass was aware that the reason the employer Defendants forced Hunt to undergo a FFDE was due to the union contract negotiations because Dr. Glass concluded in his report: “[Hunt’s] behavior *during the contract negotiations* was both out of character and unacceptable for a police officer.” [emphasis added].

- 95.) Additionally, Glass overstepped his duty and professional boundary with respect to the FFDE of Hunt in that Glass recommended that Hunt be demoted from the rank of Sergeant. The scope of a FFDE is to provide reasonable, sound, unbiased and objective medical advice as to the employee’s ability to perform job duties, not make recommendations regarding disciplinary penalties.
- 96.) Hunt was without any meaningful choice and therefore engaged in six (6) psychological counseling sessions with Dr. John McInerney. Of course, Dr. McInerney noted, opined and reported that Hunt was psychologically fit to return to full duty work.
- 97.) On or about July 5, 2011 Defendant Glass certified Hunt to return to full duty work. The employer Defendants, however, refused to permit Hunt to return to full duty work. Again, on July 31, 2011, Glass certified that Hunt as able to return to full duty work.

- 98.) The employer Defendants thereafter learned, through legal counsel for Hunt, that Hunt, at the direction of his legal counsel, had sought a medical opinion from licensed psychiatric expert, Dr. Tannenbaum to refute the initial and damaging medical report of Defendant, Dr. Glass. Dr. Tannenbaum issued a report which indicated that Hunt had no medical impairment, disorder or impediment that prevented him from returning to full duty active employment as a police officer. The report from Tannebaum was, at all times, intended to refute the report of Defendant Glass and was obtained in anticipation of litigation.
- 99.) As further punishment, following the employer Defendants' knowledge that Hunt had obtained a report from Tannenbaum in anticipation of litigation, and under the direction of legal counsel, with the purpose of refuting the report of Defendant Glass and for the purpose of legally challenging the Defendants' actions, the employer Defendants and Defendant Glass conspired to terminate Hunt's employment. Defendants manufactured a false and defamatory report against Hunt claiming that he "lied" in not personally revealing that he had sought the expert opinion and report from Dr. Tannenbaum which indicated that Hunt was at all times fit to return to duty.
- 100.) On or about September 23, 2011 and September 29, 2011 Defendants filed Notices of Disciplinary Action against Hunt seeking his immediate

suspension without pay and removal from employment. The disciplinary actions were based on allegations that Hunt was not fit for duty and upon an onslaught of bogus charges that would never have been brought had it not been for Hunt engaging in legally protected activities adverse to Defendants.

101.) The employer Defendants forced Hunt to use his accrued sick time from January 2011 through to the date it finally filed a Notice of Preliminary Disciplinary Action on September 29, 2011 due to the false information and reports provided by Defendants in conspiracy against Hunt. In an outrageous act of harassment, Defendant DePaul advised Hunt that he was considered “AWOL” (absent without leave; Defendants forced and ordered the leave!) because Hunt had used all of his sick and accrued leave at the time that the Defendants filed the disciplinary actions (PNDAs) against Hunt. Defendants were not permitted by law to require Hunt and/or to force him and/or to allow him to use any accrued time from the date that they prevented him from working as a police officer (Defendants did not permit Hunt to work in any capacity despite the fact that they claimed they believed he was disabled, i.e., unfit for duty) following the FFDE report in or about February 2011 through to the date that they filed the PNDA, disciplinary action charging Hunt with not being “Fit for Duty.” Indeed, the Defendants had posted a

memorandum in the squad room stating that Hunt was not permitted in the building.

102.) On or about August 1, 2011 Hunt's attorney at the time, John Eastlack, Esq. ("Eastlack"), spoke with the attorney for the employer Defendants at the time, William G. Blaney, Esq. ("Blaney") to discuss the case. Blaney stated that the Defendants' position was that the Defendants wanted Hunt to agree to not sue and/or release all Defendants from civil liability in exchange for Defendants permitting Hunt to return to full duty police employment. Eastlack conveyed to Hunt that this appeared to be a form of extortion and that he might have be needed later as a witness. The communication between Eastlack and Blaney is an admission against Defendants' interest in that it proves that the Defendants had no good faith belief that Hunt was unable and/or unfit to perform his duties at any time; and that the FFDE and the forced use of sick time and suspension without full compensation was an act of punishment without due process of law, and, constituted acts of retaliation. (See exceptions to N.J.R.E. 408, Committee Notes on Rules-2011).

