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December 4, 2015

Via Lawyer's Service
Clerk, Civil Law Division
Hudson County Superior Court
583 Newark Avenue
Jersey City, NJ 07306

Re: Alberto Bringa et al vs. Mayor Felix Roque et al
Docket No.: HUD-L- 1673-13
Our File No.: 200141

Dear Sir/Madam:

Enclosed please find an original and one (1) copy of the second amended complaint and Case Information Statement, as per the enclosed Order signed by Judge Francis B. Schultz, J.S.C.

Kindly stamp the Complaint as "filed" and return a conformed copy to me in the self-addressed stamped envelope provided.

Should you have any questions, please do not hesitate to contact my office.

Sincerely,



LOUIS A. ZAYAS, ESQ./js

LAZ/js

cc: Roshan D. Shah, Esq. (via fax & regular mail) ✓
David W. Fassett, Esq. (via fax & regular mail)
Sandra Varano, Esq. (via fax & regular mail)
Thomas Abbate, Esq. (via fax & regular mail)

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ALBERTO BRINGA, LIEUTENENT
SERGIO SANCHEZ, THOMAS
MANNION, SERGEANT CARLOS
IRIMIA, OFFICER YOSBEL
MONPELLIER, DONNA DAVIS,
SILVERIO RODRIGUEZ, MARIE
BOMBINO, DAVID RIVERA,
MICHELLE LOPEZ, WALTER
LOPEZ, WILLIAM PARKINSON,
SCOTT CANNAO, JANET
PASSANTE, MARIA VARELA,
GLORIA VARELA, MARIO
VARELA,

Plaintiffs,

v.

MAYOR FELIX ROQUE, TOWN OF
WEST NEW YORK, POLICE
DIRECTOR MICHAEL INDRI, in his
official and individual capacity
CAPTAIN MICHAEL ZITT, CAPTAIN
PATRICK CULHANE,
COMMISSIONER FIOR'DALIZA
FRIAS, JOHANN MESSINA, SHINE
ALICEA, WEST NEW YORK
HOUSING AUTHORITY, WEST NEW
YORK BOARD OF EDUCATION,
AND ROBERT DIVINCENT, RICK
SOLARIS, WEST NEW YORK
JOSEPH DEMARCO, CLARA
HERRERA, WEST NEW YORK
COMMISSIONER REUBEN VARGAS,
COMMISSIONER CARIDAD
RODRIGUEZ,

Defendants.

SUPERIOR COURT OF NEW JERSEY.
LAW DIVISION: HUDSON COUNTY

DOCKET No.: HUD-L-1673-13

CIVIL ACTION

SECOND AMENDED COMPLAINT

The Plaintiffs, ALBERTO BRINGA, LIEUTENANT SERGIO SANCHEZ, THOMAS MANNION, SERGEANT CARLOS IRIMIA, OFFICER YOSBEL MONPELLIER, DONNA DAVIS, SILVERIO RODRIGUEZ, MARIE BOMBINO, DAVID RIVERA, MICHELLE LOPEZ, WILLIAM PARKINSON, WALTER LOPEZ, SCOTT CANNAO, JANET PASSANTE, MARIA VARELA, AND GLORIA VARELA, through their attorney, the Law Offices of Louis A. Zayas, L.L.C. allege as follows:

INTRODUCTION

1. This is a civil action brought by the aforementioned Plaintiffs for damages, declarative, and injunctive relief under New Jersey Civil Rights Act, N.J.S.A. 10:6-1 *et seq*; New Jersey Conscientious Employee Protection Act, pursuant to N.J.S.A. 34:19-1 *et seq.*, New Jersey Law Against Discrimination based on age, pursuant to N.J.S.A., 10:5-1 *et seq* and breach of contract.

JURISDICTION

2. There is no basis for federal jurisdiction since Plaintiffs' claims raised herein do not raise any federal question.

PARTIES

3. Plaintiff Alberto Bringa ("Bringa"), is a citizen of the State of New Jersey, residing in West New York, New Jersey.

4. Plaintiff Lieutenant Sergio Sanchez ("Lieutenant Sanchez") is a citizen of the State of New Jersey, residing in West New York, New Jersey.

5. Plaintiff Police Officer Thomas Mannion ("Officer Mannion") is a citizen of the State of New Jersey, residing in West New York, New Jersey.

6. Plaintiff Sergeant Carlos Irimia (“Sergeant Irimia”) is a citizen of the State of New Jersey, residing in West New York, New Jersey.

7. Plaintiff Police Officer Yosbel Monpellier (“Officer Monpellier”) is a citizen of the State of New Jersey, residing in West New York, New Jersey.

8. Plaintiff Donna Davis (“Davis”) is a citizen of the State of New Jersey, residing in West New York, New Jersey.

9. Plaintiff Marie Bombino (“Bombino”) is a citizen of the State of New Jersey, residing in West New York, New Jersey.

10. Plaintiff Silverio Rodriguez (“Rodriguez”) is a citizen of the State of New Jersey, residing in West New York, New Jersey.

11. Plaintiff David Rivera (“Rivera”) is a citizen of the State of New Jersey, residing in West New York, New Jersey.

12. Plaintiff William Parkinson (“Parkinson”) is a citizen of the State of New Jersey, residing in West New York, New Jersey.

13. Plaintiff Scott Cannao (“Cannao”) is a citizen of the State of New Jersey, residing in Cliffside Park, New Jersey.

14. Plaintiff Michelle Lopez is a citizen of the State of New Jersey residing in West New York, New Jersey.

15. Plaintiff Walter Lopez is a citizen of the State of New Jersey residing in West New York, New Jersey.

16. Janet Passante is a citizen of the State of New Jersey residing in West New York, New Jersey.

17. Gloria Varela is a citizen of the State of New Jersey residing in West New York, New Jersey.

18. Maria Varela is a citizen of the State of New Jersey residing in West New York, New Jersey.

19. Mario Varela is a citizen of the State of New Jersey residing in West New York, New Jersey.

20. Defendant Mayor Felix Roque ("Mayor Roque") is the duly elected mayor of West New York. Mayor Roque is sued in his official and individual capacity for purposes of effecting the compensatory, and punitive damages demanded by the Plaintiffs.

21. Defendant Town of West New York ("West New York") is a municipality organized by virtue of New Jersey law, and pursuant to that law, is to be known and distinguished by the name "West New York." Defendant West New York is sued to effect the full declaratory, injunctive and compensatory damages demanded by the Plaintiffs.

22. Defendant Police Director Michael Indri ("Director Indri") is the police director for the West New York Police Department at all relevant times. Director Indri is sued in his official and individual capacity for the purposes of effecting the compensatory and punitive damages demanded by the Plaintiffs.

23. Defendant Captain Michael Zitt ("Captain Zitt") is a police captain with the West New York Police Department. Captain Zitt is sued in his official and individual capacity for the purposes of effecting the compensatory and punitive damages demanded by the Plaintiffs.

24. Defendant Captain Patrick Culhane ("Captain Culhane") is a police captain with the West New York Police Department. Captain Zitt is sued in his official and individual capacity for the purposes of effecting the compensatory and punitive damages demanded by the Plaintiffs.

25. Defendant Fior'D Aliza Frias ("Commissioner Frias") is a West New York Commissioner. Commissioner Frias is sued in her official and individual capacity for purposes of effecting the compensatory and punitive damages demanded by the Plaintiffs.

26. Defendant Johann Messina ("Messina") works for West New York. Messina is sued in his official and individual capacity for purposes of effecting the compensatory and punitive damages demanded by the Plaintiffs.

27. Defendant Shine Alicea ("Alicea") works for West New York. Alicea is sued in his official and individual capacity for purposes of effecting the compensatory and punitive damages demanded by the Plaintiffs.

28. Defendant West New York Housing Authority ("Housing Authority") is a public entity organized under New Jersey law, and is sued to effect the full declaratory, injunctive and compensatory damages demanded by the Plaintiffs.

29. Defendant West New York Board of Education ("Board of Education") is a public entity organized under New Jersey law, and is sued to effect the full declaratory, injunctive and compensatory damages demanded by the Plaintiffs.

30. Defendant Robert DiVincent ("DiVincent") is the director of Defendant West New York Housing Authority, and is sued in his official and individual capacity for purposes of effecting the compensatory and punitive damages demanded by the Plaintiffs.

31. Defendant Rick Solaris ("Solaris") is the Supervisor of Facilities of Defendant Board of Education and is sued in his official and individual capacity for purposes of effecting the compensatory and punitive damages demanded by the Plaintiff Gloria Varela.

32. Defendant John Does 1-3 are employees of Defendant Board of Education and is sued in and is sued in his official and individual capacity for purposes of effecting the compensatory and punitive damages demanded by the BOE Plaintiff.

33. Defendant Joseph DeMarco ("Business Administrator DeMarco") was West New York Town Counsel and Business Administration and Mayor from May 2011 until July 2014. Demarco is sued in his official and individual capacity for purposes of effecting the compensatory and punitive damages demanded by the Plaintiffs as it concerns their RICO claims.

34. Defendant Clara Herrera ("Superintendent Herrera") was an assistant superintendent and superintendent of the West New York Board of Education at all relevant times alleged in this Amended Complaint. Herrera is sued in her official and individual capacity for purposes of effecting the compensatory and punitive damages demanded by the BOE Plaintiffs Maria, Gloria, and Maria Varela, Michelle Lopez, and Scott Cannao.

35. Defendant Reuben Vargas ("Commissioner Vargas") was a West New York Commissioner from May 2011 to January 2015. Commissioner Vargas is sued in his official and individual capacity for purposes of effecting the compensatory and punitive damages demanded by the Plaintiffs.

36. Defendant Caridad Rodriguez ("Commissioner Rodriguez") was and constitutes to be West New York Commissioner from May 2011 to the present. Commissioner Rodriguez is sued in her official and individual capacity for purposes of effecting the compensatory and punitive damages demanded by the Plaintiffs.

FACTS COMMON TO ALL PLAINTIFFS

37. The Town of West New York is a Commission Form of government, commonly referred as a "Walsh Act municipality". Pursuant to N.J.S.A. 40:72-2, the Walsh Act, all powers vested in board of commissioners:

The board of commissioners established hereunder shall have all the executive, administrative, judicial and legislative powers and duties heretofore had and exercised by the mayor and city council and all other executive or legislative bodies in such municipality, and shall have complete control over the affairs of such municipality.

38. Under the Commission Form of Government, the executive function of the municipality is divided among the five commissioners, each of whom heads one of the municipal departments specified in the law. Subordinate offices and agencies are assigned among the departments by the full board at its organization meeting. One commissioner is chosen to serve as mayor and to preside over meetings of the board for a four-year term. The mayor is directed by law to "supervise" all departments, but there is no veto power, and judicial decisions have tended to regard each commissioner as supreme in his or her own department, so that the mayor's supervisory authority depends more upon personal qualities than on statutory authority. Each commissioner has the power of appointment for all of the personnel in his or her department.

39. The Commissioner of Public Safety is responsible for implementing policy for the police department while the police director is responsible for carrying out that policy as well as the day-to-day operations of the police department in accordance with New Jersey state law and constitution.

40. All Plaintiffs were terminated by or are currently employed under Mayor Roque's Administration pursuant to Mayor Roque's implementation and execution of his unlawful political patronage policy. At all relevant times, Plaintiffs' political affiliation, political beliefs and expression of free speech and other constitutionally protected activities were not a written requirement of their employment.

41. The business administrator is responsible for carrying out the day-to-day operations of the town.

42. The West New York Handbook, which covers Plaintiffs' employment rights, explicitly prohibits retaliation against any employee based on the employee's political activities and/or political affiliations or freedom of speech and expression.

43. State and federal laws furthermore prohibits discriminatory or retaliatory employment practices based on such constitutionally protected activities.

44. When Plaintiffs applied and accepted employment with West New York, and during the course of their employment, Plaintiffs were not required to affiliate with any political candidate or ascribe to any political belief or express any particular form of speech as a condition of their employment.

45. In May 2011, Mayor Felix Roque unseated the then incumbent West New York Mayor Silverio Vega. Upon being sworn into office as mayor, Mayor Roque enacted an unwritten policy to govern West New York through a scheme of political

patronage and retaliation designed to reward his political supporters while punishing his political enemies, whether real or perceived.

46. Acting in concert with Defendants Director Indri, Captain Zitt, Captain Culhane, Commissioner Frias, Johann Messina, Shine Alicia and other political supporters, Mayor Roque was able to execute his town-wide policy of political patronage to rid of his political enemies, whether real or perceived.

