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Attorneys for Plaintiff

MICHAEL PATRICK O'HALLORAN,  
  
Plaintiff,

v.

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

103 JUN 29 7 34b  
SUPERIOR COURT OF NJ  
LAW DIVISION  
ESSEX COUNTY  
DOCKET NO: L 5246-13

Civil Action

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

Michael Patrick O' Halloran, by way of Complaint against the defendants, says:

**THE PARTIES**

1. The plaintiff is an individual and was, at all times relevant hereto, a police officer employed by the Township of Nutley, Essex County, New Jersey. He also held the office of President of the Policeman's Benevolent Association ("PBA") for Nutley. Plaintiff was a dedicated and highly experienced law enforcement professional and his record of service was 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 business in town.

#### FACTS COMMON TO ALL COUNTS

4. Plaintiff became a Nutley police officer in November 1997. Prior to his employment with the Nutley Police Department, plaintiff was employed as a police officer with the Orange Police Department.

5. As set forth below, beginning shortly after Petracco's election in 2008, the defendants embarked upon a continuous, pervasive and cumulative pattern of deliberate, tortious and wrongful conduct against the plaintiff done in retaliation against the plaintiff for his efforts to correct, stop and report illegal and wrongful acts committed by Petracco or at his behest, to punish and retaliate against the plaintiff for plaintiff's proper and responsible discharge of his duties as PBA President, to violate plaintiff's civil rights, to interfere with plaintiff's employment as well as to harass the plaintiff and cause him severe emotional and physical distress and injury. Said pattern of continuous conduct included numerous adverse employment actions and created a hostile work environment, forcing plaintiff to retire on or about February 1, 2013. Said conduct continued up to and, indeed, even after the plaintiff's retirement.

6. Defendant Petracco has abused and misused his office and influence over the years, extracting favors, benefits and special treatment not available to the ordinary citizen and living "above the law." Through his positions and connections, he has been able to avoid fines

and other sanctions for his flaunting of the law. Other present Nutley Commissioners and officials have a similar history of corruption and abuse.

7. Within approximately one month after his election in 2008, Petracco utilized generators belonging to the Nutley Fire Department to power his personal deli business during an extended power outage, while other facilities in town went without power. The plaintiff reported this abuse to the Essex County Prosecutor's Office.

8. Petracco also went about signing and issuing PBA cards to hand out to his cronies. As Petracco was not a police officer, this was improper. The plaintiff personally wrote to Petracco and advised him to stop signing cards or else he would bring charges against him for impersonating a police officer.

9. Petracco maintains an illegal sign in front of his deli and has on several occasions been asked to remove it, which he has not.

10. For years there has been illegal parking in front of Petracco's deli. Petracco himself parks on the sidewalk illegally. Over the years, up through late 2012, the plaintiff has attempted to correct that illegal and dangerous situation by either making the vehicles move or issuing citations. In retaliation for plaintiff's efforts to enforce the law, the defendants had plaintiff reassigned to other areas of town on a number of occasions. At one point on Halloween 2010, after calling in several illegally parked vehicles at Petracco's business that were creating a safety hazard for trick-or-treating children, the plaintiff was moved to another area of town and was not assigned to Petracco's area for nearly two years.

11. In addition, when plaintiff responded to a complaint by the owner of the building in which Petracco's campaign headquarters was located regarding illegally parked vehicles, and issued tickets, Petracco had the Deputy Chief of Police question and criticize the plaintiff.

12. In August 2012, plaintiff again attempted to move illegally parked vehicles outside Petracco's deli and was again immediately reassigned to another area of town. That same morning, the Deputy Chief called headquarters to have illegally parked vehicles moved from other businesses in town, including cars parked on the sidewalk. Plaintiff was dispatched to answer the Deputy Chief's call. Curiously, no call was made to move vehicles outside Petracco's deli, including Petracco's vehicle which was also parked on the sidewalk. Plaintiff learned that Petracco had directed supervisors to move the plaintiff to a different area of town. In October 2012, plaintiff was immediately moved to a different area of town for simply noticing seven illegally parked vehicles outside Petracco's deli before plaintiff could do anything about it. In December 2012, plaintiff's zone was switched in front of other police officers before he even left morning lineup to the area of town farthest from Petracco's deli.

