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OCT 15 2013

NUTLEY POLICE SERGEANT
CHRISTOPHER LAMOND,

Plaintiff,

v.

TOWNSHIP OF NUTLEY and
ALPHONSE PETRACCO, individually,
and as Mayor of the Township of Nutley,

Defendants.

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

DOCKET NO: L8109-B

Civil Action

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

Plaintiff, Christopher Lamond, by way of Complaint against the defendants, by and through his attorney, says:

THE PARTIES

1. The plaintiff is an individual and was, at all times relevant hereto, a police officer and Sergeant employed by the Township of Nutley, Essex County, New Jersey. Plaintiff is a highly experienced and dedicated law enforcement professional and his record of service was and remains exemplary.

2. The Defendant Township of Nutley is a municipality of the State of New Jersey located in Essex County. It is governed under the commission form of government.
3. The defendant, Alphonse Petracco was and is at all relevant times a Commissioner of the Township of Nutley, first elected to office in 2008. Petracco subsequently became, and presently is, the Mayor of Nutley, and is also the Director of the Nutley Department of Public Safety, which Department includes the Nutley Police Department in which plaintiff was employed. Petracco personally resides in the Township of Nutley and has a delicatessen business in town.

FACTS COMMON TO ALL COUNTS

4. Plaintiff became a Nutley police officer in April 1991, having served one year prior with the Essex County Police. His police academy record was pristine. However, for the past two (2) calendar years and strictly for reasons of politics, malice, self aggrandizement and vicious intent, plaintiff has been subjected to ridicule, harassment, retaliation, civil right violations and purposeful abuse by the defendants, as is more fully set forth hereinunder.
5. Plaintiff's nightmare, which has arisen/been solely triggered by the herein named defendants, commenced on/about November 30, 2011 when a fundraiser for the Commissioner Mauro Tucci re-election campaign was held. At this function, plaintiff was approached by Petracco who admonished him for attending, stating that he "should not be supporting the opposing commissioners" and that plaintiff "should disassociate himself from the Parks and Recreation Department" of which Commissioner Tucci was in charge.

6. On/about March 14, 2012, plaintiff was conducting a routine and innocuous lineup in the basement lineup room of police headquarters. Plaintiff was seated at the supervisor desk and noticed someone was entering the lineup room. He turned to his left and was struck in his left eye by an unknown object. Plaintiff looked over while holding his left eye and realized the object was apparently thrown by a Deputy Chief. The object was a "pink breast cancer plastic duck". This was witnessed by the attending lineup. The Deputy Chief did not offer an apology for this purposeful and immature act and essentially this contributed to a very humiliating and degrading moment. Plaintiff's eye was extremely red and painful. Plaintiff continues to have issues with his left eye until this day. This Deputy Chief is/was a close ally of Petracco.
7. Prior to the May 8, 2012 election, there were many other fundraiser and campaign headquarter functions for the commissioners that were running for office. On one occasion, plaintiff's wife and his two younger children attended a function on April 4, 2012 at the Commissioner Tucci campaign headquarters where complimentary hot dogs and pizza were served. Petracco had noticed plaintiff's wife and children's presence and commented to plaintiff that he was not happy with him or his family showing support for the opposing commissioner, and that they and anyone else connected to public safety under him should not attend any functions for Tucci and Commissioner Steve Rogers.
8. In/about July 2012, plaintiff was called by a Lieutenant who told him to "visit" another Nutley Commissioner, Mauro Tucci, to "influence" his vote to create another Captain's position as a new ordinance was to be introduced that Fall. Plaintiff

responded by stating, specifically, "I'm not comfortable with this, it is totally outside my job description and unless I am ordered to do this by Commissioner Petracco, I won't". Plaintiff then proceeded to walk out of the lieutenant's office.