47. The individual named Defendants used their government positions to provide substantial assistance in furtherance of Mayor Roque's political patronage policy based on political affiliation and other constitutionally protected activities, such as engaging in free speech activities adverse to his political policies and activities, and petition for the redress of grievances.

48. Mayor Roque's unwritten political patronage policy included such unlawful employment practices as: creating a hostile work environment, disparate treatment, selective enforcement of the police department's rules and regulations, retaliatory transfers, denial of overtime opportunities, wrongful termination, and other retaliatory employment actions.

49. The examples listed below are not meant to be an exhaustive list of all such civil rights violations committed under Mayor Roque's administration.

50. Mayor Roque conspired with the named individual Defendants, all political allies, to implement and execute his unlawful political patronage policy by knowingly participating directly and indirectly in the above illicit scheme. Each individual defendant used their government position to injure and/or deprive another of a right and benefit.

51. For example, Director Ingrid unlawfully retaliated against the WNYPD Plaintiff by using his government position to retaliate against them in terms and condition of their employment, such as depriving them of overtime opportunities and other tangible and intangible benefits.

52. Similarly, Captain Culhane and Captain Zitt used their government positions as high ranking police officers to unlawfully retaliate against the WNYPD Plaintiffs by filing or threatening to file disciplinary charges as means to intimidate and harassment them because of their constitutionally protected activities.

53. Also, Commissioner D'Aliza directed her subordinates, Johann Messina and Shine Alicea to use physical force to silence anti-Mayor Roque employee, David Rivera.

54. Finally, Robert DiVincent conspired with Mayor Roque to use his government position as the West New York Housing Authority Executive Director to fire Walter Lopez because of his marriage to Michelle Lopez, a pro-Mayor Sal Vega supporter and his own perceived political association with Mayor Sal Vega.

55. As part of Mayor Roque' unconstitutional scheme to illegally fire or otherwise retaliate against the Plaintiffs, as well as other West New York employees who were Mayor Vega political supporters and/or non-supporters of Mayor Roque, Mayor Roque deliberately failed to implement any effective policy or training to educate its employees of their employment rights afforded under them under the New Jersey state constitution. Such a deliberate failure to educate and train West New York employees of their constitutional rights enabled Mayor Roque to implement his unlawful patronage policy for his own political power and benefit.

56. Upon being sworn into office, Mayor Roque began to retaliate against his perceived political enemies, including a specific restaurant in West New York. In November 2011, Mayor Roque and the other commissioners adopted a noise ordinance targeting a specific geographic area of the West New York waterfront that applied to any restaurant or bar within 100 feet of a residence or condominium. The ordinance, however, was drafted to target *Son Cubanos*, a popular restaurant on the West New York waterfront, whose owners were political supporters of Mayor Vega. After *Son Cubanos* sued against the ordinance as unconstitutional, West New York repealed.

57. Mayor Roque also retaliated against former town employee Janet Passante, a former Mayor Vega supporter, by filing a civil action alleging that she submitted incorrect and fraudulent records that resulted in receiving a \$306,324.30 payout for unused sick, vacation, and compensation time when she retired in May 2011. Passante prevailed in her civil action.

58. As part of his unconstitutional political patronage policy and scheme to retaliate against his political enemies, Mayor Roque and his son conspired to hack and shut down www.recallroque.com, a website dedicated to commentary and criticism of Mayor Roque. After unlawfully accessing the website and shutting it down, Mayor Roque threatened the website's creator by stating that "everyone would pay" and that the website was taken down by highly placed government officials. On learning that someone had sent an email to www.recallroque.com, Mayor Roque responded by threatening to refer that person to the Internal Revenue Service for an audit. On another occasion, Mayor Roque threatened: "A friend of mine, he works in the – I can't tell you – three letters: C.I.A." Mayor Roque said: "You know, that's how I get information. So,

what I'm doing is not very kosher." On another occasion, Mayor Roque wrote an email to the creator of the website and said: "Remember that I am in the Army with many friends," concluding "Don't let me down. Your friend, Dr. Roque."

59. When Mayor Roque was arrested by federal law enforcement, he did not deny shutting down the website with his son, but rather cavalierly said that if he had to go to jail he would be fine "because he was set financially and had lived the dream and would not have a problem with serving time in jail because he would work out and read while there."

60. Plaintiff Bringa is live-long resident of West New York. In 1985, Bringa was hired as a police officer. In 1998, he was promoted to sergeant. In 2002, Bringa was subsequently promoted to lieutenant. Throughout his career, Bringa performed his duties and responsibilities in a professional and exemplary manner. In 2009, Bringa was appointed to Deputy Director, a non-policymaking position.

61. Mayor Roque considered Bringa a political enemy prior to taking office. In 2010, Mayor Roque applied for a gun permit which Director Indri had improperly approved. In reviewing Mayor Roque's gun permit, however, Bringa determined that Mayor Roque was not qualified because of his terroristic threats case pending in court and a lawsuit in which Mayor Roque raised serious concerns about his own mental health to carry a firearm. Accordingly, Bringa rejected Mayor Roque's firearm application based on good cause.

62. Mayor Roque also considered Bringa a political enemy because of his political affiliation with Mayor Vega.

63. While he was police director, Bringa was responsible for overseeing the internal affairs investigation of police officer Michael Acosta ("Officer Acosta"). Officer Acosta was the son of Deputy Mayor Silvio Acosta, a Mayor Roque political supporter. Officer Acosta was the subject of a criminal and internal investigation for accessing the confidential information of another male employee who Officer Acosta was sexually harassing and stalking while on duty.

64. Based on the information gathered during the internal affairs investigation, Bringa intended to terminate Officer Acosta based on serious violations of police department rules and regulations. The internal affairs investigation was near its conclusion when Mayor Roque won the election.

65. The night before Mayor Roque was to take office, he dispatched a representative to meet Bringa to discuss issues concerning the police department. When Bringa met with the representative, the first question asked by the representative was "What is the status of the Acosta internal affairs investigation?" The inquiry surprised Bringa and he expressed his opinion that it was inappropriate to comment on an ongoing internal affairs investigation.

66. When the representative asked again about the Acosta investigation, Bringa complained that it was unlawful to disclose such confidential information.

67. On May 17, 2011, the day after the meeting with his representative, Mayor Roque summoned Bringa to his office. When Bringa arrived, Mayor Roque ordered him to resign from the police department, telling him that he "was no longer needed and he was turning the department over to his two friends," meaning Director Indri and Captain

Gribben, who were present in Mayor Roque's office. When Bringa refused to resign, he was terminated.

68. Mayor Roque's order to "resign from the police department by midnight" infringed upon Bringa's civil service appointment as a police officer since he was on leave from the police department to serve as deputy director.

69. On June 1, 2011, Bringa was coerced into submitting his retirement papers as a police lieutenant because he reasonably believed that Mayor Roque had intended to fire him as a police officer.

70. By removing Bringa as police director, Mayor Roque obstructed an internal affairs investigation by replacing Bringa with a political supporter who would render a more favorable recommendation short of termination against Officer Acosta. Mayor Roque appointed Defendant Director Indri as co-Police Director because of his political loyalty to Mayor Roque and his assurance that Officer Michael Acosta would not be terminated or punished too harshly. Instead of terminating Officer Acosta, he was given a mild form of discipline.

71. When Mayor Roque fired Bringa for political and retaliatory motives, he deprived Bringa of his accrued compensation time and vacation, a standard benefit given to all police officers upon retirement. Pursuant to Article XVIII of the Collective Bargaining Agreement and the implied contract that existed by virtue of past practice, Bringa should have been paid this accrued time.

72. When Mayor Roque fired Bringa, he also deprived him of his contractual compensation for his employment as Coordinator for the Office of the Emergency Management in that he was not paid the rate set forth in applicable ordinance. At the

time of his termination, there was a town resolution appointing Bringa to the aforementioned position from January 1, 2010 through December 31, 2012.

73. The termination of Bringa permitted Mayor Roque to reorganize Police Department to reward his political supporters while punishing those who were perceived as either not loyal to Mayor Roque or allied with the previous administration.

74. Soon after Director Indri and Captain Gribben, as co-police directors, took over the police department, they issued departmental wide transfers to police officers based on political affiliation, political beliefs, and other protected activities. Those who were perceived as political supporters were given favorable assignments. Conversely, those police officers who were not Mayor Roque supporters were punished by being given less favorable assignments, which included less opportunity to earn overtime.

75. In furtherance of Mayor Roque's scheme, Defendants Director Indri, Captain Zitt and Captain Culhane selectively enforced the police department rules and regulations to routinely retaliate against those police officers perceived as non-Roque supporters.

76. After Mayor Roque took office, Director Indri ordered the transfer of thirty-three police officers without any legitimate law enforcement reason other than to retaliate against the non-Roque supporters.

Lieutenant Sanchez

77. After Mayor Roque took office, Lieutenant Sanchez, the Commanding Officer of the West New York SWAT and the Narcotics Street Crime Unit, was soon transferred to the Record Room in retaliation because of his political affiliation.

78. Mayor Roque, Director Indri, and Captain Culhane perceived Lieutenant Sanchez to have support for Mayor Vega and/or lack of political support for Mayor Roque.

79. In addition to causing Lieutenant Sanchez unnecessary humiliation and embarrassment, the transfer deprived Lieutenant Sanchez of routine overtime opportunities, which caused him severe financial and emotional stress. As a form of retaliation, Director Indri ostracized Lieutenant Sanchez by ignoring him in the presence of other police officers, undermining his supervisory authority and command and humiliating him.

80. Director Indri also instructed Sergeant Irimia, who was responsible for assigning off-duty overtime assignments, not to give Lieutenant Sanchez any overtime assignments. Sergeant Irimia interpreted Director Indri's instruction as designed to hurt Lieutenant Sanchez who was otherwise qualified for the overtime assignment.

81. On November 24, 2012, Lieutenant Sanchez expressed his opinion and concerns during a union meeting about the lack of preparedness to respond to Hurricane Sandy and the unfair treatment of police officers by Director Indri. Lieutenant Sanchez openly supported a motion of "no confidence" against Director Indri at that union meeting.

82. After the "no-confidence" vote against Director Indri, Captain Culhane approached Lieutenant Sanchez and ordered him not to speak to Director Indri, a clear violation of police protocol and the chain of command. The order was designed to ostracize, humiliate and undermine Lieutenant Sanchez' supervisory command.

83. On January 7, 2013, Director Indri transferred Lieutenant Sanchez to another squad as a form of retaliation.

Officer Monpellier

84. On January 11, 2013, Captain Culhane reprimanded Lieutenant Sanchez because Officer Monpellier issued summons for parking in a handicap parking space to a pro-Mayor Roque supporter. Captain Culhane said "Just because you may not be on the same political side as us you don't have to take it out on the cleaning guy." Lieutenant Sanchez explained that Officer Monpellier issued the tickets because the individual had parked his vehicle, which was unregistered or insured, in an assigned handicap parking space. Despite the clear violation of law, Captain Culhane threatened that he was going to start "writing people up," which Lieutenant Sanchez interpreted as selective enforcement of the rules and regulations against him and Officer Monpellier.

85. On January 15, 2013, Director Indri retaliated against Lieutenant Sanchez by denying his request to attend the SWAT training even though he is the West New York SWAT Commander and required to maintain his readiness and effectiveness.

86. On February 13, 2013, Lieutenant Sanchez and Officer Monpellier were served with baseless disciplinary charges as a result of performing their official duties in issuing summons to political supporters of Mayor Roque.

Officer Mannion

87. Officer Thomas Mannion is the President of the West New York Police Benevolent Association ("PBA"), Local 361. Before and after he took office, Mayor Roque sought the political support of Officer Mannion because of his connection to the PBA. For example, when Officer Mannion organized a parade to protest the firing of

many police officers, Mayor Roque tried to ingratiate himself with Officer Mannion. When Mayor Roque asked Officer Mannion if he could walk along beside him, he objected. As a result of the rejection, Mayor Roque considered Officer Mannion a political enemy.

88. After Mayor Roque took office, he installed Director Indri to reorganize the police department based on political affiliation. Mayor Roque's reorganization of the police department along political lines caused disruptions of police operations, decreased police effectiveness, and decreased police morale. On November 15, 2012, Officer Mannion wrote a letter to Director Indri complaining about a number of important public safety matters, including but not limited to, unfair disciplinary actions, the lack of police preparedness for Hurricane Sandy, and preferential treatment of police officers. Officer Mannion's letter was not limited to union matter, but rather, dealt with matters involving public interest and safety.

89. In response to Officer Mannion's letter, Director Indri and Captain Zitt retaliated by initiating a baseless internal affairs investigation against Officer Mannion.