13. When the son of Thomas Evans, another Nutley Commissioner, was involved in an automobile accident investigated by the plaintiff, Evans called several Police Department supervisors in an unlawful attempt to make the plaintiff change his report so that it would be a non-reportable accident. The plaintiff refused.

14. Petracco has misused official vehicles for his own personal use. On several occasions, he has utilized police vehicles and the services of police officials for personal business, including trips to a hunting site in Mendham Township, to football games, and to out-of-town parties.

15. Although he is Director of Public Safety, Petracco is not permitted to give direct orders to Police personnel. He has, however, usurped his position and has been involved in the day-to-day operations of the Police Department. He has also utilized his position and the prospect of favors he could bestow to control and gain the allegiance of Police supervisors

seeking to be promoted, and has attempted to create new or additional positions that could be filled by his cronies.

16. Petracco has used campaign funds to promote his personal business and has several campaign fund problems. He has also been investigated for forcing police and fire personnel to attend his political fundraisers.

17. Petracco attempted to use his influence and position to have his deli cater police retirement functions, which the plaintiff believed to be a conflict of interest and unlawful. Plaintiff refused.

18. Petracco has engaged in heavy handed and unfair tactics in his dealings and contract negotiations with plaintiff and the PBA. For example, Petracco threatened to lay off police officers if the PBA did not take the offer he proposed, when there was no legitimate financial or budgetary reason for this threat and despite the clear adverse impact this unilateral action would have on public safety. He went so far as to lay off two officers and another official, even though the Township hired three new dispatchers. Given the lack of justification for this ploy, and in light of the public outcry, the laid off officers were rehired within one month and the official's position was also filled. In addition to plaintiff's efforts as a police officer and municipal employee to stop and report Petracco's illegal conduct described above, the plaintiff in his capacity as PBA President criticized Petracco's and the Township's management and policies with respect to the police and stood up against the defendants on behalf of police officers and the public.

19. The plaintiff reported defendants' violations both internally and to outside agencies on a number of occasions, including the Essex County Prosecutor's Office. Petracco was aware of this. As noted above, Plaintiff has voiced opposition to defendants' actions and, as

a citizen and PBA official, has also voiced and published criticism and opposition to various proposals or actions of the defendants. As a result, plaintiff has been retaliated against and harassed continuously. Such wrongful acts and conduct directed against the plaintiff have included:

- a. Disallowing plaintiff from patrolling Petracco's area of town on numerous and consistent occasions as aforesaid;
- b. Interfering with plaintiff's right to overtime pay for a job plaintiff was forced to perform, requiring plaintiff to file a grievance;
- c. Interfering with police operations and the chain of command and directing and/or cajoling supervisor action or inaction against the plaintiff;
- d. Falsely advising laid off police officers and firefighters and a PBA delegate that the plaintiff was the cause of their dismissals in retaliation for a letter plaintiff to the local newspaper criticizing defendants' decision and for plaintiff's efforts to organize a rally and poster campaign against the decision, in an effort to put the plaintiff in a bad light and lose his position with the local PBA;
- e. Attempting an eleventh hour modification to the collective bargaining agreement for police that would eliminate plaintiff's eligibility for retirement medical benefits, a provision that affected only the plaintiff and was obviously directed specifically at him, despite a township ordinance prohibiting such treatment;
- f. Constantly attempting and threatening to take action and/or advocate measures that would reduce and/or eliminate plaintiff's pension and retirement benefits;
- g. Instituting sham and frivolous internal affairs and Prosecutor's Office investigations of the plaintiff in response to plaintiff's filing of a police report detailing Petracco's wrongful failure to pay for his attendance at a retirement party. Petracco told the investigating police lieutenant to drum up charges against the plaintiff so that he could be fired. When the lieutenant did not, Petracco took him off the investigation. Plaintiff was cleared of any wrongdoing;
- h. Adverse action taken against the plaintiff's mother, who was employed by the Township, including transferring her and wrongfully refusing to

pay her compensation time upon her retirement, in retaliation against the plaintiff;