103.) On or about April 5, 2012 Defendants filed Final Notices of Disciplinary Action against Hunt terminating his employment. After Defendants fired Hunt, they continued to charge Hunt with violations of police department

rules and regulations regarding the return of police issued equipment. (Hunt's service weapon had long before been turned over to Defendants).

104.) On or about April 6, 2012 Defendants served Hunt with another set of disciplinary charges for alleged violation of the rules for failure to turn over police issued equipment. At all times, Hunt had specifically offered and/or invited Defendants to come to his home at any reasonable time to pick up any and all police equipment. Defendants rejected the offer and demanded that Hunt, personally, return the equipment to Defendant Hawthorne so that they could continue to embarrass and harass Hunt.

105.) Due to the fact that the Defendants had previously banned Hunt from entering the police station (he was permitted only to enter the foyer area where any and all members of the public were permitted to be), Hunt, through counsel, advised Defendants that he would not return the items personally. Instead, Hunt, through counsel, had a third party legal representative (paralegal) deliver all items which were packaged and secured safely in boxes to Defendant Hawthorne at the police department. Hawthorne maliciously and purposefully refused to accept the police items so that he and the Defendants could continue to charge Hunt with manufactured disciplinary charges. Hawthorne cowardly refused to meet the legal representative at the police station and instead sent an underling to deliver

his message that he would arrest the legal representative (paralegal) for delivering police issued equipment (that were secured and packaged and which were demanded by the police department to be returned to them) (and for which the Defendants refused to pick up at Hunt's home or accept delivery and receipt of same). The conduct of Hawthorne was outrageous and reprehensible.

106.) On or about April 23, 2012 Defendants filed yet another FNDA and terminated Hunt a third time for failure to return the police issued equipment in the manner in which they dictated, i.e., personal delivery by Hunt to Hawthorne.

107.) Shortly after the intimidation tactics of Hawthorne upon the paralegal (threatened to have her arrested; it should be noted that the paralegal's husband is a police officer in good standing), Blaney called and spoke to the paralegal and apologized for the conduct of Hawthorne. This admission establishes that Hawthorne and Defendants collectively have acted, at all times, despicably and in a retaliatory vengeance against Hunt in violation of the law for which Hawthorne, DePaul and Mayer have all sworn to uphold.

108.) Hunt timely and properly filed notices of appeal from all of the above mentioned FNDAs, i.e., disciplinary actions with the civil service commission and the Office of Administrative Law. However, due to the

recent Supreme Court decision in Winters v. North Hudson Fire & Rescue, 2012 WL 4009454 _____(September 13, 2012), Hunt has opted out of the appeal process in order to pursue his wrongful termination from employment in the Federal Court forum.

COUNT ONE

(§1983 Claims for First and Fourteenth Amendment U.S. Constitutional Violations for Protected Union Activity and Civil Rights Act Violations, N.J.S.A. 10:6-1, et. seq., for State Constitutional Union Protected Activity and Privacy Rights)

109.) The above paragraphs are repeated as if set forth at length herein.

110.) The above acts by the Borough Defendants, acting under color of State law, constitute a continuing pattern of harassment, retaliation and egregious conduct in violation of the First and Fourteenth Amendments of the Constitution of the United States of America, Article I, paragraphs 18 & 19 of the New Jersey State Constitution, public policy and invasion of privacy all of which are guaranteed for protection under 42 U.S.C. §1983 and N.J.S.A. 10:6-1 et. seq. Union-related speech and activity and association is protected by the First Amendment of the Constitution of the United States of America and by the Constitution of the State of New Jersey, Article I. The protection of these constitutional provisions for freedom of speech, activity and association extends broadly over union activities. The Fourteenth

Amendment protects the substantive due process rights of the Plaintiff under the Equal Protection Clause of the United States Constitution.