9. Thereafter, about a week later, Petracco contacted Plaintiff and shamefully *ordered* him to have a meeting with Commissioner Tucci in an attempt to illegally influence his vote to a "yes" when the Table of Organization changes were to be announced at the meetings that were scheduled for that the Fall. Plaintiff expressed how uncomfortable he was with this "order" and Petracco called the plaintiff a coward. Petracco thereafter shockingly suggested that plaintiff "buy a couple of food trays" from his deli and "send them to Commissioner Tucci's store". Plaintiff also told Petracco that he was uncomfortable with the idea of buying and sending food. Plaintiff reluctantly and out of fear of retaliation and/or termination followed Petracco's orders and made a visit on the same day to Tucci's store. Tucci was entirely unhappy with the information plaintiff relayed to him and wanted no part of derailing one man's career to enhance another's. It should be noted that the proposed ordinance spoke to eliminating the Deputy Chief's position and adding one Captain, therefore prohibiting another Captain from being promoted. Plaintiff agreed with Tucci and left that meeting. It is also worth mentioning here that at all times interacting with the plaintiff, Tucci acted with nothing other than class and honor.

THE HARRASSMENT CONTINUES

10. The harassment/retaliation/threatening behavior continued. On/about September 18, 2012, while plaintiff was taking his practice final exam at the Bernstein prep course

located in Carteret N.J., a Nutley Police Lieutenant, who was attending the same class, approached plaintiff at his table in an agitated fashion and asked how plaintiff did on the exam. Plaintiff told him "I shouldn't even be taking the exam with the spots open". The Lieutenant made his negative feelings about plaintiff's response known, and it turned into a heated argument. Another Nutley Officer noticed this, approached plaintiff and the Lieutenant and stated, "I shouldn't be taking this test either". The Lieutenant then told plaintiff that he should be following Commissioner Petracco around to his (Petracco's) home and deli and "keep on him" about the promotion. This simply blew plaintiff away.

11. Thereafter, on/about September 25, 2012, plaintiff's wife Donna Lamond and his mother-in-law, Barbara Raymond, were among the patrons at Petracco's deli and were approached by Petracco at the counter. Petracco asked to talk to them in the rear of the store, thereafter stating to them "the only way the promotions will happen for anyone is if Green is in line." Petracco then stated to them that he would then move "Tommy" up (meaning Captain Strumolo). Plaintiff's wife tried to explain to Petracco that the promotion which her husband was validly entitled to was for the benefit of plaintiff's family and oldest daughter, who suffers from a lifelong illness. Defendant Petracco coldly and viciously responded by saying "go cry to Commissioner Tucci and convince him to change his vote in my favor so my guy Green can move up." Petracco also stated to the plaintiff's wife and mother-in-law that his own children "are the only ones who suffer" and his "true friends are sitting around the pool" in his backyard. Petracco then asked plaintiff's mother-in-law what her full name was, where she works and where she had worked previously. Plaintiff's

wife was extremely uncomfortable with this line of questioning, paid for her food and left in tears. Plaintiff's wife telephoned plaintiff immediately thereafter and informed him of the incident.

12. Later that same day, plaintiff was approached without warning by Nutley Special Police Officer Joe Villano, a well known Petracco minion. Villano told plaintiff to stop what he was doing and immediately go to Petracco's deli, apparently sent by Petracco to relay this message. Villano told plaintiff that his wife and mother-in-law "had a problem at the store" and that Villano wanted it to be "straightened out". Plaintiff said he was not comfortable going but Villano insisted, stating further that they "had to get Green to Captain status and everything would be alright". Plaintiff told Villano that he did not care about any of the Green part of the situation and that he was only concerned for his family. Villano continued on by responding "this shit runs deep with the Strumolo and Petracco, and Green is their (Petracco's) guy, not Capt. Strumolo".
13. Thereafter, Plaintiff reluctantly and out of fear of further retaliation went to Petracco's deli at Villano's direction. Upon arriving at the deli, plaintiff noticed Petracco and Lieutenant Green conversing outside Petracco's deli on the front stairs. Lieutenant Green then got into his car and took off. Plaintiff got out of his car and sat with Petracco in front of his deli. Petracco told plaintiff he was "angry with (plaintiff's) mother-in law and wife but would overlook it". Plaintiff said he believed his wife, that she was upset and crying and that she was just there to buy food and would not come to the store again. Petracco then told plaintiff that he was planning to certify his Civil Service promotional list, and also commented that he 'did not

appreciate” plaintiff’s continuing support for the opposing Commissioners, especially Tucci. Petracco then wanted to know if plaintiff could tell him where his mother-in-law worked or had worked, which rattled and concerned plaintiff beyond words, as plaintiff did not feel that Petracco needed to know that information.