- i. Initiation of a false and frivolous disciplinary action against the plaintiff's brother that was ultimately dismissed;
- j. Attempts to force plaintiff to resign as PBA President;
- k. Making and publishing defamatory and demeaning comments regarding the plaintiff to individuals and groups outside of the Police Department;
- l. Posting or causing or permitting to be posted derogatory items about plaintiff on the Police Department bulletin board on several different occasions. Although the bulletin board area is subject to video surveillance, when plaintiff demanded that each posting be investigated, he was advised that, miraculously, none of the tapes revealed the identity of any poster;
- m. Having Petracco's friend instigate a fight with plaintiff, and physically assaulted plaintiff by bumping into him, in an attempt to make the plaintiff hit him and be subject to job loss or discipline;
- n. Engaging in "stare downs" and other intimidating or threatening behavior;
- o. Directing that the plaintiff not be assisted with getting access to the Infocop computer system. Plaintiff learned that this was done in retaliation for his moving illegally parked vehicles in front of Petracco's deli;
- p. In August 2012 plaintiff's e-mail was wrongfully accessed and a distasteful and improper e-mail was sent out under plaintiff's name to Police Department officers and supervisors. No effort was made to stop, correct or investigate this wrongful use of plaintiff's e-mail;
- q. Petracco deliberately omitted plaintiff's name in a newspaper release when plaintiff apprehended a bank robber despite naming all other persons involved. Petracco has refused to give plaintiff his award for such heroic action;
- r. Constant and repeated efforts to embarrass, humiliate, demean and denigrate the plaintiff in front of other municipal personnel and the public;

- s. Making or causing to be made harassing and disturbing telephone calls to the plaintiff and sending unwanted political solicitations to the plaintiff;
- t. Petracco's close friend contacted plaintiff's new employer in an effort to convince the employer not to hire the plaintiff; and
- u. Not content that plaintiff was retiring, defendants wrongfully withheld payment for a number of days plaintiff worked just prior to his retirement. Plaintiff has repeatedly requested to meet with Petracco or Evans and the new PBA President but his requests have been ignored and he has not been given any reason why he has not been paid for those days.
- v. Plaintiff has not been given a resolution from the township for his years of service that is routinely given as a matter of good order to every employee that retires from the township.

20. By reason of the aforementioned pattern of continuous and wrongful adverse actions by defendants over the course of several years, plaintiff was subjected to constant harassment, stress and humiliation. His employment and law enforcement functions were disrupted and interfered with and he was caused to suffer mental and emotional distress and anguish to an extreme degree. The cumulative effect of defendants' actions was the creation of a hostile work environment

21. It became clear to the plaintiff that defendants were deliberately attempting to force him out, that the insidious pattern of vindictive harassment and retaliation would continue and that there was no reasonable prospect of advancement or promotion. It was also clear to the plaintiff that the defendants were attempting to strip him of his retirement benefits. His career ruined, his work environment unbearable, and to protect and preserve his hard-earned benefits, the plaintiff had no reasonable choice but to retire.

CAUSES OF ACTION

FIRST COUNT

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

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

23. 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.

24. 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 the United States and substantive 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.

25. Defendants' conduct was also politically motivated and based on plaintiff's political affiliation and committed for purposes of political patronage and cronyism. Moreover, defendants' conduct was motivated by plaintiff's position with the PBA and his discharge of his duties on behalf of the PBA as its President, as well as 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 United States and New Jersey Constitutions.

26. 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 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.

27. 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.