111.) The protected speech, action and association was a substantial or motivating factor in the retaliatory action taken against the Plaintiff by the Defendants. Speech, action and association arising in the context of union efforts has long been held to be a matter of public concern. The actions taken by the Defendants denied the Plaintiff rights enforceable under 42 U.S.C. § 1983. As a result of the Defendants' unlawful actions, Plaintiff has been caused to suffer damages. The Legislature in our State has determined that because of discrimination and retaliation, people suffer personal hardships, and the State suffers a grievous harm. The personal hardships: economic loss; time loss; physical and emotional stress; and in some cases severe emotional trauma, illness, homelessness or other irreparable harm resulting from the strain of employment controversies; relocation, search and moving difficulties; anxiety caused by lack of information, uncertainty, and resultant planning difficulty; career, education, family and social disruption; and adjustment problems, which particularly impact on those protected under our laws.

WHEREFORE, Plaintiff seeks damages to vindicate his rights under the laws and remedy the egregious loss and damages inflicted upon him by

Defendants, including, but not necessarily limited to compensatory damages, emotional distress, bodily harm and injury, physical illness, economic damages, back pay, front pay, reinstatement, damages for loss of benefits, health care coverage, pension service credit, retirement savings loss, loss to the economic well being of their children, every day and daily stress caused by the Defendants illegal acts and continued harassment, reimbursement of negative tax consequences per the *Blaney* decision, consequential damages, damage to reputation, equitable relief, equitable relief in the form of mandatory training to be provided to the Defendants and to the employees of Wildwood Crest regarding anti-discrimination and retaliation laws, the termination of employment of Defendant DePaul, removal from office of Defendant, Groon and the ethical sanction of Defendant Glass and to forever bar him from performing FFDE examinations in the State of New Jersey, punitive damages, attorneys fees, multiplier of damages, costs of suit and any other relief that may be required and/or is just under the circumstances now and into the future.

COUNT TWO
(NJLAD Violations)

112.) The above paragraphs are repeated as if set forth at length herein.

113.) The above described acts of the Defendants constitute a violation of the disability discrimination, harassment, reasonable accommodation, interactive

process and retaliation provisions under N.J.S.A. 10:5-1 et seq. and under the case law interpreting the NJLAD.

114.)As a direct and proximate result of the Defendants' unlawful actions, Plaintiff, Thomas Hunt has been caused to suffer damages. The Legislature in our State has determined that because of discrimination and retaliation, people suffer personal hardships, and the State suffers a grievous harm. The personal hardships: economic loss; time loss; physical and emotional stress; and in some cases severe emotional trauma, illness, homelessness or other irreparable harm resulting from the strain of employment controversies; relocation, search and moving difficulties; anxiety caused by lack of information, uncertainty, and resultant planning difficulty; career, education, family and social disruption; and adjustment problems, which particularly impact on those protected under our laws.

WHEREFORE, Plaintiff, Thomas Hunt seeks damages to vindicate his rights under the laws and remedy the egregious loss and damages inflicted upon him by Defendants, including, but not necessarily limited to compensatory damages, emotional distress, bodily harm and injury, physical illness, economic damages, back pay, front pay, reinstatement, loss of benefits, health care coverage, pension service credit, retirement savings loss, loss to the economic well being of his children, every day and daily

stress caused by Defendants illegal acts and continued harassment, reimbursement of negative tax consequences per the *Blaney* decision, consequential damages, damage to reputation, equitable relief, equitable relief in the form of mandatory training to be provided to the Defendants and to the employees of Wildwood Crest regarding anti-discrimination and retaliation laws, the termination of employment of Defendants DePaul, removal from office of Groon and the ethical sanction of Defendant Glass and to forever bar him from performing FFDE examinations in the State of New Jersey, punitive damages, attorneys fees, multiplier of damages, costs of suit and any other relief that may be required and/or is just under the circumstances now and into the future.

COUNT THREE

(Confidentiality Violations under N.J.S.A. 2A:84A-22.1)

115.) The above paragraphs are repeated as if set forth at length herein.