14. Thereafter, during Christmas week 2012, plaintiff was ordered to accompany Petracco to drive two of his (Petracco’s) workers home to Passaic N.J. Plaintiff did not believe this was in his job description. In fact, it was a ridiculous, retaliatory, improper and harassing request, simply advanced by Petracco to show plaintiff that he was in charge.

CONTINUED/ADDITONAL HARASSMENT

15. The harassment, retaliation and blatant civil rights violations continued, and on January 3, 2013, plaintiff received three phone calls from a Detective Sergeant at night. The Detective Sergeant wanted to know if plaintiff “had his (the Detective Sergeant’s) insurance checks”. Plaintiff responded in the negative. The Detective Sergeant stated that “they had been mailed to either 58 or 64 Chestnut Street”. Plaintiff told him his address was 66 Chestnut Street. The Detective Sergeant stated that he knew that and again asked if plaintiff “had his checks”. Plaintiff told him that he did not have his checks and that if he had received any he would have given them to him immediately. Plaintiff thereafter yet again stated that he didn’t have the checks and hung up the phone.
16. On January 4, 2013, the Detective Sergeant confronted the plaintiff at the police desk and continued to talk, in earnest, about the above checks. The Detective Sergeant was

under the direct command of Lieutenant Green during this period of time, Green commonly known as being Petracco's "guy".

17. On January 5, 2013, the plaintiff was in a Lieutenant's office having a conversation with the Lieutenant. A Detective came into the office and joined in the conversation. During the conversation, the Detective awkwardly told the Lieutenant that plaintiff "spends a lot of time at home" while plaintiff was on duty. While the Detective was saying this, the Lieutenant called this an "unprovoked attack" on plaintiff. Upon information and belief, the Detective was sent by Petracco. Moreover, all police cruisers were equipped with a GPS tracking device, which would have shown that which was alleged but clearly, did not.
18. The plaintiff properly and in accordance with protocol reported many of the above incidents to Nutley Police Internal Affairs Unit on Monday January 7, 2013, pursuant to both the NJCEPA and NPD guidelines, yet nothing has been done to date by defendant Nutley to remedy these egregious wrongs. It remains obvious that among myriad other forms of harassment, Petracco wrongfully/illegally held up plaintiff's promotion to the rank of lieutenant because plaintiff has not succumbed to Petracco's threats to influence others to vote for/promote his "favorite(s)".
19. On/about January 10, 2013, plaintiff was attending his daughter's opening play night at John Walker Middle School when he came in contact with Petracco in the hallway during intermission. Petracco asked plaintiff if the internal affairs incidents "could go away" and if plaintiff would go see Commissioner Tucci to "pressure him" to vote in his favor. Once again, plaintiff was shocked, terrified and uncomfortable with this line of questioning and being asked to do something outside his job description by

Petracco. Plaintiff was also terribly upset that Petracco, a civilian, had knowledge of plaintiff's confidential claims to Internal Affairs. Plaintiff then walked back into the auditorium to watch his daughter's play.