Sergeant Irimia

90. Before Mayor Roque took office, Sergeant Irimia enjoyed positive work performance evaluations and healthy working conditions as a police officer, seldom if ever being reprimanded by his superior officers. When Mayor Roque and Director Indri took over the police department, they targeted Sergeant Irimia because of his and family's political affiliation with Mayor Vega.

91. In retaliation, Director Indri subjected Sergeant Irimia to routine monitoring, unfair criticism of his work performance, disparate treatment, ostracism, retaliatory transfers and assignments, and deprivation of overtime opportunities.

92. While Sergeant Irimia had not been the subject of disciplinary charges for over ten years before Mayor Roque took office, he was soon issued two baseless disciplinary charges by Director Indri pursuant to Mayor Roque's retaliatory policy.

93. In September 2012, Director Indri transferred Sergeant Irimia to steady days traffic patrol despite his seniority on the police force, a humiliating assignment which also deprived him of overtime opportunities.

Bombino

94. In 2005, West New York hired Marie Bombino. During her employment with West New York, she worked for the Department of Public Works, Culture Affairs Department, and Municipal Court. During her employment, Bombino performed her duties and responsibilities in a satisfactory manner.

95. Before Mayor Roque took office, he would frequently attend public events organized by Bombino, such as the Latin Grammy Street Festival, the Classic and Modern Car Show, and the Farmer's Market. At those public events, Mayor Roque threaten Bombino that her "days were numbered." Mayor Roque further threatened Bombino that he would "fire her" upon taking office.

96. On April 30, 2011, Bombino was hosting the Spring Classic Car Show in West New York. Mayor Roque showed up and tapped Bombino on her shoulder and said in a threatening and menacing tone, "Enjoy your last event."

97. As soon as Mayor Roque took office, he immediately began to subject Bombino to a hostile work environment because of her political affiliation with Mayor Vega. Bombino was harassed and threatened with termination practically every day by Mayor Roque supporters. After a month in office, Mayor Roque fired Bombino without warning or good cause and because of her political affiliation.

98. After she was fired by West New York, Bombino applied for unemployment benefits. Bombino's application was denied because Mayor Roque, through his representative, falsely alleged that Bombino had been terminated for "insubordination." As a result of the falsehood, Bombino's unemployment benefits were delayed until she appealed the adverse unemployment decision. Bombino ultimately prevailed on appeal and received unemployment benefits. Mayor Roque's threats and obstruction of the unemployment proceedings caused Bombino unnecessary financial harm and emotional distress.

99. On November 7, 2012, upon information and belief, Mayor Roque re-hired Bombino as crossing guard supervisor as a means to obtain her political support or, at least neutralize her as a political adversary.

100. During her employment as a West New York crossing guard supervisor, Bombino performed her duties and responsibilities in a satisfactory manner. Bombino's position was a non-confidential position that does not require political affiliation as a condition of employment.

101. On June 13, 2013, Bombino publicly announces that she has joined Commissioner Wiley's recall campaign to unseat Mayor Roque. On or about June 24, 2013, Mayor Roque through his political appointees terminated Bombino employment in

retaliation for engaging in the political process and political affiliation with Commissioner Wiley.

Inspector Rodriguez

102. In 2005, Inspector Rodriguez was hired by West New York as an Inspector for the Sanitation Department. In 2011, Inspector Rodriguez was performing his official duties when he issued two summonses to Mayor Roque for violating a town ordinance regarding posting of political advertisement on town property without permission. In May 16, 2011, while the matter was pending in municipal court, Mayor Roque, through his attorney, threatened and intimidated Inspector Rodriguez with a lawsuit if he did not drop the two summonses he had issued.

103. Fearing retaliation and financial hardship if sued, Inspector Rodriguez did not object to the dismissal of the two summonses in municipal court even though he would not have approved absent Mayor Roque's threats.

104. On July 25, 2011, Mayor Roque approached Inspector Rodriguez, who was investigating a complaint of illegal dumping in West New York, while riding in a police car and threatened to "destroy him."

105. Since taking office, Mayor Roque and others have subjected Rodriguez to a hostile work environment because of his protected activities, including his political affiliation with Mayor Vega, lack of political support of Mayor Roque, and the performance of his duties. Under Mayor Roque's Administration, Inspector Rodriguez has been subjected to hostile work environment, unfair monitoring, retaliatory work assignments, and deprived of overtime opportunities. For example, when Mayor Roque took office Inspector Rodriguez was deprived of a vehicle to perform his duties. Instead,

Inspector Rodriguez was forced to use his own personal vehicle at work. When his vehicle broke down, Inspector Rodriguez was forced to walk.

Court Administrator Davis

106. In July 2008, West New York hired Davis as the Court Director of West New York Municipal Court. During her employment Davis performed her duties and responsibilities in a satisfactory manner, improving the efficiency and performance of the department.

107. When Mayor Roque took office, he promoted a political supporter to the position of chief municipal judge of the municipal court. Davis observed the Chief Municipal Court Judge engaged in questionable behavior and favoritism based on political affiliation that threatened the integrity and efficiency of the municipal court. When Davis complained to West New York regarding her opinion that such practices were destructive to the administration of justice, she was terminated.

David Rivera

108. David Rivera worked for the records room of the police department. Before Mayor Roque took office, Rivera had politically supported him. However, Rivera political views changed under Mayor Roque Administration and changed his political affiliation in order to support Commissioner Wiley, who openly challenged Mayor Roque for mayor after Mayor Roque was indicted by the United States Attorney's Office for unlawfully hacking into his political opponent's websites.

109. Rivera position was not confidential and did not require political affiliation as a condition of employment.

110. In exercising his constitutional rights to participate in the political process, Rivera allied himself with Commissioner Wiley and began to openly support him. When Mayor Roque and his political supporters learned of Rivera's betrayal, they began to subject him to a pattern of unlawful retaliation.

111. On July 29, 2012, Rivera was handing out Commissioner Wiley business cards at a park during a public event in West New York. When Commissioner Frias saw Rivera campaigning on behalf of Count Wiley, she ordered him to stop. When Rivera refused and continued to hand out Commissioner Wiley business cards, Commissioner Frias instructed two West New York employees Shine Alicea and Johann Messina to forcibly remove Rivera from the park. When Rivera refused to leave, Alicea and Messina used excessive and unnecessary force to remove Rivera.

112. After the assault, Rivera immediately reported the intimidation and physical assault to the police.

113. In an effort to retaliate against Rivera for campaigning on behalf of Commissioner Wiley, and as a means to shield themselves from civil liability, Commissioner Frias and Messina filed baseless criminal charges against Rivera.

114. On or about July 13, 2012, Mayor Roque further retaliated against Rivera by terminating his employment. Mayor Roque's stated reasons were pretextual and motivated by retaliatory intent.

115. After his termination and while the criminal prosecution was pending in municipal court, Mayor Roque requested a meeting with Rivera and his parents. At the meeting, which was attended by the town attorney and Rivera's parents, Mayor Roque

openly offered to dismiss the criminal charges pending against him and rehire him if Rivera would “stop politically supporting Count Wiley.”

116. Rivera refused to accept Mayor Roque’s offer to return to work and dismiss the criminal charges if he shifted political affiliation and supported him.

117. On November 2012, the criminal charges filed by Commissioner Frias and Messina were dismissed in favor of Rivera.

Parkinson

118. Parkinson was the Supervisor with the Department of Public Works until his termination on May 27, 2011.

119. Parkinson was perceived by Mayor Roque to be a pro-Vega supporter and/or a non Mayor Roque supporter.

120. During Parkinson’s employment, he always performed his duties and responsibilities in a satisfactory manner. Parkinson’s position was not a confidential one and did not require any political affiliation as a condition of employment.

121. When Mayor Roque took office, Parkinson was immediately fired by West New York upon Mayor Roque’s orders because of Parkinson’s political affiliations and beliefs.

Janet Passante

122. Janet Passante was employed by the Town of West New York for thirty-four (34) years until May 2010, when she retired. Throughout her employment, Passante performed her duties and responsibilities in a satisfactory manner. Passante was also widely known to be politically affiliated with and a supporter of then Mayor Vega.

123. During her long-time services to West New York, Passante rarely took any days off, and accumulated unused sick days, vacation time, and “comp” days, amounting to approximately \$306,324. Pursuant to a town resolution, West New York contractually agreed to pay Passante the aforementioned amount in installment payments from 2010 until August 2012.

124. In August 17, 2010, however, Mayor Roque and his political supporters in his administration breached the aforementioned contract with Passant by stopped paying the installment payment. Pursuant to Mayor Roque’s political patronage policy, West New York initiated a baseless lawsuit alleging that Passante fraudulently submitted false records to obtain her payments. The actual lawsuit, which was frivolous, was motivated primarily by Mayor Roque’s retaliatory intent to punish Passante because of her political affiliation with Mayor Vega and non-political support for Mayor Roque.

125. On August 18, 2011, Mayor Roque ordered the rescission of Passante’s and Raymond Casper contracts based on their unused sick, vacation and comp time. Raymond Casper had a similar contract as Passante. Upon information and belief, Raymond Casper continued to receive the installment payments and was not sued by West New York, because Casper became a political supporter of Mayor Roque and his administration.

126. On September 27, 2011, Mayor Roque authorized the filing of a retaliatory lawsuit against Passante alleging that Passante obtained her money from the town based on falsifying her employment records.

127. In March 2013, the Superior Court of New Jersey, Hudson County, dismissed Mayor Roque’s lawsuit against Passante as a matter of law. Within the same

order, Passante's counter-claim was granted as a matter of law, ordering \$194,104.03 (i.e. the balance owed to her under terms of her retirement contract).

128. In May 2013, Mayor Roque appealed the Superior Court's decision in deliberate attempt to continue retaliating against Passante due to her support of Mayor Vega.

129. The litigation was initiated and maintained for the primary purpose of retaliating against Passante on the basis of her political affiliation. The litigation was baseless and motivated by retaliatory intent.

Maria Varela

130. Maria Varela and Gloria Varela were political supporters of Mayor Vega and did not support Mayor Rogue's bid for election. During the Mayor Vega Administration, Maria Varela was hired by West New York as a secretary of the Zoning and Planning Board. During her employment, Maria Varela performed her duties and responsibilities in a satisfactory manner.

131. In addition to her duties as secretary to the Zoning and Planning Board, Maria Varela performed additional duties as a liaison as a municipal coordinator helping carry out DARE programs in West New York. The Municipal Coordinator position involved an additional stipend to supplement Maria Varela's salary in West New York.

132. After Mayor Roque took office, the Defendants targeted Maria Varela for retaliation by moving her office to a smaller office without any space or privacy to obstruct her ability to perform her duties as secretary for the aforementioned boards. The transfer to a smaller office was designed to prevent Maria Varela from performing her duties in order to create a pretextual ground.

133. Mayor Roque also deprived Maria Varela of her additional stipend as a Municipal Coordinator and gave it to a pro-Mayor Roque supporter.

B. FACTS AS TO WEST NEW YORK HOUSING AUTHORITY

134. In July 2007, Walter Lopez was hired by the West New York Housing Authority as Director of Redevelopment. Throughout his employment, Walter Lopez performed his duties and responsibilities in a satisfactory manner.

135. On May 27, 2011, Defendant DiVincent, a Mayor Roque supporter, fired Walter Lopez immediately after Mayor Roque became mayor because his wife, Michelle Lopez, was a West New York commissioner and political supporter of Mayor Vega. Mayor Roque perceived Lopez' as a political enemy and non-supporter of Mayor Roque. Walter Lopez position was not a confidential position and did not require political affiliation as a condition of his employment.

136. Mayor Roque through his political supporters on the West New York Housing Authority board, including Defendant DiVincent, terminated Mr. Lopez because of his association with Michelle Lopez, a pro-Vega supporter and West New York commissioner. Walter Lopez was told that he was being terminated "due to economic reasons," however, he was replaced by two individuals who were pro-Mayor Roque political supporters or, at least, where no politically affiliated with Mayor Vega's administration.

137. During his employment with the Housing Authority, Walter Lopez performed his duties and responsibilities in a satisfactory manner. Moreover, Walter

Lopez position was not a confidential position requiring political affiliation as a condition of his employment.

FACTS AS TO WNY BOARD OF EDUCATION

138. After winning public office, Mayor Roque sought to control West New York Board of Education which represented a huge source of political patronage to reward his political supporters. Through political patronage, threats, and intimidation, Mayor Roque and his political allies on the BOE sought to coerce, pressure and extort BOE employees, including Cannao, Lopez and Varela to either support Mayor Roque or be subject to various forms of adverse employment actions.