116.) At all times relevant, the Defendant, Gary M. Glass permitted the unauthorized release of medical and private information concerning Hunt to unauthorized persons and otherwise violated the provisions of N.J.S.A. 2A:84A-22.1 regarding the strict requirements to control, maintain and regulate the confidentiality of any and documents and/or information relative to an employee/patient/medical recipient/FFDE evaluatee.

117.)As a direct and proximate result of the Defendant's unlawful actions, Plaintiff has been caused to suffer damages. The Legislature in our State has determined that because of discrimination and retaliation, people suffer personal hardships, and the State suffers a grievous harm. The personal hardships: economic loss; time loss; physical and emotional stress; and in some cases severe emotional trauma, illness, homelessness or other irreparable harm resulting from the strain of employment controversies; relocation, search and moving difficulties; anxiety caused by lack of information, uncertainty, and resultant planning difficulty; career, education, family and social disruption; and adjustment problems, which particularly impact on those protected under our laws.

WHEREFORE, Plaintiff, Thomas Hunt seeks damages to vindicate his rights under the laws and remedy the egregious loss and damages inflicted upon them by Defendant, including, but not necessarily limited to compensatory damages, emotional distress, bodily harm and injury, physical illness, economic damages, back pay, front pay, loss of benefits, health care coverage, pension service credit, retirement savings loss, loss to the economic well being of their children, every day and daily stress caused by Defendants illegal acts and continued harassment, reimbursement of negative tax consequences per the *Blaney* decision, consequential damages, damage to

reputation, equitable relief, equitable relief in the form of the ethical sanction of Defendant Glass and to forever bar him from performing FFDE examinations in the State of New Jersey, punitive damages, attorneys fees, multiplier of damages, costs of suit and any other relief that may be required and/or is just under the circumstances now and into the future. Additionally, any fines, fees and penalties that may be enforced against Defendant under these laws is sought.

COUNT FOUR

(Intentional Infliction of Emotional Distress)

118.) The above paragraphs are repeated as if set forth at length herein.

119.) The acts of the Defendants were (1) intentionally or recklessly engaged in; (2) constitute extreme and outrageous conduct; (3) that were the proximate cause of (4) Hunt suffering emotional distress so severe that no reasonable person should be expected to endure it.

120.) As a direct and proximate result of the Defendants' unlawful actions, Plaintiff, Thomas Hunt has suffered severe emotional distress with physical manifestations.

WHEREFORE, Plaintiff seeks damages to vindicate his rights under the laws and remedy the egregious loss and damages inflicted upon him by Defendants, including, but not necessarily limited to compensatory damages, emotional distress, bodily harm and injury, physical illness, economic

damages, back pay, front pay, reinstatement, loss of benefits, health care coverage, pension service credit, retirement savings loss, loss to the economic well being of their children, every day and daily stress caused by Defendants' illegal acts and continued harassment, reimbursement of negative tax consequences per the *Blaney* decision, consequential damages, damage to reputation, equitable relief, punitive damages, attorneys fees, multiplier of damages, costs of suit and any other relief that may be required and/or is just under the circumstances now and into the future.

COUNT FIVE

(Defamation and False Light)

121.) The above paragraphs are repeated as if set forth at length herein.

122.) The Defendants published, released and/or disseminated false statements to third parties either negligently and/or with reckless disregard and/or with the purposeful intent that it would injure the reputation of Hunt and/or expose Hunt to hatred, contempt or ridicule; and/or cause Hunt to lose the goodwill/confidence of others; and/or caused to injury to Hunt in his occupation and profession.

123.) The false statements made by Defendants involved each and every false statement leading to the accusations that led to the publication of formal internal affairs investigations and disciplinary actions against Hunt; as well as false statements that Hunt was psychiatrically unfit for duty and/or impaired and/or

had any mental impairment/disorder all of which were published and/or disseminated to the public.

124.) Defendants by and through their actions as described above, Placed Hunt placed before the public and/or third parties in a false light, which is highly offensive to a reasonable person, and the Defendants acted in reckless disregard as to the falsity of the publicized matter, to wit, the mental capacity, stability and fitness of Hunt to mentally perform his duties.