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

**WHEREFORE**, plaintiff Michael Patrick O' Halloran, demands judgment in his favor and against the defendants as follows:

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

## SECOND COUNT

### (N.J. Conscientious Employee Protection Act)

29. Plaintiff repeats the allegations set forth in all preceding paragraphs.
30. During the relevant time period mentioned herein, all procedural prerequisites of N.J.S.A. 34:19-1 et seq. were satisfied.
31. Plaintiff was at all relevant times and "employee" within the meaning of N.J.S.A. 34:19-2(b).
32. 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).
33. As aforedescribed, 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.
34. 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.
35. 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. There was a direct causal connection between plaintiffs' protected whistle-blowing activities and the adverse employment action taken by defendants.

36. 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.

37. 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.

38. 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 aforesated.

**WHEREFORE**, plaintiff Michael Patrick O' Halloran demands judgment in his favor and against the defendants as follows:

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

### **THIRD COUNT**

#### **(Wrongful Discharge)**

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

40. At all relevant times, the plaintiff was a professional law enforcement officer as such owed special duties not only to abide by state and federal laws but also to abide by the

recognized codes of conduct of his profession and directives governing his position. Plaintiff was also bound by the rules, responsibilities, and ethics governing his tenure as President of the PBA.

41. As set forth above, Petracco's conduct was corrupt, illegal, and harmful and would, if not corrected, call upon the plaintiff to violate, and plaintiff reasonably and in good faith believed would call upon him to violate, such laws, directives and codes. Similarly, defendants' repeated and continued retaliatory and harassing acts and interference with plaintiff's employment and performance of his PBA duties were corrupt, illegal and harmful activities and violated, and were reasonably believed by plaintiff to violate, such laws, directives and codes. Defendants' conduct posed a threat of public harm.

42. Plaintiff objected to and refused to "look the other way" and objected to defendants' conduct and actions noted above, and complained about and reported such conduct and actions in writing both internally and to outside agencies.

43. In retaliation, defendants embarked upon their continued pattern of conduct with which they intended to injure the plaintiff and created a hostile work environment that no reasonable person in plaintiff's situation would be expected to endure, forcing him to retire. Defendants thus constructively terminated and discharged the plaintiff because he reported the aforementioned corrupt and illegal activities.

44. Defendants' discharge of the plaintiff was thus wrongful and violated clear mandates of public policy.

45. Defendants had a duty not to discharge the plaintiff for refusing to perform, or for reporting, activities which violated the aforesaid clear mandates of public policy. Moreover, it was an implied contract and/or provision of the defendants' employment of the plaintiff that

plaintiff would not be discharged for refusing to perform or reporting activities which violated such clear mandates.

46. Defendants deliberately and recklessly breached the aforesaid duty and implied contract.

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

**WHEREFORE**, plaintiff Michael Patrick O'Halloran, demands judgment in his favor and against the defendants as follows:

- (a) for compensatory, consequential and incidental damages, including front pay, back pay, and pension and other benefits;
- (b) for punitive damages;
- (c) for interest;
- (d) for attorneys' fees and costs of suit; and
- (e) for such other and further relief as the Court deems equitable and just.

#### **FOURTH COUNT**

##### **(Intentional Infliction of Emotional Distress)**

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

49. As described above, in committing the acts and omissions to act complained of the defendants 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 their conduct.

50. 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.

51. As the direct and proximate cause of defendants' extreme and outrageous intentional and/or reckless conduct, the plaintiff suffered genuine and substantial emotional distress and injury.

52. 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 Michael Patrick O' Halloran, demands judgment in his favor and against the defendants as follows:

- (a) for compensatory damages;
- (b) for punitive damages;
- (c) for interest;
- (d) for attorneys' fees and costs of suit; and
- (e) for such other and further relief as the Court deems equitable and just.

#### **FIFTH COUNT**

##### **(Tortious Interference - Petracco)**

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

54. 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.

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

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

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

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

59. 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 Michael Patrick O' Halloran, demands judgment in his favor and against defendant Alphonse Petracco as follows:

- (a) for compensatory damages;
- (b) for punitive damages;
- (c) for interest;
- (d) for attorneys' fees and costs of suit; and
- (e) for such other and further relief as the Court deems equitable and just.