20. On February 28, 2013, plaintiff went to Nutley Police Chief John Holland's office. Chief Holland is known by all to be a law enforcement officer beyond reproach, whose reputation is, simply put, flawless. Chief Holland offered to help plaintiff contact and fax N.J. Civil Service to send in his letter to challenge the hiring practices of the Nutley Police Department (Exhibit A). This letter was to be used to have the promotional list reopened due to litigation status. Later on that day, plaintiff found out that Petracco had the audacity to question the Chief as to why and what plaintiff was doing in his office.
21. Later on that same evening, plaintiff tried to enter the Nutley Parks and Recreation building on Park Ave. and heard someone calling his name from a blue Ford SUV. Plaintiff saw the vehicle pull into the driveway and approached it. In the passenger side seated was Petracco, who obviously then made it a point to follow the plaintiff at times, and who was the one calling his name. Petracco asked plaintiff what he was doing at Commissioner Tucci's building. Plaintiff told him that he was "on break". Petracco became outwardly and clearly irritated and wanted to know why plaintiff hadn't been "making purchases" at his deli, which was clearly an illegal attempt to force him to patronize his business or plaintiff would face continued and relentless retaliation. Plaintiff told Petracco that he didn't feel comfortable going to the deli because Petracco had derailed plaintiff's career, thereby stymieing any opportunities for his sick child to have improvements in her life. Petracco then flippantly and

irreverently said he would pay for plaintiff's daughter's medical expenses. Plaintiff was not comfortable with this conversation and walked into the building.

22. In furtherance of clear proof of what Petracco has done to plaintiff, as late as October 7, 2013, Petracco's secretary actually confronted the plaintiff and loudly stated that she "had nothing to do with anything that Petracco did to" plaintiff, and that the plaintiff "should not hold anything against (her) for what he does".

THE ABOVE IS MERELY MEANT TO BE ILLUSTRATIVE NOT EXHAUSTIVE

CAUSES OF ACTION

FIRST COUNT

(New Jersey Civil Rights Act, N.J.S.A. 10:6-2(C))

23. Plaintiff repeats the allegations set forth in all preceding paragraphs.
24. As described above, the defendants, and each of them, were at all times relevant herein persons or agencies acting under color of law. Petracco at all such times acted with the tacit, actual and/or constructive authorization, approval, and acquiescence of Defendant Township of Nutley, and was a municipal policy maker whose acts may fairly and reasonably be said, perceived, or understood to be official policy of the defendant Nutley.
25. By virtue of the defendants' aforementioned conduct, acts, and omissions to act, the plaintiff has been deprived of rights, privileges or immunities secured by the Constitution and laws of this State, including those specific rights, privileges, and

immunities set forth in the following paragraphs. Defendants also interfered with, or attempted to interfere with, plaintiff's exercise or enjoyment of those substantive rights, privileges or immunities by way of threats, intimidation or coercion as described above.

26. Defendants' conduct was also politically motivated and based on plaintiff's social affiliation and committed for purposes of political patronage and cronyism. Moreover, defendants' conduct was motivated by plaintiff's status as a citizen of Nutley, including his criticisms of actions taken and/or contemplated by defendants and his other advocacy and leadership relative to Nutley police officers and public safety. Such conduct by defendants violated and interfered with plaintiff's rights to free speech and association secured by the New Jersey Constitutions.
27. By reason of his length of service as a police officer and his bargaining agreement with the Township, the plaintiff had a reasonable and protectable property right and interest in his promotional rights and retirement benefits. The defendants acted deliberately and purposefully to interfere with said right and interest and to prevent plaintiff from receiving such benefits. Defendants thus improperly violated, frustrated and interfered with plaintiff's substantive due process rights.
28. On many occasions as described above, the defendants deliberately and/or recklessly disseminated or permitted the dissemination of private and confidential information and materials regarding the plaintiff and his employment in violation of the laws, rules and policies and procedures mandating the preservation of the confidentiality of such information and materials. Said conduct also interfered with and violated plaintiff's substantive due process/liberty right to privacy.

29. As the direct and proximate result of defendants' violations, plaintiff has been and will continue to be substantially damaged as aforesated.

WHEREFORE, plaintiff Christopher Lamond, demands judgment in his favor and against the defendants as follows:

- (a) For promotion to the rank of lieutenant;
- (b) for compensatory damages as well as all statutorily allowable damages and enhancements;
- (c) for punitive damages;
- (d) for interest;
- (e) for attorneys' fees and costs of suit; and
- (f) for such other and further relief as the Court deems equitable and just.