125.) As a direct and proximate result of the Defendants' unlawful actions, Plaintiff has been caused to suffer damages: economic loss; time loss; physical and emotional stress; and in some cases severe emotional trauma, illness, homelessness or other irreparable harm resulting from the strain of employment controversies; relocation, search and moving difficulties; anxiety caused by lack of information, uncertainty, and resultant planning difficulty; career, education, family and social disruption; and adjustment problems, which particularly impact on those protected under our laws.

WHEREFORE, Plaintiff, Thomas Hunt seeks damages to vindicate their rights under the laws and remedy the egregious loss and damages inflicted upon them by Defendants, including, but not necessarily limited to compensatory damages, emotional distress, bodily harm and injury, physical illness, economic damages, back pay, front pay, loss of benefits, health care

coverage, pension service credit, retirement savings loss, loss to the economic well being of their children, every day and daily stress caused by Defendants illegal acts and continued harassment, reimbursement of negative tax consequences per the *Blaney* decision, consequential damages, damage to reputation, equitable relief, equitable relief, punitive damages, attorneys fees, multiplier of damages, costs of suit and any other relief that may be required and/or is just under the circumstances now and into the future.

COUNT SIX

(Ordinary Negligence under the Common Law)

- 126.) Defendants owed a duty to Thomas Hunt to exercise reasonable care when ordering Hunt to undergo a psychiatric evaluation which included the objective ascertainment and gathering of facts, context, circumstances and events that give rise to the proper ordering of a police officer to undergo a FFDE and/or any forced medical evaluation, especially a psychiatric evaluation.
- 127.) Defendant Glass owed a duty to Hunt to exercise reasonable care when conducting an examination, especially a fitness for duty psychiatric evaluation.
- 128.) Defendants acted negligently because they did not exercise reasonable care in the performance of their duties and as such knew or should have known

that their respective conduct was likely and did in fact result in harm to Hunt.

129.) The failure of Defendants to exercise reasonable care resulted in direct and proximate injury to Hunt.

130.) As a direct and proximate result of the Defendants' unlawful actions, Plaintiff, Thomas Hunt, has been caused to suffer damages: economic loss; time loss; physical and emotional stress; and in some cases severe emotional trauma, illness, homelessness or other irreparable harm resulting from the strain of employment controversies; relocation, search and moving difficulties; anxiety caused by lack of information, uncertainty, and resultant planning difficulty; career, education, family and social disruption; and adjustment problems, which particularly impact on those protected under our laws.

WHEREFORE, Plaintiff, Thomas Hunt seeks damages to vindicate his rights under the laws and remedy the egregious loss and damages inflicted upon him by Defendants, including, but not necessarily limited to compensatory damages, emotional distress, bodily harm and injury, physical illness, economic damages, back pay, front pay, reinstatement, loss of benefits, health care coverage, pension service

credit, retirement savings loss, loss to the economic well being of their children, every day and daily stress caused by Defendants illegal acts and continued harassment, reimbursement of negative tax consequences per the *Blaney* decision, consequential damages, damage to reputation, equitable relief, equitable relief, punitive damages, attorneys fees, multiplier of damages, costs of suit and any other relief that may be required and/or is just under the circumstances now and into the future.

COUNT SEVEN

(Intentional Interference with Employment Relations)

- 131.) The above paragraphs are repeated as if set forth at length herein.
- 132.) Thomas Hunt was a tenured employee with the Borough of Wildwood Crest and had the reasonable expectation of continued employment as a police officer.
- 132.) Defendant Glass knew of the employment relationship stated above and acted in reckless disregard and/or with the intent to wrongfully disrupt and/or terminate that relationship thereby proximately causing Hunt to suffer damages.