139. Mayor Roque's unconstitutional policy that he sought to implement in West New York was also executed by his political supporters on the BOE. In effect, BOE came under the control of Mayor Roque and, thus, became a joint employer of the Mayor Roque Administration. BOE personnel decisions were dictated by Mayor Roque and carried out by BOE employees loyal to him.

140. To carry out his unlawful scheme, Mayor Roque reorganized the BOE with his own political supporters. To implement his policies, Mayor Roque provided the names of certain individuals who were not considered Mayor Roque supporters to the BOE Human Resources Department. The list was widely known as a Mayor Roque's "hit list." Cannao, Gloria Varela and Lopez were on it. The "hit list," which included the names of individuals Mayor Roque wanted to terminate, transfer, demote, or promote. The hit list was given to Mayor Roque political supporters, such as Clara Brito, a BOE school principal and Mayor Roque's campaign treasurer, and Allan Roth, although a lawyer was assistant to the director of special education. As liasons, Brito and Roth

delivered Mayor Roque's personnel instructions to BOE to be carried out. For example, Brito instructed that BOE promote Ms. Herrera to assistant superintendent with an increase compensation totaling \$45,500.

141. Roth has a "special relationship" with BOE. As a practicing labor Attorney, Roth is in the unique position to influence BOE policies on behalf of Mayor Roque. In addition, Roth has various other positions such as the affirmative action officer, evaluation of special education IEP's, and providing an analysis and review of legal expenses.

142. Roth, who was on Mayor Roque's "hit list" was able to secure his job by buying tickets to Mayor Roque's fundraisers. As Roth explains it: "the cost of doing business." Because Roth purchased Mayor Roque's fundraising tickets, he demonstrated his loyalty to him. In furtherance of Roth's pledge of loyalty to Mayor Roque, he was actively promoting and implementing Mayor Roque's personnel decisions and policies.

143. On April 19, 2013, the Department of Education issued a Report detailing Mayor Roque's unlawful interference with the employment practices by BOE ("Report") as alleged herein. The Report required Corrective Action Plan to be implemented by BOE and also referred the matter to law enforcement for possible criminal prosecution. The Report found that the BOE, with the assistance of Roth and Brito and others, permitted Mayor Roque to "unduly influence district employment decisions."

144. In a blatant conflict of interest, and despite his job title, Roth gave misleading legal advice to the BOE regarding the significance of the Report in future litigation. In a board meeting, Roth advised the board that the "[Report] would not be

permitted to be introduced as the report contains hearsay.” Roth opines that the report would not hurt BOE.

145. Roth, who holds no legal position, rendered a legal opinion which was clearly erroneous and apparently designed to mislead the BOE into not implementing the Corrective Action Plan as recommended in the Report. According to Roth, he opines that the withdrawal of Cannao and Lopez’ administrative appeals in order to re-file their grievances in state or federal court which carried the risk of punitive damages, enormous compensatory damages, and attorneys fees was a good thing. Roth further opined that the Report was not helpful to Cannao and Lopez in their lawsuit because it contains “hearsay.” As an experienced labor counsel in private practice, Roth knew or should have known that public reports are admissible under Federal Rules of Evidence 803(8)(c) and such public reports are routinely admitted to show prior knowledge by government officials to establish municipal liability under New Jersey Civil Rights Act, which is modeled after Section 1983. Roth’s misleading legal opinion was designed to advance Mayor Roque’s policies even in the face of a highly critical government report.

146. Ms. Lopez who was employed with the West New York Board of Education since 2007, was a long time and well known supporter of Mayor Vega. Ms. Lopez was a supervisor of the Gifted and Talented Program, which she performed her duties and responsibilities in a satisfactory manner. Moreover, Ms. Lopez position was not confidential one which did not require political affiliation as a condition of employment.

147. Despite her good performance evaluations, Ms. Lopez was demoted soon after Mayor Roque took office. During the time Mayor Roque was campaigning to get elected, Ms. Lopez received multiple threats from Mayor Roque who told her directly that “once he

became Mayor he was going to go after her and her entire family". She was also approached several times to buy fundraising tickets and was told "if you want to save your job you should buy the tickets". She did not.

148. Ms. Lopez was on Mayor Roque's "hit list." Ms. Lopez, as others on BOE, were approached by Mayor Roque supporters to buy fundraising tickets, but she declined. After she declined, Ms. Lopez received a Rice Letter from BOE indicating that in June 2012, that was not going to be reappointed.

149. After his demotion, she was advised by Mayor Roque supporters that if she pledge her allegiance to Mayor Roque she may get her job back.

150. In June of 2012, Lopez's employment contract expired. At this time, Ms. Lopez was recommended by the Superintendent of Schools, John Fauta, for reemployment on three different occasions.

151. On June 26, 2012 at the West New York Board of Education did not vote to reappoint Mr. Lopez to her position and terminated her employment as supervisor right before she could receive tenure in that position, causing her diminish in prestige and economic opportunities for advancement.

152. Scott Cannao was employed with the West New York Board of Education since 2003. He was initially hired as a vice-principal. Beginning with the 2010-2011 school year, Cannao served as the Principal of West New York high School. He was renewed as high school principal for the 2011-2012 school year. Cannao's position was not a political position and did not require any political affiliation as a condition of his employment.

153. On or about June 26, 2012, Mr. Cannao was recommended by the Superintendent of Schools, John Fauta, for reemployment as high school principal for the

2012-2013 school year. Such recommendation was formally presented to the West New York Board of Education for a vote on June 26, 2012.

154. On June 26, 2012 the West New York Board of Education did not vote to reappoint Mr. Cannao to his position as high school principal. If Mr. Cannao had been reappointed he would have earned tenure as a principal.

155. In or about April 2012, Mayor Roque directed his political supporters to circulate tickets to one of his fundraising events among the staff of the West New York school district.

156. Around the same time, Clara Britto Herrera, Assistant Superintendent of Education and Personnel Services, commented that non-tenured employees who did not buy a ticket to Mayor Roque's fundraising event likely would not be renewed for the following year since Mayor Roque would influence the Board members who were his political supports to vote against the reappointments.

157. Ms. Herrera circulated a list of employees targeted to either buy tickets or they would not be renewed. Scott Cannao was on that list.

158. Mr. Cannao was approached by a Mayor Roque political supporter to buy \$2,000 ticket to a Mayor Roque's fundraiser. The actual \$2,000 ticket was handed to Cannao by another principal. Prior to the fundraiser, Cannao received a text message from Mayor Roque on his district issued cell phone to remind him to buy the ticket given to him by the principal.

159. As a result of Mr. Cannao's refusal to purchase a ticket to Mayor Roque's fundraiser, Cannao was denied reappointment to the high school principal position.

160. Camao also complained that BOE employees, who were Mayor Roque supporters, were on school grounds selling fundraising tickets during school hours. The other individual, a teacher who was the former town mayor and current United States Congressman's ex-wife, was receiving \$100,000 in compensation without being assigned to any classes.

Gloria Varela

161. Gloria Varela worked for 25 years with the Board of Education. Mayor Roque knew that Gloria Varela was a pro-Mayor Vega supporter. During her employment, Maria Varela performed her duties and responsibilities in a satisfactory manner.

162. During last year of her employment, Gloria Varela's supervisor, Solaris, kept pressing Gloria Varela to retire because of her age. On numerous occasions, Solaris told Gloria Varela that she should retire because of her "age."

163. Mayor Roque, Board of Education and Solaris terminated Varela's employment.

164. Gloria Varela worked for 25 years with the Board of Education. Mayor Roque knew that Gloria Varela was a pro-Mayor Vega supporter. , Ms. Lopez position was not confidential one which did not require political affiliation as a condition of employment.

165. During her employment, Maria Varela performed her duties and responsibilities in a satisfactory manner. Gloria Varela was approximately 71 years old.

166. During last year of her employment, Gloria Varela's supervisor, Solaris, kept pressing Gloria Varela to retire because of her age. On numerous occasions, Solaris told Gloria Varela that she should retire because of her "age."

167. Mayor Roque, Board of Education and Solaris terminated Varela's employment because of her age and political affiliation.

168. After Sanchez filed his lawsuit against the Defendants, Mayor Roque and West New York denied his promotion to the rank of captain when an opening became available in June 2015.

POST LAWSUIT RETALIATION LIEUTENANT SANCHEZ

169. In June 2015, after this civil action seeking relief for civil rights violations was filed against the Defendants, West New York, Mayor Roque and Commissioner Rodriguez retaliated in accordance with Mayor Roque's unlawful political patronage policy by depriving Lieutenant Sanchez of an opportunity to be promoted to rank of captain, in part, because of his constitutionally protected activities, such as engaging in protected speech and petition for redress of grievances under the New Jersey Constitution, as well as Mayor Roque's perception that Lieutenant Sanchez was not a political supporter of Mayor Roque.

170. On June 30, 2013 Lieutenant Sanchez completed his application to be eligible to take the Police Captain Promotional Exam scheduled for Oct 2013. I also knew at that time that there were 4 Captains and that within the year, 2 captains were going to start using up their time and they were scheduled to retire towards the end of 2014.

171. On March 27, 2014, Lieutenant Sanchez received a notification from Civil Service Commission that he ranked number one on the captain's promotional examination, which would be active on April 3, 2014.

172. On March 28, 2014, Lieutenant Sanchez received notification by the Civil Service Commission that West New York claimed that there was no need for captains, which conflicted with West New York's earlier request to Civil Service Commission for a captain's promotional examination. West New York's request for captain promotion examination meant that West New York had, in fact, a need for captain(s).

173. On April 3, 2014, Lieutenant Sanchez received a certification for the rank of captain but indicated that he was number three (3) on the eligibility list. Apparently, West New York certified two pro-Mayor Roque supporters from the old eligibility list, Lieutenant Fava and Lieutenant Lameiro. On April 10, 2014 LT Fava was promoted to captain. (2 Captains over the ordinance) Lt Fava was ranked 3 in the new list were I was ranked number one (1).

174. Mayor Roque and Director Ingrid conspired to manipulate the eligibility list to promote a Mayor Roque supporter and/or deprive Lieutenant Sanchez of his promotion because of his constitutionally protected activities as alleged in this complaint.

I.
COUNT ONE
NEW JERSEY CIVIL RIGHTS ACT
N.J.S.A. 10:6-2

All Plaintiffs

West New York Defendants Mayor Roque, Director Ingrid, Captain Zitt, Captain Culhane, Commissioner Frias, Messina, Alicia, DiVincent, Rick Solaris

175. All of the allegations in each of the foregoing paragraphs are incorporated by reference as if fully set forth herein.

176. Pursuant to official policy, custom and practice, Defendants, acting under color of law, and in concert with each other, subjected the Plaintiffs to the deprivation of their constitutional right to freedom of speech, freedom of association, right to petition their representatives, and engage in union activities in violation of the New Jersey Constitution, as alleged herein.

177. Plaintiffs' constitutionally protected activities, as alleged herein, were the motivating factor for Defendants' retaliatory conduct, including such unlawful employment practices as wrongful termination, retaliatory transfers and assignments, hostile work environment, deprivation of overtime opportunities, selective enforcement of police department rules and regulations, the denial of other tangible and intangible employment benefits, and retaliatory administrative proceedings, criminal prosecutions, and civil lawsuits.

178. Pursuant to policy, custom and practice, Defendants intentionally, willfully and recklessly retaliated against Plaintiffs as alleged herein. Defendants who may not have actively participated in the civil rights deprivations as alleged above are liable for failing to prevent them.

179. The foregoing civil rights violations were undertaken by Defendants' agents, officials, and employees and/or other individuals acting on behalf of the Defendants, who in turn knowingly ratified such civil rights violations.

180. As a direct and proximate cause of the aforementioned, Plaintiffs have suffered and will continue to suffer economic, emotional, and psychological damages in an amount to be determined by a jury. Because of Defendants' willful and malicious conduct, Plaintiff seek punitive damages in their individual capacity in an amount to be determined by a jury.

WHEREFORE, Plaintiffs demand judgment against the Defendants, jointly and severally, for the following relief:

- a. Compensatory damages;
- b. Punitive damages against the individual Defendants
- c. Attorney's fee and costs of suit;
- d. Such other and further relief that the Court deems equitable and just.

II
COUNT TWO
BREACH OF CONTRACT
BRINGA¹

181. Plaintiff repeats and realleges the allegations set forth above as if fully set forth herein.

182. Plaintiff Bringa and West New York entered into a collective bargaining agreement.

183. In addition to the CBA, West New York and Bringa had an implied contract based on past practice concerning the payment of accrued compensation, and

¹ In December 2014, Plaintiff Albert Bringa settled his lawsuit against the Defendants. While Bringa's claims have been settled, his allegations are relevant to the other Plaintiffs in this civil actions.

vacation time. When Mayor Roque constructively terminated Bringa's employment, he failed to pay Bringa his accrued compensation time and vacation days, a standard benefits given to all police officers upon retirement. Pursuant to Article XVIII of the Collective Bargaining Agreement and the implied contract that existed by virtue of past practice, Bringa should have been paid this accrued time.