SECOND COUNT

(N.J. Conscientious Employee Protection Act)

30. Plaintiff repeats the allegations set forth in all preceding paragraphs.

31. During the relevant time period mentioned herein, all procedural prerequisites of N.J.S.A. 34:19-1 et seq. were satisfied.

32. Plaintiff was at all relevant times and "employee" within the meaning of N.J.S.A. 34:19-2(b).

33. Each defendant was at all relevant times an "employer" as defined in N.J.S.A. 34:19-2(a). Petracco was also a "supervisor" within the meaning of N.J.S.A. 34:19-2(d).

34. As aforescribed, the plaintiff reasonably believed that the actions and conduct of Petracco and his affiliates, and of the Township, done in the course of his employment, were in violation of the New Jersey Constitutions, laws, rules,

ordinances or regulations promulgated pursuant to law, established codes of conduct and ethics, a clear mandate of public policy, or were criminal and unethical.

35. Plaintiff objected to and complained about such conduct as aforementioned, and thereby performed protected employee "whistle-blowing" activities pursuant to N.J.S.A. 34:19-3.
36. As set forth above, the defendants took adverse employment action against the plaintiff, including without limitation their deliberate, purposeful and continued campaign to demean and humiliate the plaintiff, cause him emotional distress and mental anguish, and make his working environment unreasonably unbearable and hostile. Petracco also illegally held back plaintiff's rightful promotion to the rank of Lieutenant. There was a direct causal connection between plaintiffs' protected whistle-blowing activities and the adverse employment action taken by defendants.
37. Defendant Nutley not only failed and/or refused to correct or prevent the improper and wrongful conduct reported by the plaintiff, but also failed and/or refused to stop, prevent or correct the adverse actions taken against the plaintiff, or to take appropriate action against Petracco and his minions to stop or rectify their vindictive and retaliatory actions.
38. Defendants do not have any legitimate, non-discriminatory or non-retaliatory reason or justification for the adverse employment actions taken against the plaintiff, and any reason defendants may advance is mere pretext.
39. As the direct and proximate result of defendants' unlawful retaliation in violation of N.J.S.A. 34:19-1, et seq., the plaintiff has been and will continue to be substantially damaged as aforesaid.

WHEREFORE, plaintiff Christopher Lamond demands judgment in his favor and against the defendants as follows:

- (a) For promotion to the rank of lieutenant;
- (b) for compensatory damages, as well as all statutorily allowable damages and enhancements;
- (c) for punitive damages;
- (d) for interest;
- (e) for attorneys' fees and costs of suit; and
- (f) for such other and further relief as the Court deems equitable and just.

THIRD COUNT

(Intentional Infliction of Emotional Distress)

40. Plaintiff repeats the allegations set forth in all preceding paragraphs.
41. As described above, in committing the acts and omissions to act complained of, Petracco acted intentionally and purposefully to cause the plaintiff emotional distress and injury, and/or acted in reckless disregard for a high degree of probability that emotional distress would follow from his conduct.
42. Defendants' conduct was extreme and outrageous and was so extreme in degree as to go beyond all possible bounds of decency and to be regarded as atrocious and utterly intolerable in a civilized community.
43. As the direct and proximate cause of Petracco's extreme and outrageous intentional and/or reckless conduct, the plaintiff suffered genuine and substantial emotional distress and injury.

44. The defendants' conduct was so severe and extreme as to cause genuine and substantial emotional distress or mental harm to the average person similarly situated to the plaintiff, and plaintiff suffered such severe and substantial emotional distress and mental injury that no reasonable person would be expected to endure.

WHEREFORE, plaintiff Christopher Lamond, demands judgment in his favor and against the defendants as follows:

- (a) For promotion to the rank of lieutenant;
- (b) for compensatory damages, as well as all statutorily allowable damages and enhancements;
- (c) for punitive damages;
- (d) for interest;
- (e) for attorneys' fees and costs of suit; and
- (f) for such other and further relief as the Court deems equitable and just.