WHEREFORE, Plaintiff seeks damages to vindicate his rights under the laws and remedy the egregious loss and damages inflicted upon

him by Defendant, Glass, including, but not necessarily limited to compensatory damages, emotional distress, bodily harm and injury, physical illness, economic damages, back pay, front pay, reinstatement, loss of benefits, health care coverage, pension service credit, retirement savings loss, loss to the economic well being of his children, every day and daily stress caused by Defendant's illegal acts and continued harassment, reimbursement of negative tax consequences per the *Blaney* decision, consequential damages, damage to reputation, equitable relief, equitable relief, punitive damages, attorneys fees, multiplier of damages, costs of suit and any other relief that may be required and/or is just under the circumstances now and into the future.

COUNT EIGHT
(Abuse of Process)

- 133.) The above paragraphs are repeated as if set forth at length herein.
- 134.) Defendants abused the legal processes governing the civil service statutes and administrative regulations by instituting disciplinary charges against Hunt which were based on the illegal selective enforcement of discipline and which would otherwise not have been brought but for the improper, deterrent and retaliatory motives of the Defendants due to Hunt's exercise of his constitutionally protected right to engage in the union contract

negotiation process, file union grievances and because Hunt reported FSLA violations of the law and because Hunt exercised his rights under the NJLAD in seeking and/or requesting information about reasonable accommodation and/or about the policies and practices of the Borough of Wildwood Crest with regard to sick leave.

135.) Defendants abused the lawful processes governing Fitness For Duty Psychiatric Examinations by requiring Hunt to undergo a FFDE for non-psychiatric reasons. Indeed, the reason underlying the FFDE were motivated by ill will, evil intention, malice, retaliation and vindictiveness.

136.) As a direct and proximate result of the Defendants' unlawful actions, Plaintiff has been caused to suffer damages: economic loss; time loss; physical and emotional stress; and in some cases severe emotional trauma, illness, homelessness or other irreparable harm resulting from the strain of employment controversies; relocation, search and moving difficulties; anxiety caused by lack of information, uncertainty, and resultant planning difficulty; career, education, family and social disruption; and adjustment problems, which particularly impact on those protected under our laws.

WHEREFORE, Plaintiff seek damages to vindicate his rights under the laws and remedy the egregious loss and damages inflicted upon him by

Defendants, including, but not necessarily limited to compensatory damages, emotional distress, bodily harm and injury, physical illness, economic damages, back pay, front pay, reinstatement, loss of benefits, health care coverage, pension service credit, retirement savings loss, loss to the economic well-being of his children, every day and daily stress caused by Defendants' illegal acts and continued harassment, reimbursement of negative tax consequences per the *Blaney* decision, consequential damages, damage to reputation, equitable relief, equitable relief in the form of mandatory training to be provided to the Defendants and to the employees of Wildwood Crest regarding anti-discrimination and retaliation laws, the termination of employment of Defendant DePaul, the removal from office of Defendant Groon and the ethical sanction of Defendant Glass and to forever bar him from performing FFDE examinations in the State of New Jersey, punitive damages, attorneys fees, multiplier of damages, costs of suit and any other relief that may be required and/or is just under the circumstances now and into the future.

COUNT NINE
(Loss of Consortium)

- 137.) The above paragraphs are repeated as if set forth at length herein.
- 138.) The Plaintiff, Barbara Hunt is the wife of Plaintiff Thomas Hunt and mother of his children.
- 139.) The above described acts which give rise to Plaintiff Hunt's claims for tort violations have caused Plaintiff Barbara Hunt to suffer the loss of companionship and consortium of her husband.
- 140.) As a direct and proximate result of the Defendants' unlawful actions, Plaintiff has been caused to suffer damages: economic loss; time loss; physical and emotional stress; and in some cases severe emotional trauma, illness, homelessness or other irreparable harm resulting from the strain of employment controversies; relocation, search and moving difficulties; anxiety caused by lack of information, uncertainty, and resultant planning difficulty; career, education, family and social disruption; and adjustment problems, which particularly impact on those protected under our laws.

WHEREFORE, Plaintiff seeks damages to vindicate her rights under the laws and remedy the egregious loss and damages inflicted upon her by Defendants, including, but not necessarily limited to compensatory damages, emotional distress, bodily harm and injury, physical illness,

economic damages, every day and daily stress caused by Defendants illegal acts, punitive damages and any other damages the Court deems fair and just.