184. Defendants breached the CBA and the implied contract agreement by refusing to perform under the terms and condition of the contract.

185. As a result of the aforementioned breach, Plaintiff has suffered damages in an amount to be determined by a jury.

WHEREFORE, Plaintiffs demand judgment against the Defendants, jointly and severally, for the following relief:

- a. Compensatory damages;
- b. Punitive damages against the individual Defendants
- c. Attorney's fee and costs of suit;
- d. Such other and further relief that the Court deems equitable and just.

III

COUNT THREE

N.J.S.A. 34:19-1 et seq.

**Lieutenant Sanchez, Sergeant Irimia, Officer Monpellier,
and Officer Mannion v. Mayor Roque, Director Ingrid,
Captain Zitt, and Captain Culhane**

186. Plaintiffs Lieutenant Sanchez, Sergeant Irimia, Officer Monpellier, Officer Mannion repeat and reallege the allegations set forth above as if fully set forth herein

187. Mayor Roque, Director Indri, Captain Zitt and Captain Culhane are employers within the meaning of CEPA, N.J.S.A. 34:19-1 et seq.

188. Plaintiffs Lieutenant Sanchez, Sergeant Irimia, Officer Montpellier and Officer Mannion engaged in protected activities as defined under CEPA, N.J.S.A. 34:19-1 et seq. and as alleged herein.

189. As alleged herein, Plaintiffs Lieutenant Sanchez, Officer Montpellier, and Officer Mannion reasonably believed that Defendants' conduct was undertaken in violation of law, rule, or regulation promulgated pursuant to law or a clear mandate of public policy.

190. Plaintiffs engaged in "whistle-blowing" activities by complaining and/or refusing to participate in unlawful activities engaged by the Defendants. Particularly by complaining about, and refusing to participate in, unlawful law enforcement practices under Director Indri's command and enforced by Captain Zitt and Captain Culhane.

191. As a result of Plaintiffs' protected activities, Defendants retaliated against the Plaintiffs, including but not limited to, baseless disciplinary charges, harassment, and retaliatory transfers.

192. Defendants' adverse employment actions against the Plaintiffs were without any legitimate business or law enforcement purpose.

193. As a result of the foregoing, Plaintiff has suffered, and continues to suffer damages in an amount to be determined by a jury. Because of the individual Defendant's willful and malicious conduct, Plaintiffs seek punitive damages in the individual Defendants' individual capacity in an amount to be determined by a jury.

WHEREFORE, Plaintiffs demand judgment against the Defendants, jointly and severally, for the following relief:

- a. Compensatory damages;

- b. Punitive damages against the individual Defendants
- c. Attorney's fee and costs of suit;
- d. Such other and further relief that the Court deems equitable and just.

IV.

COUNT FOUR

New Jersey Civil Rights Act

N.J.S.A. § 10:6-2

Equal Protection

Defendants West New York,

Director Ingrid, Captain Zitt, Captain Culhane,

Commissioner Frias, Messina, Alicia, DiVincent, Rick

Solaris

194. Plaintiffs repeat and reallege the allegations set forth above as if fully set forth herein.

195. Pursuant to official policy, custom and practice, Defendants, acting under color of law, subjected the Plaintiffs to the deprivation of their constitutional right to equal protection in violation of the United States and New Jersey Constitutions.

196. Plaintiffs were unlawfully retaliated against by the Defendants because of their status based on their political affiliation with Mayor Vega and/or lack of political supporter for Mayor Roque. Defendants' disparate treatment of the Plaintiffs based on their political affiliation was arbitrary and capricious.

197. Defendants' retaliatory conduct, included such unlawful employment practices as wrongful termination, retaliatory transfers and assignments, hostile work environment, deprivation of overtime opportunities, selective enforcement of police department rules and regulations, and the denial of other tangible and intangible employment benefits.

198. Pursuant to policy, custom and practice, Defendants intentionally, willfully and recklessly retaliated against Plaintiffs as alleged herein. Defendants who may not have actively participated in the civil rights deprivations as alleged above are liable for failing to prevent them.

199. The foregoing civil rights violations were undertaken by Defendants' agents, officials, and employees and/or other individuals acting on behalf of the Defendants, who in turn knowingly ratified such civil rights violations.

200. As a direct and proximate cause of the aforementioned, Plaintiffs have suffered and will continue to suffer economic, emotional, and psychological damages in an amount to be determined by a jury. Because of the individual Defendants' willful and malicious conduct, Plaintiffs seek punitive damages in their individual capacity in an amount to be determined by a jury.

WHEREFORE, Plaintiffs demand judgment against the Defendants, jointly and severally, for the following relief:

- a. Compensatory damages;
- b. Punitive damages against the individual Defendants
- c. Attorney's fee and costs of suit;
- d. Such other and further relief that the Court deems equitable and just.

V
COUNT FIVE
New Jersey Civil Rights Act
N.J.S.A. § 10:6-2
Malicious Prosecution
Plaintiff Rivera v. Defendants Mayor Roque, West New
York, Commissioner Frias, Shine and Alicia

201. Plaintiff Rivera, repeat and reallege the allegations of the preceding paragraphs of this Complaint as if fully set forth herein.

202. Defendants Mayor Roque, West New York, Commissioner Frias, Shine and Alicia, acting under color of law, subjected the Plaintiffs to the deprivation of their constitutional right to freedom of speech, freedom of association, right to petition their representatives, and engage in union activities in violation of the New Jersey Constitution, as alleged herein.

203. Plaintiffs' constitutionally protected activities, as alleged herein, were the motivating factor for Defendants' retaliatory conduct, including such unlawful employment practices as wrongful termination, retaliatory transfers and assignments, hostile work environment, deprivation of overtime opportunities, selective enforcement of police department rules and regulations, and the denial of other tangible and intangible employment benefits.

204. Pursuant to policy, custom and practice, Defendants intentionally, willfully and recklessly retaliated against Plaintiffs as alleged herein. Defendants who may not have actively participated in the civil rights deprivations as alleged above are liable for failing to prevent them.

205. The foregoing civil rights violations were undertaken by Defendants' agents, officials, and employees and/or other individuals acting on behalf of the Defendants, who in turn knowingly ratified such civil rights violations.

206. Defendants Mayor Roque, Commissioner Frias, and West New York employees Messina and Alicea conspired to file baseless criminal charges to against Rivera.

207. The criminal charges were filed without probable cause in violation of the New Jersey Constitution.

208. The criminal charges were motivated by retaliatory animus.

209. The criminal charges were dismissed in favor of Rivera.

210. As a direct and proximate cause of the aforementioned, Plaintiffs have suffered and will continue to suffer economic, emotional, and psychological damages in an amount to be determined by a jury. Because of Defendants' willful and malicious conduct, Plaintiffs seek punitive damages in their individual capacity in an amount to be determined by the jury.

WHEREFORE, Plaintiff Rivera demands judgment against the Defendants, jointly and severally, for the following relief:

- a. Compensatory damages;
- b. Punitive damages against the individual Defendants
- c. Attorney's fee and costs of suit;
- d. Such other and further relief that the Court deems equitable and just.

VI
COUNT SIX
New Jersey Civil Rights Act
N.J.S.A. § 10:6-2
False Arrest
Plaintiff Rivera v. Defendants Mayor Roque, West New
York, Commissioner
Frias, Shine and Alicia

211. Plaintiff Rivera repeats and realleges the allegations of the preceding paragraphs of this Complaint as if fully set forth herein.

212. Defendants West New York, Mayor Roque, West New York, Commissioner Frias, Shine and Alicia, acting under color of law, subjected the Plaintiff Rivera to the deprivation of his constitutional right to be free from false arrest in violation of the New Jersey Constitution, as alleged herein.

213. Plaintiffs' constitutionally protected activities, as alleged herein, were a motivating factor for Defendants' retaliatory conduct.

214. Pursuant to policy, custom and practice, Defendants intentionally, willfully and recklessly retaliated against Plaintiffs as alleged herein. Defendants who may not have actively participated in the civil rights deprivations as alleged above are liable for failing to prevent them.

215. The foregoing civil rights violations were undertaken by Defendants' agents, officials, and employees and/or other individuals acting on behalf of the Defendants, who in turn knowingly ratified such civil rights violations.

216. Defendants West New York, Mayor Roque, Commissioner Frias, Shine and Alicea caused baseless criminal charges to be filed against Rivera.

217. The arrest of and criminal charges filed against the Plaintiff Rivera was motivated by retaliatory and political animus.

218. The criminal charges were filed without probable cause.

219. As a result of the foregoing, Plaintiff Rivera has suffered, and continues to suffer damages in an amount to be determined by a jury. Because of Defendant's willful

and malicious conduct, Plaintiff seeks punitive damages against the Defendants in their respective individual capacity in an amount to be determined by a jury.

WHEREFORE, Plaintiff demand judgment against the Defendants, jointly and severally, for the following relief:

- a. Compensatory damages;
- b. Punitive damages against the individual Defendants
- c. Attorney's fee and costs of suit;
- d. Such other and further relief that the Court deems equitable and just.

VII.

COUNT SEVEN

New Jersey Civil Rights Act

N.J.S.A. § 10:6-2

Abuse of Process

Plaintiff Rivera v. Defendants Mayor Roque, West New York, Commissioner Frias, Shine and Alicia

220. Plaintiff Rivera repeats and realleges the allegations set forth above as if fully set forth herein.

221. Defendants Mayor Roque, West New York Commissioner Frias, Shine and Alicia, acting under color of law, deprived Plaintiff Rivera of his constitutional right to be free from abuse of process in violation of the New Jersey Constitution, as alleged herein.

222. Defendants acted with malice. The Defendants lacked any legitimate basis to believe that Plaintiff was guilty of the crime alleged. They intentionally abused the legal process after criminal charges were filed to serve their retaliatory purpose of punishing Plaintiff for exercising his protected rights to free speech and political association with the political candidate of his choice.

223. Defendants intentionally, willfully and recklessly retaliated against Plaintiffs as alleged herein. Defendants who may not have actively participated in the civil rights deprivations as alleged above are liable for failing to prevent them.

224. The foregoing civil rights violations were undertaken by Defendants' agents, officials, and employees and/or other individuals acting on behalf of the Defendants, who in turn knowingly ratified such civil rights violations.

225. As a direct and proximate result of the aforementioned, Plaintiff has suffered and will continue to suffer economic, emotional, and psychological damages in an amount to be determined by a jury. Because of the individual Defendants' willful and malicious conduct, Plaintiff seeks punitive damages in their individual capacity in an amount to be determined by a jury.

WHEREFORE, Plaintiff demand judgment against the Defendants, jointly and severally, for the following relief:

- a. Compensatory damages;
- b. Punitive damages against the individual Defendants
- c. Attorney's fee and costs of suit;
- d. Such other and further relief that the Court deems equitable and just.

VIII.
COUNT EIGHT
New Jersey Civil Rights Act
N.J.S.A. § 10:6-2
Excessive Use of Force
Rivera v. Defendants Mayor Roque, West New York,
Commissioner Frias, Shine and Alicia.

226. 165. Plaintiff Rivera repeats and realleges the allegations set forth above as if fully set forth herein.

227. Defendants Mayor Roque, West New York, Commissioner Frias, Shine and Alicia, acting under color of law, subjected the Plaintiff to the deprivation of his constitutional right to be free from excessive use of force in violation of the New Jersey Constitution, as alleged herein.

228. The foregoing civil rights violations were undertaken by Defendants' agents, officials, and employees and/or other individuals acting on behalf of the Defendants, who in turn knowingly ratified such civil rights violations.

229. As a direct and proximate result of the aforementioned, Plaintiff has suffered and will continue to suffer economic, emotional, and psychological damages in an amount to be determined by a jury. Because of the individual Defendants' willful and malicious conduct, Plaintiff seek punitive damages in their individual capacity in an amount to be determined by a jury.

WHEREFORE, Plaintiffs demand judgment against the Defendants, jointly and severally, for the following relief:

- a. Compensatory damages;
- b. Punitive damages against the individual Defendants
- c. Attorney's fee and costs of suit;
- d. Such other and further relief that the Court deems equitable and just.