FOURTH COUNT

(Tortious Interference - Petracco)

45. Plaintiff repeats the allegations set forth in all preceding paragraphs.

46. The plaintiff had an employment relationship with the defendant Nutley as described above and had thereunder a reasonable expectation of receiving the benefits of said relationship. Plaintiff also had a reasonable and protectable prospect and right of economic advantage and benefit. Further, plaintiff had a reasonable and prospect and right of economic advantage with respect to employment after his retirement from the Nutley Police Department.

47. Petracco was aware of plaintiff's rights and expectations.

48. As set forth above, Petracco intentionally and deliberately interfered with plaintiff's contractual and prospective economic advantage.

49. Petracco's conduct was done with malice and spite, and without any bona fide or legitimate justification or excuse.

50. In the absence of Petracco's wrongful acts, it is reasonably probable that the plaintiff would have realized his economic advantage and benefits.

51. As the direct and proximate result of Petracco's intentional interference, the plaintiff has been and will continue to be substantially damaged as aforesaid.

WHEREFORE, plaintiff Christopher Lamond, demands judgment in his favor and against defendant Alphonse Petracco as follows:

- (a) For promotion to the rank of lieutenant;
- (b) for compensatory damages, as well as all statutorily allowable damages and enhancements;
- (c) for punitive damages;
- (d) for interest;
- (e) for attorneys' fees and costs of suit; and
- (f) for such other and further relief as the Court deems equitable and just.

FIFTH COUNT

(Civil Conspiracy)

52. Plaintiff repeats the allegations set forth in all preceding paragraphs.

53. Petracco and the Township of Nutley, by and through its employees and officials, agreed in concert with one another to commit unlawful acts against plaintiff, and/or to commit facially lawful acts by unlawful means, as hereinabove described.

54. Pursuant to and in furtherance of said agreement and combination, defendants committed overt acts which acts include those hereinabove stated.

55. As the direct and proximate result of defendants' conspiracy, the plaintiff has been and will continue to be severely damaged.

WHEREFORE, plaintiff Christopher Lamond, demands judgment in his favor and against the defendants as follows:

- (a) For promotion to the rank of lieutenant;
- (b) for compensatory damages, as well as all statutorily allowable damages and enhancements;
- (c) for punitive damages;
- (d) for interest;
- (e) for attorneys' fees and costs of suit; and
- (f) for such other and further relief as the Court deems equitable and just.

SIXTH COUNT

(Negligent Supervision)

56. Defendant Township of Nutley was for at least three years aware of all of the above, as well as defendant Petracco's illegal, unwarranted and retaliatory conduct toward the plaintiff as relayed hereinabove.

57. Accordingly, defendant Township of Nutley is liable in damages proximately caused by its own negligent supervision of defendant Petracco, for all injuries caused by Petracco's acts or omissions within the scope of his employment, resulting from Petracco's incompetence, unfitness, ineptitude and/or ineffectiveness, as defendant

Township knew or clearly had reason to know of these attributes, and could have reasonably and easily foreseen such qualities of Petracco.

WHEREFORE, plaintiff Christopher Lamond, demands judgment in his favor and against the defendants as follows:

- (g) For promotion to the rank of lieutenant;
- (h) for compensatory damages, as well as all statutorily allowable damages and enhancements;
- (i) for punitive damages;
- (j) for interest;
- (k) for attorneys' fees and costs of suit; and
- (l) for such other and further relief as the Court deems equitable and just.

DEMAND FOR TRIAL BY JURY

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

DESIGNATION OF TRIAL COUNSEL

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

DEMAND FOR DISCOVERY OF INSURANCE INFORMATION

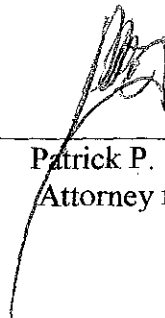
Pursuant to Rule 4:10-2(b), please comply with plaintiff's request for all insurance information.

CERTIFICATION

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

I also certify, upon information and belief, that at the present time no other action or arbitration with respect to the matter in controversy is contemplated. On the basis of the present knowledge, I am aware of no other party or parties who should be joined in this action.

Dated: October 10, 2013



Patrick P. Toscano, Jr.
Attorney for Plaintiff