COUNT TEN

- 141.) The above paragraphs are repeated as if set forth at length herein.
- 142.) On or about June 12, 2012, Plaintiff Barbara Hunt was forced to file an Action in Lieu of Prerogative Writs and Order to Show Cause against the Borough of Wildwood Crest and the Wildwood Crest Planning Board for her removal as an alternate member of the Wildwood Crest Planning Board.
- 143.) On or about May 22, 2012, after having learned that Barbara Hunt filed a Loss of Consortium claim as part of this lawsuit which was originally filed in State Court on May 11, 2012, the Borough of Wildwood Crest Solicitor announced that Hunt had a conflict of interest and directed Hunt to refrain from active participation as a Board Member or resign as a Planning Board member.
- 144.) On June 12, 2012, in an open forum before the public, the Borough Planning Board Solicitor announced that Hunt had a conflict of interest as a Board Member who had also exercised her First Amendment right to file

suit against the Borough for individual claims arising out of her husband's wrongful termination from employment claims. The Board Solicitor having advised the Board members that Hunt had a conflict thereafter asked the Board members to take a vote on whether Hunt had a conflict of interest. Of course, after having been advised by the Borough Solicitor that Hunt in fact and legally had a conflict of interest, the Board members found thereafter that Hunt had such a conflict. The Board Solicitor's legal opinion was ill founded, biased against Hunt and given for the purpose of punishing Hunt for her having filed the legal claims against the Borough of Wildwood Crest and Mayor Groon.

- 145.) On or about October 23, 2012, the New Jersey State Superior Court found "Here, *there is absolutely no evidence* that Mrs. Hunt's joinder in her husband's lawsuit against the Borough, Mayor Carl Groon, and others, will in anyway affect her ability to objectively assess issues that are presented before the Board. Mrs. Hunt's mere involvement in count nine (9) of her husband's lawsuit is not in and of itself a conflict with her position as an alternate board member. This Court finds that under the relevant provisions of the MLUL, the Ethics Law, and the Common Law, Mrs. Hunt can both bring a civil action against the Borough involving her and her husband's own interests, and simultaneously serve as an alternate

member of the Board.” The Court found no conflict of interest under any law or rule.

146.) On October 23, 2012 the Court granted Barbara Hunt’s application for Injunctive Relief and Order to Show Cause issuing her reinstatement as an alternate member of the Wildwood Crest Planning Board.

147.) It is clear that the Plaintiff, Barbara Hunt was engaged in a constitutionally protected activity; and that the agents of the Defendant, the Borough of Wildwood Crest, took adverse action against the Plaintiff causing her to suffer an injury that would likely chill a person of ordinary firmness from continuing to engage in that activity; and that the adverse action in removing her as a member of the Planning Board was motivated as a response to the exercise of her constitutional rights. Accordingly, Plaintiff has suffered damages in the form of embarrassment, public ridicule, damage to her good name and reputation, removal as a Planning Board Member from June through November 2012, attorneys fees and costs associated with her having been forced to file an Action in Lieu of Prerogative Writs and Order to Show Cause which was successfully determined in her favor. Defendant, the Borough of Wildwood crest has violated Plaintiff, Barbara Hunt’s First and Fourteenth Amendment Constitutional rights to be free from

retaliation for the exercise of her right to file a grievance against the government and for the protection of the substantive and procedural due process under the Fourteenth Amendment Equal Protection Clause.

WHEREFORE, Plaintiff seeks damages to vindicate her rights under the laws and remedy the egregious loss and damages inflicted upon her by Defendants, the Borough of Wildwood Crest and Carl Groon including, but not necessarily limited to compensatory damages, emotional distress, bodily harm and injury, physical illness, economic damages, every day and daily stress caused by Defendants illegal acts, punitive damages and any other damages the Court deems fair and just.

DEMAND FOR JURY TRIAL

Plaintiffs herewith demand a trial by jury on all issues so triable.

THE DOUGLASS LAW FIRM, LLC

By: /s/ Michelle J. Douglass
Michelle J. Douglass, Esq.
Attorney for Plaintiffs

Date: August 20, 2013