IX
COUNT NINE
N.J.S.A. 10:6-2
N.J. Civil Rights Act
Plaintiffs Rivera, Bombino, Davis v. Mayor Roque and
West New York

230. Plaintiffs repeat and reallege the allegations set forth above as if fully set forth herein.

231. Defendants actions violated New Jersey Civil Rights Act §10:6-2 et seq.

232. Defendants deprived Plaintiffs, Rivera, Bombino, Davis, of their procedural due process under N.J.S.A. 11A:2-13-14, N.J.A.C. 4A:2-2.1 et seq. and the New Jersey Constitution.

233. Plaintiffs had a liberty and property interest in their employment. Defendant West New York and Mayor Roque failed to terminate Plaintiffs and/or suspend Plaintiff without pay for sufficient cause or afford them with notice and fair and impartial hearing as required under the New Jersey Civil Service Act.

234. Defendants further failed to provide the Defendants with a fair and impartial forum to adjudicate their grievances by designating a hearing officer who shared financial and political interests with Mayor Roque.

235. As a direct and proximate result of the aforementioned, Plaintiffs were deprived of their constitutional rights secured under the New Jersey Constitution. As a result of the foregoing, Plaintiffs have suffered and will continue to suffer economic, emotional and psychological damages in an amount to be determined by a jury. Because of the individual Defendants' willful and malicious conduct, Plaintiffs seeks punitive damages in their individual capacity to be determined by a jury.

WHEREFORE, Plaintiffs demand judgment against the Defendants, jointly and severally, for the following relief:

- a. Compensatory damages;
- b. Punitive damages against the individual Defendants
- c. Attorney's fee and costs of suit;
- d. Such other and further relief that the Court deems equitable and just.

VIII
COUNT EIGHT
NEW JERSEY CIVIL RIGHTS ACT
N.J.S.A. 10:6-2
Plaintiff Gloria Varella, Cannao, Lopez v. West New
York Board of Education

236. BOE Plaintiffs incorporated by reference as if fully set forth herein.

237. Pursuant to official policy, custom and practice, the BOE, acting under color of law, and in concert with Mayor Roque and his political allies, subjected the BOE Plaintiffs to the deprivation of their constitutional right to freedom of speech, freedom of association, right to petition their representatives, as alleged herein.

238. Plaintiffs' constitutionally protected activities, as alleged herein, were the motivating factor for Defendant's retaliatory conduct.

239. Pursuant to policy, custom and practice, BOE Defendants intentionally, willfully and recklessly retaliated against Plaintiffs as alleged herein. Defendants who may not have actively participated in the civil rights deprivations as alleged above are liable for failing to prevent them.

240. The foregoing civil rights violations were undertaken by BOE Defendants' agents, officials, and employees and/or other individuals acting on behalf of the Defendants, who in turn knowingly ratified such civil rights violations.

241. As a direct and proximate cause of the aforementioned, BOE Plaintiffs have suffered and will continue to suffer economic, emotional, and psychological damages in an amount to be determined by a jury. Because of Defendant's willful and

malicious conduct, Plaintiff seek punitive damages in their individual capacity in an amount to be determined by a jury.

WHEREFORE, Plaintiffs demand judgment against the Defendants, jointly and severally, for the following relief:

- a. Compensatory damages;
- b. Punitive damages against the individual Defendants
- c. Attorney's fee and costs of suit;
- d. Such other and further relief that the Court deems equitable and just.

IX
COUNT NINE
New Jersey Law Against Discrimination
N.J.S.A., 10:5-1 *et seq* (Age)
West New York Board of Education and Solaris
Maria Varela

242. Plaintiff Maria Varela repeats and realleges the allegations set forth above as if fully set forth herein.

243. Plaintiff Maria Varela is a member of the protected class based on her age. Gloria Varela was approximately 71 years old at the time of her termination.

244. At the time of her termination, Maria Varela was performing her duties and responsibilities in a satisfactory manner. During last year of her employment, Gloria Varela's supervisor, Solaris, kept pressing Gloria Varela to retire because of her age. On numerous occasions, Solaris told Gloria Varela that she should retire because of her "age."

245. As alleged above, Defendant BOE discriminated against Plaintiff by terminating his employment, in part, because of her age.

246. Defendant BOE actions were taken in violation of the New Jersey Law Against Discrimination, N.J.S.A., 10:5-1 *et seq.* and have caused Plaintiff Maria Varella to suffer economic, emotional and psychological damages in an amount to be determined by a jury.

WHEREFORE, Plaintiff demands judgment against Defendant for the following relief:

- a. Compensatory Damages;
- b. Punitive Damages, including treble damages;
- c. Attorney's fee and costs of suit;
- d. Such and further relief as the Court deems equitable and just.

TEN
COUNT TEN
N.J.S.A. § 2C:41-2(c) --
NEW JERSEY RICO
All Plaintiffs and All Defendants

247. Plaintiffs repeats and realleges the allegations of each and every paragraph of the Complaint, including those contained in any other count, as fully set forth herein.

248. It is unlawful under N.J.S.A. § 2C:41-2(c) for any person associated with any enterprise, the activities of which affect trade or commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprises' affairs through a pattern of racketeering.

249. The Town of West New York is a criminal enterprise within the meaning of N.J.S.A. § 2C:41-2(c) N.J.S.A. § 2C:41-2(c).

250. Alternatively, the named individual Defendants formed an association in fact within the meaning of N.J.S.A. § 2C:41-2(c) for the common purpose of advancing Mayor Roque's unconstitutional patronage policy.

251. The Enterprise engaged in or its activities affected trade or commerce.

252. The named individual Defendants were employed by or associated with Enterprise.

253. The named individual Defendants engaged in a pattern of racketeering activity in that at least two predicate acts were committed.

254. The named individual Defendants conducted or participated directly or indirectly in the conduct of the Enterprise's affairs through that pattern of racketeering activity.

255. The named individual Defendants acted knowingly and purposely. Mayor Roque set the purpose of the Enterprise, namely the unconstitutional and corrupt misappropriation of government resources to advance his patronage policy. Commissioners Frias, Vargas and Rodriguez violated their oath and duty of honesty services to the people of West New York when they conspired with each other to execute Mayor Roque's political patronage policy in West New York and West New York Board of Education and Housing Authority, which West New York exerted political influence over those government agencies.

256. In particular, Commissioner Frias participated in the affairs of the Enterprise by directing her subordinates to use excessive use force and file false police reports in the arrest and prosecution of Rivera in violation of the NJSA 2C:

257. Defendant Mayor Roque and the named defendants formed an association in fact and/or were employed by the criminal enterprise for the common and continuing purpose of promoting, maintaining, and protecting Mayor Roque's political power.

258. Each individual named Defendants knowingly used his or her respective government position to implement and execute, whether directly or indirectly, Mayor Roque's unconstitutional and illegal political patronage policy. Each individual named Defendants had a direct and/or indirect role in participating in the affairs of the criminal Enterprise through a pattern of racketeering and knowing the purpose of the purpose of the Enterprise.

259. As alleged above, Defendants aforementioned racketeering acts include Bribery (N.J.S.A. 2C:27-2), by direct solicitation for donations for a right to receive public rights or public benefits; Theft by Extortion (N.J.S.A. 2C:20-5), Official Misconduct (N.J.S.A. 2C:30-2), by the individual named Defendants, including Mayor Roque, exertion of control or undue influence over the terms and condition of Plaintiffs employment not within the scope of their official duties for the purpose of injure or to deprive another of a benefit; and for corruption of a public resource under (N.J.S.A. § 2C:27-12), by Mayor Roque using or embezzling government resources to unlawful retaliate against the Plaintiffs for engaging in constitutionally protected activities.

260. Defendants have been and are able to commit the acts of racketeering

forming a pattern by virtue of their association with and employment by the Enterprise, and the acts of racketeering are related to the activities of, and are committed in furtherance of, the Enterprise.

261. The named Defendants all participated directly and indirectly in the affairs of the criminal enterprise as defined under N.J.S.A. 2C:41-1 et seq. through a racketeering activities, including carrying to fruition his political patronage policy to gain and maintain his political power.

262. The association in fact of these persons constitutes an enterprise within the meaning of N.J.S.A. 2C:41-1(c) (the "Enterprise"), which functions as a continuing unit.

263. Defendants' Enterprise affects commerce and trade by awarding government benefits and privileges to political allies or patrons while depriving non-Mayor Roque supporters of similar benefits and privileges in violation of the New Jersey Constitution and state law through a pattern of racketeering.

264. Defendants individual acts make each principally liable for violations of N.J.S.A. 2C:41-1(c). In addition, each of the Defendants knowingly and intentionally aided and abetted Defendants other than himself/herself/itself whom were involved in the operation and management of the Enterprise in the commission of two or more predicate acts forming a pattern of racketeering activity with the intent of assisting the successful completion of said racketeering activity.

265. Plaintiffs have been injured by reason of the aforementioned violations of N.J.S.A. 2C:41-1(c), including injury by reason of the predicate acts constituting a pattern of racketeering activity. Plaintiffs have suffered and continue to suffer economic and emotional distress damages in an amount to be determined by a jury.

WHEREFORE, Plaintiffs demands judgment against the Defendants, jointly and severally, for the following relief:

- a. Trebled Damages;
- b. Compensable Damages
- b. Punitive Damages;
- c. Attorney's fees, interest, and costs of suit;
- d. Such other and further relief as the Court deems equitable and just.

XI.
COUNT ELEVEN
N.J.S.A. § 2C:41-2(d) – All Defendants
NEW JERSEY RICO (conspiracy)

266. Plaintiffs repeat and reallege the allegations of each and every paragraph of the Amended Complaint, including those contained in any other count, as fully set forth herein.

267. Defendants Mayor Roque and the named individual Defendants conspired to violate the provisions of N.J.S.A. 2C:41-1(c) in the manner set forth in Count Ten alleged above.

268. Each of the named individual Defendants knowingly agreed to participate directly or indirectly in the conduct of the affairs of the enterprise by agreeing to commit, or to aid other members of the conspiracy to commit, at least two racketeering and purposely with knowledge of the unlawful objective of the conspiracy and with the intent to further its unlawful objective. Accordingly, all the individually named Defendants violated N.J.S.A. § 2C:41-2(d).

269. Plaintiffs have been injured in their trade or commerce by reason of the aforementioned illegal activities N.J.S.A. 2C:41-1(c), including injury by reason of the predicate acts constituting a pattern of racketeering activity.

270. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has suffered damages including, though not limited to, loss of employment, loss of business reputation, and other damages to date in an amount to be determined by a jury at the time of trial.


WHEREFORE, Plaintiff demands judgment against the Defendants, jointly and severally, for the following relief:

- a. Trebled Damages;
- b. Compensable Damages;
- b. Punitive Damages;
- c. Attorney's fees, interest, and costs of suit;
- d. Such other and further relief as the Court deems equitable and just.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial jury as to all issues.

DATED: August 17, 2015

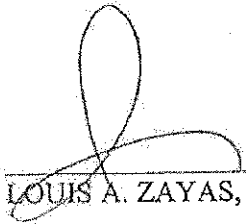


LOUIS A. ZAYAS, ESQ.

DESIGNATION OF TRIAL COUNSEL

LOUIS A. ZAYAS, ESQ., is designated as trial counsel in this matter.

DATED: August 17, 2015




LOUIS A. ZAYAS, ESQ.

DEMAND FOR PRODUCTION OF INSURANCE AGREEMENTS




Pursuant to R. 4:10-2(b), demand is hereby made that you disclose to the undersigned whether there are any insurance agreements or policies under which any person or firm carrying on an insurance business may be liable to satisfy all or part of a judgment which may be entered in the action or to indemnify or reimburse for payment made to satisfy the judgment. If so, please attach a copy of each, or alternative state, under oath and certification: (a) policy number; (b) name and address of insurer; (c) inception and expiration dated; (d) names and addresses of all persons insured there under; (e) personal injury limits; (f) property damage limits; and (g) medical payment limits.

DATED: August 17, 2015



LOUIS A. ZAYAS, ESQ.