**SIXTH COUNT**

**(Civil Conspiracy)**

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

61. 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.

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

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

**WHEREFORE**, plaintiff Michael Patrick O' Halloran, demands judgment in his favor and against the defendants as follows:

- (a) for compensatory damages;
- (b) for punitive damages;
- (c) for interest;
- (d) for attorneys' fees and costs of suit; and
- (e) 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, Michael Patrick O' Halloran, 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: June 26, 2013

  
\_\_\_\_\_  
Patrick P. Toscano, Jr.  
Attorney for Plaintiff

## RELEASE AND CONFIDENTIALITY AGREEMENT

This Release dated October \_\_\_\_ 2014, is hereby given

BY the Releasor, **MICHAEL PATRICK O'HALLORAN**, referred to as "I" or "Me",

TO: **THE TOWNSHIP of NUTLEY and ALPHONSE PETRACCO, both INDIVIDUALLY and IN HIS CAPACITY AS THE MAYOR OF THE TOWNSHIP OF NUTLEY**, referred to as "You" or "Your".

If more than one person signs this Release, "I" shall mean each person who signs this Release.

1. **RELEASE.** I release and give up:

Any and all claims, matters, actions, causes of action, whether express or implied, including any and all affirmative defenses and counterclaims, demands for damages of whatever kind or nature, including all claims plead in or made in the matter entitled **Michael Patrick O'Halloran v. The Township of Nutley and Alphonse Petracco** initially filed under Docket No. ESX-L-5246-13 filed in the Superior Court of New Jersey, and subsequently removed to the United States District Court, under Docket No. 2:13-cv-04389-JLL-JAD, including all claims for violations of the New Jersey and/or United States Constitution; New Jersey Conscientious Employee Protection Act; Wrongful Discharge; Intentional Infliction of Emotional Distress; Tortious Interference and Civil Conspiracy, and whether based in tort, contract or any other theory of recovery, which they may have now, or which may hereafter accrue or otherwise occur or be acquired.

2. **CONFIDENTIALITY:** **Michael Patrick O'Halloran** further agrees that he will not disclose the existence of the terms of this Agreement or any exhibits to this Agreement to anyone except taxing bodies as may be required by law or as may be required by valid legal process issued by a court or tribunal of competent jurisdiction, and then only after written notice of the process immediately upon its receipt. In response to any unsolicited inquiries from anyone to Michael Patrick O'Halloran about this matter and/or its disposition, Michael Patrick O'Halloran agrees that he may respond only to the effect that "the matter has been resolved".

3. **PAYMENT.** I have been paid a total of **\$40,000.00** in full payment for making this Release. I agree that I will not seek anything further, including any other payment from you.

3. **WHO IS BOUND.** I am bound by this Release. Anyone who succeeds to my rights and responsibilities, such as my heirs or the executor of my estate, is also bound. This Release is made for your benefit and all who succeed to your rights and responsibilities, such as your heirs or the executor of your estate.

4. **SIGNATURES.** I understand and agree to the terms of this Release. If this Release is made by a corporation its proper corporate officers sign and its corporate seal is affixed.

WITNESSED BY

Jh Cel

Michael O'Halloran

MICHAEL PATRICK O'HALLORAN

STATE OF NEW JERSEY :

: ss

COUNTY OF ESSEX :

I CERTIFY that on October 14<sup>th</sup>, 2014, Michael Patrick O'Halloran personally came before me and acknowledged under oath, to my satisfaction, that this person (or if more than one, each person):

- (a) is named in and personally signed this document; and
- (b) signed, sealed and delivered this document as his or her act and deed.

PREPARED BY:

JOSEPH A. DeFURIA

Sharon E Boyle

SHARON E. BOYLE  
A Notary Public of New Jersey  
My Commission Expires AUGUST 2, 2015