Appendix XII-B1

	CIVIL CASE INFORMATION STATEMENT (CIS)		FOR USE BY CLERK'S OFFICE ONLY		
			PAYMENT TYPE: <input type="checkbox"/> CK <input type="checkbox"/> CG <input type="checkbox"/> CA		
			CHG/CK NO.:		
			AMOUNT:		
				OVERPAYMENT:	
				BATCH NUMBER:	
ATTORNEY / PRO SE NAME LOUIS A. ZAYAS, ESQ.		TELEPHONE NUMBER (201) 977-2900		COUNTY OF VENUE Hudson	
FIRM NAME (if applicable) Law Offices of Louis A. Zayas, LLC			DOCKET NUMBER (when available)		
OFFICE ADDRESS 8901 Kennedy Blvd., 5th Floor North Bergen, NJ 07047			DOCUMENT TYPE 2nd Amended Complaint		
			JURY DEMAND <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
NAME OF PARTY (e.g., John Doe, Plaintiff) Alberto Bringa, et al.		CAPTION Alberto Bringa et al vs. Mayor Felix Roque et al			
CASE TYPE NUMBER (See reverse side for listing) 005	HURRICANE SANDY RELATED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IS THIS A PROFESSIONAL MALPRACTICE CASE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53 A -27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.			
RELATED CASES PENDING? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, LIST DOCKET NUMBERS			
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known) <input type="checkbox"/> NONE <input checked="" type="checkbox"/> UNKNOWN			
THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.					
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION					
DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, IS THAT RELATIONSHIP: <input type="checkbox"/> EMPLOYER/EMPLOYEE <input type="checkbox"/> FRIEND/NEIGHBOR <input type="checkbox"/> OTHER (explain) <input type="checkbox"/> FAMILIAL <input type="checkbox"/> BUSINESS			
DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? <input type="checkbox"/> Yes <input type="checkbox"/> No					
USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION					
 DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION			
WILL AN INTERPRETER BE NEEDED? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, FOR WHAT LANGUAGE?			
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with <i>Rule 1:38-7(b)</i> .					
ATTORNEY SIGNATURE: 					



CIVIL CASE INFORMATION STATEMENT (CIS)

Use for initial pleadings (not motions) under *Rule 4:5-1*

CASE TYPES (Choose one and enter number of case type in appropriate space on the reverse side.)

Track I - 150 days' discovery

- 151 NAME CHANGE
- 175 FORFEITURE
- 302 TENANCY
- 399 REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 BOOK ACCOUNT (debt collection matters only)
- 505 OTHER INSURANCE CLAIM (including declaratory judgment actions)
- 506 PIP COVERAGE
- 510 UM or UIM CLAIM (coverage issues only)
- 511 ACTION ON NEGOTIABLE INSTRUMENT
- 512 LEMON LAW
- 801 SUMMARY ACTION
- 802 OPEN PUBLIC RECORDS ACT (summary action)
- 999 OTHER (briefly describe nature of action)

Track II - 300 days' discovery

- 305 CONSTRUCTION
- 509 EMPLOYMENT (other than CEPA or LAD)
- 599 CONTRACT/COMMERCIAL TRANSACTION
- 603N AUTO NEGLIGENCE - PERSONAL INJURY (non-verbal threshold)
- 603Y AUTO NEGLIGENCE - PERSONAL INJURY (verbal threshold)
- 605 PERSONAL INJURY
- 610 AUTO NEGLIGENCE - PROPERTY DAMAGE
- 621 UM or UIM CLAIM (includes bodily injury)
- 699 TORT - OTHER

Track III - 450 days' discovery

- 005 CIVIL RIGHTS
- 301 CONDEMNATION
- 602 ASSAULT AND BATTERY
- 604 MEDICAL MALPRACTICE
- 606 PRODUCT LIABILITY
- 607 PROFESSIONAL MALPRACTICE
- 608 TOXIC TORT
- 609 DEFAMATION
- 616 WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
- 617 INVERSE CONDEMNATION
- 618 LAW AGAINST DISCRIMINATION (LAD) CASES

Track IV - Active Case Management by Individual Judge / 450 days' discovery

- 156 ENVIRONMENTAL/ENVIRONMENTAL COVERAGE LITIGATION
- 303 MT. LAUREL
- 508 COMPLEX COMMERCIAL
- 513 COMPLEX CONSTRUCTION
- 514 INSURANCE FRAUD
- 620 FALSE CLAIMS ACT
- 701 ACTIONS IN LIEU OF PREROGATIVE WRITS

Multicounty Litigation (Track IV)

- | | |
|--|---|
| 266 HORMONE REPLACEMENT THERAPY (HRT) | 288 PRUDENTIAL TORT LITIGATION |
| 271 ACCUTANE/ISOTRETINOIN | 289 REGLAN |
| 274 RISPERDAL/SEROQUEL/ZYPREXA | 290 POMPTON LAKES ENVIRONMENTAL LITIGATION |
| 278 ZOMETHA/AREZIA | 291 PELVIC MESH/GYNECARE |
| 279 GADOLINIUM | 292 PELVIC MESH/BARD |
| 281 BRISTOL-MYERS SQUIBB ENVIRONMENTAL | 293 DEPUY ASR HIP IMPLANT LITIGATION |
| 282 FOSAMAX | 295 ALLODERM REGENERATIVE TISSUE MATRIX |
| 284 NUVARING | 296 STRYKER REJUVENATE/ABG II MODULAR HIP STEM COMPONENTS |
| 285 STRYKER TRIDENT HIP IMPLANTS | 297 MIRENA CONTRACEPTIVE DEVICE |
| 286 LEVAQUIN | 601 ASBESTOS |
| 287 YAZ/YASMIN/OCELLA | 623 PROPECIA |

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category Putative Class Action Title 59

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Attorney for Plaintiffs

FILED

OCT 27 2015

FRANCIS B. SCHULTZ, J.S.C.

ALBERTO BRINGA, LIEUTENANT SERGIO)
SANCHEZ, THOMAS MANNION,)
SERGEANT CARLOS IRIMIA, OFFICER)
YOSBEL MONPELLIER, DONNA DAVIS,)
SILVERIO RODRIGUEZ, MARIE)
BOMBINO, DAVID RIVERA, MICHELLE)
LOPEZ, WALTER LOPEZ, WILLIAM)
PARKINSON, AND SCOTT CANNAO)

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: HUDSON COUNTY

Docket No.: HUD-L-1673-13

ORDER

Plaintiffs,

v.

MAYOR FELIX ROQUE, TOWN OF WEST)
NEW YORK, POLICE DIRECTOR)
MICHAEL INDRI, CAPTAIN MICHAEL)
ZITT, CAPTAIN PATRICK CULHANE,)
COMMISSIONER FIOR'DALIZA FRIAS,)
JOHANN MESSINA, SHINE ALICEA, WEST)
NEW YORK HOUSING AUTHORITY,)
WEST NEW YORK BOARD OF)
EDUCATION, AND ROBERT DIVINCENT)

Defendants.

THIS MATTER having been opened to the Court by Louis A. Zayas, Esq., attorney for
Plaintiffs and good cause having been shown;

It is on this 27th day of October, 2015;

ORDERED that Plaintiffs' motion to amend the complaint be, and hereby is, granted, and
it is further;

ORDERED that a copy of this Order shall be served upon the defendant within
7 days of the signing of the Order.

Opposed
 Unopposed

Francis B. Schultz
J.S.C.
FRANCIS B. SCHULTZ, J.S.C.

*For the reasons explained
in the Court's letter
opinion of 10/27/15*

SUPERIOR COURT OF NEW JERSEY

HUDSON VICINAGE

CHAMBERS OF
FRANCIS B. SCHULTZ
JUDGE



WILLIAM J. BRENNAN COURTHOUSE
583 Newark Avenue
Jersey City, New Jersey 07306

October 27, 2015

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Lyndhurst, NJ 07071-0790

Re: Alberto Bringa, et al v. Mayor Felix Roque, et al
Docket No.: HUD-L-1673-13

Dear Counsel:

Please allow this letter to serve as the findings of the court in the above captioned matter.

Plaintiffs have filed a motion to file a second amended complaint, returnable October 9, 2015. The underlying claim involves a series of political retaliation claims.

According to Plaintiffs' certification, on April 5, 2013, Plaintiffs filed their initial complaint. On May 24, 2013, Plaintiffs filed an amended complaint to include additional parties and claims. That same day, Defendant West New York, filed a notice of removal to the U.S. District Court based on federal question jurisdiction. Once the case was removed to Federal Court, Defendants filed an answer in July of 2013. On August 16, 2013, Plaintiffs moved to amend the complaint and add new parties in federal court. On February 27, 2015 the case was remanded back to state court. Plaintiffs now move to amend the complaint for the third time to add additional NJCRA claims against Defendants Mayor Felix Roque and Caridad Rodriguez for their alleged retaliatory failure to promote Plaintiff Lt. Sanchez to captain. Additionally, Plaintiffs seek to amend the complaint to add RICO claims against all Defendants and add new

Defendants to the case with respect to the RICO claims including Joseph Demarco, Clara Herrera, Commissioner Caridad Rodriguez, and Commissioner Reuben Vargaz. The second amended complaint is provided. The DED is May 22, 2016. Four oppositions have been filed. These will be discussed in turn.

Defendants Police Director Michael Indri, Captain Michael Zitt, Captain Patrick Culhane, Johann Messina, and Sine Alicia ("Defendants 1") have filed opposition to Plaintiffs' motion to file a second amended complaint. According to the opposition, in the existing amended complaint, 12 current and former employees of various departments of defendants Town of West New York (nine plaintiffs), West New York Board of Education (two plaintiffs), and West New York Housing Authority (one plaintiff), all bring claims of employment retaliation against 11 Defendants. Defendants 1 claim that the only similar allegation among all 12 Plaintiffs' claims is the general allegation that Defendant Roque, in his capacity as Mayor, retaliated against each of them in their positions of employment for political reasons. Beyond that general allegation, each Plaintiff's claim arises out of distinct transactions or occurrences unique to each Plaintiff and his or her employment. Further, Defendant Indri is implicated by only four of the Plaintiffs, Defendant Culhane is implicated by only two of the Plaintiffs, and Defendants Zitt, Alicea, and Messina are each implicated by only one Plaintiff. Judge Costello's August 21 order granted in part Defendant's severance motion and severed the 12 Plaintiffs into three groups (one for each employer) for trial. The proposed second amended complaint allegedly purports to undo that order by adding four more Plaintiffs and five more Defendants to the action, and also by adding a "legally defective claim" under RICO which Defendants 1 claim fails as a matter of law. Finally, Defendants 1 claim that to the extent that the proposed second amended complaint can be construed to allege that the individual Defendants constitute an enterprise in fact, such allegation is also legally deficient because "such enterprise must have an organization featuring a division of labor and separation of functions which must necessarily engage in a high degree of planning, cooperation and coordination," *State v. Ball*, 141 N.J. 142 (1995). According to Defendants 1, the proposed second amended complaint is devoid of any suggestions of such organization. With regard to Defendants 1 specifically, the second amended complaint alleges that each was involved in distinct employment related actions against distinct Plaintiffs, without alleging any indicia of the requisite organization.

Defendants West New York Housing Authority and Executive Director Robert DiVincent ("Defendants 2") have filed opposition to the second amended complaint. According to Defendants 2, the only new claim against Housing Authority is the proposed NJRICO claim, which is Plaintiff Walter Lopez's wrongful termination claim. Defendants 2 argue that this claim lacks any specificity and fails to set forth any harm derived within the scope of NJRICO. Defendants 2 also claim that Plaintiff Walter Lopez lacks standing to bring NJRICO claims against the Housing Authority Defendants and that the proposed pleading fails to allege facts sufficient to demonstrate any criminal conduct.

Defendants West New York Board of Education ("Defendants 3") have filed opposition to the second amended complaint. According to the opposition, of the added Plaintiffs, only Gloria Varela had any association with West New York Board of Education as a former employee. Those claims arise out of her alleged termination of employment with the Board of Education, specifically that she was terminated because of her age and political affiliation.

However, Defendants 3 state that Varela voluntarily retired on August 12, 2012. Because she resigned over three years ago, she is allegedly barred from bringing any claim against the Board of Education and Rick Solaris because the statute of limitations under the New Jersey Civil Rights Act is two years (N.J.S.A. 2A:14-2). Plaintiffs also seek to file an amended complaint adding as Defendants West New York Board of Education employees Rick Solaris and Clara Herrera. The initial complaint was on behalf of nine plaintiffs and numerous defendants, and no causes of action were asserted against West New York Board of Education or its employees. On May 24, 2013 in the first amended complaint, four Plaintiffs were added, two of whom are employees of the Board of Education—Michelle Lopez and Schott Cannao, and three Defendants were added including West New York Board of Education. No individual employees of the Board of Education were named as defendants and no fictitious defendants were included. The two year statute of limitations under the New Jersey Civil Rights Act and the New Jersey Law against Discrimination has expired. Plaintiffs do not explain why these two defendants could not have been brought in prior to the expiration of the statute of limitations. Thus, because Plaintiffs were neither diligent nor did they use the fictitious name device, they should not be permitted to amend their complaint to name Rick Solaris and Clara Herrera as defendants. Defendants 3 also claim that the NJRICO statute, like the Federal RICO statute contains a mandatory treble damages provision. N.J.S.A. 2C41-4(c). Defendants 3 claim that in *Gentry v. Resolution Trust Corp.*, 937 F.2d. 899 (3d Cir. 1991) the Court specifically held that a public entity is immune from liability under Federal RICO based on the treble damages provision which is punitive in nature. Accordingly, Defendant 3 believes that Plaintiff's attempt to assert a RICO cause of action against West New York Board of Education (as well as the Town of West New York and the West New York Housing Authority) in their proposed second amended complaint should not be permitted.

Defendants Town of West New York, Mayor Felix Roque, and Commissioner Fior D'Aliza Frias ("Defendants 4") have filed opposition to Plaintiff's motion to file a second amendment complaint. First, Defendants 4 claim that the second amended complaint fails to state a claim on behalf of proposed Plaintiff Mario Varela. Varela alleges no facts other than that he is a citizen of New Jersey and a resident of West New York. Second, Plaintiff Janet Passante's civil rights claims are time-barred under N.J.S.A. 2A:14-2. Third, Plaintiffs' NJRICO and NJRICO conspiracy claims are insufficiently pled because public entities are incapable of forming the requisite criminal intent. Further, 14 of the 16 Plaintiffs fail to allege they were harmed by any alleged racketeering activity. Finally, Defendants 4 claim that permitting the amendment upends Judge Costello's August 21 order because it will force the defense to file another motion to sever, as no defendant can possibly receive a fair trial if all 16 Plaintiff's grievances are tried together.

R. 4:9-1 provides that "a party may amend a pleading by leave of court which shall be freely given in the interest of justice. A motion for leave to amend shall have annexed thereto a copy of the proposed amended pleading." The motion for leave to amend is required by the rule to be liberally granted and without consideration of the ultimate merits of the amendment. See *Notte v. Merchants Mut. Ins. Co.* 185 N.J. 490, 500-501 (2006). "While motions for leave to amend pleadings are to be liberally granted, they nonetheless are best left to the sound discretion of the trial court in light of the factual situation existing at the time each motion is made." *Fisher v. Yates*, 270 N.J. Super. 458, 467, (App. Div. 1994). Significantly, courts are free to refuse

leave to amend when the newly asserted claim is not sustainable as a matter of law. In other words, there is no point to permitting the filing of an amended pleading when a subsequent motion to dismiss must be granted. *Interchange State Bank v. Rinaldi*, 303 N.J. Super. 239, 256-57 (App. Div. 1997).

The general rule is that motions to amend pleadings should be liberally granted without consideration of the ultimate merits of the amendments. *Notte v. Merchants Mut. Ins. Co.*, 185 N.J. 490, 500-501 (2006). However, the trial courts are to refuse leave to amend when the newly asserted claim is not sustainable as a matter of law. Thus, the issue is whether the new claims are sustainable as a matter of law, and even if they may not be, the court may still allow the amendment.

Defendants have filed four oppositions with multiple arguments. These oppositions will be discussed in turn.

Argument 1: Adding the additional parties will undo Judge Costello's order by adding in additional Defendants. Judge Costello's order severed the claims for purposes of trial and divided the parties into three groups for three trials. By adding new parties, the new parties will either have to be added to existing groups or a new group will have to be made. However, because the order does not state that no new parties could be added ever again, adding additional parties will not undo the order, but just may cause it to need to be adjusted to accommodate the new parties. Further, the order stated that the discovery end date would not be extended for purposes of that order, it did not state that the discovery end date could never again be extended.

Argument 2: the NJRICO claim against Town of West New York, West New York Board of Education, and West New York Housing Authority fail as a matter of law. Defendants rely on *Gentry v. Resolution Trust Corp.*, 937 F.2d. 899 (3d Cir. 1991) which states "RICO's provision for treble damages in civil cases amounted to a punitive damages provision and, thus, a civil RICO action could not be maintained against a municipality as that would abrogate the common law principle that prohibits punitive damages against municipalities." Defendants argue that the same logic should apply to the NJRICO statute. While this argument may be addressed later in the proceedings, the issue of damages should not bar Plaintiff from amending the complaint. There is also an NJRICO claim against defendant Housing Authority which Defendants claim lacks any specificity and fails to set forth any harm derived within the scope of NJRICO as against the defendants. Defendants cite to *Rose v. Bartle*, 871 F.2d 331 (3d Cir. 1989) which states that in order to plead a cause of action under (federal) RICO, plaintiffs must plead with particularity the circumstances of the alleged wrongdoing in order to place the defendants on notice of the precise misconduct with which they are charged. In reviewing the complaint, the NJRICO claim (Count 10 and Count 11) is written in fairly general terms, without stating specific allegations against most of the Defendants, but it is not clear that the same rule of specificity applies to NJRICO claims. Additionally, Defendants claim that Plaintiffs purport to brand the Town of West New York as a criminal racketeering "enterprise", which fails as a matter of law, because none of the Plaintiffs have viable RICO claims. There are five elements of an NJRICO violation: (1) the existence of an enterprise; (2) that the enterprise engaged in or its activities affected trade or commerce; (3) that defendant was employed by, or associated with the enterprise; (4) that he or she participated in the conduct of the affairs of the enterprise; and (5) that he or she participated through a pattern of racketeering activity. *State v. Ball*, 141 N.J. 162

(1995). Count 10 of Plaintiff's complaint alleges all of these elements, but does lack specificity as to all of the defendants.

Argument 3: Plaintiff Walter Lopez lacks standing to bring NJRICO claims against Housing Authority defendants. NJRICO requires that Plaintiffs plead Housing Authority's involvement in an unlawful enterprise and that the enterprise furthered its objectives through a pattern of racketeering activity (N.J.S.A. 2C:41-2). Plaintiffs' complaint states that Mayor Roque terminated Lopez because of his association with his wife, Michelle Lopez, who was a supporter of Roque's political enemy Mayor Vega. While Roque was told he was being terminated for economic reasons, he was replaced by two individuals who were Mayor Roque political supporters, or at the least, not affiliated with Mayor Vega's administration. Defendants claim that because Lopez cannot demonstrate that the alleged termination was the proximate result of a racketeering act, or that the termination was, in and of itself, an independently wrongful activity, he lacks standing under NJRICO. Here, Plaintiff's claim does not fail as a matter of law. While it may be possible that in later stages of the proceedings this claim is not sustainable, it should not be barred from the amended complaint.

Argument 4: Gloria Valera's claim against the Board of Education and Rick Solaris and Janet Passante's claim against Mayor Roque fail because the statute of limitations under the New Jersey Civil Right Act is two years (N.J.S.A. 2A:14-2). N.J.S.A. 2A:14-2 states in relevant part: "Every action at law for an injury to the person caused by the wrongful act, neglect or default of any person within this State shall be commenced within two years next after the cause of any such action shall have accrued". Here, Valera claims that she was forced to retire because of her age. Defendants claim that she voluntarily retired. This is a factual issue that should not bar amending a complaint. However, her retirement was effective August 2012, more than 2 years ago. With regards to Passante's claim, four years have passed since the incident stated in the complaint, which included the August 2011 recession of payments allegedly owed to her and the September 2011 alleged retaliatory lawsuit against her.

Argument 5: The amended complaint fails to state a claim on behalf of proposed Plaintiff Mario Varela. Varela alleges no facts except that he is a citizen of New Jersey and a resident of West New York. This is correct, there is no indication as to why Mario is a Plaintiff except for allegations common to all plaintiffs. This claim fails as a matter of law. Plaintiffs withdrew this portion of the complaint in their reply.

Argument 6: To the extent that the proposed second amended complaint can be construed to allege that the individual Defendants constitute an enterprise in fact such allegation is legally deficient. Defendants claim that the proposed second amended complaint does not suggest any organization exists among the plaintiffs, as required for an NJRICO claim, as stated in *State v. Ball*, 141 N.J. 162 (1995). There, the court stated:

The organization of an enterprise need not feature an ascertainable structure or a structure with a particular configuration. The hallmark of an enterprise's organization consists rather in those kinds of interactions that become necessary when a group, to accomplish its goal, divides among its members the tasks that are necessary to

achieve a common purpose. The division of labor and the separation of functions undertaken by the participants serve as the distinguishing marks of the "enterprise" because when a group does so divide and assemble its labors in order to accomplish its criminal purposes, it must necessarily engage in a high degree of planning, cooperation and coordination, and thus, in effect, constitute itself as an "organization."

Here, the complaint states that Mayor Roque conspired with the named Defendants to implement and execute his unlawful political patronage policy by knowingly participating directly and indirectly in the alleged illegal scheme. Each individual defendant used his or her government position to injure and/or deprive another of a right and benefit. It is not apparent from the face of the complaint, whether the Defendants could constitute an enterprise. Whether this position is viable is yet to be seen.

On October 6th, Plaintiffs filed a reply to the oppositions. First, Plaintiffs reply to Defendants 4: (1) Plaintiff withdraws the claims by Mario Varela. (2) Plaintiffs state that Passante's NJCRA claims are timely. Under NJCRA a plaintiff has two years to file redress to any constitutional violations. Here the adverse action taken against Passante was the filing of the appeal on May 2013. In August 2013 Passante allegedly filed a motion to amend the complaint in federal court to include her claims. Thus, Plaintiffs argue, this is timely. As to NJRICO the statute of limitations is five years making the claims timely. (3) Plaintiffs argue that the NJRICO claim is sufficiently pled and supported, stating that Defendant's argument that NJRICO does not hold a municipality liable ignores the plain language of the statute and complaint and ignores the differences between state and federal RICO statutes, the NJ statute being regarded as more liberal than its federal counterpart. Further, Defendants deny that public entities are excluded from NJRICO claims. (4) Plaintiffs argue that the NJRICO conspiracy claim is sufficiently pled and supported. (5) Plaintiffs argue that their motion to amend the complaint is not in violation of Judge Costello's order because it was filed before the order. The court may either have to reconsider the order or proceed in a manner previously determined by the order and separate the added Plaintiffs and Defendants into the appropriate groups for the purposes of trial.

Next, Plaintiffs reply to Defendants 1: (1) Plaintiffs reiterate that their motion to amend the complaint is not in violation of Judge Costello's order because it was filed before the order. The court may either have to reconsider the order or proceed in a manner previously determined by the order and separate the added Plaintiffs and Defendants into the appropriate groups for the purposes of trial. (2) Plaintiff rebuts Defendant's argument that Defendants do not constitute an enterprise stating that for example the complaint states, "the named Defendants all participated directly and indirectly in the racketeering activities, including carrying to fruition his political patronage policy to gain and maintain his political power." (3) Plaintiffs state that Defendants' argument that there be an organization does not require the same standard as under the Federal RICO because NJRICO is broader. Although NJRICO does not require a Plaintiff to prove that the organization is an ascertainable structure, such an organization does exist here. The organization being the individual defendants using their respective government positions to participate in the affair of the criminal enterprise.

Plaintiffs reply to Defendants 3: (1) Plaintiffs state the claim against Gloria Varela is not time barred because her termination was August 2012 and in August 2013 she filed a motion to amend the complaint to include her as a Plaintiff. Plaintiff also denies the fact that Varela voluntarily resigned. (2) Plaintiff rebuts Defendants' arguments that the claims against Rick Solaris and Clara Herrera are time barred on a two year statute of limitations under the NJCRA and NJLAD, because these claims are brought under NJRICO which has a five to six year statute of limitations. (3) Plaintiff rebuts Defendants argument that it is immune from liability under NJRICO because this ignores the plain language of the statute that provides for liability to government entities, instead relying on federal law in interpreting a New Jersey statute.

Finally, Plaintiffs reply to Defendants 2. Plaintiff rebuts Defendants argument that Plaintiff lacks standing to bring NJRICO claims because Defendants improperly rely on federal law which is distinct from NJRICO. Further, Plaintiff rebuts the argument that the pleadings fail to allege facts sufficient to demonstrate criminal conduct because the issue is not whether termination is a criminal offense because RICO arguments do not have to allege that every Defendant engaged in every act, but merely that they were involved. Here, Plaintiff alleges that Director DiVincent conducted official misconduct by terminating him for political reasons. Plaintiff does not argue that the termination in and of itself was a criminal act but rather that Defendants engaged in a criminal racketeering activity when the Director illegally exceeded the authority given to him in order to terminate Plaintiff for political purposes.

With the exception of the addition of the claim of Mario Varela, which was withdrawn, none of the arguments in opposition to the motion to amend the complaint should bar such amendment. While it is possible that later on some of these arguments will prove successful, none should bar amendment of the complaint at this point in the proceedings. For the foregoing reasons, the court grants Plaintiff's motion to amend the complaint.


Francis B. Schultz, J.S.C.